

Directorate of New & Renewable Energy Department, Haryana, Panchkula

Endst No.DNRE/Admn-2021/ 9113

Dated Panchkula, the 16/08/2021

A copy of letter No 62-43-2021-6GS-I dated 10-08-2021 regrading CWP No 13305 of 2021, No 62-43-2021-6GS-I dated 28-11-2018 regrading LPA No 2460 of 2017 in CWP No 3922 of 2011 & instructions thereon issued by the Chief Secretary to Government, Haryana and Haryana State Litigation Policy, 2010 is forwarded to Assistant District Attorney, DNRE for strict and immediate compliance being Nodal Officer, Legal/Litigation Matter of DNRE/HAREDA & LMS(Portal).


(Jagdish Sheokand)
Superintendent

for Director General, New & Renewable
Energy Department, Haryana, Panchkula

To


Smt. Pooja,
Assistant District Attorney,
DNRE, Panchkula.

Endst. No.DNRE/Admn-2021/ 9114-37

Dated Panchkula, the 16/08/2021

A copy of the above alongwith enclosures are forwarded to the following for strict and immediate compliance in letter & Spirit:-

1. All the Additional Deputy Commissioner-cum-Chief Project Officer, NRE in the State.
2. All the Scheme Incharges of DNRE/HAREDA in the Directorate.
3. Programmer for uploading on the official website.


(Jagdish Sheokand)
Superintendent

for Director General, New & Renewable
Energy Department, Haryana, Panchkula

Internal Distribution:

1. PS/ACSNRE for kind information of W/ACS NRE, please.
2. PS/DG, NRE for kind information W/DG, NRE please.
3. CSE, HAREDA for information.
4. Project Director, DNRE for information.

**No. 62/43/2021-6GS-I
HARYANA GOVERNMENT
GENERAL ADMINISTRATION DEPARTMENT
GENERAL SERVICES-I BRANCH**

Dated Chandigarh, the 10th August, 2021

To

1. All the Administrative Secretaries to Government Haryana.
2. All the Heads of Departments
3. All the Managing Directors/Chief Administrators of Boards/Corporations in the State of Haryana.
4. All the Divisional Commissioners of the State.
5. All the Deputy Commissioners in the State of Haryana.
6. The Registrars of all the Universities in the State of Haryana.

Subject: - CWP No.13305 of 2021 and 11 other connected cases- DIVISIONAL FOREST OFFICER VS JAGEEP SINGH AND ANR- delay in filing Writ Petitions regarding.

I am directed to invite your attention to the Government letter No. 62/49/2018-6GS-I, dated 28.11.2018 vide which it was directed to take adequate precaution in filing appeals within the prescribed period of limitation. Unnecessary delay in movement of file should be strictly avoided as such delay is not condonable. It was also conveyed that irresponsible attitude towards filing of such appeals with delay on the part of officer/official shall be viewed seriously and action shall be initiated against the delinquent/s. The State Govt. has also notified a Litigation Policy for efficient and effective monitoring of Court cases.

2. However, it has come to the notice of the Government that these instructions are not being complied with in letter and in spirit. The instant writ petition cited above came up for hearing on 23.07.2021 and during the course of hearing, the Hon'ble High Court has been constrained to observe that the instant petition has been filed after a delay of 4½ years which is unacceptable. Taking a serious note of the matter, the Hon'ble High Court has passed the following directions: -

"It has been noticed that the State or its officials delay the filing of the appeals and the writ petitions involving huge public money. However, the State does not take any step to curb such practice. Hence, the Chief Secretary, Haryana, is requested to file an affidavit explaining the reasons for the delay and the steps he proposes to take in order to monitor and regulate the working of its officials."

3. The above instance reflects a irresponsible and casual approach on the part of the concerned Officers of the Forest Department which has resulted in a delay of 4½ years in filing of appeal. Such lackadaisical attitude not only adversely reflects upon the efficiency of Government but also disentitles the appellants from seeking the benefit of Section 5 of the Limitation Act, 1963.

C. 10/10/21

4. Government has taken a serious view of this delay and it is reiterated that henceforth adequate precaution/vigil should be observed in filing appeals within the prescribed period of limitation. Appeal against any decree or order must be decided immediately and delay in movement of files for seeking opinion for filing appeals and sanction thereof must be avoided.

5. All Administrative Secretaries are therefore directed to develop a mechanism in the departments under their administrative control which ensures that Court matters are dealt in an **URGENT** mode and appeals are filed within the prescribed time limit.

6. A model workflow to be followed by all the Heads of Department and Administrative Secretaries while dealing with the court cases, particularly those cases in which replies have not been filed, appeal/review/revision/writ etc. has to be filed and compliance of court direction(s) is to be made is as under:-

- i. As per State Litigation Policy every department shall have one Senior Administrative Officer with legal background who shall be designated as Nodal Officer. It shall be his/her duty to ensure that there is no delay on the part of the department while conducting cases in different courts. He shall be assisted by District Attorney/Deputy District Attorney/Assistant District Attorney working in the department.
- ii. The Nodal Officer shall submit a fortnightly report to the Head of the Department (HoD) of court cases, particularly those cases in which replies have not been filed, appeal/review/revision/writ etc. has to be filed and compliance of court direction(s) is to be made. HoD after reviewing the same shall give necessary directions and ensure timely action by the concerned Branch/Officer.
- iii. Similarly, the HoD shall submit a list of all such cases to the Administrative Secretary for his/her review on a monthly basis.
- iv. The minutes of review meetings held by the HoD and Administrative Secretary shall be submitted to the Chief Secretary on a regular basis. It shall be the duty of the Administrative Secretary to put up the agenda for a quarterly meeting of court cases at the level of Chief Secretary. Any laxity in this regard will be viewed seriously.
- v. In every case, the responsibility for delay in filing appeal/revision/review or writ petition shall be jointly of the HoD and the Administrative Secretary.
- vi. The Nodal Officer and HoD shall have to ensure that data of every court case is fed into the Litigation Management Software so that effective and proper monitoring can be done.

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- vii. In case of laxity, a fact finding inquiry shall be got conducted by the HoD and necessary disciplinary action must be initiated against the delinquent official under intimation to Administrative Secretary and Chief Secretary. The HoD shall put up details of such cases in the monthly meeting to be held under the Chairmanship of Administrative Secretary as well as before the Chief Secretary in every quarterly meeting.
- viii. In case, where an officer or official is held responsible after inquiry/disciplinary proceedings, an adverse entry in his or her annual confidential record of that particular year shall be accordingly made.
- ix. Further, if Administrative Department wishes to file an appeal in the matter he/she may seek opinion of AG Haryana/Legal Remembrancer to Govt. Haryana. The Advocate General, Haryana, Legal Remembrancer, Haryana or the District Attorney, as the case may be shall tender their opinion within 10 working days, and thereafter, the department concerned will take immediate steps for filing appeals in the Hon'ble District Courts/High Court or the Apex Court within the prescribed period of limitation.

These instructions may be brought to the notice of all concerned for strict and immediate compliance.



Chief Secretary to Government, Haryana

Endst. No. 62/43/2021-SS-I

Dated Chandigarh, the 10th August, 2021

A copy is forwarded to the following for information and necessary action:-

1. The Advocate General, Haryana, Chandigarh.
2. The Chief Principal Secretary Chief Minister, Haryana, Chandigarh.
3. Legal Remembrancer and Administrative Secretary, Law & Legislative Department, Haryana, Chandigarh.



Chief Secretary to Government, Haryana

URGENT

No. 62/49/2018-6GS1

From

The Chief Secretary to Government, Haryana.

To

1. All the Administrative Secretaries to Government Haryana.
2. All the Heads of Departments & Divisional Commissioners,
3. The Registrar, Punjab and Haryana High Court, Chandigarh.
4. All the Deputy Commissioners in the State of Haryana.
5. The Managing Directors/Chief Administrators of all the Boards/Corporations in the State of Haryana.
6. The Registrars of all the Universities in the State of Haryana.

Dated Chandigarh, the 28th November, 2018.

Subject:- LPA No. 2460 of 2017 and the other connected matters arising out of decision dated 3.10.2016 rendered by the Ld. Single Judge in CWP.No. 3922 of 2011 and connected writ petitions-regarding delay in filing further appeals in the Hon'ble High Court.

Sir/Madam,

I am directed to invite your attention to the subject noted above and to intimate that during the course of hearing on 29.01.2018 the Hon'ble Bench has observed that above said LPA has been filed after delay of 409 days which defeats the purpose of filing the LPA. The Hon'ble Bench has further noticed the CWP. No. 3922 of 2011 was disposed of alongwith other connected 51 writ petitions by Ld. Single Judge then why the department is not preferring LPA in all other connected cases? Taking a very serious view of the matter, the Hon'ble Bench has directed the State to take adequate precautions in filing the appeal in all the connected matters disposed of vide one single order. The operative part of order dated 29.01.2018 in above cited LPA is reproduced as under:

"Present intra-court appeal has been filed against the common judgment of learned Single Judge, whereby a bunch of 52 writ petitions were disposed of. The appeal is also accompanied by an application seeking condonation of 409 days in filing thereof.

There is no mention about the status of remaining 52 other cases, which were decided by the learned Single Judge along with the writ petition in question.

The application seeking condonation of delay is not forthcoming with any explanation about the action taken against the officers or officials who were at fault in not taking timely action for filing the appeal as a result of which delay of 409 days occurred in filing of the appeal.

There are several matters where intra-court appeals are being filed against the orders passed by the learned Single Judge disposing of bunch of petitions. Appeals are being filed by the State or other autonomous bodies but without mentioning the details of other cases which were disposed of together by the learned Single Judge.

The Registry is directed to ensure that in future whenever an appeal is filed by the State or any other Agency against a common judgement in a bunch of cases, the details of other cases namely as to whether any appeal has been filed in other cases or nor, and if filed, the status thereof, is mentioned by the applicants-appellants and without mentioning thereof no appeal shall be passed by the Registry."

2. The Hon'ble Bench while dismissing the said LPA on 31.07.2018 has observed that in various delayed appeals filed by the State of Haryana the time was consumed in movement of file from one desk to another and from one office to another seeking opinion about filing of appeal and sanction thereof. The delay in present LPA has not occurred on account of any circumstances beyond

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their control but is a result of slackness on their part. The officials responsible for filing LPA were irresponsible and casual. The appellants failed to satisfy the court that they had sufficient cause for not preferring the appeal within prescribed period. The operative part of order is reproduced below:

"Office has reported delay and laches of 409 days in filing the appeal. The explanation submitted in application under Section 5 of the Limitation Act is a usual as we have found in various delayed appeals filed by the State of Haryana that time was consumed in movement of file from one desk to another and from one office to another of the appellants seeking opinion about filing of appeal and sanction thereof.

It is well settled that a litigant, who is guilty of laches on account of not being vigilant to avail the remedy within the prescribed period of limitation, is not entitled to be extended the benefit of Section 5 of Limitation Act. A casual and irresponsible attitude disentitles the litigant to seek such a benefit.

In the case in hand, from the averments made in application under Section 5 and better affidavit, we find that the officials responsible for filing the LPA were irresponsible and casual. The delay has not occurred on account of any circumstances beyond their control but is a result of slackness on their part. The failed to act swiftly and appeal has been filed at their own leisure. Such an attitude disentitles the appellants from seeking the benefit of Section 5 of the Limitation Act.....

We are not inclined to condone the inordinate delay of 409 days in filing the appeal on the aforesaid irrelevant and vague explanation. The delay condonation application accordingly stands dismissed and as consequence appeal stands dismissed as barred by limitation."

3. The matter has been considered by the State Government. Accordingly, it is directed that in the event of filing of LPA against a common judgement in a bunch of cases, it may be ensured to mention therein that whether any appeal has been filed or not in the other/connected cases and if filed, status thereof. It is further directed to take adequate precautions in filing LPA within prescribed period of limitation positively. Unnecessary delay in movement of file should strictly be avoided as such delay is not condonable. Irresponsible attitude towards filing of appeal with delay on part of the officer/official should be viewed seriously and action be initiated against the delinquent/s.

4. You are, therefore, directed to ensure full compliance of these instructions in letter and spirit. These instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,



Under Secretary General Administration,
for Chief Secretary to Government Haryana.

HARYANA STATE LITIGATION POLICY – 2010

1. Introduction

1.1 This Policy reflects the resolve of the State Government to bring about a visible and enduring qualitative and quantitative improvement in the manner in which litigation is perceived, managed and conducted in the State. It embodies the national concern that pendency and delays in our learned Courts should be reduced proactively by the Government.

1.2 It has been formulated by drawing upon the National Litigation Policy published by Ministry of Law, Govt. of India. A major part of its provisions applicable to the State have been incorporated mutatis mutandis.

2. Objective

2.1 To transform Government into an **Efficient and Responsible Litigant** so that it (a) manages and conducts litigation in a collusive , coordinated and time bound manner (b) Ensures that good cases are won and bad cases not pursued needlessly (c) Reduces overall Govt. Litigation load in Courts thereby providing relief to the judiciary.

2.2 To encourage and enable redressal of genuine grievances through alternate dispute redressal forum / institutions within the Government.

2.3 To provide for a substantive mechanism which would inter alia serve to monitor and control the implementation of the Policy, enforce accountability on and provide clarifications, to the implementers and stakeholders of the Policy and to consider changes in the Policy, depending on its performance and effectiveness.

3. Nature and Applicability of the Policy

3.1 It shall be mandatory on all Government/ State Public Sector Undertaking/ Statutory Bodies personnel who directly or indirectly are associated with litigation, to follow provisions of the Policy.

3.1.2 The Policy shall serve as the main authoritative reference point for all questions of procedure, norm, and interpretation

3.2 The Policy shall have the force of an administrative regulation./

3.3 The Policy shall bind all participants stakeholders, personnel to enforceable performance, which may be prescribed.

3.4 The Law Department Manual, which is an evolving collection of guidelines, instructions, clarifications and information would continue to serve as a reference document in matters connected with litigation. However, those of its provisions which may come into conflict with any provision of this Policy would be deemed to have been superseded by the Policy with immediate effect.

3.4.1 The Law Department Manual is to be constantly reviewed and updated due to the changing legal scenario. A comprehensive updation will be done within the period prescribed by Government which would incorporate relevant portions of the Policy.

4. **Implementation/ Control Structure**

- 4.1 **State Level Empowered Committee:** There shall be a State level Empowered Committee under Chairmanship of CS comprising of Secretaries of the departments concerned and shall include representatives of AG, Home, Finance, LR. The Committee may invite any other department or expert to join the deliberations. The Committee shall aim to streamline the litigation and grievance redressal systems. The Committee shall have full powers to take decisions in respect of policy content and changes in procedures to be introduced. Decisions duly authorized by the Committee would be implemented directly by the department. Separate approval on file by the departments would not be necessary. This would minimize delays. In cases of decisions involving core policy changes, its recommendations will be referred to the Government. The Committee shall identify the major causes of litigation, and shall recommend suitable measures to the Government to minimize litigation.
- 4.2 The Committee shall oversee the implementation of all aspects of this Policy. It shall either on reference by a Stakeholder or member of the Public or suo-moto take notice of observations in implementation of the Policy, including deviant or malafide behavior by any official and initiate corrective action. It shall enforce accountability of all stages of the litigation process and for this purpose introduce a comprehensive reporting and data flow system.
- 4.3 The Policy and decisions of the Empowered Committee shall be implemented by the FC Home/ Administrative of Justice. He shall be supported by a special cell to be constituted in the Home/ Admn. of Justice Department.
- 4.4 **Department Level Policy Implementation Committee**
This would be a Second-Tier Committee at the Principal Secretary level of each Department, to regularly monitor and review the litigation arising in the departments. The Committee shall have representatives from offices of LR, Advocate General and Finance Department. The Committee shall have power to take decision in respect of cases where by financial implication is not very high. In case the Committee feels that certain policies/ rules need to be streamlined, it shall make its recommendations to the State Level Committee and also take up the matter for changing the rules/ procedures. The Committee shall meet once in a month.

4.5 **District Level Policy Implementation Committee**

This would be a Third Tier Committee at the District Level to be headed by the Head of the Offices of various Departments at District Level. This Committee shall consist of the Departmental head and the District Attorney and shall monitor and review all cases in the same way as at the State level. The Committee shall meet at least once in a month. In matters not in its jurisdiction or requiring directions at Departmental HQ level or in matters needing policy clarification, this Committee would make a reference to the Departmental level Policy Implementation Committee.

4.6 Detailed terms of reference, powers and jurisdiction of these three Committees will be notified separately.

4.7 For greater accountability the Committees would take up critical appreciation on the conduct of cases. Good cases which are lost would be reviewed and subject to scrutiny to ascertain responsibility.

4.8 Home/ Administration of Justice Department will be the nodal agency to facilitate coordination and interaction between these Committees.

5. **Prevention and Control of Avoidable Litigation**

5.1 **Setting up of Grievance Redressal System**

A major cause of litigation is arbitrariness in decision making, and lack of proper response to representations made by employees and parties. In service matters, most of the cases relate to relief not being given as per rules, instructions and policy decisions. In other cases there may exist more than one policy. In majority of such cases coming to the Courts, the Courts give directions to pass speaking orders in a time-bound manner. Before the matter reaches the Court, the affected party generally spends a lot of time and effort to redress its grievances through the normal administrative channel. In view of this all Departments shall set up effective grievance redressal Committees which would preempt a lot of unnecessary litigation.

5.1.1 It shall be mandatory for employees to seek redressal through this system, first, before going to the Courts.

5.1.2 A time limit of eight weeks may be fixed to decide a representation.

5.1.3 A Two-tier structure will be set up. In the first tier each department shall have a grievance cell at the State Level. The second tier would be at the district level. All cases and issues, at the request of the aggrieved party, shall be reviewed to redress genuine grievances.

5.1.4 The department level grievance cell / committee shall be headed by the HoD, and shall meet on a monthly basis to review the efficacy of the grievance redressal system in the Department at the headquarters and field level. In case it is found that certain instructions by

the CS or FD need to be reviewed, it shall refer the matter to the, as well as the Empowered Committee, so that decision on the same can be expedited. As the seniority matters are a major source of litigation, these shall be resolved by all departments expeditiously and seniority lists updated and printed/ published regularly.

5.2 Quick Action on Legal Notices/ Representation

5.2.1 As soon as Legal notice is served upon any department asking for a relief the same should be decided expeditiously in accordance with the relevant rules/ instructions and by passing a detailed speaking order.

5.2.2 Large number of cases comes before the Hon'ble High Court wherein grievances are that legal notice/ representations are not being decided or are delayed by the Government. Generally Hon'ble High Court directs Govt. to decide the representation within a specific time. If Govt. disposes of the notice at the first instance, it would reduce the burden of the Court.

5.3 In disciplinary matters while passing the orders in original jurisdiction or in appeals a detailed speaking order should be passed. Also the inquiry officer should follow all the procedures for conducting the inquiry so that no lapse occurs in the procedural part and orders are not set aside on that ground.

5.4 While deciding the cases relating to seniority of the employees, the decision should be taken strictly in accordance with the rules and it should be taken promptly so that interest of no employee is jeopardized due to delayed decision.

5.5 Covered Matters

A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim a representational/ applicant employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the department itself without compelling the litigant to come to the Court. In this manner, the government departments would be acting as efficient litigants.

5.5.1 In similar cases, departments shall endeavour to settle the issue as per post-judicial proceedings formed in identical cases by different courts when attained finality to avoid multiplicity of same matters increasing rush of work in different courts.

5.6 Settlement of dispute through Alternative forums (Lok Adalat)

All pending disputes/cases litigation would be reviewed by the Department & District Policy implementation Committee with a view to settling them

before the Lok Adalat/Special camps, in consultation with the Legal Aid Cell of Hon'ble High Court. This exercise shall be carried out periodically, preferably every three months. Further, permanent Lok Adalats shall be set up to settle disputes in an ongoing manner.

5.6.1. Every department should authorize some officers with sufficient powers to take final decisions so that minor disputes pending in different Courts can be settled through Lok Adalats with active participation of such officers. Moreover not attending of Lok Adalat by an officer deputed to do so would straight away invite disciplinary proceedings.

5.6.2. State empowered Committee and the Litigation Policy Implementation Committee would look into the ways and means for maximizing case/dispute disposal through Fast Track Courts, Gram Nyayalas, Evening Courts, Family Courts etc.

5.7 **Guidelines regarding filing of Appeals**

No Appeal at any level is to be filed without full application of mind to the order/judgement at hand.

5.7.1 Appeals will not be field in cases where insignificant amounts are involved and when no question of Law is involved.

5.7.2 **Principles governing filing of Appeals.**

- (A) Appeals will not be filed against ex-parte ad interim orders. Attempt must first be to have the order vacated. An appeal must be filed against an order only if the order is not vacated and the continuation of such order causes prejudice.
- (B) Appeals must be filed intra court in the first instance. Direct appeals to the Supreme Court must not be resorted to except in extraordinary cases.
- (C) Given that Tribunalisation is meant to remove the loads from Courts, challenge to orders of Tribunals should be an exception and not a matter of routine.
- (D) In Service Matters, no appeal will be filed in cases where:
 - (a) The matter pertains to an individual grievance without any major repercussion;
 - (b) The matter pertains to a case of pension or retirement benefits without involving any principle and without setting any precedent or financial implications.
- (E) Further, proceedings will not be filed in service matters merely because the order of the Administrative Tribunal affects a

number of employees. Appeals will not be filed to espouse the cause of one section of employee against another.

- (F) Proceedings will be filed challenging orders of Administrative Tribunals only if
 - (a) There is a clear error of record and the findings has been entered against the Government.
 - (b) The judgement of the Tribunal is contrary to a service rule or its interpretation by a High Court or the Supreme Court.
 - (c) The judgement would impact the working of the administration in terms of morale of the service, the Government is compelled to file a petition; or
 - (d) If the judgement will have recurring implications upon other cadres or if the judgement involves huge financial claims being made.
- (G) Appeals in Revenue matters will not be filed:
 - (a) if the stakes are not high and are less than that amount to be fixed by the Revenue Authorities;
 - (b) If the matter is covered by a series of judgement of the Tribunal or of the High Courts which have held the field and which have not been challenged in the Supreme Court;
 - (c) Where the assesses has acted in accordance with long standing industry practice;
 - (d) merely because of change of opinion on the part of jurisdictional officers.
- (H) Appeals will not be filed in the Supreme Court unless:
 - (a) the case involves a question of law;
 - (b) If it is a question of fact, the conclusion of the fact is so perverse that an honest judicial opinion could not have arrived at that conclusion;
 - (c) Where public finances are adversely affected;
 - (d) Where there is substantial interference with public justice;
 - (e) Where there is a question of law arising under the Constitution;
 - (f) Where the High Court has exceeded its jurisdiction;
 - (g) Where the High Court has struck down a statutory provision as ultra vires;

(h) Where the interpretation of the High Court is plainly erroneous.

(i) In each case, there will be a proper certification of the need to file an appeal. Such certification will contain brief but cogent reasons in support. At the same time, reasons will also be recorded as to why it was not considered fit or proper to file an appeal.

6. **Decision Mechanism for filing of Appeals.**

- 6.1 The LR and Advocate General offices shall mention substantial question of law involved in the cases, while giving their opinion to file further appeal as according to the Article 133 of the Constitution and provisions contained in the Code of Civil Procedure Appeal before the Hon'ble High Court and Supreme Court lies only if substantial question of law is involved and not on facts of the case. The instruction issued in this regard shall be strictly followed.
- 6.2 The government may not file Appeal which lack substantial question of law particularly where two learned subordinate Courts have recorded concrete findings of fact or where no evidence had been led on behalf of the government or where the amount is not of substance, however, the government may prefer appeal against the judgement and decrees passed by the learned Courts below before the Hon'ble High Court or the Hon'ble Apex Court where substantial question of law in any manner is involved, which requires adjudication by the Hon'ble Court.
- 6.3 Decision to file or not to file appeal takes a long time, and is invariably non-speaking. The reasons for the same are not given by the concerned departments. There is need to evolve an objective proforma, which needs to elaborate the issues involved, financial implications, policy implications etc. Final decision in this matter shall be taken by the Secretary of the Department, in consultation with Advocate General, but the reasons for filing/not filing must be given. This shall bring transparency, efficiency and cut down delays.

7. **Land Acquisition Cases:**

- 7.1 With the objection of reducing litigation connected with Land Acquisition compensation, Govt. have introduced "No Litigation" Incentive" vide its Revised Floor Rate Policy for acquisition of Land notified on 9.11.2010. It has been decided to pay an additional amount equal to 20% of the basic rate of land determined by the Land Acquisition Collector (excluding the interest and the Solatium components as an incentive for '**No Litigation**' to such of the landowners who opt (a) not to challenge the acquisition of their land, and (b) to accept the compensation amount as awarded and undertake not to seek a reference under Section 18 of the Act qua the amount of

compensation. This incentive would still be available in cases where a reference is sought with respect to other issues i.e. (a) the measurement of land, (b) the persons to whom it is payable, or (c) the apportionment of the compensation among the persons interested. This measure is expected to have positive impact on decreasing litigation of this category. This will be duly monitored by the Committees set up under this Policy.

- 7.2 In cases where an Appeal is sought to be filed in Hon'ble High Court against compensation enhancement by the Reference Court for land acquired by State Govt. for one of its undertaking agencies like HUDA, HSIIDC, HSAAMB etc., the Administrative Department will ensure that the Appeal is filed by the State only and that under no circumstances, is there duplication with the concerned agency also filing an appeal. There can not be any divergence of interest between the State and its Agency in such cases.

8. **Public Interest Litigation:**

Where the State Government receive notices regarding Public Interest Litigation, the Government, even before filing of the written statement/ response, if it is required to do or to take some immediate steps to do the needful as per the averments in the writ petition, then the Government must take all remedial measures to do the needful and then status report may be filed along with the response on the first date of hearing. It would save the time of the government as well as of the Hon'ble Courts.

9. **Control and Management of Litigation:**

- 9.1 Every department of the Government shall have one senior Administrative Officer with legal background who shall be designated as Legal Nodal Officer. He will be responsible for proactive Management of the Court cases and constant monitoring of the proceedings of the Court cases. He will ensure that there is no delay on the part of the department while conducting the cases in different Courts. The nodal officer would have an adequate staff. The Nodal Officer will be assisted by legal officers (ADA/ DDA/DA) on deputation to the Department. He shall also undergo suitable training for capacity building in the sphere of litigation management.

9.2 **Pleadings & Counters:**

Suits or other proceedings initiated by or on behalf of Government have to be drafted with precision and clarity. There would be no repetition either in narration of facts or in the ground.

- (A) Suits or other proceedings initiated by or on behalf of Government have to be drafted with precision and clarity. There should be no repetition either in narration of facts or in the grounds.

- (B) Appeals will be drafted with particular attention to the Synopsis and List of Dates which will carefully crystallize the facts in dispute and the issues involved. Slipshod and loose drafting will be taken serious note of. Nodal officers shall exercise control in this regard.
- (C) Care must be taken to include all necessary and relevant documents in the appeal paper book. If the court adversely comments on this, the matter will be enquired into by the Nodal Officer.
- (D) Effort will be made in time bound manner, to formulate and circulate Special formats for Civil Appeals, Special Leave Petitions, Counter Affidavits etc. by way of guidance and instruction as a Manual. This will include not only contents but also the format, design, font size, quality of paper, printing, binding and presentation. It will be the joint responsibility of the Drafting Counsel and the Law Officer/Advocate on Record to ensure compliance.
- (E) Counter Affidavits in important cases will not be filed unless the same are shown to and vetted by Law Officers. This should, however, not delay the filing of counters.

9.2.1. In cases where State is a party through Administrative Secretary and in which issue(s) of (a) Policy (b) inter departmental or inter State (c) connected with specific directions of the Court are involved the Administrative Secretary himself approve the reply/affidavit.

9.2.2. It shall be ensured by the Nodal Officer/Legal Officers of the Department that there is no contradiction in the replies or any submission filed by Government respondents who may be filing replies separately.

9.2.3. The replies shall be signed and filed by officers at appropriate levels. It shall not be below Deputy Secretary/Joint Secretary; Joint Director/HCS officer as the case may be in respect of Government or Department or District Administration respectively.

9.3 Limitation- Delays Appeals

Good cases are often lost because appeals are filed well beyond the period of limitation and without any proposer explanation for the delay or without a proper application for condonation of delay. It is recognized that such delays are not always bonafide particularly in case where high revenue stakes are involved.

9.3.1 Each Head of Department will be required to call for details of cases filed on behalf of the Department and to maintain a record of cases which have been dismissed on the ground of delay. The Nodal Officers must submit a report in every individual case to the Head of

Department explaining all the reasons for such delay and identifying the persons/ causes responsible. Every such case will be investigated and if it is found that the delay was not bonafide, appropriate action must be taken. Action will be such that it operates as a deterrent for unsatisfactory work and malpractices in the conduct of Government litigation. For this purpose, obtaining of the data and fixing of responsibility will play a vital role. Data must be obtained on a regular basis annually, bi-monthly or quarterly.

9.3.2 Applications for condonation of delay are presently drafted in routine terms without application of mind. This practice must immediately stop. It is responsibility of the drafting counsel to carefully draft an application for condonation of delay, identifying the areas of delay and identifying the causes with particularity.

9.3.3 Every attempt must be made to reduce delays in filling appeals/ applications. It shall be responsibility of each Head of Department to work out an appropriate system for elimination of delays and ensure its implementation.

9.3.4 The question of limitation and delay must be approached on the premise that every court will be strict with regard to condonation of delay.

10. **IT based decision support & monitoring system for Litigation Management**

10.1 In view of the excessively large number of cases and their numerous categories, there is need for extensive qualitative and qualitative monitoring of these cases. To monitor these cases and take timely decisions, it is essential that a comprehensive computerised database of these cases is created and maintained at all levels i.e district, High Court and Supreme Court. This will enable the Advocate General Office as well as the Secretaries/ Head of Departments and Nodal officers to easily keep track of the cases filed, the issues involved, and the importance/ urgency.

10.2 The database/ software shall be so designed that all the necessary particulars about the cases, including important documents/ images are uploaded, so that the officers monitoring the case may get complete idea about the case through the site. The judgement of the case and grounds of appeal / LR's opinion shall also be part of the database to facilitate decision making in appeal matters and eliminate delays.

10.3 The State Level computerisation shall be initiated immediately and made fully functional within six months and the District level computerisation within one year.

10.4 IT bases Legal Resource Base

10.4.1 There is need to facilitate online and offline access to case laws and relevant Acts, Book etc. To help the departments and their counsels prepare their cases. For this purpose, online access to computerised databases shall provided through suitable arrangement/ service provider.

10.4.2 Landmark judgements, especially in favour of the Government, shall be researched and made available on website Act wise. All acts, Rules and notifications, judgements shall be available on the website of the Department as well as a website to be developed for managing litigation.

10.4.2.1 Exchange of Legal Resources:

There shall be sharing of judgements/ orders passed by the Hon'ble Supreme Court. High Court against different departments so that while taking a decision in any matter they are kept in view. This shall be done by placing the important judgements on the website of the departments or through e-mails.

10.4.3 A databank of the decided case shall be maintained by properly cataloguing the same which may be an effective tool for reference while deciding the case by competent authority and for making reference while defending the cases before the courts.

11. Legal training for the department officers/ officials shall be a regular feature. The officers/ officials of the different departments of the Government will be imparted legal training by conducting appropriate training programmes regarding the Court procedure. Basic knowledge of computers and internet will be imparted mandatory for legal officers.

12. Proper Representation

12.1 It has also been experienced that many a time no body from the Government department comes present in the Court to attend the Court proceedings and the Department remains unaware about the Court order. Further, relevant official record would not be available for the assistance of the Government Counsel representing the State in the Court. This practice must be stopped immediately. The concerned officer/ official is also required to submit a detailed report of the Court proceedings regularly to this higher authorities.

12.2 Law officer will ensure that the cases are duly represented on behalf of State of Haryana before the Hon'ble Court and also that there is no procedural lapse regarding submission of process fee and issuance of notice etc.

13. Avoiding Adjournments

Adjournments on behalf of State shall be minimized and pleadings completed as far as possible on first available date. This shall be overseen by responsible and accountable authority. Prevailing practice of seeking adjournment on first date of hearing despite the department concerned having been duly served months earlier, must be stopped immediately and responsibility be fixed by taking suitable remedial action against the erring officials. In case of any direction given by the Court which could be complied with even before the filling the response / written statement, then such directions should be complied with forthwith. The response/ written statement must be filed within the period stipulated in the order/ notice issued by the Hon'ble Court. Earned efforts be made that adjournments are avoided under all circumstances. IT solutions will bring out periodical report for all concerned authorities reminding them about due dates for passing orders/ filling replies.

14. Periodical review of the pending court cases.

14.1 All pending cases involving Government/ PSUs need to be periodically reviewed. The Office of Advocate General, District Attorney at District Level and the Law officer of the concerned Department shall also be responsible for reviewing all pending cases and filtering frivolous and vexatious matters from the meritorious ones. MIS Reports shall be prescribed which will give overview of litigations every month.

14.2 Cases will be grouped and categorized. The practice of grouping should be introduced whereby cases should be introduced whereby cases should be assigned a particular number of identities according to the subject and statute involved. In fact, further sub-grouping will also be attempted. To facilitate this process, standard forms must be devised which lawyers have to fill up at the time of filling of cases. Panels will be set up to implement categorization, review such cases to identify cases which can be withdrawn. These include cases which are covered by decisions of courts and cases which are found without merit withdrawn. This must be done in a time bound fashion.

14.3 About 60,000 writ petitions are pending in the High Court to which the State is party. Many of such petitions may have become infructuous. The State shall review all such cases and wherever the cases have become infructuous or covered or involve short points, the Registrar of the High Court may be informed so that such cases can be expeditiously disposed of.

15. Litigation at Apex Level

15.1 While Advocate General shall be responsible for defence of cases in the High Court; he shall also be responsible for defence of cases at National level. The litigation at the national level shall be directly under the control and

monitoring of the Advocate General. The legal Cell at Delhi, looking after the litigation in Hon'ble Supreme Court and other statutory authorities, shall function under the guidance and administrative control of the Advocate General. The assignment of cases in the Supreme Court/ other Authorities to Standing Counsels shall be done by the Advocate General in consultation with Secretary of the concerned Department. In important cases, where senior private counsels have to be engaged, the terms and conditions of engagements shall be as settled by the AG office.

15.2 The legal cell at Haryana Bhawan New Delhi shall be refurbished, strengthened and infrastructure upgraded to provide proper working facilities. The cases shall be equitably / rationally distributed amongst advocates and advocates-on-record to enable proper defence of cases. The communication between advocates-on-record and defending counsels shall be systematized and timely information of court matters to the counsels defending the cases at Delhi shall be ensured. Library, conference place and search facilities shall be provided at Haryana Bhawan to the counsels.

16. District Level Litigation

The District level litigation, in which, State Government is a party is mainly in respect of criminal cases. There is need to streamline the system of defence of cases, production of record, evidence, witnesses etc. There is need to monitor availability of official witnesses, and nodal agency shall be appointed at the District level and the State level to monitor availability of official witnesses. The District Attorney shall collect list of official witnesses to be examined in next one month in different courts in the District and ensure that either the official witness appears in person or the witness is available for recording of evidence by way of video-conferencing at any other District Court in the State with prior intimation to the District Judge of the place where he is to be available(The District Judges shall be intimated about the procedure to be followed in this direction by the Hon'ble High Court). The evidence of official shall be preferably recorded by video-conference to avoid delay.

The State Nodal Agency will review the working of District Nodal Agencies so that there is no default in the availability of official witnesses for evidence on dates planned in advance. If for any inevitable reason, the availability of witnesses cannot be secured, intimation must be given in advance to the District Judge concerned. In such a situation the changed date may be intimated to the District Judge who may re-schedule the recording of the evidence accordingly and confirm the revised schedule to the Nodal Agency. Centralized State Agency shall monitor working of District Nodal Agencies. Further, the IT based monitoring planned at the State level, needs to be implemented, at district level also.

Judgments in criminal cases, along with comments/ recommendations of the District Attorney shall be submitted to the District Magistrate through the District SP of the SP concerned (SP/State Vigilance Bureau etc.) in single file, for decision regarding filing of appeal. Copy of the judgment, statements of witnesses and police file shall be put up as part of this file. This will help the District SP (or the SP concerned) to understand flaws in the investigation and take remedial measures. The Superintendent of Police concerned shall also be competent to issue directions/ grant approval for filing revision petition against any order of the Ilqa Magistrate/ Trial Court in accordance with Section 397 of the Code of Criminal Procedure, 1973.

17. Coordination with the courts.

The Empowered Committee shall regularly interact and get feedback from Hon'ble High Court to improve System, and infrastructure thereby accelerating disposal of cases. The Hon'ble High Court may be requested to make e-filing of cases/ replies and documents mandatory. It will help in expeditious disposal of cases because most of the time, Department are not able to file replies in the absence of copies of Writ Petitions, Application, Interim Orders etc Since all the documents being filed in the Hon'ble High Court / Supreme Court are necessarily typed on computers, making e-filing mandatory shall not be much of a problem. Further, request be made to the Hon'ble High Court to allow sharing of the data on the website of the High Court, with the State Government, to enable better monitoring.

18. Dispute Settlement Committee

It has been noticed that there is lack of co-ordination between various government departments and sometimes also between the Boards/ Corporation/ Municipal Councils etc. This lack of co-ordination, departments generally try to shift the onus/ burden to the other departments and such conflict create not only embarrassing situation, but even delay the adjudication of the important matters by the Hon'ble Courts. In view of such a situation, cases of overlapping jurisdiction/areas shall be resolved by the Empowered Committee. The Committee shall have the powers to resolve inter-se disputes between the departments. The government may frame guidelines, to be followed by such committee.

19 Amendment to Policy

The State Litigation Policy should be responsive to the changing requirements of the litigation system and its various constituents like Judiciary, Govt and the Public. The State Level Empowered Committee shall consider reasonable suggestions/ proposals for amendment to the policy as may be received from stakeholders in the litigation system at various levels with the objective of achieving of objectives of the Policy more effectively. The committee may recommend modification in the Policy as and when necessary on its own motion also.

20. Key Strategies

To sum up, the key strategies to streamline and minimize litigation are the following:

1. Avoiding Litigation- better decision making and quick response to representations.
2. Managing litigation through IT bases decision support system.
3. Capacity building.
4. Review and Dispute Settlements.
5. Improving infrastructure, quality of manpower, system and procedures.