



GOVERNMENT OF KERALA

Law (Monitoring Cell) Department

CIRCULAR

No.25255/MC/07/Law Dated, Thiruvananthapuram 4-12-2008.

Sub: Law Secretary's meeting with Law Officers working in Government Departments held on 6-2-2008 follow up actions - reg.

- Ref: 1. Report of Comptroller and Auditor General of India for the year 1989 No.IV (Civil)
2. Guidelines issued from the Law Department in 1987
3. Circular No. 2984/Adm-I(1)/93/Law dated 2-3-1993
4. 62nd Report of the Committee on Public Accounts (1991-93)
5. Circular No. 442/Adm-I/98/Law dated 25-3-1998

Guidelines regarding the functioning of the Law Officers attached to various Department of Government were issued from Law Department in 1987. The Guidelines provide that, the Law Officers shall keep a register in the prescribed proforma in respect of the pending Court cases and the register shall be submitted to the Law Secretary once in every 3 months for inspection. On 29-3-1990 a reminder was issued to the Law officers in this regard.

2. In 2-3-1993 vide No. 2984/Adm-I(1)/93/Law, a Circular was issued to the Law officers, on the basis of the reports of the Comptroller and Auditor General of India and Public Accounts Committee instructing them to submit the registers to the Law Secretary for inspection once in every 3 months. Again on 25-3-98, vide No.442/Adm-I/98/Law another circular was issued reiterating the contents of the above circular and directed the Law Officers to submit the registers to the Law Secretary for inspection.

3. But it is seen that the direction in the above mentioned guidelines and circulars are not complied with effectively. A 'Monitoring Cell' has been constituted in this Department on the basis of the above-mentioned report of the Public Accounts committee to monitor the conduct of cases in the Departments/Collectorates.

4. In the circumstances a meeting of Law Secretary with Law Officers working in various Government Departments was held on 6-2-2008 and based on the decisions taken in the meeting, the following instructions are issued for strict compliance.

Suit Section

5. A Suit Section shall be constituted in the Head Office under the supervision of the Law officer with sufficient staff and infrastructure facilities like computer etc for conducting the Court cases more effectively and shall keenly watch the progress of the cases. The Suit Section should co-ordinate the work relating to case files which are being dealt with by the different sections of the Head Office/ Sub Offices and by the office of the District Government Pleader/ Advocate General.

6. All sections of the Head Office and other Sub Offices should furnish Section/seat wise details of pending cases and its progress to the Suit Section as quarterly statements (on the last week of March, June, September, December of every year) in the prescribed proforma. The Suit Section will update the Suit Register based on the statement.

7. The Suit Section shall review every case periodically. The Suit Section shall ensure that the cases are being well presented in the Courts by the Pleaders and the interest of the State is protected.

8. The subordinate officers shall be directed to furnish to the Suit Section the details of every case in which they were made as defendants/respondents. The Suit Section should enter such details in the register. Action taken in the disposed case shall be entered in the Suit Register.

Suit Register

9. A Consolidated Register of Suits, OP's Appeal etc shall be kept in the Suit section separately so as to ascertain the present position of the case without referring the case files. A Suit register should be maintained in the prescribed proforma by each section clerk in the Head Office/ Sub Offices with proper up-to-date details so as to ensure efficient and timely supervision of the progress of all suits, OPs, Appeals etc.

10. The date of every adjournment in all pending Court cases shall be collected and entered in the Suit Register. Each and every case filed by or against the Department/Government shall be registered in the Suit Register immediately.

11. A Register of Suit notices as shown in appendix V at the KGLO rules 1978 should be maintained.

12. A contempt of Court cases/Court Order implementation register should be maintained in the Suit Section in order to watch the implementation of Court directions.

13. Such registers shall be periodically checked by the Law officer/Supervisory Officials concerned compulsorily and they may be entrusted with the responsibility of watching the prompt maintenance of register and to take disciplinary action, if any lapse is noticed in this regard.

Law Officers

14. The Head of Department shall provide all facilities including necessary staff and infrastructure for the effective functioning of the Law Officer. Necessary Law Books/Journals shall also be made available.

15. The Law Officer shall submit the Suit Register once in every year, for the inspection by the Law Secretary, through the Law (Monitoring Cell) Department.

16. Law Officer is bound to give advice in all legal matters referred to him by the Head of Department. All currents in respect of the legal matters including Suit Notice/ Summons should invariably routed through the Law Officer.

17. Legal question specifying the point/points on which advice of Law Officer is required must be formulated before submitting files to him. Legal advice of Law Officer may not be sought for on hypothetical issues and on decisions to be taken on administration level. For Eg. Information as per the Right to Information Act 2005.

18. The draft Statement of Facts received from the Sub offices shall be examined by the officers concerned in an administrative point of view before submitting them to the Law Officer for vetting.

Inspection

19. The Law Officer shall conduct periodical inspection in the Subordinate offices and the report of inspection shall be submitted to the Head of Department for further action.

20. The Head of Department shall conduct a periodical Suit Conference (at least once in three months viz. March, June, September, December of every year) for the proper evaluation of pending Court cases and to ensure timely intervention.

Follow up Action

21. Timely follow up action at each stage of the case is very essential. On receipt of copy of a case urgent action should be taken to forward Statement of facts before the posting date of the case. After furnishing Statement of Facts, Advocate General/District Government Pleader shall be contacted to file Counter Affidavit/Written Statement without delay. Regular follow up action may be taken in all pending cases and the stage of the case may be ascertained by contacting the Government Pleader concerned or Advocate General.

22. Direction shall be issued to the concerned to maintain the files dealing with Court cases properly with utmost care. Copies of all relevant records such as copy of OS, OP, Appeal, SOF etc. should be attached in the file concerned.

23. It is essential to take a regular and effective follow up action in the cases, which involves realisation of huge amount of revenue due to Government. A separate list of such cases may be kept monitored at the level of Law Officer/a Senior Officer.

24. In disposed cases, certified copy of the judgment shall be collected and the scope for the appeal shall be discussed with the Government Pleader/Advocate General. In such cases if the opinion of Government Pleader/Advocate General is not found satisfactory, the same shall be reported to Government for second opinion. If there is no scope for appeal necessary action shall be taken to comply the judgment if required.

25. If the Head of the Department is not satisfied with the advice given by the Law Officer, he should obtain instruction from the Government or refer the said matter to the Law Department through the Administrative Department concerned.

26. A consolidated list of pending cases may be prepared with utmost care in the prescribed Proforma and shall be forwarded to the Law (Monitoring Cell) Department in every six months i.e. as on 30th June and 31st December every year.

27. The delay and laches in the conduct of cases by Government Law Officers and office of the Advocate General may be brought to the notice of the Law Secretary in time. The dereliction of duties and violation of the rules by them may also be informed to the Law Secretary in time for taking necessary action.

28. The above instructions are in addition to the existing guidelines. Particular attention of the Head of Department is invited to the Circular and he may personally look into the matter to see whether the suggestions put forth in the Circular are complied with. A Compliance Report shall be forwarded to this Department within one month. Non-compliance of these instructions will be viewed very seriously.


29. The receipt of the Circular shall be acknowledged.

P.S. GOPINATHAN,
Law Secretary

To

All Law Officers
All Head of Departments Concerned
All Officers and Sections in Law Department.

Forwarded by Order



Section Officer