

# **Rules Regarding Assistance to Government Servants in Criminal Cases Instituted by or Against Them, (1951)**

RAJASTHAN

India

## **Rules Regarding Assistance to Government Servants in Criminal Cases Instituted by or Against Them, (1951)**

### **Rule**

### **RULES-REGARDING-ASSISTANCE-TO-GOVERNMENT-SERVANTS-IN- of 1951**

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### **1. Scope of the Rules**

- These rules are provided for assistance to be given to Government servants in instituting criminal cases for defamation and in defending criminal cases instituted against them in relation to acts done by them in their official capacity.

### **2. Assistance in Prosecution for defamation**

- When Government on an application by a Government servant considers it desirable that he should prosecute under section 500 of Indian penal Code for a defamation uttered or published against him in his capacity as a public servant, it will assist him and engage the Public Prosecutor to appear. The application should be made through the District Magistrate or the head of the Department.

### **3. Reporting prosecution**

(1)When a prosecution is instituted against a Government servant for anything done by him in his official capacity, he shall at once inform his superior officer and the head of the Department and report to them as soon as possible thereafter, the facts and circumstances of the case.(2)The Head of the Department shall then make or have such enquiries made as may be necessary and forward the report to Government with his comments and recommendations for orders.

### **4. Defence of Government servant**

(1)When a Prosecution is instituted against a Government servant on account of an act done by him in official capacity, Government may, defray the expenses of his defence, provided his act was justified by law, or provided he believed himself after due care and attention to be justified by law in doing it. A pre-requisite for Government's assistance is that the act of the Government servant must be either-(i)in strict accordance with law, or(ii)else be covered by any of the recognised exceptions enumerated in sections 76 to 79 of the Indian penal Code 1860, as adopted to the Rajasthan State.(2)When Government declines to defend a Government servant, he may, on his own responsibilities and at his own expense, take such measures as he considers necessary, provided that they will not interfere with the performance of his official duties. In such a case if the final decision is in favour of the Government servant, Government will ordinarily reimburse such expenses, as it may consider to be reasonable.(3)Procedure when section 197 of the Criminal procedure Code applies - When a prosecution instituted against a Government servant who is not removable from his office save by or with the sanction of Government or some high authority, as required by section 197 of Criminal Procedure Code, and such sanction has not been obtained, the Court should be requested to reject the complaint for want of sanction.

### **5. Engagement of Counsel**

- When the defence of a Government servant is sanctioned by Government, the services of the Public Prosecutor may be engaged if this is considered desirable, Where the services of the Public Prosecutor are not engaged, a private legal practitioner may be engaged. The fee payable to the Public Prosecutor or private legal practitioner for the whole case shall be such amount, not exceeding Rs. 100/- as the District Magistrate may fix according to the importance of the case. If it is proposed to fix the fee at a figure higher than Rs. 100/- sanction of the Government shall be obtained. The said fee and incidental charges, such as court fee and diet money of witness, shall be borne by Government. In petty cases, the appearance of the Government servant himself should ordinarily suffice.

### **6. Procedure when decision is in favour of Government servants**

(1)If the case, the defence of which was sanctioned by the Government, is decided in favour of the Government servant, and if any compensation costs or damages are awarded to him, the amount of expenses paid by Government shall be refunded by him upto the limit of such compensation, costs

or damages.(2)Procedure when decision is against Government servants - If the case is decided against the Government servant, the question whether an appeal should be filed at the expense of Government or whether the damages awarded to the complainant or the fine imposed should be paid by Government shall be decided by Government either on the application of the officer concerned or on the representation of his superior officer. The application or representation shall be submitted to Government through the head of the Department. Both officers should give their own considered opinion on it.

## **7. Duty of counsel when proceedings are likely to prolong**

- Whenever it appears to the Public Prosecutor or the private legal practitioner appearing on behalf of the Government servant that the proceedings in the court are likely to be prolonged and to interfere with the discharge of the Government servant's public duties or are likely to harass him, the Public Prosecutor or private legal practitioner should request the court to deal with the utmost possible expedition.