

Jharkhand State Electricity Regulatory Commission (Engagement of Counsel) Order, 2004

JHARKHAND

India

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Rule

JHARKHAND-STATE-ELECTRICITY-REGULATORY-COMMISSION-ENGAGEMENT-OF-COUNSEL-ORDER-2004

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Jharkhand State Electricity Regulatory Commission (Engagement of Counsel) Order, 2004 Published vide Notification No. JSERC/Counsel/271, dated the 3rd August, 2004, published in Jharkhand Gazette, Extra Ordinary No. 254, dated August 5, 2003 Notification No. JSERC/Counsel/271, dated the 3rd August, 2004, published in Jharkhand Gazette, Extra Ordinary No. 254, dated August 5, 2003. - In exercise of power conferred on it by Section 181 of Electricity Act, 2003 read with Regulation 15 of JSERC (Conduct of Business) Regulation, 2003 and all power enabling it in that behalf, the Jharkhand Electricity Regulatory Commission hereby make the following Regulations: [Terms and Conditions for The Engagement of Standing Counsel(s) on behalf of The Commission. General

1. Short Title and commencement and object.

- (i) These Regulations may be called the "Jharkhand State Electricity Regulatory Commission (Engagement of Counsel) Order, 2004." (ii) The object of these Regulations are: (a) to establish procedures for conducting the hearing before the Commission and on behalf of the Commission before the various Forum; and (b) to establish procedures for compliance of the orders/directions of the Commission and on behalf of the Commission. (iii) They shall come into force on the date of their publication in the Jharkhand Government Gazette. (iv) They extend to the entire State of Jharkhand.

2. Definitions.

- In these Regulations, unless the context otherwise requires:(a)'Act' means the Electricity Act, 2003.(b)'Commission' means Jharkhand State Electricity Regulatory Commission.(c)'Chairman' means the Chairman of the Jharkhand State Electricity Regulatory Commission.(d)'Member' means a Member of the Jharkhand State Electricity Regulatory Commission.(e)'Secretary' means the Secretary of the Jharkhand State Electricity Regulatory Commission.(f)'Officer' means the Officer of the Jharkhand State Electricity Regulatory Commission.(g)'Counsel' means Standing Counsel of the Jharkhand State Electricity Regulatory Commission.(h)'Petition' means and includes all Petitions, Applications, Complaints, Appeals, Counter Affidavits, Written Statements, Replies, Rejoinders, Supplementary Pleadings, other papers and documents filed before the Commission and/or on behalf of the Commission.

3. Scope of the Scheme.

- The scheme will be applicable for engagement of Standing Counsel/Counsel(s) in different hearing on behalf of the Commission at different forum within the State.

4. Incharge of cases.

- The Standing Counsel will be in-charge of the entire litigation work on behalf of the Commission before any forum except such of the work for which separate arrangements have been made.

5. Allocation of cases to the counsel(s).

- The Commission will make allocation of cases to the Counsel(s).

6. Term of engagement.

- The term of engagement of the Counsel would be for a period of three years or, until further orders whichever is earlier. The term may be extended for a further period not exceeding three years at the discretion of the Commission.

7. Termination of engagement.

- The engagement/empanelment of the Counsel would be terminable at any time without assigning any reason.

8. Headquarter of the counsel.

- Headquarter at the place of usual sitting of the Commission. The Counsel will locate his Headquarter during the period of his engagement/empanelment at the place of the usual sitting of the Commission.

9. Duties.

- The counsel shall-(i)appear in the High Court in the cases entrusted to him;(ii)if so require appear in the Tribunals, District and Subordinate Courts, Commissions of Inquiry, before the Arbitrators/Umpires etc. at the Headquarter or outside the Headquarter;(iii)keep the Commission inform of the important developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case, supplying copies of judgements etc;(iv)when any case is decided against the Commission, give his opinion regarding the advisability of filing an appeal from such a decision;(v)furnish the periodical statements/status and reports which may be called from time to time; and(vi)perform such other duties of a legal nature, which may be assigned by the Commission from time to time.

10. Retainer and other perquisites.

- (A) The Counsel will be paid monthly retainer of Rs. 5000/- (Rs. Five thousand only) which will include charges for staff of case and other establishment Charges;(B)The Counsel will have the right to his practice, which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Commission;(C)The Counsel shall not advise any party or accept any case against the Commission;(D)If the Counsel happens to be a partner of a firm of lawyers or solicitors it will be incumbent on the firm not to take any case against the Commission;(E)The Counsel will not be entitled to any other perquisites.

11. Fee payable to the counsel.

- (A) The fees payable to the Counsel would be as follows:(i)Regulation fee for attending/appearing in each case before any Forum (This includes all Misc. Expenses viz. Drafting, typing, filing, clerkage etc.) Rs. 5.000/-(ii)Written opinion Rs. 5.000/-

12. Out of Headquarter.

- (A) As the Advocate is required to take leave of his court at Ranchi to represent the Commission at Delhi before the Appellate Tribunal for Electricity, the daily fee for his absence from Headquarters including the day of departure and arrival back at the Headquarters during which the High Court is opened at Ranchi is revised to Rs. 2,000/- per day to compensate his loss due to his absence from the court. Apart from this the counsel will be entitled for payment of Rs. 3,000/- per day to compensate the expenses for accommodation, food and conveyance charges at Delhi.(B)The fee for attending/appearing before the Appellate Tribunal for Electricity at Delhi including all Misc. expenses viz. drafting, typing, filing, clerkage etc. should be Rs. 7,500/- each case.(C)Besides the above, as per the JSERC (Engagement of Counsel) Order, 2004, the Counsel will be entitled to travel expenses for travel by Air (economy class) or AC first class by train.

Substituted by Notification No JSERC/36/05/782, dated 24.2.2006, published in the Jharkhand Gazette, dated 27.2.2006. However for facility of readers, original Section 12 is being reproduced

below. -12. Out of Headquarter.- (A) If the Counsel is required to go out of Headquarter in connection with litigation e.g. for conference, appearance in a case outside the Headquarter, he will be entitled of a daily fee of Rs. 750/- per day for the days of his absence from Headquarter including the day of departure intervening holidays and arrival back at the Headquarter. But no fees will be paid for the day of departure if he leaves the Headquarter after office hour or for the day of arrival if he arrives at the Headquarter before the officer hour.(B) Travel/Hotel expenses: In addition to the daily fee the Counsel will also be entitled to travel expenses for travel by air (economy class) or first class by train, road mileage for the journey from his Headquarter to the Airport/Railway Station andvice versaand from the Airport/Railway Station to the place of his stay out of Headquarter andvice versaat the rate admissible to Grade-I/Class-I of the State Government. He will also be paid a lump sum amount of Rs. 300/- as conveyance charges for performing local journey while outside the Headquarter. He will also be entitled to reasonable actual expenses for stay in Hotel subject to a maximum of Rs. 600/- per day.

13. General.

- (i) In all cases effective appearance is necessary for the Counsel to claim fee.(ii)No fee will be payable in cases where no legal work is required to be done viz. cases in which the interests of the Commission are to be watched pending instructions, cases regarding transmission of record, inspection of the Court record for ascertaining the position of the case or other information needed.(iii)When cases argued before one Court/Single Judge are referred to another Court/Division Bench or to a Full Bench, separate fee at the prescribed rate will be paid for appearance.(iv)No fee will be payable to the Counsel if an advance notice about the adjournment has been issued or the adjournment of the case has been made at his request due to reason personal to him.(v)No fee will be admissible for preparation, but the Commission may consider for payment of a separate fee for preparation in special cases involving arduous work.(vi)In the event of any doubt or differences regarding the fees, the fees determined by the Commission shall be final and binding.(vii)The Commission, by an order in writing, may relax any of the provision contained in the scheme.