

Procedure / guidelines to be followed while filing affidavits in pending matters, contempt petitions and disposed matters.

**GOVERNMENT OF MAHARASHTRA
OTHER BACKWARD BAHUJAN WELFARE DEPARTMENT
CIRCULAR No. 5-2025/Legal
MANTRALAYA, MUMBAI - 400 032.
DATED the 06 August, 2025.**

CIRCULAR

- Read-** 1. Law and Judiciary Department's Government Resolution dtd.27.08.2014 implementing State Litigation Policy.
2. Law and Judiciary Department's Circular dtd.24.12.2024 regarding Standard Operating System for handling Contempt Petitions.

The Hon'be Chief Secretary and Law and Judiciary Department had issued various Circulars for prompt action, to reduce the litigation, saving avoidable cost on the unproductive litigation, reducing load on the Judiciary, Police Machinery, the Departments and agencies of the Government in respect of the Government litigation i.e. in Court matters from time to time i.e. for appointment of Nodal officer for facilitating coordination/ communication between the concerned Government Pleaders / Assistant Government Pleader(GP/AGP) and the concerned desk of the department, filing of affidavits, handling Contempt Petitions /disposed matter, for periodical reviews etc.

2. The Nodal Officer and the concerned GP act as an effective and efficient connecting link between the Government and the Courts.

3. It is noteworthy to point out that due urgent intimation by the GP /the concerned allied office regarding the steps to be taken /filing affidavit and submitting the same for approval of the drafts affidavits to the State at the fag end, the State /State Officers gets no breathing time for understanding the issue and for proper scrutiny of the said affidavit. The procedure for submission of draft affidavit gets started with minute case study from Assistant Section Officer, Desk Officer/ Under Secretary, Deputy Secretary/ Joint Secretary, Under Secretary/ Deputy Secretary/ Joint Secretary (Legal) as the case may and ends on final approval of the Principal Secretary or the Secretary of the department. As such the minute case study ought to

be undertaken at each and every level i.e. total 5 level. Needless to mention it takes time for the said process, therefore, it is not possible on short intimation from the GP /concerned office notice. This aspect / procedure, needs to be taken in consideration by the GP and other concerned offices of the State. Therefore, the said position and any other genuine reason, ought to be brought to the notice of the Hon'ble Court by the GP /concerned office for extension of period of time in the Court matter. Despite this, if the GP /concerned office constrains the State to take action in the last point of time in hassle, the same may hamper, the State from arriving at a appropriate and conscious decision in the matter. Moreover, this may consequently result in the passing of adverse order / adverse strictures in the matter against the State Government with huge financial burden on the State exchequer, by effecting the merits of the matter.

4. Therefore, in pursuance of directions of the Hon'ble Chief Secretary, for prompt action in time in pending matters, contempt petitions, filing affidavits and disposed matter, I request the concerned authorities /State Officers to follow the procedure as under-

- i. Para-wise comments be prepared, para-wise comments approved by the State be sent to the Government Pleaders / Assistant Government Pleader(GP/AGP) for drafting the affidavit. Thereafter, the draft affidavit received from GP/ AGP, be finalised with the approval of the State. Finalised affidavit be filed and the copy of the affidavit filed in the matter be sent for perusal and record of the OBC Department, in case of affidavit is filed by the allied office officers.
- ii While preparing para-wise comments, each and every para of the petition/ case be studied minutely and replied with evidence, support of legal provision to justify the case of the State in an effective manner.
- iii. Para-wise comments and draft affidavit be first be minutely scrutinised and finalised by the concerned Desk Officer/Under Secretary, Deputy Secretary /Joint Secretary as the case may be. Thereafter, the same be submitted for scrutiny of the Under Secretary, Deputy Secretary /Joint Secretary (Legal) as

the case may be irrespective of the designation and seniority of the aforementioned officers of the desk.

iv. As the filing of the affidavit is not formality, the same needs to be drafted by the concerned GP by utilizing his practice and legal expertise.

v. Caution be taken by the concerned GP / concerned office that there must be no contradictions in the affidavit, affidavits filed in the matters involving same or similar tagged together or any other matter. Further, if such contradiction is pointed out by any State Officer, the same be considered and necessary changes be made in affidavit, accordingly by the concerned office of State /GP. The Approach of the concerned in this regard shall not be rigid.

vi. The concerned office / GP needs to be vigilant that vague affidavit is not filed, otherwise it becomes obligatory for the State to file additional affidavit in the matter. Such situation shall not arise. The additional affidavit may be filed in exceptional cases and on directions of the Hon'ble Court.

vii. In case of State department/s and the allied office officers are impleaded party respondent in the matter, consolidation affidavit be filed to avoid contradictions in submission on behalf of the State and said officer except in contempt petitions.

viii. If precautions at (v), (vi) and (viii) are not taken, then in case of contradictions in the affidavit/s, the Hon'ble Court may direct the Higher State Officers (may be the Hon'ble Chief Secretary) to remain present / to file an affidavit in the matter.

ix. Standard Operating Procedure (SOP) as directed by the Hon'ble Chief Secretary vide Law and Judiciary Department's Circular dtd.24.12.2024, be followed in case of contempt petition.

x. In case of disposed matter, decision regarding challenging / compliance of the order be taken to avoid contempt being filed in the matter. If it is decided to challenge the decision, the concerned desk of the department shall examine the case on merits and then the proposal be moved the Law and Judiciary department at the earliest alongwith after obtaining opinion of General

Administration Department / Finance Department / any other department as the case may be, if necessary, opinion of concerned GP if received, affidavit filed on behalf of State and its authorities, copy of order passed by the Hon'ble Court, relevant GR/ Circulars and other relevant papers to avoid delay in the matter.

xi. If there is no stay to the order of the Hon'ble Court and time is consumed for filing Writ Petition or appeal as the case may be the said order be complied subject to the outcome of the Writ Petition or appeal that may be filed.

5. All the concerned Deputy Secretary / Joint Secretary are hereby directed to issue necessary directions to the concerned Assistant Section Officer, Desk Officer, Under Secretary in this regard. These directions shall be brought to the notice of all the allied offices and officers working under their control. The aforesaid procedure / guidelines be scrupulously followed by all concerned officers in Court matters otherwise the concerned officer would be responsible for any dereliction in their duty in this regard.

6. This Circular resolution of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference number for this is 202508061259454634. This Circular has been signed digitally.

By order and in the name of the Governor of Maharashtra.

(Appaso Dhulaj)
Secretary

Copy to :

1. The Advocate General, Maharashtra State, High Court, Mumbai
2. The Chief Secretary, Mantralaya, Mumbai.
3. The Principal Secretary & RLA, Law and Judiciary Department, Mantralaya, Mumbai.
4. The Secretary, Other Backward Bahujan Welfare Department, Mantralaya, Mumbai.

5. All the Under Secretary, Deputy Secretary and Joint Secretary, Other Backward Bahujan Welfare Department, Mantralaya, Mumbai.
6. The Government Pleader, High Court (O.S.), Mumbai.
7. The Government Pleader, High Court (A.S.), Writ Cell, Mumbai.
8. The Government Pleader, High Court (A.S.), Mumbai.
9. The Government Pleader, High Court, Nagpur.
10. The Government Pleader, High Court, Aurangabad.