

*Government of India
Ministry of Communications
Department of Posts
(Establishment Division - GDS Section)*

Dak Bhawan, Sansad Marg
New Delhi - 110 001

No.19-03/2019-GDS

Dated : 13 .08.2019

Office Memorandum

Sub: Seeking opinion from Law Officers for filing of SLPs / Appeals in Supreme Court.

Please find enclosed herewith a copy of letter dated 4th July, 2019 and another similar letter dated 23.04.2019 on the same issue received from Dy. Govt. Advocate, Central Agency Section, Supreme Court Compound along with a copy of OM No.J-12012/3/2018-Judicial dated 7th March, 2018 on the above mentioned subject.

It has been requested that Field Offices of D/o Posts should send proposals for filing of SLPs through D/o Posts and advice Section of D/o Legal Affairs instead of sending it directly to Central Agency Section of Supreme Court. Phone number and email address of the concerned officer may also be provided so that they may be contacted by Govt. Counsel to avoid any delay in getting instructions and sending draft appeals to the department.

I am directed by competent authority to inform that the instructions contained in the above said letters may please be circulated to all the Field Offices so that proposals in this regard are received as per the prescribed procedure.

Encl: As above.



(S B Vyavahare)

Assistant Director General(GDS/PCC)

Email: adggds@indiapost.gov.in

adggds426@gmail.com

Ph: 011-2309 6629

To

1. All CPMGs / PMGs
2. Sr. DDGs / DDGs in Dte.
3. Directors / ADGs in Dte.



G.S. Makker,
Dy. Govt. Advocate
Tel.No.23389869

भारत सरकार
GOVERNMENT OF INDIA
विधि और न्याय मंत्रालय
MINISTRY OF LAW & JUSTICE
विधि कार्य विभाग
DEPARTMENT OF LEGAL AFFAIRS
केन्द्रीय अभिकरण अनुभाग
CENTRAL AGENCY SECTION
सुप्रीम कोर्ट कम्पाउण्ड
SUPREME COURT COMPOUND

Secretary (Posts)
Dy. No. 1984-9
Date 8/7/19

DDO (Estt.)
Dy. No. 1405
Date 9/7/19

M(P)

नई दिल्ली, दिनांक

New Delhi, Dated 4th July, 2019

No. DGA(GSM)/Misc./11/2019

✓ To,

- The Secretary,
Department of Posts,
Government of India,
Room No. 103, Dak Bhawan,
Sansad Marg,
New Delhi-110001.

GDS Section/PC Cell
Dy. No. 300/CAT
Dated 10/7

08/07/19
DDG (F&D)

Subject: Seeking opinion from Law Officers for filing of SLPs / Appeals in Supreme Court.

Sir,

Central Agency Section is conducting litigation in Supreme Court on behalf of the Ministries and Departments of the Central Government. As per extant instructions, the proposals for filing of SLPs / Appeals etc. in Supreme Court should be routed by the Department concerned through Advice Section, Department of Legal Affairs. A copy of the instructions issued by the Law Secretary on the above subject vide his letter No. J-12012/3/2018-JUDICIAL dated 7th March 2018 is enclosed for your kind perusal.

It is observed that the Field Offices of Department of Posts viz. Sr. Superintendents of Post Offices send the proposals for filing of SLPs directly to Central Agency Section without routing them through Department of Posts and Department of Legal Affairs as indicated above. Further, the officers of Department of Posts who correspond with the Central Agency Section do not mention their telephone numbers and e-mail addresses in the correspondence which makes it difficult for us to correspond with them in urgent matters.

It is accordingly requested that these instructions may please be circulated to all the Field Offices and officers working in the Department of Posts so that proposals in this regard are received as per the prescribed procedure.

We may circulate to
all circles
ASG (GDS)

8.7.19

ASG-I
10/6/19

Contd...2/-

A proposal received from Sr. Superintendent of Post Offices, Chanda Dn, Chandrapur-442401 for filing of SLP in Supreme Court against the order of High Court of Mumbai in the Case of Shri B.B. Poddar is being sent herewith for routing the matter through Advice Section of Department of Legal Affairs, New Delhi.

Yours sincerely,



(G. S. Makker)

Encl: As above

Copy to : All Branch Secretariats of Department of Legal Affairs at Kolkata, Mumbai, Chennai and Bangalore – It is requested that the Field Offices of Central Government Ministries and Departments be advised to refer their proposal for SLPs to Central Agency Section through their concerned Department and Advice Section of Department of Legal Affairs in terms of instructions issued by the Law Secretary vide his letter No. J-12012/3/2018-JUDICIAL dated 7th March 2018.

F. No. J-12012/3/2018-JUDICIAL
Government of India
Ministry of Law & Justice
Department of Legal Affairs
(Judicial Section)

Shastri Bhawan, New Delhi,
Dated 7th March, 2018

OFFICE MEMORANDUM

Subject: Seeking opinion from Law Officers directly by the Ministries/Departments/PSUs,
etc. - Regarding.

It has been informed by Ld. Attorney General for India vide letter dated 09.08.2017 (copy enclosed for ready reference) that some of the Ministries/Departments are approaching Law Officers directly for seeking their opinion/advice.

2. It may not be out of place to mention that rule of law demands that functions should be discharged by the authority on whom such functions are conferred in the manner prescribed therefor. The legal matters including interpretation of the Constitution and the laws is assigned to the Department of Legal Affairs in contradistinction to the individual officers vide The Government of India (Allocation of Business) Rules, 1961 and the Government of India (Transaction of Business) Rules, 1961. The attention of all the concerned is invited, in this regard, to para 31 of the Manual of Office Procedures and the Law Officers (Conditions of Service) Rules, 1987 (available on this Department's website www.legalaffairs.gov.in in the tab 'Judicial Section' under heading 'Circulars pertaining to litigations').

2.1 Para 31 of the Manual of Office Procedures provides as under:

Para 31: References to the AGI – References to the Attorney General of India shall be made by the Ministry of Law and Justice.

2.2. Rule 8 of the Law Officers (Conditions of Service) Rules, 1987 is also reproduced below for the attention of all concerned:

8. Restrictions- (1) A Law Officer shall not –

- (a) Hold briefs in any court for any party except the Government of India or the Government of a State or any University, Government School or College, local authority, Public Service Commission, Port Trust, Port Commissioners, Government aided or Government managed hospitals, a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), any Corporation owned or controlled by the State, any body or institution in which the Government has a preponderating interest;
- (b) Advise any party against the Government of India or a Public Sector Undertaking, or in cases in which he is likely to be called upon to advise, or appear for, the Government of India or a Public Sector Undertaking;
- (c) Defend an accused person in a criminal prosecution, without the permission of the Government of India;
- (d) Accept appointment to any office in any company or corporation without the permission of the Government of India;
- (e) Advise any Ministry or Department of Government of India or any statutory organization or any Public Sector Undertaking unless the proposal or a reference in this regard is received through the Ministry of Law and Justice, Department of Legal Affairs.

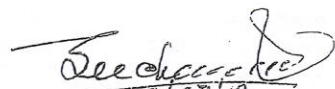
3. Should
or pr
the

3. All the Ministries/Departments are again requested that while seeking legal advice they should follow procedure so as to avoid illegality / impropriety on account of jurisdictional error or procedural impropriety and necessary instructions in this regard may also be issued to all the PSUs/Autonomous Bodies under their control.

4. The Law Officers are also requested that in cases other than sub-judice matters opinion / advice to Central Government Ministries / Departments / PSUs / Autonomous Bodies or any other Central Government instrumentalities may not be tendered without getting reference from this Ministry.

5. This issues with the approval of the Hon'ble Minister for Law and Justice.

Encls: As above.

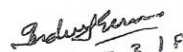

(Suresh Chandra)
Law Secretary

To,

1. All Ministries/Departments of Government of India.
2. All the Law Officers viz. the Attorney General for India, Solicitor General of India and Additional Solicitor Generals of India.
3. The Incharge, Central Agency Section.
4. The Incharge, Branch Secretariats at Mumbai, Kolkata, Chennai & Bengaluru.
5. The Incharge, Litigation (High Court/CAT/Lower Court) Sections.

Copy for information to:

1. PS to MLJ/PS to MSLJ/PS to Law Secretary/PS to Legislative Secretary/PS to all Additional Secretary/PS to all Joint Secretaries of Department of Legal Affairs.
2. One copy of this OM is uploaded on the website of this Department i.e. www.legalaffairs.gov.in in the tab 'Judicial Section' under heading 'Circulars pertaining to litigations' for the information of all concerned.
3. Five spare copies to be kept in Guard File.


(Inder Kumar) 7.3.1 F
Additional Secretary
Tel. 011-23384101



G.S. Makker,
Deputy Govt. Advocate
Tele. No. 23389869

No.DGA(GSM)/Misc./10/2019

To,

The Secretary,
Ministry of Communication,
Department of Posts,
Room No. 103, Dak Bhawan,
Parliament Street,
New Delhi - 110001.

भारत सरकार
GOVERNMENT OF INDIA
विधि और न्याय मंत्रालय
MINISTRY OF LAW & JUSTICE
विधि कार्य विभाग
DEPARTMENT OF LEGAL AFFAIRS
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CENTRAL AGENCY SECTION
सुप्रीम कोर्ट कम्पाउण्ड
SUPREME COURT COMPOUND

नई दिल्ली, दिनांक

New Delhi, Dated

23.04.2019

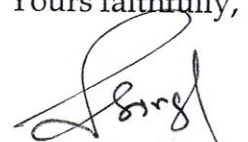
Sub: To conduct litigation of UOI before Supreme Court of India - reg.

Sir,

The Central Agency Section (CAS) under Ministry of Law & Justice, Department of Legal Affairs conducting the litigation on behalf of UOI before the Hon'ble Supreme Court. It is observed that most of the time Department of Posts is not mentioning contact details, mobile number, email address of concerned officers in their letters/communications to CAS and in the files sent for opinion through department of Legal Affairs which caused difficulty to contact concerned officer. Certain guidelines are framed to avoid delay in filing appeals/affidavit etc. for which our panel counsel have to be provided contact details of the concerned officer of your department not below the rank of Under Secretary and concerned Joint Secretary to deal in the Court cases for taking instructions and to attend conference with the Ld. Law Officers to protect to interest of UOI.

2. Therefore, it is requested to give necessary instruction to officers of your Department dealing with the Court cases to provide us with contact number/mobile number/email address of the officers as mentioned above to avoid any delay in getting instructions and sending draft appeals to the department.

Yours faithfully,


(G.S. Makker)

07/11