

Shastri Bhawan, New Delhi
Dated the 4th April, 2025

OFFICE MEMORANDUM

**Subject: Directive for the Efficient and Effective Management of Litigation
by Government of India**

In line with the recommendations of the Committee of Secretaries (CoS) led by the Cabinet Secretary, the Department of Legal Affairs, Ministry of Law and Justice, has framed the 'Directive for the Efficient and Effective Management of Litigation by Government of India', which is an integrated approach in reinforcing the goal of good governance and ensuring public welfare and timely dispensation of justice. The Directive shall apply to all Central Government Ministries/Departments, their attached and subordinate offices, autonomous bodies and for arbitration matters to CPSEs as well. State Governments may also consider adopting the Directive.

2. The Directive seeks to introduce effective measures to simplify legal processes, prevent unnecessary litigation, address inconsistencies in notifications and orders, minimize unwarranted appeals, streamline inter-departmental coordination in litigation, ensure greater public accountability in arbitration matters, and establish a strong Knowledge Management System (KMS) to improve overall efficiency. A copy of the Directive is enclosed herewith for necessary action.

3. A review of the implementation of the recommendations, enshrined in the Directive, will be conducted by the Committee of Secretaries, chaired by the Cabinet Secretary.

4. This issues with approval of the Competent Authority.

Encl: As above.


(Dhruva Kumar Singh)
Chief Controller of Accounts
Phone No. 011-23384446

To:

All Secretaries to the Government of India

Copy to:

- (1) PSO/Sr.PPS/PPS to the Cabinet Secretary, Cabinet Secretariat
- (2) Shri C. Sridhar, Joint Secretary, Prime Minister's Office



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**DIRECTIVE FOR THE EFFICIENT AND EFFECTIVE
MANAGEMENT OF LITIGATION BY THE
GOVERNMENT OF INDIA**

F.No. J-18/5/2016-Judl.
Ministry of Law and Justice
Department of Legal Affairs

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GOVERNMENT OF INDIA**

1. Introduction

1.1 The Government engages in a wide range of activities that profoundly impact individuals, society, public and private institutions as well as its own functioning. Litigation often emerges as a consequence of the intricacies of the legal and governance processes. The process of litigation is complex and its outcome is uncertain. This is further aggravated by overburdened courts, where cases having merit or otherwise often clog the judicial system, thereby causing delays in justice dispensation and hindering timely and effective decision-making.

1.2 Efficient management of its litigation by the Government of India is crucial to promoting good governance and ensuring public welfare and timely dispensation of justice. Therefore,

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it is essential to develop a well-coordinated and integrated approach to managing litigation before the courts, tribunals and other quasi-judicial fora involving the Union of India to comprehensively move towards reinforcing the goal of good governance.

2. Background

2.1 Litigation and its context: In every society based on the rule of law, litigation is the primary mechanism for peaceful resolution of disputes, recognition and protection of rights as well as other interests of the citizens. In a developing country like India, the Government is engaged in a wide range of developmental, welfare and regulatory activities which have a bearing upon the lives of the citizens and others. Decisions and actions of the Government based on furtherance of public policy pertaining to welfare activities and beyond are, *inter alia*, designed to ensure orderly conduct of citizens, civil society, businesses, and public and private institutions. Although the objective of the various

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decisions and actions is to promote public good and better governance, sometimes their ineffective implementation may lead to the exclusion of intended beneficiaries or the unintended ones being benefited. In some cases, affected parties may perceive certain decisions as unfair and pursue legal recourse through litigation.

2.2 In order to achieve the objective of effective implementation of laws and policies in the right earnest and to secure its own interests, the Ministries/Departments of the Central Government or its attached and subordinate offices and the autonomous bodies at times also may have to take recourse to litigation.

2.3 **Effect of litigation:** The litigation process is seen to be time-consuming, complex, and influenced by various external factors, resulting in significant delays in resolving disputes. These delays contribute to uncertainty of outcome, undermine system accountability, and increase the financial

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burden on the parties or the public exchequer, as the case may be.

- 2.4. **Rationale:** The burden of avoidable litigation can be reduced by identifying and addressing systemic issues, such as closing the gaps in the legislative framework or correcting any infirmities in executive action. It is essential to streamline and accelerate efforts on these issues by leveraging the capabilities of Information Technology (IT) to serve the broader public interest, enhance ease of doing business, protect investments, and preserve the environment, thereby fostering inclusive and sustainable development.

3. Vision

This directive is designed to establish a system to ensure effective, efficient, integrated and coordinated management of litigation involving the Ministries/ Departments of the Central Government and its attached and subordinate offices and autonomous bodies, before courts and tribunals

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and other quasi-judicial fora to promote good governance in pursuit of the goal of *Viksit Bharat* by 2047. It may be seen as the “Standard Operating Procedure” for litigation management.

4. Objectives

The directive seeks to achieve the following objectives:

- (i) Streamline the administrative processes involved in the conduct of litigation;
- (ii) Reduce litigation of recurrent nature;
- (iii) Reduce anomalies/inconsistencies in statutory or non-statutory notifications and administrative orders;
- (iv) Reduce unnecessary appeals against orders of the Court;
- (v) Put in place a sound Knowledge Management System (KMS).

5. Justification

5.1. Concentration of Litigation: The Union of India is involved as a litigant in numerous ongoing cases across the

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Supreme Court, High Courts, District Courts, as well as in Tribunals and quasi-judicial fora. At any given time, the resources of a significant number of Ministries and Departments are engaged substantially in these legal proceedings.

5.2. **Avoidance of Contempt Cases:** At times, contempt proceedings are initiated against the Government officials for non-compliance of judgment and orders, which can be prevented by enhancing the monitoring and coordination mechanisms to ensure timely and adequate responses to judgments and orders.

5.3. **Capacity Constraints:** The capacity of Ministries and Departments to manage litigation is limited due to resource constraints. Most Ministries and Departments do not have a dedicated Legal Cell, and cases are generally being handled by the administrative or technical divisions overseeing the relevant subject matter. Additionally, many officials managing litigation in these Ministries/Departments do not possess qualification in the field of Law. This results in a

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lack of understanding of legal implications and delayed response to judicial directives, contributing at times in filing of contempt cases against the Head of the Organisations.

5.4. **Lack of clear guidelines:** Most Ministries /Departments have not laid down any SoPs for handling litigation matters, pertaining to them.

5.5. **Litigation on recurrent issues:** An analysis of litigation data of several Ministries/Departments reveals that at times litigation within a given Ministry or Department, is recurring in nature. Common issues include service related and pension matters, land acquisition and compensation disputes, commercial disputes, issues relating to violation of fundamental rights, public interest litigation (PIL), intellectual property matters, cases involving interpretation of legal or administrative policy or tax laws and the like.

5.6. **Varied success rate:** The success rate of litigation outcome varies not only between Ministries/Departments of the Central Government but also depends on the nature of litigation(s) within a given Ministry/Department.

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5.7. **Narrow interpretation of Rules:** A narrow interpretation of a statutory provision often serves as the primary catalyst for escalating grievances into litigation. Contributing factors include inadequate or incorrect understanding of administrative and legal issues, as well as incomplete, inconsistent, or selective implementation of existing policies. Additionally, administrative Ministries or Departments occasionally propose litigation that does not align with the guidelines issued by the Government of India (such as, by Department of Personnel and Training or Department of Expenditure). In some cases, ambiguities in the law or conflicts between applicable laws further complicates the situation.

5.8. **Non-fulfilment of procedural requirement:** Non-fulfillment of procedural requirements such as improper or incomplete submission of forms, affidavits and other such related issues lead to delay in scrutiny and rejection of relief prayed for at the level of the Government. This is another major reason for litigation on the given subject matter.

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- 5.9. **Litigation on contractual matters:** The Government and its agencies enter into contracts with private entities for a variety of purposes, including commercial, financial, and developmental objectives, etc. Non-adherence to contractual obligations often leads one party to resort to arbitration or litigation. Sometimes, perceived unfairness in procedure may also lead to litigation.
- 5.10. **Litigation on settled issues:** In many instances, litigation is pursued over issues that have already been settled by a Court of law and implemented by the relevant Government Department. Such instances lead to the growth of unnecessary litigation and associated costs, without any tangible benefits.
- 5.11. **Need for greater coordination:** The analysis of the factors fueling litigation highlights the gaps in the working of the Ministries/Departments and its impact along with other issues that can be resolved through better monitoring. In some cases, issuance of fresh administrative

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orders/instructions or appropriate action for amendment in laws, may be required.

5.12. **Emergent issues of Litigation:** India, as one of the fastest-growing major economies, is experiencing unprecedented digital transformation and emerging as a significant manufacturing hub. This progress is complemented by notable improvements in ease of doing business, rapid urbanization and a rising middle class and entrepreneurship. At the same time, several coordinated actions ushering in initiatives for new policy and law in areas such as education, labour laws, consumer rights, data protection, credit and distressed corporate assets, taxation, information technology, are undertaken from time to time. Accordingly, there is a need to take prospective measures in management of Government litigation to achieve the goal of *Viksit Bharat* by 2047.

6. Operational Framework

6.1 **Strengthening Capacities:** Each Ministry/ Department must strengthen its human resource responsible for managing its

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litigation. Accordingly, in Ministries/Departments, having large volume of litigation or engaged in legal proceedings with substantial financial impact, the following measures may be taken: -

- 1) Creation of a dedicated or common Legal Cell as per case-load of respective Departments in a Ministry may be undertaken within three months from notification of this Directive. The Department of Legal Affairs may frame training/guidance module for the officials of Legal Cell.
- 2) Nomination of a Nodal Officer ordinarily not below the rank of Joint Secretary who shall be assigned the responsibility to oversee litigation management. The officer should preferably have an LLB degree or above and/or sufficient legal expertise, as well as a reasonable continuity of tenure.
- 3) Post of Director (Legal)/Deputy Secretary (Legal)/ Under Secretary (Legal) needs to be designated or created and as far as possible, officers possessing qualification of

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LL.B. degree or above may be posted or appointed including on deputation in the Legal Cell for strengthening it and ensuring effective monitoring and management of litigation.

- 4) Dedicated staff may be involved in overseeing litigation management and coordination with all concerned. Young Professionals holding an LL.B degree may be engaged on contractual basis, where necessary.
- 5) In case there is a special requirement for expert legal personnel at the higher level in a Ministry/Department, such person may be hired for the specific purpose and duration. Separate terms and condition of service may be worked out for them. In order to attract persons with expertise and requisite experience, the post at the level of Joint Secretary/Director/Deputy Secretary or Consultants dealing with litigation management may also be filled from outside Government as per the extant policy of the Government of India.

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6.2 **Independent examination of litigation risks of new initiatives:** When drafting new statutes, rules, or policies or making significant changes to existing ones, a standalone examination for assessing litigation potential may be done to minimise unexpected/ unwarranted litigation and ensure efficient litigation management at the outset. Such examination should address the following:

(a) **Litigation Landscape:**

Overview of applicable statutes, subordinate legislations, relevant case laws, and precedents.

(b) **Litigation Risk Assessment:**

- (i) Evaluation of litigation risk levels (high, medium, or low).
- (ii) Assessment of the likelihood of adverse rulings.
- (iii) Estimation of potential litigation costs, wherever feasible.

(c) **Litigation Mitigation Plan:**

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- (i) Implementation of safeguards to reduce litigation exposure, including amendments to contracts, policies, statutes, and subordinate legislations.
- (ii) Development of a resolution timeline to effectively address disputes before they escalate into full-fledged litigation.

(d) **Summary:** Concise overview of the above-mentioned points, highlighting key considerations and proposed measures to mitigate potential legal challenges.

6.3 **Simplification of Procedure:** There should be periodic scrutiny of subordinate legislation to identify issues which are the cause of, or may lead to, litigation. While formulating the policy to be reflected in the subordinate legislation, special emphasis may be placed on elimination of ambiguous provisions, procedural deficiencies, operational challenges etc. Such exercise can limit the potential of litigation emanating from such law. Similarly, while finalizing any administrative policy or action, the

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Competent Authority needs to consider all possible avenues to minimise chances of litigation, attributable to it.

- 6.4 **Master Circular:** All important Office Memorandums / Guidelines / Circulars on important subjects may be compiled and updated as a Master Circular and the same should be prominently displayed on the website of the respective Ministry/Department.
- 6.5 **Grievance redressal mechanism:** A considerable portion of Government litigation relates to service matters, which can be substantially addressed by implementing a robust grievance redressal mechanism. Secretaries of Ministries/Departments may undertake a quarterly review to enhance the efficiency and effectiveness of such grievance redressal mechanisms. Data on the nature of grievance may be compiled to understand trends, general issues etc. which leads to dissatisfaction amongst the employees and others. Feedback mechanisms from employees for grievance redressal mechanism and its working, may be provided for. The Department of Post have

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introduced “Staff Adalat” being held at Circle and Regional level every six months as a mechanism of grievance redressal. Similar steps may be taken by other Ministries/ Departments to ensure that a review/ appellate mechanism, to decide the staff grievances by an authority/ officer who is independent/ superior to the original authority, is put in place.

6.6 **Capacity Building Programs:** Efforts should be made to ensure availability of litigation specific courses on i-GOT Karmayogi platform. Capacity building programs may also be introduced to ensure that pleadings filed in the Courts are drafted with clarity and without errors. The Department of Legal Affairs may also be consulted wherever required.

6.7 **Annual workshop on service matters:** Annual workshops may be organised focusing on major service-related issues that experience a high volume of grievances or litigation. The Department of Personnel and Training (DoPT) may issue appropriate guidelines in this regard.

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6.8 **Disciplinary proceedings:** The DoPT *inter alia* may bring in amendments/ guidelines for simplifying and expediting, disciplinary proceedings to avoid delays in disposal of cases at the administrative level. A common pool of dedicated and competent retired Government officers who are willing to act as Inquiry Officer (I.O.) or Presenting Officer (P.O.) or both may be created who undertake the conduct of inquiry cutting across Ministries/Departments. A dashboard of such data may be made available online which can guide the Disciplinary Authority in appointment of I.O. and P.O. considering factors such as their experience, details pertaining to pendency of inquiry proceedings and disposal thereof, etc.

6.9 **Periodic review of the application fee for filing petitions in the CAT:** The DoPT may periodically review the application fee for filing of original applications etc., before the Central Administrative Tribunal, to ensure it remains aligned with prevailing costs.

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6.10 Streamlined and effective management of contract-

related issues: The Ministries/Departments with a significant volume of litigation related to contracts need to promptly and effectively address communication(s)/notice(s) received from contractors/concessionaires, assess the merits of issues or claims raised during project implementation. Such issues if not addressed appropriately may have the potential to trigger a full-blown arbitration or litigation.

6.11 Initial review and examination of contractual

documents: The Government contracts including model concession agreements need thorough scrutiny to remove inconsistencies, gaps, and ambiguities in the proposed contract provisions which lead to disputes of a recurrent nature. A review of contract documents may be undertaken to eliminate divergent interpretations of any provision and reduce its potential to fuel disputes.

6.12 Notice under section 80 of Code of Civil Procedure,

1908: Appropriate action may be taken on any

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notice/representation given by a party under section 80 of the Code of Civil Procedure, 1908 to the Ministries/Departments. Such notices should be responded to, with reasons in a time-bound manner.

6.13 Approach towards Alternative Dispute Resolution

(ADR) Mechanisms: Recourse to Alternative Dispute Resolution (ADR) mechanisms as a means for resolving disputes needs to be promoted, wherever feasible.

(i) Resolution of Disputes through Mediation: The nature of disputes which can be resolved through mediation may be identified and a scheme/guideline for resolution of such disputes through mediation in accordance with the relevant provisions of the Mediation Act, 2023, may be rolled out.

(ii) Approach to Arbitration: While resorting to Alternate Disputes Resolution (ADR) mechanism leads to faster settlement of disputes, inclusion of arbitration clauses in Government contracts should be considered on a case-by-case basis, with such clauses

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specifically designed to ensure public accountability and judicial oversight. Guidelines issued by the Government for recourse to Arbitration and/or Mediation may be kept in view including for Contracts of Domestic Public Procurement, issued by Department of Expenditure on 3rd June, 2024.

(iii) Promotion of Institutional Arbitration: Wherever a recourse to arbitration is deemed necessary, institutional arbitration may be preferred over *ad-hoc* arbitration.

(iv) No precedent value for arbitration awards: Wherever an arbitration award is being examined for its acceptance or challenge, it should be kept in view that arbitration awards are inherently case-specific, designed to address the unique facts, circumstances, and agreements of the parties involved. Therefore, arbitral awards do not serve as precedent for future cases.

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(v) Periodic review of all arbitration cases involving the

Union of India as a party: A periodic review of all arbitration cases, whether domestic or international, should be conducted at the level of the Secretary or any Senior officer of the concerned Ministry/Department. The significant outcomes of such an assessment be communicated to the Department of Legal Affairs (DoLA), for record and reference.

(vi) Establishment of Government Arbitration Portal:

An Arbitration Portal shall be created by DoLA on the lines of National Judicial Data Grid, to collate the data on arbitration matters involving the Government and monitor the progress of arbitration cutting across Ministries/Departments of the Central Government or its attached and subordinate offices and the autonomous bodies. Every Arbitration matter involving the Central Government its sub-ordinate or attached offices or an autonomous body or CPSE should generate a unique case ID from this portal. Each

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Department should regularly upload all required details pertaining to each arbitration, including amount under dispute, on the portal.

- 6.14 **Classification of cases:** The Legal Cell in each Ministry/Department should classify cases into three categories: i) highly sensitive, ii) sensitive, and iii) regular. Cases classified as highly sensitive or sensitive—such as those involving national security, internal security, law-and-order concerns, policy or statutory implications, or those with significant financial stakes. Such cases should be reviewed by the concerned Secretary to determine the appropriate course of action.
- 6.15 **Analysis of pending cases:** Detailed analysis of pending cases, may be conducted in areas of litigation having low success rates. Factors contributing to the adverse outcomes may be identified and rectified.
- 6.16 **Handling of sensitive cases:** In highly sensitive cases, the Secretary of the Ministry/Department may convene a meeting to strategise the conduct of litigation in such cases

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with all relevant officials and the designated Nodal Officer of Legal Cell. This exercise be undertaken once the case is initiated before the Court or Tribunal, and continue to do so regularly throughout the life cycle of the case.

6.17 Tagging and transfer of cases with identical or similar question of law (legal issues): If more than one case involving the same or substantially the same question of law is pending before:-

- a) different Courts /Tribunals etc. or
- b) different Benches of the same Court/Tribunals etc.

then every effort should be made to get it transferred at one Court /Tribunal etc. and the same may be tagged for common adjudication and decision.

6.18 Coordination mechanism for litigation involving multiple Ministries/Departments: When litigation involves more than one Ministry/ Department, the concerned Ministry/Department against whom relief is sought, will coordinate with the other parties to the case

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from the initial stage of the proceedings till its conclusion so as to ensure effective defence of the matter. When relief is sought from more than one Ministry/Department, the concerned Nodal Officer of the lead Ministry/Department may discuss and evolve a coordinated approach for conveying the comprehensive stand of the Government to the concerned Court or Tribunal. If there is any uncertainty regarding who should be the lead Ministry, the matter may be referred to the Department of Legal Affairs for advice and decision.

6.19 **Minimising adjournments:** If more than two continuous adjournments are sought, then the same may be reported along with the reason to the Nodal Officer of the Ministry/Department concerned. It should be ensured that Ministries/Departments or their Counsels do not request unwarranted adjournments in cases pending before the Courts and Tribunals or other quasi-judicial fora.

6.20 **Leveraging the Legal Information Management and Briefing System (LIMBS) for effective monitoring of**

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litigation: For efficient monitoring of litigation, all Ministries/Departments need to leverage the Legal Information Management and Briefing System (LIMBS) operated by the Department of Legal Affairs and the Nodal Officer, users, and Advocates should regularly update the status of their cases. Payment of Counsel fee to be processed through LIMBS. Simultaneously, the Department of Legal Affairs shall upgrade LIMBS by improving user experience, ensuring seamless integration with other government databases such as e-courts and transforming it into a comprehensive modern management tool.

- 6.21 **Litigation where the likely outcome could impact the interests of the Government of India:** In cases involving question of general public importance or Constitutional Bench matters, wherein the concerned Ministry/Department may not be a party but the outcome of the litigation may impact its interest, the respective Law Officers or the Counsels of the Union of India (UoI) in the various Courts may keep a track of such matters and coordinate with the

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Nodal Officers of concerned Department of the Central Government for taking such necessary steps to protect the Government's interest, wherever required.

6.22 **Analysis of root causes in significant cases:** The outcome of litigation in significant cases calls for root-cause analysis for guidance and determining the way forward. The issues identified/lesson learnt etc., from such exercise may be presented to the Secretary and circulated amongst the concerned officers. A template for root cause analysis is annexed (**Annexure-A**). Technology, data analytics, and artificial intelligence needs to be harnessed for the above purpose wherever feasible, as per the extant policy of the Government of India.

6.23 **Guidance from the Department of Personnel and Training (DoPT) regarding the orders and judgments issued by Courts/Tribunals:** Ministries/Departments seeking advice of the DoP&T regarding further course of action to be undertaken as per the order of various Tribunals /Courts may at first exercise due diligence at their own

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levels keeping in view instructions issued from time to time including DoP&T O.M No. 28027/1/2016-Estt.A-III dated 16.03.2016 and O.M. No. 43011/4/2015-Estt. (D) dated 07.06.2016 (**Annexure -B**).

- 6.24 **Regarding filing of Appeals in contractual/ commercial matters:** Appeals/challenges to arbitral awards and court orders to the next higher forum may be done strictly in adherence to provisions of section 34 of Arbitration and Conciliation Act, 1996. All Ministries/Department need to ensure that the time lines provided in the Act and in the court orders are followed. A decision to appeal/challenge should not be based on disagreement with the award/ order but on the merits of the case alone. The chances of success and the consequences of failure of an appeal/challenge must be realistically/rationally considered. In matters where interest liabilities may arise, preferring unsuccessful appeals may lead to much greater loss than acceptance of the lower forum's decision. The legal cell in each Ministry/Department may analyse the outcome based on a

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risk -reward analysis. Quantum of pecuniary interest in any matter and realistic assessment of chances of success/consequences of failure may serve as criteria for deciding whether an appeal to a higher forum should be preferred or not.

- 6.25 Pecuniary criteria for initiating litigation before an appellate forum in Contractual/ Commercial matters:** It is crucial to establish a pecuniary threshold for initiating litigation before an appellate forum. The advisability of pursuing litigation involving amounts of ₹10 crore or less, or such threshold as may be fixed (except in tax matters), by a Ministry or Department should be evaluated by a Committee on Appeals. This Committee may be chaired by the Secretary (Expenditure) or his nominee and include the Secretary of the Department of Legal Affairs or his nominee, the Secretary of the concerned Ministry or Department or his nominee, and a domain expert, if so required, as members. The criteria mentioned in para 6.24 may be kept in mind. The Department of Expenditure may

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issue guidelines specifying pecuniary thresholds for filing appeals and circulate to all concerned. For tax matters, the Department of Revenue has already fixed pecuniary thresholds.

6.26 Discouraging the unnecessary filing of Special Leave Petitions under Article 136 of the Constitution of India:

Unnecessary and unwarranted filing of Special Leave Petitions (SLPs) under Article 136 of the Constitution of India may be discouraged. Recourse to SLP must not be in a routine manner but only be taken when exceptional and special circumstances exist for the same. The Supreme Court in a catena of cases has defined the scope of interference under Article 136 of the Constitution. The following is an indicative list of principles to be followed while filing of Special Leave Petitions under Article 136 of the Constitution of India:-

- a) Cases with significant domestic or international consequences/ramifications;

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- b) Matters of substantial importance relating to social justice, especially those concerning marginalized or disadvantaged groups or communities;
- c) Cases raising legal questions of general public policy or interpretation of constitution;
- d) Cases involving legal questions with significant financial implications for the country;
- e) Cases where substantial and grave injustice has occurred, and no other remedy is available;
- f) Situations where there has been a clear violation of the principles of natural justice or a denial of fair hearing;
- g) Where different High Courts have passed contradictory orders on a specific subject.

In cases where one or more of these conditions exist the same may be specifically highlighted in the note being submitted to the Department of Legal Affairs for seeking

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legal opinion, on filing a Special Leave Petition (SLP) under Article 136 of the Constitution.

6.27 Filing of appeal to be filed against *ex parte* interim orders should be avoided at the first instance: -Appeals may not to be filed against *ex parte ad interim* orders unless it is against the Policy of Government of India Rather, all efforts need to be made to get such orders vacated from the concerned Court or Tribunal.

6.28 Challenge to orders of Central Administrative Tribunals (CAT) or a High Court: Whenever an order of the Central Administrative Tribunal (CAT) or a High Court is not in consonance with the policy instructions or guidelines issued by DoPT, the concerned administrative Ministry/Department needs to challenge the same either by filing a Review Petition in the same court (if possible) or an appeal before the higher court . In such cases, there is no need for prior consultation with DoPT for filing the Review Petition or Appeal.

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6.29 Inputs from DoPT for filing Review Petition/Appeal: In

case the administrative Ministry/Department requires additional inputs from DoPT for filing any Review Petition/Appeal, they may seek the same from DoPT well in time so that the Review Petition/Appeal does not become time barred.

6.30 Filing appeal within the stipulated period of limitation:-

Different statutes provides specific period to challenge the order and judgments before the higher forum. Legal Cell of Ministry/Department must undertake all efforts to ensure that appeals are filed within the stipulated period of limitation as prescribed in the statute applicable to that particular matter.

6.31 Assignment of Panel Counsels: The assignment of Panel Counsels to Ministries/Departments for the conduct of litigation may be undertaken taking into account their subject specific expertise and competency, as far as feasible and the recommendation of the concerned Ministry/Department may also be duly considered. The

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Department of Legal Affairs may issue guidelines for delegating authority to Ministries/ Departments for deciding on panel counsels or special counsels in cases involving very significant/ sensitive issues.

6.32 Performance of Counsels: The Department of Legal Affairs shall develop a framework for evaluating the performance of empanelled counsel. The evaluation exercise should involve comprehensive and objective assessments of the performance of Standing/Panel Counsels and Advocates by considering the feedback received from the relevant Ministries/Departments. Feedback on the performance of empaneled Advocates and Standing/Panel Counsels for Union of India may be submitted annually by the Ministries/Departments. Based on their performance, as assessed, Government Counsel at the lower levels may be considered for upgrade to higher positions, have their tenure extended, or may be removed from the panel.

6.33 Conferences on Critical Legal Issues: The Department of Legal Affairs and the Department of Justice may jointly

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organize an Annual Conference to address emerging and pressing legal issues. This platform would bring together Civil Servants, Judges of the Supreme Court and High Courts, Ld. Law Officers, and distinguished Jurists to deliberate on such issues collectively. These discussions and outcomes will help having clarity on significant legal issues and foster greater understanding by breaking down institutional silos.

- 6.34 **Policy for amnesty schemes aimed to reduce pendency of litigation** To promote ease of living for citizens and for settlement of disputes/claims wherein the subject-matter is non-compliance of any direction or breach of regulatory procedure which does not affect public interest and is of a compoundable nature under non-tax/fiscal laws such as municipal laws, the Ministries/Departments dealing with such matters may frame amnesty schemes for settlement of such disputes/claims and the resolution of such disputes may be undertaken under the aegis of ADR mechanism. This would reduce litigation, avoid corruption and bring

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revenue to the Government. Old cases should be reviewed with objective to reduce pendency to maximum 3 years. Moreover, pending litigation instituted under Act since repealed should also be specifically reviewed.

7. Directive- Monitoring Mechanism:

The effective implementation of the directives may be ensured by respective Ministries/Departments and based on experience, to recommend necessary changes for better outcomes. The review of the Directive may be undertaken by the Committee of Secretaries to be chaired by the Cabinet Secretary. The Department of Legal Affairs will provide necessary assistance in this regard. The Department of Legal Affairs will also prepare an Annual Report on adherence to, and implementation of this Directive and place it before the Committee of Secretaries.

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8. Applicability:

This Directive shall be applicable to all Ministries/Departments of the Central Government, its attached and subordinate offices, and the autonomous bodies, and for arbitration matters to CPSEs also.

9. Litigation Management of the State Governments:

The State Government(s) may also consider adopting this Directive for the efficient and effective management of litigation involving them.

Template of Root Cause analysis of an Important Court Judgement

Sr. No.	Item	Description
1.	Gathering information	Obtain: A. full text of court order, related case documents including transcripts, evidence submitted and testimonies. B. Internal documentation related to case such as records, communications, policies and procedure.
2.	Identification of rationale/legal grounds of court order	A. Specific legal grounds highlighted by Court for example violation of regulatory standard, contractual obligations or breaches of law as such. B. Identification of critical points made by the judge that influenced his judgements.
3.	Timeline Construction	A. Construct timeline of events from initial cause of action to final decision. B. Map on this time line adverse situations such as delays, lapses, oversight etc. which have led to the outcome.

4.	Analysis of contributory factors	<p>Contributory factor analysis stands for analysis of following factors: -</p> <ul style="list-style-type: none"> A. Gaps in policies or standard operating procedures or anomalies in Statutory provisions and subordinate legislations or likes, inconsistencies in policies etc. B. Unintentional violations mainly on account of poor training or awareness of the concerned staff. C. Inadequate oversight or poor decision making if any D. Communication gaps internal or external E. Any external factors such as legal or regulatory changes which has caught the organization unawares etc. F. Internal control measures which might have been missing, inadequate or poorly implemented
5.	Development of action plan and its timeline	<ul style="list-style-type: none"> a) Preparation of a list of actionable items on the basis of lesson learnt b) Identification of responsible entities for execution c) provision of timeline for the same.

F.No.28027/1/2016-Estt.A-III
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training
Establishment Division

North Block, New Delhi-110001
Dated: 16th March, 2016

OFFICE MEMORANDUM

Subject: Court orders against Government of India instructions on service matters-consultation with Ministry of Law and Department of Personnel and Training on question of filing appeals.

The undersigned is directed to refer to this Department's O.M.No.28027/9/99-Estt.(A) dated 1st May, 2000 on the above subject (copy enclosed) and to say that the Department of Personnel and Training is the nodal Department that formulates policies on service matters and issues instructions from time to time. These instructions are to be followed by the Ministries/Departments of the Central Government scrupulously. All the Court cases filed by employees have to be defended on the basis of the facts available with the Administrative Ministry/Department concerned, keeping in view the instructions issued on the subject by this Department.

2. Reference is also invited to the Cabinet Secretariat's D.O letter No. 6/1/1/94-Cab dated 25.02.1994 and the Department of Expenditure's O.M. No. 7(8)/2012-E-II(A) dated 16.05.2012 inter-alia provide that (i) a common counter reply should be filed before a Court of Law on behalf of the Union of India by the concerned administrative Department/Ministry where the petitioner is serving or has last served; and (ii) a unified stand should be adopted instead of bringing out each Department's/Ministry's point of view in the said reply. It further provides that it is primarily the responsibility of the Administrative Ministry to ensure that timely action is taken at each stage a Court case goes through and that a unified stand is adopted on behalf of Government of India at every such stage. In no case should the litigation be allowed to prolong to the extent that it results in contempt proceedings.

3. However, it is noticed that the Ministries/Departments are making several references to this Department seeking interpretation of the guidelines without exercising due diligence. **The Ministries/Departments are advised not to make any references to this Department unless there are difficulties relating to interpretation/application of these guidelines or any relaxation in Rules/instructions is warranted to mitigate a genuine hardship faced the Government servant.** While seeking advice of this Department, instructions contained in this Department's O.M. number 43011/9/2014-Estt (D) dated 28.10.2015 may be followed.

4. The court cases may be further handled in the following manner:-

Sl. No.	Orders of Court	Action to be taken
1.	A decision/order has been quashed by Tribunal/Court on the ground that it is violative of the Rules/Government instructions, but Government's policy has not come in for adverse comments.	The Administrative Department may implement the CAT Order/Judgement if it is in consonance with Government policy and the Government case has been lost due to Administrative infirmities.
2.	Where the policy of DoPT has not been quashed, but the judgment/order of the Tribunal/High Court/ Supreme Court has gone in favour of Respondents/Applicants. (a) Where in above, the Administrative Ministry is in favour of implementing the judgement (b) Where in above, a decision to file Writ Petition/ Special Leave Petition (as the case may be) has to be taken	The Administrative Ministry may take a decision in consultation with DoPT and DoLA. The Administrative Department may take a decision to file Writ Petition/Special Leave Petition (as the case may be) in consultation with Department of Legal Affairs (DOLA) and DoP&T.
3.	Where the judgment has gone in favour of Applicant/Petitioner/Respondent and a scheme/guideline/OM outlining Government policy has been quashed.	The Administrative Department may take a decision to file WP/SLP (as the case may be) in consultation with DoPT and DOLA. The references to this Department should be sent at least one week in advance so that it can be properly examined in DoP&T.
4.	CAT or a Higher Court has upheld Government's stand	DoPT may only be informed with all details.

(Mukesh Chaturvedi)

Director (E)

Tele: 2309 3176

To

The Secretaries of All Ministries/Departments (as per the standard list)

No. 43011/4/2015-Estt(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi
Dated the 07th June, 2016

OFFICE MEMORANDUM

Subject:- References from Ministries/Departments seeking advice of the DoP&T regarding further course of action to be taken on the order of Tribunal /Courts.

The Ministries/ Departments make references to this Department seeking advice regarding the course of action to be taken on the order of Tribunal / Courts. Generally, if the directions of the Tribunals / Court is not in consonance with the policy of DoP&T, the administrative Ministry / Department concerned is advised for filing an appeal / review in the High Court in consultation with the Department of Legal Affairs. In a few of these cases, the advice of the Department of Legal Affairs is contrary to the advice of the DoP&T. Under such circumstances, the administrative Ministries / Departments make a second reference to DoP&T and DoLA for resolving the matter. The matter has been considered in the DoP&T and it also discussed with DoLA and representatives of Department of Revenue, Ministry of Health & Family Welfare, who have in the recent past made a few references of this type. In order to avoid second reference and to effectively deal with Court Cases, it has been decided that the following course of action may be followed:-

- (a) Wherever the direction of the Tribunal or court is not in consonance with the policy of DoP&T, the DoP&T may not insist on the Administrative Ministry obtaining the advice of Department of Legal Affairs.
- (b) In all the cases filed in Tribunals/Courts, the administrative Ministry shall defend the policy of DoP&T as laid in various OMs and instructions by filing an appeal or review in the appropriate court.
- (c) The Ministry of Law and Justice to designate a counsel for each Ministry so that the court cases are defended well.
- (d) The Administrative Ministry / Department must ensure that an officer of the level of Under Secretary or above is present in the court when important issues having policy issues or contempt petitions come up for hearing in the court.
- (e) Where necessary, DOP&T while giving advice on the references pertaining to court cases, will indicate that an officer of DOP&T shall be co-opted for briefing ASG. In such cases, the administrative Ministry/Department shall fix an appointment with ASG and inform this Department in advance accordingly (i.e., venue, date and time).
- (f) Wherever there is a case of delay, the Administrative Ministry may fix responsibility for the same.

...2/-

2. While defending court cases, as far as possible the DoP&T, Ministry of Law and line Ministry / Department should be on the same page and put up arguments on behalf of Union of India in a coherent manner and uphold the policy of the Government applicable in the relevant case.


(Rajesh Sharma)

Under Secretary to the Govt. of India

Tele. No. 23040340

All Ministries/Departments of the Government of India.

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Vice-president's Sectt, New Delhi
3. The Prime Minister's Office, New Delhi.
4. The Cabinet Secretariat, New Delhi.
5. The Rajya Sabha Secretariat, New Delhi.
6. The Lok Sabha Secretariat, New Delhi.
7. The Comptroller and Audit General of India, New Delhi.
8. The Secy, Union Public Service Commission, New Delhi
9. The Staff Selection Commission, New Delhi.
- 10 All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
11. All Officers and Sections in the Department of Personnel and Training.
12. Establishment(D) Section, DoP&T (10 copies)
13. NIC for updation on the website.


(Rajesh Sharma)

Under Secretary to the Govt. of India

Tele. No. 23040340