

Government of West Bengal
Department of Health & Family Welfare
G.A. Branch
Swasthya Bhavan, GN-29, Sector-V,
Salt Lake City, Kolkata -91

No. HF/O/GA/ 1384 /2E-07/12

Dated: 7th May, 2019

NOTIFICATION

In supersession of all other previous orders issued in this regard, in order to streamline the procedure on handling and disposal of legal matters & Court Cases relating to Health & Family Welfare Department, it has been decided that the following procedures shall henceforth be adopted by all concerned:

(1) The practice of receiving all legal matters/notices/petitions/applications correspondences/communications (except RTI matters & *subpoenas* and contempt notices/rules served by name) at Law Branch with proper computerized docketing in the existing software *viz Court Case Monitoring* (<https://125.22.76.17/>) shall be continued as before;

(2) Except the cases filed before the Appellate Side of the Hon'ble High Court at Calcutta, where the Ld. Government Pleader, High Court, engages State Advocates, the Law Branch in all other cases will, at the first instance after receipt/service of notice /petition will initiate file for engagement of Ld. Advocate(s) in consultation with the concerned branch for preference of any State paneled advocate, if any, with approval of ACS & forward the same to the Ld. LR, W.B.;

Once engagement of state paneled advocate is approved by the Ld. LR, WB, Law Branch shall intimate the same to the concerned Branch for contacting and briefing the state paneled advocate;

(3) At the same time, the Law Branch will send extra/second copies of the notice /petition to the concerned Branch for preparation of para-wise Statement / Statement of Fact (along with relevant/ supporting documents) preferably within 48 hrs from the date of service;

(4) In respect of those cases filed before the Appellate Side of the Hon'ble High Court at Calcutta, where the Ld. Government Pleader, High Court, is supposed to engage State Advocates, intimation of which are received through SARTHAC (<https://sarthac.gov.in/>), the Law Branch will send copies of the notice /petition, in a file, along with the name of the Advocate engaged by Ld GP, to the concerned Branch for preparation of para-wise Statement / Statement of Fact (along with relevant/ supporting documents) without delay;

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(5) On receipt of the same, the concerned branch shall:

- a) prepare Statement/Statement of Fact annexing copies of relevant documents preferably within 7 working days;
- b) send the same to the State Advocate, engaged to defend the State in that matter;
- c) entrust a responsible officer to brief the State Advocate who shall be given copies of all relevant documents connected with the matter;
- d) take the approval of the higher authority where the policy of the State has to be determined or has been challenged.

Provided that where the subject matter of the case requires involvement of two or more branches of this department, then the above procedure shall be followed on mutual understanding/discussions between them, so that there is a harmony in the statement of facts and/or instructions reaching the State Advocate;

(6) After hearing of the particular case by the Hon'ble Court, the following steps are to be taken:

- (a) where order has been passed for filing affidavits, concerned branch shall keep in touch with the State advocate so that the affidavit is prepared on the basis of the parawise Statement / Statement of Fact already given to him. Where additional information is required, the concerned branch shall forthwith provide the same to the Ld. State Advocate;
- (b) the affidavit-in-opposition or reply as the case may be, prepared by the Ld. State Advocate upon the supplied instructions, shall be signed by an officer having knowledge about the subject matter of that case, who has been duly authorized by the branch;
- (c) where the case filed against the State has been dismissed, the order of the same shall be kept in the file for future reference;
- (d) where an adverse order against the State has been passed, the law branch at the first instance will opine whether the order is appealable or not including the period of limitation of filing the appeal;
- (e) on such opinion being communicated to the concerned branch, they shall forthwith within 5 working days, take an administrative decision to that extent and shall prepare grounds of appeal;
- (f) approval of the higher authority shall be taken to prefer an appeal on such grounds;
- (g) in cases, where reasoned order is required to be passed by the competent authority (ACS,DHS,DME & ors) in compliance with the direction of the Hon'ble Courts, on communication of such order, the same will be intimated by the Law Branch to such authority forthwith for strict compliance thereof and to avoid contempt;

- (h) in cases where the order passed by the Hon'ble Courts are not appealable or there are no adequate grounds for preferring appeal, the concerned branch shall take steps for compliance of the order without delay within the time frame fixed by the Court;
- (i) in all cases where the matters have been finally disposed of, the file relating to the same shall be returned to the concerned branch for preservation and future reference.

(7) Contempt matters shall be dealt with utmost priority and all necessary steps shall be taken to avoid the same;

(8) The respective Branch/Cell shall nominate and notify one officer who will act as Nodal Officer in respect of legal matters and court cases involving their Branch/Cell;

(9) For the cases where the Medical Colleges are involved, the MSVP's will act as a Nodal Officer in respect of legal matters and court cases involving their Medical College;

10) For the cases where the district level officers are involved, the Dy. CMOH - 1 of each district / health district will act as Nodal Officers in respect of legal matters and court cases involving their District;


 Special Secretary to the
 Government of West Bengal

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Copy forwarded for information & necessary action to the:-

1. Mission Director , NHM; Commissioner, FW; Executive Director , West Bengal State Health & Family Welfare Samiti and Secretary (PHP) , H&FW Department
2. Director, SPSRC and Secretary (Nursing , IT, Clinical Establishment, WBAMPC) , H&FW Department
3. Project Director , WBSAP&CS and Secretary(P&B) , H&FW Department
4. DME, West Bengal
5. DHS, West Bengal
6. Additional PD, WBSAP&CS and Additional Secretary (AYUSH, Dental, Mental Health, Dengue Management), H&FW Department
7. Commissioner, Food Safety & Additional Secretary (Drugs & Equipment), H&FW Department
8. Commissioner (HS & IT), H&FW Department
9. MD, WBMSCL and Commissioner, H&FW Department
10. Special Secretary ME/Vigilance , H&FW Department

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11. Additional Director(P), Directorate of Health Services, West Bengal
12. Joint Secretary (Law), H&FW Department
13. Joint Secretary HS/ME/AYUSH/MR/Food Safety/Nursing/TOI/P&B, H&FW Department
14. Joint Director , SPSRC
15. Director, IPHK, Kalyani, Nadia
16. Joint Commissioner, Food Safety, H&FW Department
17. Deputy Secretary HS/Vigilance/PHP & Mental Health/FW / Drug & Equipment/ Dental/ GA , H&FW Department
18. PS to MOS, H&FW Department
19. Sr. PS to the Additional Chief Secretary, H&FW Department
20. Sr. PS to the Special Secretary(GA) , H&FW Department
- ✓ 21. IT Cell for Website posting
22. Establishment Cell
23. Guard file


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