

K.J. Martin Lowel
ACF & Liaison Officer

Office of the ACF & Liaison Officer,
Advocate General's Office,
Ernakulum, Kochi - 682 031
☎ 0484 2564257
Fax: 0484 2564242
Mobile: 9447979170
E-mail: laioff.for@kerala.gov.in
acfandloekm@gmail.com

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To

The PCCF & HOFF
PCCF & CWW
PCCF (WP & Research)
APCCF (Prot.)/(Vig.)/(RS)/(RN)
FD Kottayam, CCF (SC)/(EC)/(NC),
CF (CC)/(HRC), WL (PKD)
All DFOs, WW, ACFs

Sir,

Sub: Note on court procedures and working of Liaison Office – reg.

I am enclosing herewith a note on 'Court Procedures and Working of Liaison Office' for the kind perusal. I hope that this note may help forest officials to have a better understanding on court procedures which may in turn helps for effective conduct of cases in the High Court.

Yours faithfully,

ACF & Liaison Officer

Note on Court Procedures and Working of Forest Liaison Office

All major Government departments are having Liaison Office at High Court. The objective of Liaison Office is to collect and pass on information from AG's (Advocate General's) office to the concerned department officers and vice versa and to maintain good and healthy relationship with AG's office, for the smooth conduct of cases and to protect Govt. interest. From the Government side, cases are filed and argued by the AG and Government Pleaders (GP) who are appointed by the Government. The Government Pleaders are under the control of the Advocate General. There are three categories of Government Pleaders; they are viz. Special Government Pleaders, Senior Government Pleaders and Government Pleaders. The Departments such as Revenue, Forests, Taxes, PWD, Tourism, LSGD are having Special Government Pleaders (Spl.GPs). The AG is assisted by additional AG, Director General of Prosecution and State Public Prosecutor (DGP& SPP), State Attorney, Adl.DGP & Adl.State PP and Government Pleaders.

Earlier, AG's office used to directly send all communications to the respondents. But lack of information on departmental hierarchies prevailed in various departments, lack of knowledge on designation and address of officers for timely communication, lack of information on existing executive orders and poor understanding on practical difficulties, delay in receiving information from AG's office and vice versa, the profound increase in no. of cases and insufficient staff strength in AG's office etc. are altogether affected the speedy and effective conduct of the cases. In order to overcome such situations Govt. has decided to have Liaison offices in AG's office building. Staffs working in Liaison Offices are the staffs of the concerned departments and, they are posted by the concerned Department only.

Writ Petition:

When a party files a writ petition in high court, a copy of the same is submitted to AG's office. AG's office passes such file to the GP concerned. In the case of forest related cases, file is usually transfers to Spl. GP (forests). The writ petition filed in the court usually comes up on the next day as a fresh admission.

In majority of the cases, court adjourns the case for getting instructions from the respondents, in some cases, court admits the petition and asks GPs to take notice for the respondents and to file counter affidavit, in some other cases, court disposes the case on the admission day itself, in a few cases, court passes interim order and post the case to some other day for filing counter affidavit by respondents. At the end of the session or day, GP passes files to the liaison office for conveying message to the respondents. The Liaison office takes photocopies of the petition and sends it to the respondents via courier service or by email or intimate over phone, depending on necessity. If court asks for an instruction, respondents should submit it in time otherwise, in the absence of instructions court may pass interim order on the next hearing date. Such situations should be avoided. In case court asks GP to take notice for the respondents, respondents should file counter affidavit within 90 days after receipt of notice or within such shorter time as the Courts directs. For this, respondents should submit a statement of facts with copies of all relevant records either directly to AG or through Liaison Office. On receipt of statement of facts, GP prepares counter affidavit (CA) and gives it back to the respondents for signing. After signing CA by the respondents it should be submitted to AG's Office or Liaison Office without delay. If respondents fail to file CA within the stipulated period, court may treat interim order as a final order. Such situations should be avoided. For speedy disposal of the case, it is better to file counter affidavit at the earliest as possible without waiting for 3 months or up to the time frame fixed by the Court.

Once the case is disposed by the court, we have to act as per the judgement after receipt of the judgement copy either from the AG's office or from the party. If we are not in a position to complete the procedure within the prescribed time, an extension petition shall be filed prior to the completion of the time granted. The request for filing extension petition shall write in a letter form, it should contain the dt. of receipt of judgment, action taken after receipt of judgement, specific reason for not complying with the order and how much time is required for complying with the order. The request for filing extension petition should be addressed to AG, it shall be sent directly to AG or through the liaison office. If the Dep. is not satisfied with the judgment, the officer concerned shall

personally contact Government Pleader and take necessary steps for filing appeal. The first step is to get legal opinion from concerned GP and then with the approval of AG, GP files appeal. For this purpose, all relevant documents should be submitted to GP. The appeal should be filed within the stipulated time. Otherwise, delay condonation petition is also to be submitted along with the appeal. The delay condonation petition should be signed by concerned officer. If the respondents have neither filed appeal nor complied with the judgment, the court can take action against the respondents for contempt of court.

Writ Appeal:

The writ appeal should be filed within 30 days on receipt of the judgement. If delay occurs, a delay condonation petition has to be filed. Along with delay condonation petition, an affidavit showing the reasons for delay should be filed by the concerned officer. Appeal is usually prepared by the government pleader, however, the supporting documents to be attached along with the appeal should be provided by the Appellant (Officer concerned from Dep.). He should take follow up measures to make sure that the appeal is filed in time. If any document is produced along with appeal, it should be legible and on one side of the paper.

If appeal is filed by the party, the Officer concerned has to be filed Counter on intimation from the AG's office. All supporting documents and files are to be handed over to AG if necessary. In such cases, proper receipt has to be obtained from Thapal section of the AG's office. If the judgement in appeal case is against the Government interest, Department shall file Special Leave Petition (SLP) in Supreme Court with the permission of the Government.

MFA (Miscellaneous First Appeal)

MFA is filed against the Orders in OA (Original Application) filed in Vested Forest Tribunal or EFL Tribunal. Once the judgement is proclaimed by the tribunal, respondents shall apply for the judgment copy and also for the documents mentioned as appendix in the judgment. If the Department wants to file Appeal, respondent (officer) should submit a copy of the judgement together with documents mentioned in appendix and legal opinion of APP to AG. In non-

appealing cases, the above documents should be obtained and kept ready in the file. If party files appeal, the above documents should be submitted to AG for filing counter affidavit.

Appeal in Civil Matters (FAO (First Appeal from Orders) , RFA(Regular First Appeal), RSA(Regular Second Appeal), CRP(Civil Revision Petition), CP (Company Petition)etc.)

After the proclamation of judgment, the respondent (department officer) should apply for the certified copy of the judgment and documents mentioned in annexures of the judgement. These documents have to be submitted to AG along with a request for filing appeal. In the case of party filed appeal, such documents are to be procured and produced to AG if called for. If you have not taken the copies of documents mentioned in the annexure of the judgment, it may be unavailable if lower court send file to appeal court.

Appeal in Criminal Matters

1. Criminal Appeal, Criminal Revision Petition: If we want to file appeal or revision petition in high court against judgement of lower court, the first step is to file application for the certified copies of the judgment, documents marked in appendix of the judgment and 313 statement. Once it is received from the court, submit an application to AG for filing appeal together with the above documents and case file. The Government Pleader assigned by AG will file the appeal on behalf of Gov. Necessary follow up should be taken up to make sure that appeal has filed. If the party files appeal, necessary documents with file may be produced before GP concerned on intimation from either AG's office or Liaison office.
2. Criminal MC(Miscellaneous Case) : It is filed against the interim order of Magistrate court or to close OR case filed in the lower court. When a party filed CrI. MC, officer concerned, on receipt of intimation, shall submit instruction along with file to the concerned GP. Case file can be submitted either to AG or GP depending on urgency of the case. In case file is submitted to AG, department staff shall submit file to the Thapal section of the AG and get receipt of the same. In case file is submitted to GP directly, receipt shall be obtained from concerned GP or other designated staff of

GP. Prior to submission of file make sure that all pages are numbered, if possible get photocopy of the file and keep it in concerned office. Liaison office staff shall provide all necessary helps to meet with GP, submission of file to AG etc. When the Crl. MC is to be filed by Dep., staff concerned should get certified copies of interim order and submit the same along with case file to AG's office.

Bail Application:

Bail application is usually filed by accused in OR cases. On receipt of intimation from AG's office or Liaison office, officer concerned should come with detailed instruction and case file before the GP concerned in uniform. As this case is disposed of in shorter period, officer concerned should be present without fail. The officer deputed should have thorough knowledge about the case. The instructions should consist of nature of offence committed by bail applicant, his no. position in the accused list, what will happen to the enquiry if bail is allowed, details of previous offences committed by applicant if any etc.

Contempt Cases:

When intimation is received on contempt cases from AG/Liaison office, respondent shall file statement in affidavit form, it should consist date of receipt of the judgment, action taken by the department since receipt of the judgment up to till date, specific reason for not complying judgment etc. If court is not satisfied with the statement, court may ask for personal appearance of respondents. Hence contempt of court cases should be handled very seriously.

Revision Petition (RP):

If judgement is against the interest of the Government, Department shall file revision petition. It shall be done after obtaining legal advice from AG. RP should be filed within 30 days on receipt of judgment.

Filing of Cases in Supreme Court:

If department wants to go for appeal in Supreme Court, first step is to get legal opinion from concerned GP, then GP submit the same to AG. If AG approves the same; judgement copy and all relevant records are forwarded to Standing Counsel of Supreme Court (decided by AG), from the AG's office. Usually original files are kept in AG's office, only photocopies are sent to SC. On receipt of letter from AG, Standing Counsel of SC prepares appeal and simultaneously Vakkalath Nama is also prepared and sent it to concerned Dep. officer. Signed Vakkalath Nama should be sent back to Standing Counsel without delay. On receipt of Vakkalath Nama, Standing Counsel files appeal. If they ask details on specific matter or any additional documents or statement of facts, the same may be given either directly to Standing Counsel or through Gov. depending on the importance and urgency of the case. In certain cases Legal Opinion obtained may be "NO Scope", if Dep. finds that the case is very important, in such situation Dep. shall write to Gov. and, if Gov. agrees to the Dep. stand, Gov. shall write it to AG to go for appeal. Based on this, AG will take further steps to file appeal in SC.

If party files appeal in SC, concerned officers will receive notice from SC. On receipt of the notice, officer concerned should intimate AG and request to defend the case. On receipt of intimation, AG designates one of the Standing Counsel in SC to defend the case. In most cases along with intimation from SC, Court asks to file counter. In such cases respondent shall prepare a statement of facts and send it to Gov. for approval. The approved copy shall be send to AG. With the approval of AG, the same is forwarded to Law Officer of Supreme Court by AG's office. Law Officer shall file Counter Affidavit if the Statement of Facts is approved by AG. If the respondent sent statement directly to Standing Counsel/Law Officer, Standing Counsel prepare the counter affidavit and send it back to respondent for signing. The respondent should make five sets of counter affidavit and sign them properly and, sendit back to Standing Counsel with a copy to AG. The progress of SC cases shall be intimated by Law Officer to AG and respondents. In AG's office there is separate section for handling SC The contact no. is 04842564800.

Filing of Cases in Kerala Administrative Tribunal (KAT)

The service related matters are filed either in KAT or CAT (Central Administrative Tribunal). CAT is dealing with matters related to Central Government Employees; the Court is functioning at Kaloor in Ernakulum. There is a separate section for dealing CAT cases in AG's office. The contact no. of the section (W-section) is 0484 2564813. KAT is functioning at Thiruvananthapuram, but for one week in every month Court is held sitting at Ernakulum. So employees can file complaint either at Ernakulum or Thiruvananthapuram depending on petitioner's convenience and urgency of the case. When the Court held sitting at Ernakulum whole files are brought to Ernakulum from Tvm. After completion of sitting at Ernakulum, whole files will be sent back to Tvm. In AG's office there is a separate section for dealing KAT cases. The contact no. of the section (G-section) is 0484 2564717. If an officer wants to file appeal against the judgment of the Tribunal, it shall be done only in the High Court.

General Information:

1. Procedure for obtaining Judgement Copy: On disposal of the case, judgement copy received by AG from the court will be sent to all respondents from AG's office. If a respondent does not receive the copy even after 3 months of proclamation of judgment, he shall send a request for the judgment copy to the AG's office. After sending copy of the judgement to all respondents, file pertaining to the case is shifted to record room of AG's office. Record room is already flooded with files hence getting copies of old judgement is very difficult. Hence it is better to get judgement copy within 6 months of judgment itself and keep it safely in the concerned office itself. AG is not sending copies of any Judgment to the Liaison Offices hence Liaison office is not aware of whether copy of Judgment sent to the respondents or petitioners. Recently High Court started uploading judgments in its official website so any one can retrieve it by typing case no.

2. Address for communication: AG is representing on behalf of State Gov. to deal all cases. Hence all case files of Gov. are kept in AG's office. All communications sent to these files such as instructions, statement of facts and other communications should be addressed to AG. It should not be addressed to Liaison Officer. Respondents shall mark the copy of documents sent to AG to Liaison Officer for information and follow up action.
3. Present Position of the Case: It can be easily obtained by searching High Court web site www.highcourtofkerala.nic.in . Forest Liaison office is preparing 'daily case status' of cases posted in High Court every working days and email same to all officers including Divisional level officers up to HOFF via. official web site on the next working day itself. The daily statements are prepared based on the notes recorded in file docket and oral communication made with GP concerned. In addition to this, if any immediate action is warranted or the results of important cases, are communicated over phone or by SMS to the concerned officers from Liaison office at the earliest as possible.
4. Emergency Petition: It is filed to speedup hearing of the pending case in High Court. It can be done by writing a letter to the AG explaining importance of the pending case and how it affects Gov. / Department interest. Court may consider this petition and post the case under hearing list, based up on priority.
5. Points to be considered to avoid defect in filing CA/statements:
 - a. Takes 5 sets of affidavits / statements in A4 size photocopy paper in 1.5 line spacing. Printing should be done only on one side of the paper.
 - b. Sign the affidavit/ statement at right bottom of all pages and above the word deponent on the last page with black or blue coloured ink.
 - c. The signature of deponent in the last page has to be attested by a gazetted officer below the sentence "solemnly affirmed" with black or blue coloured ink. Name and designation and office seal of the attesting officer must be affixed.

- d. The Annexures/ Exhibits mentioned in the affidavit /statement are also needs to be attached with main text. It should be in one side A4 size photocopy paper.
- e. The copies of Annexures/ Exhibits must be legible with proper margin.
- f. Avoid unnecessary endorsement / sign in the Annexure / Exhibits.

INSTRUCTIONS FOR PREPARATION OF STATEMENT OF FACTS FOR DEFENDING A CASE

1. Read the writ petition or contempt of court case etc. carefully
2. Understand the case of the petitioner
3. Specifically deny such of those pleadings that are not correct.
4. If it is not possible to deny, try to explain allegations
5. Specific pleadings like “the respondent has permitted Sri. Rajan Joseph, to start a wood industry very near to the forest” is to be specifically answered. If such things are illegal, in the statement of facts it has to be stated why they are allowed to continue and whether any action has been taken against erring officials.
6. Use simple and short sentences. Remember ‘brevity is beautiful’, don’t use complex sentences tending to confuse, evade or have more than one meaning.
7. Avoid repetition.
8. Statement has to be given para-wise and to be answered all allegations raised by petitioner and also grounds.
9. Relevant Act, Rule or G.O. has to be stated. Copies of G.O., or Government letters should be furnished.
10. After preparation, read once again to find out contradictions if any.
11. In the statement of facts, additional facts like the petitioner/claimant was convicted earlier etc., has to be stated adverting to the specific case number and other relevant details with a copy of the judgment or any other documentary evidence. Similarly, when there is a rival claimant, it must be stated and what action has been taken or intended to be taken.

12. It has to be kept in mind unless a party has a right under a statute or contract to move against concerned officer under the statute/contract, the officer is not required to consider the representation or petition. Further, any direction to consider a representation put in by a petitioner by the High Court or any authority does not mean that the petition should be considered in favor of the person who had preferred such representation.
13. In land case, the identify extent and nature of the land with reference to the survey number has to be ascertained. It is appropriate to mention that in vested forest cases, in number of cases OA scheduled property was found to be non-existent at a later stage and the Department had to face contempt of court for not restoring the land scheduled in the OA. Similarly, cardamom may come up as a wild growth, which can be found in a forest. If there are secondary growths of trees or other species, it has to be specifically recorded so that it can be disproved that the disputed land is not a cardamom plantation.
14. In land cases, the title of the property has to be verified. If a Patta is relied upon, steps should be initiated to get it cancelled. The transferee of a land may not have right over the property, for example, (1) land given on lease by EmoorBhagavatiDevaswom, which were later cancelled by government and held by the High Court (2) land given on lease by Mooppil Nair, otherwise when the trustee had no right to alienate, as held by the High court.

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K.J. Martin Lowel
Assistant Conservator of Forests

Liaison Officer

and Forest