

**STANDARD OPERATING PROCEDURES**

**FOR**

**LEGAL PROCESS**

**IN**

**THE HIMACHAL PRADESH STATE**

**CIVIL SUPPLIES CORPORATION**

**LIMITED**



A.M. Legal  
HPSCSC Ltd.  
Kasumpti Shimla H.P.

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**FOR**  
**LEGAL PROCESS**  
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**THE HIMACHAL PRADESH STATE CIVIL SUPPLIES CORPORATION LIMITED**

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## INTRODUCTION

The Himachal Pradesh State Civil Supplies Corporation Limited was established in September, 1980 under the Companies Act, 1956 as a Joint Stock Company wholly owned by the State Government. The primary function assigned to the Corporation is that of a "**CENTRAL PROCUREMENT AGENCY**" for all the controlled and non-controlled essential commodities (as identified by the Central/State Government under Public Distribution System). The Corporation may undertake trading, storage, movement (including inter-state movement) and distribution of such other essential commodities which may be required as per demand from consumer/public in general from time to time so as to ensure their availability in the open market at reasonable prices. The Himachal Pradesh State Civil Supplies Corporation Limited has always been committed to the cause of social services such as procurement and distribution essential commodities/items to needy and poor people, donation to various funds setup for reliefs/rehabilitation by the Govt., to organize programs/activities for awareness & welfare of public, etc. The Company has taken up various Corporate Social Responsibility (CSR) initiatives from its inception and enhanced value in the society.

Increasing Litigation in any organization is a matter of a serious concern these days. In order to limit the number of court cases, there is a need for an effective mechanism to deal with the genuine grievances of the employees objectively & expeditiously, so that they do not have to take recourse to litigation. However, it is inevitable fact that grievance will remain and complete avoidance of court cases is not possible. Therefore, the best thing an organization can do in this scenario is to strengthen its administrative machinery to handle court cases in an efficient and time bound manner keeping in view the State Litigation Policy. Accordingly, a Departmental Litigation Monitoring committee has been constituted for this purpose. Efficient handling of court cases in an organization will therefore require an effective Legal Cell. At the same time, for ensuring day to day functioning of the legal field, a uniform criterion for handling court cases in

more effective & efficient manner is required and hence need for framing a Standard Operating Procedure (SOP) in the Corporation is also felt.

In order to achieve the above objective, Corporation has a Legal Cell to facilitate the administration by rendering advice for reaching out the decision in the best interest of the organization and to keep liaison with Courts & Counsels, attending Court proceedings etc.

Therefore, an attempt has been made to crystallize the procedure for legal process in the form of Standard Operating Procedure (SOP) which will not only serve as a guide to all concerned in dealing with Court cases & obtaining legal advice but will also contribute in achievement of the objectives of the Corporation. All offices of the Corporation are required to strictly abide by the procedures and time frame laid down in the SOP so that the interest of the Corporation in litigation matters can be protected in the best possible manner and also to avoid un-necessary court cases.

***FIAT JUSTITIA ET PEREAT MUNDUS***  
***LET THERE BE JUSTICE THOUGH THE WORLD PERISH***



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## **CHAPTER-I**

### **Procedure for Instituting/Defending Court Cases in District Courts/High Courts/Various Tribunals & Other Adjudication Forums Etc.:**

- I. The Court Cases, legal notices and other legal related work will be processed in the manner as laid down by the Standard Operating Procedures (SOPs) herein as under.
- II. It may be emphasized that processing of the Court Cases, Legal Notices and other Legal related work in the Corporation is to be done in a uniform manner in order to have effective monitoring of the Corporation's Litigation in the State of H.P., mitigate the risk of litigation and to avoid multiple litigation.
- III. Upon receipt of copy of the Complaint, Application, Appeal, Civil Suit, Consumer Complaint, Petition, Criminal Cases etc. filed against the Corporation in any District of the State or in the Hon'ble High Court of H.P., the officer concerned in the Area Offices/Divisional Manager Office of the Corporation shall immediately inform about the same to the Legal Section in the Head Office of the Corporation.
- IV. Prepare a para wise factual comments pertaining to the case and send to the legal section in Head Office (If the case pertains to Area Office or Divisional Manager Office) at the earliest in a time bound manner along with record of the case in order to give the legal shape to reply.
- V. The "Draft of Reply" prepared by the legal section shall be vetted by one of the empanelled counsels of the Corporation or in case the Court Case pertains to any Area Office or Divisional Manager Office and has been filed in any of the Districts of the State, then the same shall be vetted by the Counsel engaged in that particular place.
- VI. Thereafter, the vetted reply shall be sent back to the legal section for approval of the Managing Director of the Corporation.
- VII. Only after obtaining the approval of the Managing Director of the Corporation, a reply shall be filed in the concerned Court of Law by the officer concerned.



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- VIII. In case a reply is filed without prior approval of the Managing Director then the same shall be at the sole responsibility, risk and cost of the officer concerned.
- IX. Necessary assistance as and when required will be provided to the advocates in all cases.
- X. Generally the court cases are to be instituted/conducted/defended by engaging the panel advocates only, however, if there is no panel Advocate notified by the Government then engagement of a counsel can be done by the respective Area Offices or Divisional Managers Office with the approval of the Managing Director of the Corporation and an approval for the fees to be paid to such counsels (If fee structure is not prescribed by the Corporation) shall also be taken accordingly.
- XI. After engagement of counsel, Vakalatnama (Power of Attorney) duly signed by the competent authority in favour of the Advocate will be supplied immediately by the concerned office so as to enable the advocate to put appearance before the courts of law and the like forums well before the first date of hearing itself.
- XII. If a case is to be filed on behalf of the Corporation, the relevant documents after detailed discussion/briefing of the issue, will be handed over to the advocate for preparation of the case by the concerned office.
- XIII. In general, the cases are required to be defended at the level of respective Area Offices on the basis of record available in their office. An officer not below the rank of Assistant Area Manager alongwith a person well conversant with the facts of the case will be deputed to brief and discuss the matter with the advocate(s) and if necessary, Court proceedings may be monitored physically in person in the interest of the Corporation by deputing a departmental representative, if required. However, guidance/assistance from the Head Office may also be solicited in important cases.
- XIV. In any matter, where any policy issue is involved, the case will be sent to the Head Office by the concerned office for examination & advice alongwith complete detailed note, complete record and

  
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specific recommendations. Legal Section of the Corporation will examine the case in consultation with concerned administrative section and convey the approval of the competent authority, to defend/pursue the case as per approval of competent authority.

- XV. Regular follow up of the court cases will be done by the respective offices and report about the status/outcome of the case will be conveyed to the Head Office from time to time.
- XVI. In cases of complaints about non-cooperation/indifferent attitudes by the Advocates towards the departmental authorities, a proposal to withdraw the case from the existing Advocate and reassign the same to the other Advocate will be sent to the Head Office by the officer concerned.

*Ubi Jus Ibi Remedium*

*for the violation of every right, there must be a remedy*



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## **CHAPTER-II**

### **Procedure for Issuing/Defending Legal Notices**

- I. Section 80 of Civil Procedure Code lays down that no litigation can be filed against Government without serving a prior notice of grievance. This is for giving an opportunity to the department to rectify an alleged wrong. Further the notice also broadly lays down the contours of a prospective litigation which the aggrieved party may file in near future, if the grievance alleged in the notice is not addressed in time.
- II. Serving notice by a party to the Government is the first step towards seeking a redressal against an alleged wrong. Hence, due consideration should be given to the grievance alleged in the notice, and if possible, steps should be taken in all earnest to rectify the same. Section 80 of CPC further lays down a period of two months before which litigation cannot be initiated against Government. Thus, all-out efforts should be made to rectify the alleged wrong within two (02) months of receipt of notice. Even if, it is foreseen that the wrong cannot be rectified within two months, at least concrete steps can be initiated towards rectification of the alleged wrong laid down in notice, and the aggrieved party can be informed of such consideration by sending an interim reply at the level of concerned office.
- III. Upon receipt of copy of a legal notice by the officer concerned in the Area Offices/Divisional Manager Offices of the Corporation, the same shall be immediately conveyed to the Legal Section in the Head Office of the Corporation.
- IV. Para wise factual comments to the legal notice be prepared and sent to the legal section in Head Office (If the case pertains to Area Office or Divisional Manager Office) at the earliest in a time bound manner along with record of the case in order to give legal shape to reply to the legal notice.
- V. The "Draft of Reply" to the legal notice prepared by the legal section shall be vetted by one of the empanelled counsels of the Corporation.

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- VI. Thereafter, the vetted reply shall be sent to the Advocate of the party concerned who has issued the legal notice through "Registered Post A.D." only.
- VII. Reply to the legal notice shall be sent by an Advocate only on behalf of the Corporation.
- VIII. Reply to legal notice within a period of Thirty Days (30) from the date of receipt of legal notice be ensured.
- IX. In case a legal notice is to be issued on behalf of the Corporation, then the concerned Branch of the Head Office/Divisional Office/Area Office to whom the subject matter pertains, shall provide list of events to the Legal Branch, explaining the issue in detail in a chronological order.
- X. After receipt of the list of events, the Legal Branch shall give Legal shape to the notice and get it vetted from the Standing Counsel of the Corporation.
- XI. The Legal Notice shall be issued after due approval of the higher authorities.

***Salus populi suprema lex esto: Let the good (or safety) of the people be the supreme (or highest) law"***

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### **CHAPTER-III**

#### **Action After Decision of the Court Cases**

- I. After decision of a case, the matter will be referred to the Head Office for approval as to further course of action, either to implement or challenge the judgment/order alongwith brief facts of the case, comments regarding intricacies/implications involved therein, financial implication and views/recommendation of concerned office alongwith opinion from the advocate/counsel engaged by the respective offices for conducting/defending a case.
- II. All such cases should be referred well in advance to the Legal Cell of the Corporation keeping in view the quantum of time taken for examination of the case which involves passing of case file through various sections/channels in the Corporation for examination of cases viz-a-viz limitation period prescribed in the relevant statute applicable in a given case.
- III. If the legal cell or the competent authority is of the view that expert legal opinion in the matter is required, the case will be referred to the Standing Counsel of the Corporation for advice.
- IV. All relevant record pertaining to the case including reply already filed by the respective office and related documents will be supplied for examination purpose for reaching out to the final conclusion as to the further course of action in the best interest of the Corporation.
- V. In matter of urgency, a responsible officer well conversant with the facts of the case will have to be deputed to Head Office to provide required assistance in the event of short fall of time etc. and in efficient discharge of the official duties.
- VI. After approval from the Managing Director, immediate action to implement the judgment will be taken by the concerned office so as to avoid contempt cases and to prevent the unnecessary litigation expenses in public interest. However, if it is felt by the concerned office that it will not be possible to implement the judgment in the stipulated period, an application for extension of

time will be moved in the court explaining the facts & circumstances to avoid contempt petitions. Similarly, if the competent authority approves to assail the judgment, action to challenge the judgment as per approval of the competent authority will be taken in consultation with the advocate engaged by the Corporation for the purpose well before the expiry of the limitation period.

Action taken report in the cases will be sent by the concerned office to the Head Office.

*Ignorantia juris non excusat*  
*Ignorance of law excuses no one*

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## **CHAPTER-IV**

### **Returns**

In order to facilitate the higher authorities to have the details of pending/decided cases (against the Corporation or in favour of the Corporation) at a glance, the Area Offices shall send the following returns pertaining to their administration to the Head Office.

#### **1. Quarterly Returns:-**

- (I) Return regarding detailed information of all court cases of the Area Offices pending in various courts will be sent quarterly to the Head Office by the respective Area Managers. The return should reach the Head Office before the 15<sup>th</sup> of succeeding month.
- (II) Return regarding settlement of "out of Court Cases" will be sent quarterly to the Head Office and it should reach before the 15<sup>th</sup> of succeeding month.
- (III) Return regarding disposed of court cases by the various courts will be sent quarterly to the Head Office and it should reach before the 15<sup>th</sup> of succeeding month.

**Note:** The above returns are mandatory and must reach as per the time prescribed.

A Copy of proforma in which return is to be sent is annexed as Appendix I

*Flat justitia*  
*"Let justice be done"*

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## CHAPTER-V

### GRIEVANCE REDRESSAL MECHANISM

Efforts are made for avoidance, reduction & settlement of litigation for which an in-house mechanism has been devised keeping in view the State Litigation Policy. A Department Litigation Monitoring Committee has been formed in the Corporation to reduce litigation and the meeting of the committee is held quarterly in the Head Office under the chairmanship of the Executive Director of the Corporation. In case, any employee of the Corporation is having any service related grievance, then the same may be addressed to the Head Office to refer the same to the Department Litigation Monitoring Committee for resolution.

*A Verbis Legis Non-Est Recedendum*

*There must be no departure has to be kept in mind*

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## **CHAPTER-VI**

### **Procedure for obtaining advice from Legal Advisors(s):-**

1. If any office of the Corporation requires any legal advice in a matter then such proposal must contain a detailed note alongwith documents relating to the issue and specific recommendations of the concerned office. Thereafter, such cases will be examined by the legal cell in consultation with respective section viz Rules & Regulations as the case may be before forwarding the same to the Standing Counsel/Legal Advisor.
2. In case the authorities in the Head Office so desire in any matter, they can also refer the matter to the Legal Advisor as the case may require an expert opinion.
3. The advice of the Legal Advisor will be put up to the competent authority for perusal and orders and thereafter it will be communicated to the concerned office.

*Boni judicis est ampliare jurisdictionem*

*It is the part of a good judge to enlarge his jurisdiction.*

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## **CHAPTER-VII**

### **Procedure for the Registration of F.I.R**

#### **(First Information Report):-**

1. F.I.R means First Information Report, made to police, about commission of a cognizable offence.
2. A criminal incident should be reported immediately to the nearby police station by the concerned Area Manager/Divisional Manager in case of field offices and by the Head of the concerned branches in case of Head Office, after taking due approval from the authorities.
3. In case police authorities refuse to lodge FIR then the same should be brought to the notice of the concerned Superintendent of Police.
4. For delay in lodging of an FIR an explanation shall be called of the concerned officer.
5. In case of failure to register an FIR, the liability shall be fixed on the officer concerned.
6. Offences of serious nature committed against the Corporation involving financial implications like embezzlement, breach of trust by the public servant and theft etc. should be handled with utmost sincerity by the officer concerned otherwise liability shall be fixed on the officer concerned.



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## Annexure-I

**QUARTERLY RETURN OF THE AREA  
OFFICE \_\_\_\_\_ REGARDING PENDING/DECIDED COURT CASES  
IN FAVOUR/AGAINST THE CORPORATION**

**Pending Cases**

Sr. No.	Case Number/Title of the Case	Brief description about the case	Pending Before the Adjudication Forum	Stage of the Case	Advocate engaged	Remarks
1	2	3	4	5	6	7

**Disposed Cases**

Sr. No.	Case Number/Title of the Case	Brief description about the case	Disposed on	Whether an appeal is to be filed	Advocate engaged	Remarks
1	2	3	4	5	6	7



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