

The Secretary
Punjab State Electricity Board,
Patiala

1. All Chief Engineers, PSEB: Patiala
2. Chief Accounts Officer, PSEB: Patiala
3. Chief Auditor, PSEB: Patiala.
4. All Superintending Engineers, in the P.S.E.B.
5. All Executive Engineers in the PSEB
6. All Deputy Secretaries, PSEB: Patiala
7. All Under Secretaries, PSEB: Patiala
8. All Assistant Secretaries PSEB: Patiala
9. All Sectional Heads in the Head Office.

10. UAC, PSEB, DTA
Memo No. 90324/723 /LB-3(12)-74

Dated Patiala the 21st May /1974

Subject:- Making of references to Legal Section.

For quite some-time past, it has been observed that no uniformity of procedure is being observed while making references to Legal Section inspite of clear provisions having been made in the Board's Regulations of Business, 1960 and the instructions issued by this office. Regulations 25 and 26 of the PSEB Regulations of Business, 1960 provide as under:-

25. Whenever it is proposed:-

- (i) to issue a statutory regulation, notification or order; or
- (ii) to sanction under a statutory power the issue of any regulation, by law, notification or order by a subordinate authority; or
- (iii) to submit to Govt. any draft statutory regulation, notification or order for issue by them.

the draft shall be referred to the Legal Section for opinion and advice.

26. (i) All Sections shall consult the Legal Section on:-

- (a) the construction of statutes, acts, regulations and statutory regulations, orders and notifications;
 - (b) any general legal principles arising out of any case; and
 - (c) the institution or withdrawal of any prosecution or any other legal proceedings at the instance of any Section.
- (ii) Every such reference shall be accompanied by an accurate statement of the facts of the case and the point or points on which the advice of the Legal Section is desired.

A careful perusal of para 26 (i) (b) in conjunction

26(ii) of the Regulations of Business reveal that consultation with the Legal Section, ~~and~~ the aforementioned paragraph is envisaged with respect to any that is to say, specific case in contradistinction to a hypothetical case. It is, therefore, necessary that reference to the Legal Section must be made only in the form of self contained U.O./communication (without files/records) giving true statement of facts of the particular case and precisely the points for determination. It may be clarified that such references will not be accepted if these arise out of hypothetical cases.

Instructions were also issued vide this office, U.O. No.13430/961 dated 19.2.71 that references to Legal Section for facility of immediate attendance shall be marked by the officers of the Board directly to the Superintendent/Legal and shall be referred in the shape of self contained note bringing out the points for determination clearly. The connected files need not be sent with the case unless requested for. All references to Legal Section may now be addressed to Deputy Secretary (Law)/ Assistant Secretary (Legal).

The question regarding level of competency at which reference would be made to the Legal Section has also been considered. It has been decided that no reference should be made to Legal Section by an officer other than the officer in charge of the Branch in the Board Secretariat i.e. the Under Secretary or Assistant Secretary as the case may be. In respect of offices of the Chief Engineers/Chief Accounts Officer/Chief Auditor, ordinarily the reference should be made by the respective Chief Executive Officer, except that the reference from the Store Purchase Section and Design Directorate could be made by the Superintending Engineer in charge but not at the level of the Purchase Officer/Executive Engineer. In case of field offices all references for advice of the Legal Section

should be made through the Chief Engineers so that only those cases in which the legal advice is actually considered essential are referred to the Legal Section. In all matters, which emanate from the field offices, the Chief Engineers should examine the cases at their level in accordance with the rules and available precedents/instructions in the first instance and to requisite advice at their level. This will also ensure uniformity of procedure and avoid un-called-for references to the Legal Section from the lower offices. However, in emergent cases, the Executive Engineers/Chief Engineers in the field may make direct references in respect of time-bound cases but in such cases, the delay, if any, in making the reference under the signatures of Ken/SE should invariably be explained. The SDOs should in no case correspond direct with the Legal Section.

In the matter of follow-up of Court Cases, it is reiterated that institution and defence of suits etc. in the field offices of the Board is the personal and direct responsibility of the Executive Engineers concerned, after observing the pre-requisite formalities. They have to follow-up all such cases during various proceedings. Similarly, it is clarified that in respect of Court cases pertaining to the Headquarters offices, respective branch officers will be responsible for institution/defence and follow-up of the cases in the Court, pertaining to the Sections under their charge. The assistance of Legal Section in connection with the preparation of written reply to be filed in the Court or at any subsequent stage will always be available as and when exigencies so require.

It may be borne in mind that reference made to the Legal Section, which are not in conformity with these instructions will be returned for re-submission in accordance with the above procedure and the responsibility for the delay on this account will rest with the referring Section.

The receipt of this communication may kindly be acknowledged.

D/M11

SECRETARY
 Bd. State Elec. Board, Patna

CC: PS to Chairman/PAs to Members/Secretary.

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