

Punjab State Electricity Board

From

Secretary,
PSEB, Patiala.

To

1. All Er.-in-Chief/Chief Engineers/ General Managers
2. I.G.P (V&S), PSEB, Patiala.
3. RAO/CAO/CA/CPO/CCF, PSEB, Patiala.
4. All Directors/ Dy. Directors, /SEs/ Addl. S.Es/ Sr. Xens/ Xens. (including Hydrel)
5. LAC, PSEB, Patiala.
6. All Joint Secretaries/Dy. Secretaries/ Under Secretaries in PSEB.
7. All Head of the Departments in H.O
8. All Sectional Heads in Head office

Memo No. 114519 /5547/LB-2 /General

Dated 6.10.2006

Subject:- Responsibility to follow up/monitor the progress of court cases.

- | |
|---|
| 1. 141627/LB-2(451)70
dated 12.11.70 |
| 2. 90324/723/LB-3 (12)74
dated 21.5.1974 |
| 3. 39237/577 dated
30.3.1977 |
| 4. 29484/30384/LB-2
(Gen) Policy/96 dated
14.2.96 |
| 5. 174896/175215/LB-2
(51641)04 dated
6.12.2005 |

There are standing instructions of the Board issued/reiterated vide references quoted in the margin from time to time thereby fixing the level of direct responsibility to follow up the court cases. In spite of the existence of such instructions it has been noticed that the said instructions are not being given due importance and attention. Various instances have occurred where the requisite information/ documents with regard to the court cases as demanded by the Board's Advocate from the concerned field offices were not provided and even personal attendance by the officials well conversant with the facts of the case was not ensured and the cases are lost by the Board due to this sole discrepancy. Some times the High Court while hearing of the cases, raised queries or sought clarification of the points based on facts which remain unanswered because of the non attendance of the cases by the officials/officers supposed to be

well conversant with the facts of the cases. Consequently, the High Court issued directions to the undersigned/other higher ranking officers for personal appearance and were reprimanded by the High Court by apprising them of the sorry state of affairs regarding improper manner of following up the court cases by Board Officers/Authorities.

It has been felt that certain remedial/corrective measures are absolutely necessary. There are numerous instances when Board is put to awkward position in courts or loses cases SOLELY due to reason of non or delayed compliance of court orders, non or delayed supply of required information/record to the Board's counsels, non or delayed filing of replies/rejoinders in the courts.

Though, the Executive Engineers / Divisional Officers in the field offices and respective branch officers in respect of court cases pertaining to the H.Q offices are made personally and directly responsible for following up the court cases but their Controlling Authorities/offices higher in hierarchy i.e. S.Es/Directors and Chief Engineers/ General Managers etc. consider themselves free from responsibility which was never the spirit of the instructions issued by the Board. After reviewing the existing instructions, it has been decided that the Controlling Authorities or higher Offices/Officers shall also be held responsible henceforth in case of any lapse in following up the court cases by the offices under their control because the higher offices are equally responsible to monitor the progress of the court cases being followed up by the offices under their control and to achieve the said purpose, Controlling Authorities are required to evolve some mechanism to ensure the proper follow up of court cases.

This issues with the approval of Chairman.

- DAV
1. 141627/LB-2(451)70 dated 12.11.70
 2. 90324/723/LB-3(12)-74 dt.21.5.1974
 3. 39237/577 dated 30.3.1977
 4. 29484/30384/LB-2 (Gen) Policy/96 dt.14.2.96
 5. 174896/175215/LB-2(51641) 04 dt. 6.12.2005

Secretary,
PSEB, Patiala

**Punjab State Electricity Board
(Legal Section)**

From

Chairman,
PSEB, Patiala.

To

1. All Chief Engineers
2. All Superintending Engineers
3. Chief Accounts Officer, PSEB Patiala
4. All Executive Engineers

Memo No. 141627/778/LB-2(451)70 dated 12.11.70

Dated Patiala, the 12 Nov., 1970

Subject:- Institution and defence of cases on behalf of the Board.

It has come to the notice of the Board that the matters with regard to institution and defence of suits/cases in the field offices are not being attended to by the officers concerned, with the requisite speed and attention. The result is that in quite a few cases the Board's interests are jeopardized. Even some times the cases go by default.

2. Recently, a case came to the notice of the Board wherein wages of an employee were not paid by the offices/officer concerned in time, forcing the official concerned to go to a Court of Law. Even the Civil Suit against the Board instituted by the official was not defended with the requisite attention. This resulted in an ex-parte decree being awarded in favour of the plaintiff and against the Board. Now only this, even the remedy against the ex-parte decree was not sought within the available period of limitation, and the Board was faced with a 'fait accompli' in the nick of time to pay the decretal amount. This is certainly a very unsatisfactory state of affairs.

3. In this connection, it might be relevant to recapitulate that the field offices have already been duly authorised to make timely arrangements for the defence/institution of legal cases on behalf of the Board, at District/Divisional level. They are already authorised to sign

- 2 -

plaints, documents, applications, affidavits, the powers of attorney and the like. They can also engage counsel, wherever indicated, from out of the approved panel of advocates maintained, district-wise by this office. In this connection, your attention is invited to this office order No. 88/PSEB dated 2.4.59 and Memo No. 81387/456/LB-3(1)68 dated 4th July, 1968.

The object behind this delegation was to achieve prompt, timely, adequate and effective action so as to safeguard the Board's interest.

4. It is, hereby, reiterated to all the officers concerned 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. It may be understood that any failure in this behalf shall be viewed very seriously and the resulting loss, if any, to the Board in such cases, shall be made good from such of the officers as fail to take prompt and effective action.

DA/Nil

Sd/-
(D.N. Dhir)
Secretary,
PSEB, Patiala.

Endst. No. 141779/888/LB-2(451)70 / Dated 12.11.70

Copy forwarded for information and necessary action to :-

1. Deputy Secretary
2. Deputy Secretary (Vigilance)
3. Executive Engineer (Enforcement)
4. All Accounts Officers
5. All Assistant Secretaries
6. All Assistant Accounts Officers
7. All Heads of Sections in the Board Secretariat and offices of the Chief Engineers
8. P.S to Chairman and P.As to Members and Secretary, PSEB, Patiala

DA/Nil

Sd/-
Assistant Secretary (Legal)
for Secretary PSEB, Patiala.

**Punjab State Electricity Board
(Legal Section)**

From

Secretary,
PSEB, Patiala.

To

1. All Chief Engineers, PSEB Patiala
2. Chief Accounts Officer, PSEB Patiala
3. Chief Auditor, PSEB, Patiala.
4. All Superintending Engineers in PSEB.
5. All Executive Engineers in PSEB
6. All Dy. Secretaries, PSEB, Patiala
7. All Under Secretaries, PSEB, Patiala
8. All Assistant Secretaries, PSEB, Patiala
9. All Sectional Heads in the Head office.
10. L.A.C, PSEB, Patiala. s

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 & 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.

- 2 -

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 with para 26(ii) of the Regulations of Business reveal that consultation with the Legal Section the aforementioned paragraph is envisaged with respect to any that is to say, specific case in contradistinction to 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/record) 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. 13480/961 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 Dy. 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 incharge of the branch in the Board Secretariat i.e. the reference should be made only at the level of Dy. Secretary, Under Secretary or Assistant Secretary as the case may be. In respect of offices of the Chief Engineer/Chief Accounts Officer/Chief Auditor, ordinarily the reference should be made by the respective Chief Executive

- 3 -

Officer, except that the reference from the Sotre Purchase Section and Design Directorate could be made by the Superintending Engineer Incharge 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 on 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/Superintending 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 Xen./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 offices 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.

DA/ Nil

Sd/-
Secretary,
PSEB, Patiala.

CC: PS to Chairman and P.As to Members/Secretary.

**Punjab State Electricity Board
(Legal Section)**

From

Secretary,
PSEB, Patiala.

To

Important

1. All Chief Engineers, PSEB
2. Chief Accounts Officer, PSEB Patiala
3. Chief Auditor, PSEB, Patiala.
4. DIG (Vigilance & Security) PSEB, Patiala.
5. RAO/CAO/CA/CPO/CCF, PSEB, Patiala.
6. All Superintending Engineers in PSEB.
7. All Xens. in PSEB

Memo No. 39237/577/ LB-

Dated Patiala, the 30.3.1977

Subject:- Institution and defence of suits on behalf of the Board.

In terms of Section-12 of the Electricity (Supply) Act, 1948, the Punjab State Electricity Board is a body corporate having perpetual succession and a common seal with power to acquire and hold property both movable and immovable and shall by its name sue and be sued.

2. The Board in exercise of the powers vested in it has ... under Section 79(K) of the Act *ibid*, has framed "The Punjab State Electricity Board Regulations of Business, 1960". For the institution and defence of the suits on behalf of the Board, the Regulation 8-A was incorporated in the said Regulations and circulated vide this office Endst. No. 12638/M-227/PS/36 dated 26.7.74. The said Regulation is reproduced below, for facility of reference:-

Regulation 8-A
of PSEB
Regulations of
Business

"8-A (a) the following officers will act as Controlling Officers to authorise (i) the institution of a suit on behalf of the Board (ii) the defence of any threatened suit to which the Board has been made a party (iii) intervention by the Board in any suit in which the Board was/is interested, or (iv) the institution or defence of a suit by or against a Board employee in his official capacity.

- 2 -

(1) Secretary Board

- (i) In the case of suits by or against a Board employee, in which tortuous conduct is imputed to a Board employee in the execution of his official duty.
- (ii) All proceedings in the High Court, Supreme Court or Special Tribunals.

Provided that the Secretary will exercise his powers with the prior approval of the Member Incharge and provided further that where tortuous conduct is imputed against the Chairman or Members of the Board, approval of the Board will be necessary. s

(2) Secretary, Chief Engineer, Deputy Secretaries.

In respect of cases affecting his administration not exceeding Rs. 20,000/- in value or amount, provided that in cases involving an amount exceeding Rs. 20,000/- Secretary will act as a controlling authority with the prior approval of the Member Incharge.

(3) Superintending Engineer

In respect of cases not exceeding Rs. 10,000/- in value or amount.

(4) Executive Engineer

In respect of cases not exceeding Rs. 5,000/-

- (b) (i) The powers of controlling authority as mentioned in preceding Sub Rule shall be exercised in consultation with Legal Section of the Board.
- (ii) 'Suit' means a suit by or against, or affecting the Board or a Board employee in his official capacity or which is brought or defended by the Board employee at the Board's expenses, and includes an appeal, and application for revision or review or execution of decree, and any civil, judicial proceedings in which the Board or a Board employee in his official capacity is a party or has any interest.
- (c) The following officers are authorised to sign, attest and authenticate any plaint, application, petition, written statement, replication, affidavit and any other

legal instrument or documents or Power of Attorney to any counsel on behalf of the Punjab State Electricity Board in connection with any fresh or pending case or proceedings in any court or in any fresh or pending reference to arbitration by or on behalf of the Punjab State Electricity Board:-

- (i) Secretary, Deputy Secretary, Under Secretary, Assistant Secretary (Legal) and Assistant Secretary (Services) of the PSEB, generally for all cases arising on behalf of or against the Punjab State Electricity Board in any court or Arbitration proceedings within or without the Punjab State.
- (ii) All officers not below the rank of an Executive Engineer and above upto the Chief Engineers in respect of cases/proceedings arising within their jurisdiction/Zones.
- (iii) Chief Accounts Officer/Chief Auditor and Sr. Accounts Officers in respect of cases/proceedings arising within their jurisdiction.

Note: The Board is also pleased to validated and ratify the action already taken by the authorised officers to sign, attest and authenticate any plaint, application, petition, written statement, replication, affidavit and any other legal documents or instrument or power of attorney to any counsel on behalf of the PSEB in pursuance of O/O No. 4519/PSEB dated 22.8.69."

3. It is observed that the provisions of Regulation 8-A reproduced above are not being followed in as much as the controlling officers defined therein do not accord sanction to the institution or defence of the suits after consulting the Legal section as prescribed therein. Notwithstanding the merits of a particular suit in favour of the Board, if the requirements of the regulation are not followed, the suits are likely to be decided against the Board for want of requisite sanction being accorded after consulting the Legal Section of the Board. In fact there has been instances where the Board lost cases on this very ground.

4. The detailed instructions for the institution and defence of the suits are contained in Chapter-VIII of the Manual of Orders Public Works Department (Electricity Branch) and the Punjab Law Department Manual. For facility of reference, the

relevant instructions for the institution and defence of suits are given as under:-

Para 8.2 of the
PSEB Manual of
Orders para
17.2 of Law
Deptt. Manual

Rule 8.5 of the
PSEB Manual of
Orders para
17.3 of Law
Deptt. Manual.

(A) Institution of suits

- I. No suit on behalf of the Board or a public officer as such shall be instituted without the previous sanction of the competent authority.
- II. Any officers who considers that a suit should be instituted on behalf of the Board, shall submit a clear and detailed report showing:-
 - a) the circumstances which, in his opinion, render the institution of the suit necessary and precisely when and where each of them occurred;
 - b) the subject of the claim and the relief sought;
 - c) the steps which have been taken to obtain satisfaction of the claim without bringing a suit;
 - d) the pleas or objections (if any) which have been urged by the proposed defendant against the claim;
 - e) the evidence both oral and documentary, which is believed to be obtainable and which it is proposed to adduce in support of the claim;
 - f) whether the documents (if any) referred to in sub-clause(e) above are registered or not;
 - g) whether or not the circumstances of the person against whom it is proposed to institute the suit are such as to render it likely that execution will be obtained of any decree that may be given against him;
 - h) the evidence, both oral and documentary, which so far as is known, the proposed defendant will be able and is likely to adduce in his defence;
 - i) whether the documents (if any) referred to in sub clause (h) above are registered or not;
 - j) any other facts which the officer considers material e.g., whether there are any special reasons for the institution of the suit apart from the amount actually claimed, whether other similar claims will hinge upon its decision or the like;
 - k) whether the amount required for stamp or other expenses to be above Rs. 500/-

Para 17.4 of
Law Deptt.
Manual

- III. Copies of documents referred to in clauses(e) and (h) of the preceding sub para (II) and of all correspondence and written proceedings, whether in English or in the Vernacular (together in the latter case, with translation), connected with the proposed suit, should accompany the report, with an exact list of the same where-ever this is reasonably possible. If these copies cannot be supplied for any reason, the originals should be submitted. The controlling authority, will thereupon, consult the Legal Section of the Board and decide upon the course to be decided. If legal action is decided on, the controlling authority will accord necessary sanction for the institution of the suit under intimation to the Legal Section of the Board and take further action for filing of the suit by engaging a counsel, as per standing instructions of the Board.
- IV. In each case, the officer submitting the report to the controlling authority, shall satisfy himself before forwarding it, that the instructions contained in sub para (II) have been fully complied with and state his own opinion on the matter, with his reasons for the opinion.
- (1) All copies or translations submitted should be absolutely accurate and complete, reproducing every particular contained in the original, whether of a formal nature or not.
 - (2) When a map or plan would be calculated to elucidate any point reported on, it should be supplied.

(B) Defence of suits

- (I) (a) No person having a just claim against the Board should be compelled to resort to litigation to enforce it.
- (b) When any persons threaten to bring a suit against the Board, it is incumbent on the proper departmental officers and the controlling authorities to satisfy themselves without delay of the justice or otherwise of the whole and every part of the claim made, all reasonable efforts being made to bring about an amicable adjustment, without an appeal to the law, so far as this can be done without sacrificing the just rights of the Board.

Para 8.2 of PSEB
Manual of Orders
para 18.1 of Law
Deptt. Manual

Para 18.4 of
Law Deptt.
Manual

- (II) (1) To enable the controlling authority to take a decision to defend the suit and accord sanction on behalf of the Board, the proper departmental officer should submit to the controlling authority, the following documents together with an extract list of the same:-
- (a) the notice of suit, the summons and a copy of the plaint;
 - (b) a second copy or translation of the plaint, written in English, on half margin, each statement therein being marked with a letter (A, B & C) and notes being added in the margin stating whether each statement of fact made therein is correct or not, and, if not, in what respect is not so;
 - (c) copies of documents and lists of documents, if any filed with the plaint;
 - (d) copies of all other documents procurable, which are believed to bear on the case, either for the plaintiff or the defendant, together with as accurate a description as may be of other documents (if any) which are believed to be relevant, but of which the contents cannot be precisely ascertained except through the Court.
 - (e) these documents shall be accompanied by a clear detailed report, stating
 - (f) the circumstances which led to the suit, mentioning precisely when and where they each occurred; the course which it is proposed to adopt, namely, whether to admit, compromise or defend the suit, and the reasons for the same, and the steps (if any) which have already been taken to adjust the matter out of court;
 - (g) If it is proposed to defend the suit, the proposed defence, written on half margin, showing clearly and fully how each of the allegations in the plaint is to be met, and the evidence which it is proposed to adduce for that purpose;
 - (h) whether the documents referred to in (c) and (d) are registered or not;
 - (i) the date fixed by the Court for the first hearing.

-7-

- (2) English translation of every documents which is not in that language shall be supplied with the report, wherever this is reasonably possible.
- (III) Instructions contained in clause-III and IV relating to institution of suits will also be applicable to suits filed against the Board.
- (IV) After examination of the case, the controlling authority shall consult the Legal Section of the Board, which will send its advice to the controlling authority, if it is decided to defend the suit, the controlling authority shall accord necessary sanction for the defence of the suit under intimation to the Legal Section of the Board and take further action necessary for the defence of the suit.
- (V) When, after receiving any notice of threatened suit and enquiring into the matter, the controlling authority proposes to --
- (a) tender any amount admitted to be due to the claimant.
 - (b) offer terms of adjustment or suggest reference to arbitration.

Para 18.15
of Law Deptt.
Manual

Regulation 8-A
of PSEB
Regulations of
Business

Para 8.6 of
PSEB Manual
of orders

The Legal Section of the Board should ordinarily be consulted as to the form or terms of the proposed tender, adjustment or reference, as the case may be, before they are communicated to the opposite party and once a suit has been instituted, no sum should be tendered, terms of adjustment offered or reference to arbitration suggested, otherwise then through the officer incharge of the case.

(C)

Reference to Arbitration

Clause-29 of the abridged conditions of supply provides for reference of differences or dispute between the Board and consumers in respect of matters connected with the supply to the arbitration. It was, inter-alia, laid down that whenever a consumer filed a suit, clause-29 of the abridged conditions of supply be invariably invoked. It was advised that before filing written statement or taking any other steps for judicial proceedings pending in the court of law, an application should be moved under section-34 of the Indian Arbitration Act, 1940

Board's circular
Memo No. 19549/
845/LB-2 (2484)
dated 6.10.76

-8-

for staying the judicial proceedings and for reference of the dispute to arbitration in accordance with aforementioned clause-29, which forms a part of agreement with the consumers. It has come to the notice that these instructions are not being kept in view while defending the suits filed by the consumers. It is, therefore, again re-iterated that when in a suit filed by a consumer against the Board, it is decided by the controlling authority to defend the same after following the procedure outlined above, it should be ensured that an application under section-34 of the Arbitration Act is immediately moved before filing written statement, because relief of staying the suit and reference of the dispute to the arbitration can only be sought for from the Court, before filing the written statement. These instructions are, mutatis-mutandis applicable to other cases, which provide for reference or dispute to arbitration.

(D)**Copies of orders/judgments**

Board's circular
Memo No. 28409/
674/LB-2 (General)
dated 24.5.71

Instructions have been issued time and again that as soon as an order or judgment is passed by a court, an application for its certified copy should be moved immediately and the certified copy of the order judgment as the case may be supplied to this office (Legal Section) immediately for examination. It is immaterial whether the orders have been passed in favour of the Board. Where the order or judgment is against the Board, Legal Section of the Board should immediately be consulted for further line of action in as much as whether the order or judgment passed against the Board should be further contested in appeal or revision or review as may be legally competent. Where the order or judgment is in favour of the Board, its certified copy is also essentially required, not only for reference or record, but also to see if there is any observation/finding against the Board required to be contested in the competent Court. A certified copy of the order or judgment may be obtained whether it is a preliminary, interlocutory or final order/ judgment. The certified copy of order/judgment must be accompanied by the comments on the factual position in respect of the

rules/regulations mentioned therein and the facts of the case as per record maintained in the Board's offices.

(E) Limitation

Board's circular
Memo No. 28409/
674/LB-2 (General)
dated 24.5.71

As per standing instructions of the Board, it is also essential that while forwarding a certified copy of an order or judgment against the Board the limitation available for challenging the said order or judgment may also be intimated alongwith opinion of the Board counsel. These instructions are not being complied with. In most of the cases, certified copies are also not sent which could only enable this office to commute limitation period available with the Board for challenging such order or judgment, if it is so decided. It may, therefore, be ensured that certified copy of order or judgment is invariably supplied alongwith typed copy duly attested as true, but in case the Counsel's opinion is not conveniently and expeditiously available, it should not be made a ground to with-hold the submission of certified copy of order or judgment to this office for examination and further advice well before the expiry of the limitation period.

5. A proforma for according sanction to the institution and defence of the suits on behalf of the Board is enclosed.

6. All court cases are of time bound nature. Therefore, in order to ensure that the Board's interest is carefully and properly watched and is not put to jeopardy, it is incumbent upon all concerned to ensure that not only the instructions contained hereinbefore are properly imbibed and followed meticulously but also the cases are attended to with utmost care and promptitude, so that all the formalities are completed in time.

Please acknowledge its receipt.

Sd/-
(I.J. Ohri)
Under Secy.(L)-Cum-Law Officer
for Secretary, PSEB, Patiala.

Endst. No. 39578/773/ LB-

Dated 30.3.77

Copy forwarded to :-

1. All Deputy Secretaries
2. All Under Secretaries-I & II
3. All Branch Officers (In Headquarter offices)
4. All Sectional Heads (In Headquarter offices)
5. PS to Chairman/Members/Secretary
for information.

DA/ Proforma

2. The above instructions be strictly followed in connection with institution /defence of the suits under them.

For all Branch
Officers/ Heads
of Section

DA/ Proforma

Sd/-

(I.J. Ohri)

Under Secy.(L)-Cum-Law Officer
for Secretary, PSEB, Patiala.

Punjab State Electricity Board

From

Secretary,
Legal Section,
PSEB, Patiala.

To

1. All Er.-in-Chief/C.Es/GMs/S.Es/Xens in PSEB (including Hydel)
2. All Dy. Secretaries/Under Secretaries in PSEB
3. All Sectional Heads in PSEB
4. CAO/CA/CPO/P.O/CCF/L.A, PSEB
5. Directors/IR, Director/Personnel PSEB
6. L.A.C, PSEB, Patiala
7. ADGP/ V&S, PSEB Patiala

Memo No. 29484/30384/LB-2 (General)Policy/96
Dated 14.2.96

Subject:- Institution and defence of cases on behalf of the Board.

It has come to the notice of the Board that the matters with regard to institution and defence of suits/cases in the various courts are not being attended to by the officers concerned with the requisite speed and attention. The Board in its meeting held on 5.1.96 and 8.1.96 has observed that at present the legal cases of the Board are not followed up with due diligence in the respective courts. The result is that in quite a few cases the Board's interests are jeopardized. Even some times the cases are decided against us by default. Even the civil suit against the Board instituted by the officials are not defended with the requisite attention which results in an ex-parte decree being awarded in favour of the plaintiff. Not only this, even the remedy against the ex-parte decree is not being sought within the available period of limitation and the Board has to face with a 'fait accompli' at the nick of time to pay the decretal amount. This is certainly a very unsatisfactory state of affairs.

In this connection, it might be relevant to recapitulate that the field offices have already been duly authorised to make timely arrangements for the defence/institution of legal cases on behalf of the Board at District/Divisional level. Under the provisions of Reg. 25 & 26 of PSEB Conduct of Business, Regulations, 1980, they are already authorised to sign plaints, documents, applications, affidavits, the Power of Attorney and the like. They can also engage

- 2 -

counsel, from out of the approved panel of Advocates. The object behind this delegation was to achieve prompt, timely, adequate and effective action so as to safeguard the Board's interests.

It is, hereby, reiterated that institution and defence of suits etc. in the field offices of the Board is the personal and direct responsibility of the Xen. concerned after observing the pre-requisite formalities. They have to follow up in all such cases during various proceedings. The instructions on the subject have already been issued on 30.3.77 and even prior to that they also find mention in the PSEB Manual of Instructions Vol-II.

The Board has now decided that the authority competent to appoint a counsel in a case must simultaneously appoint a 'PAIRVI OFFICER' who will be an official of the Board to pursue the case in the court.

Therefore, keeping in view the decision of the Board, a 'PAIRVI OFFICER' must be appointed for the institution and defence of the suit/cases in the various courts. For this purpose Divisional Supdt./Divisional Acctt. may be appointed as 'PAIRVI OFFICER' in cases of field offices and Supdt. in Head office for the cases to be followed up by the Head office branches. These appointments are to be made simultaneously as and when Power of Attorney is signed by the officer competent to do so as prescribed in the PSEB Conduct of Business Regulation, 1980.

It has further been decided by the Board that A.M of the Board will hold monthly meetings to review all the legal cases of the Board in such a manner that each case comes for review atleast quarterly. For this purpose, month-wise list of pending court cases may be sent to the Legal Section through their respective Heads of Department so as to reach in the first week of every month for onward transmission to the A.M for review.

Sd/-

Secretary,
PSEB, Patiala.

CC: 1. Dy. Secy. to Chairman, PSEB, Patiala.
2. Sr. P.S to Members, PSEB, Patiala.

Endst. No.

/ Dated

Copy of the above is forwarded to Dy. Secy./Meetings,
PSEB, Patiala w.r.t. his office U.O No. 269/M-1/96 dated 14.1.96.

Sd/-

Under Secretary /Legal
for Secy. PSEB, Patiala.

Punjab State Electricity Board

From

Legal Advisor,
PSEB, Patiala.

To

1. All Chief Engineers in PSEB
2. All Head of the Departments in H.O

**Time Bound
Most Urgent**

Memo No. 174896/175215/LB-2 (51641) 04

Dated 6.12.2005

Subject:-

To appoint *NODAL OFFICERS* at their H.Q to implement the order of High Court dated 6.9.2005 passed in COCP No. 267/05 in CWP No. 20197/03- Sh. Balwinder Singh, JE Vs Mrs. Jaspreet Talwar the then Secretary Board to make the compliance of High Court order within stipulated time.

Hon'ble High Court while hearing COCP No. 267 of 2005, passed order on 25.2.2005 directing PSEB to create a monitoring Cell at the level of Board for proper & timely implementation of the High Court orders issued in CWPs etc. to avoid contempt of court cases. Secretary Board was directed to file an affidavit in compliance of these directions.

Secretary Board filed necessary affidavit which was placed before the court on 6.9.2005. Hon'ble High Court passed following orders:-

"An affidavit of the Mr. K.A.P. Sinha, IAS, Secretary PSEB, Patiala has been filed which elaborates the steps taken for avoiding any delay in implementation of the orders of this court. However, further steps are required to be taken on the pater of the State Govt. by appointing Nodal Officers in the office of every Chief Engineer, so that the Administration may run properly and no delay is caused in implementation of the orders. The aforementioned problem has been indicated in para-3 of the affidavit but no remedial steps have been taken.

List again for further consideration on 20.12.2005"

In this affidavit which elaborates the steps taken for avoiding any delay in implementation of the orders of this court. However, further steps are required to be taken on the pater of the State Govt. by appointing Nodal Officers in the office of every Chief Engineer, so that the Administration may run properly and no delay is caused in implementation of the orders. The aforementioned problem has been indicated in para-3 of the affidavit but no remedial steps have been taken.

- 2 -

Efforts were made by this office to collect the copy of the instructions issued by Punjab Govt. appointing Nodal Officers as mentioned in the above orders of Hon'ble High Court. This office is able to lay its hands on instructions dated 27.7.2005 and 25.8.2005 issued by Govt. of Punjab, Department of Home Affairs and Justice vide which Punjab Govt. has directed the Financial Commissioners, Principal Secretaries, Administrative Secretaries to intimate the name of Nodal Officers who be made responsible to give proper reply to the Legal Notices served on the departments of the Govt. under section 80CPC and for taking proper defence of court cases. No other instructions have been issued as checked from office of Advocate General, Punjab.

You are requested to appoint Nodal Officers at your Head Quarters who would monitor and ensure timely implementation of the Hon'ble High Court orders/directions and intimate the names/designations of the Nodal Officers so appointed well before 20.12.2002 so that Hon'ble High Court is apprised of the same on 20.12.2005, the next date of hearing and proceedings in the COCP mentioned above are got dropped.

Treat it most urgent please.

Sd/-

Legal Advisor,
PSEB, Patiala.