

Copy of Memo No. 8/22/2002-4JUDL(I)/34 dated 2.1.2008 of Govt. of Punjab Deptt. of Home Affairs and Justice (Judicial-I Branch) Chandigarh to All the Heads of Departments, Commissioners of Divisions, Registrar, Punjab & Haryana High Court, Dy. Commissioners/District and Sessions Judges in the State of Punjab.

**Subject: Procedure to be followed for proper defence and filing of Counter Affidavits and other documents in the courts.**

I am directed to address you on the subject noted above and to convey the following consolidated guidelines /instructions:-

1. Since the first step in all cases is for the Government to accord sanction for defence of the case at State expenses, the same should be issued within one week of the receipt of the summons from the Court. The sanction sent to the Advocate General office should invariably be accompanied by a copy of the petition.
2. A reply to the writ will be termed as 'Counter Affidavit'. Performa is enclosed.
3. In all Civil Writ Petitions where the State is a party, the 'Counter Affidavit' must be from an Officer not below the rank of Under Secretary of the concerned Department. In other matters where an officer of the rank of Under Secretary is not available, then affidavit may be filed by the next high ranking officer.
4. The reply must contain complete details which are relevant for a decision in the matter. Complete details with regard to each fact must be given. Wherever the response is 'It is a matter of record' that particular part of the record must be quoted.
5. Whenever the provisions of a particular rule or local law is referred to, it must be extracted or attached.
6. The reply must be filed at least one week before the date of hearing or within the time that has been granted. No counter affidavit will be accepted in court.
7. That State must file a counter affidavit in every case where it is a party. In cases where the State is not concerned with the matter, a short counter affidavit expressly stating that there is no State interest and therefore, no reply is required to be filed must be placed on record so that when the matter comes before the Court it can be known that the pleadings are complete and the case can be decided.
8. Wherever sketches or layout plans are to be attached as Annexures these must be reduced in size so that they can easily fit along with the paper book.
9. Wherever directions have been issued to produce the record or place on record results of enquiry/departmental proceedings, these directions are to be complied with atleast 10 days before the date of hearing. Therefore it is imperative that the concerned department must bring all relevant documents to the Advocate General's office at least 15 days prior to the date of hearing so that these can be vetted and put into proper order.
10. Whenever the personal presence of an officer in his official capacity has been requested for, he must appear in Court in formal attire and must not be casually dressed. Officers of the police and/or other force must be in uniform.

P.T.O....

11. In all cases where the law officer requires assistance, the officials should contact the law officer concerned at least one week before the date of hearing. However, if in the facts of the case, the same is not possible, then the needful may be done 5 days before the date of hearing. No clerk/dealing hand/ assistant should disturb the Law Officer on the date of hearing with requests that his presence be marked.
12. A soft copy of the reply in 'Word' format be carried so that whenever possible the counter affidavit can be corrected at the spot during vetting. The soft copy can also be communicated through e-mail to the concerned law officer by the departments where the facility of E-mail is available.
13. Where more than one departments of the Government are involved, **a nodal officer must coordinate and file a comprehensive reply which answers all aspects of the case.** This must be particularly done in the case of Public Interest Litigation as in most such cases the State Government is required to file compliance/status reports which involve action on behalf of various departments. This will ensure that there is no inconsistency in the stand of various departments.
14. As and when the counter affidavit is filed by an officer who is not impleaded as a party respondent, he should expressly state that the counter affidavit being filed has been approved by one or other of the respondents.
15. All departments should respond immediately and promptly, with relevant record, to telephonic instructions and TPMs received from the office of Advocate General, Punjab.

These guidelines/ instructions may be adhered to strictly.

Sd/-  
(B.B Sethi)  
Dy. Secy. Home (S)

Endst. No. 33291/33400 /Pb. Govt. References Dated : 11.3.08.

Copy of the above is forwarded to the following for immediate necessary action. They are requested to ensure strict compliance of above guidelines /instructions by all concerned under their administrative control.

1. All the Chief Engineers in PSEB
2. All Heads of Departments at Head office.

Legal Advisor,  
PSEB, Patiala.

CC: Supdt. / Board Section, PSEB Patiala w.r.t. his U.O No. 327/BD/G-2874/Vol-24 dated 16.1.2008

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

C.W.P No. .... of 2007

Petitioner

Versus

State of Punjab

Respondent

Counter Affidavit of ..... Son of .....  
Age ..... (Designation) Under Secretary Department of .....

I, the above named deponent do hereby solemnly affirm and declare as under:-

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. Grounds
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_

Chandigarh  
Dated

Deponent

Verification

Verified that the contents of above counter affidavit from para No. 1 to Para No. 3 and 6 & 7 are true and correct as per the information received from the official record. Contents of Para No. 4 & 5 are also true and correct as per legal advice sought by the counsel. No part of it is false and nothing has been kept concealed therein.

Chandigarh  
Dated

Deponent