



# भारतीय अन्तर्देशीय जलमार्ग प्राधिकरण

(पोत परिवहन मंत्रालय, भारत सरकार)

मुख्यालय : ए-13, सेक्टर-1, नौएडा-201 301, (उ.प्र.)

## INLAND WATERWAYS AUTHORITY OF INDIA

(Ministry of Shipping, Govt. of India)

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F. No- 8/IWAI/Estt/2/99

Dated:- 08.09.2020

### Circular

**Subject:- Standard Operating Procedure (SOP) for handling of Court matters in IWAI-reg.**

The approval of Competent Authority is hereby conveyed with respect to Standard Operating Procedure for the handling of Court matters and to ensure streamlining of Court cases and Arbitration disputes at IWAI, Head Office, Noida and the Regional Offices. The copy of the approved SOP is enclosed for immediate operation and compliance.

*Ajay Kumar*

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#### **Copy to-(By E-mail)**

- i) Chief Engineer (Technical)/Chief Engineer-Project Manager (JMVP)/ Hy. Chief/ Director (F&A)/ Director(NWs)/ Director (M)/ Director (NER)/ Director (Tr.&L)/ Director (Technical)/ Director (Hy. & Vig)/Deputy Secretary (P&C)/Assistant Secretary (P&C)/ Assistant Secretary (Admn. & Rectt.) , IWAI, Noida
- ii) Director, IWAI, Kolkata /Kochi/Guwahati/ Vijayawada, Bhubaneswar
- iii) Deputy Director, IWAI, Patna
- iv) Officer-in-charge of Sub-office- Varanasi, Allahabad, Sahibganj
- v) PCSA,IT-for uploading in IWAI website.
- vi) Hindi Cell- for Hindi Translation
- vii) Master Copy/Office Copy

#### **Copy for kind information to: (By E-mail)**

PPS/PS/PA to Chairperson/ Vice-Chairman & Project Director (JMVP)/ Member (Finance)/Member (Technical)/ Member (Tr&L)/Secretary. IWAI, Noida

## Standard Operating Procedure in the Legal Matters pertaining to IWAI

### Introduction

1. Inland Waterways Authority of India is a Statutory Authority constituted under The IWAI Act, 1985. It has its Head Office at Noida and Regional Offices at- Allahabad, Patna, Kochi and Guwahati and Vijayawada. To achieve positive, expeditious and optimum fruitful results and to protect, preserve and secure the rights of IWAI through a legal team and a Proper set of Standard Operating Procedure (SOP) is required. At present, the Legal Section at IWAI Noida consists of two Legal Consultants. The jobs of the Senior Consultant (Legal)/ Consultant (Legal) have been defined as under:-

- a) To defend Court Matters and ensure timely submission of replies / Counter affidavit before the various Courts/ Fora.
- b) Provide advice on all legal matters within scope of legal specialty in compliance with applicable statutes, rules and regulations while minimizing liability and highlighting risks.
- c) Interpretation and application of contractual provisions to implement legal contracts.
- d) Represent and defend IWAI before judicial administration and governmental authorities in litigation matters, through external advocates/ Law firms.
- e) To draft /vet responses to the queries or requests from Government entities.
- f) Recommend improvements to departmental policy and direct the implementation of procedures.
- g) Develop and review legal documents drafted by, or sent to, IWAI.
- h) Vetting of MOUs.
- i) Perform any other duties as determined by the IWAI.

### Aim

2. The Aim of this SOP is to lay down standard procedure for handling of Legal cases in IWAI.

### Justification

3. Increasing number of Court cases in an organization is a matter of serious concern these days. The best thing an organization can do in this situation is to strengthen its complete administrative machinery to handle these Court cases in an efficient and time bound manner.

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4. Efficient handling of Court cases in an organization will therefore require an effective streamlined legal system. In order to circumvent the scenario & to curb the court cases, there is a need for an effective mechanism to deal with Court cases/arbitration disputes in IWAI, HQ & Regional Offices objectively & expeditiously. This would ensure streamlining the Legal system.

**Procedure for handling of Court matters:-**

5. Types of Legal cases being dealt in IWAI can be broadly categorized in to following heads and procedure for standard operating procedure for handling same is give in succeeding paras:

- (a) Preparation of replies/counter affidavit in Cases Filed against IWAI.
- (b) Preparation of Complaints/Petition by IWAI.
- (c) Legal Opinion /vetting by the Law Firms/Legal Section.
- (d) Arbitration cases

6. **Preparation of replies/counter affidavit in Cases Filed Against IWAI**

- On receipt of a Notice from the Court/ opposite Counsel the Legal Section shall send it to the Concerned wings for Comments.
- The Legal Section shall move the file simultaneously for appointment of Advocate.
- Parawise comments alongwith relevant annexures are to be prepared by the concerned wing who infact are dealing with the matter.
- In case if the matter involves seeking comments from different wings then it is incumbent on the concerned wing to get the comments from those wings and consolidate the same. The 'concerned wing' shall be the Wing under which cause of action has arisen or as may be directed by the Competent Authority. However, requisite assistance will be provided by the Legal Cell thereby leaving no scope for intradepartmental conflicts. The concerned wing shall seek approval of the consolidated parawise comments from the Competent Authority after Vetting by the Legal Section.
- The Legal Section will give it a legal shape during the vetting and then send the same to the concerned wing for seeking Approval.
- After the Approved comments are sent to the Counsel thereafter which the Legal Section has to Liasion between the Advocate and the concerned wing of IWAI to ensure timely submission of Counter Affidavits/evidence etc and watch the Court proceedings.
- However, in cases pertaining to Regional Offices the Director/ Office incharge shall ensure timely filing of the same before the Court after seeking approval of the Head office. After submission of counter affidavits/ replies, the Director shall attend the Court hearings as and when required.

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7. **Preparation of Complaints/Petition by IWAI**

- In case if a Writ petition or any petition is to be filed before any Court /Fora on behalf of IWAI, the Concerned wing shall supply the Complete factual matrix of the case alongwith the complete relevant documents.
- Appointment procedure of the Counsel shall be done by the Legal Wing .
- The concerned wing shall supply the complete facts and details to the Counsel for the drafting of the complaint/petition.
- The Legal Consultants shall however , assist the concerned Wing in briefing the Counsel/Law firm.
- The petition so prepared shall be submitted to the Competent Authority for Approval by the concerned Wing.
- After approval Legal Section has to Liaison between the Advocate and the concerned wing of IWAI to ensure timely filing of the said Complaint/Petition.
- The Legal Wing shall ensure at the Head Office and the Director/Office in charge shall ensure that the court hearings are attended regularly.

8. **Legal Opinion /Vetting by Law firms**

- Recently vide order dated 24.06.2020 the Competent Authority in order to streamline the system of taking legal opinion and legal vetting from the Law Firms/Advocates.
- Legal Opinion /Vetting of the documents having substantial/ crucial issues of facts was ordered to be sent directly by the concerned Wing Head to empanelled Law Firm / Advocates for obtaining /seeking the legal opinion.
- The Concerned wing shall ensure that relevant documents, records and a detailed note bringing out the specific queries and issues on which the legal opinion is being sought are sent with the query.

9. **Legal opinion/vetting by the Legal Section**

Any other matter on which legal opinion/vetting is required from the Legal Section, IWAI, the same may be sent by the concerned wing as per the present procedure through respective Wing Heads. However, the concerned Wing has to ensure that whenever the any matter is sent to the Legal Section for Opinion /vetting ,the complete facts and documents connected with the matter may be sent to the Legal Section, bringing out specifically the issue on which the legal Opinion or advice is required.

10. **Arbitration cases**

- On receipt of a Notice from the Arbitrator/ opposite Party, Respective Wing will prepare parawise comments/ counter claim or statement of claim / evidence and any other documents to be filed before the Arbitrator and Legal Section shall assist Wing in looking after arbitration matters.

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- In case if the matter involves seeking comments from different wings then it is incumbent on the concerned wing to get the comments from those wings and consolidate the same.
- After Consolidating the said parawise comments the same will be sent to the Legal Section for Vetting.
- The Legal Section will give it a legal shape during the vetting and then send the same back to the concerned wing. The concerned wing shall seek approval of the Competent Authority.
- After the Approved comments are sent to the Counsel then the Legal Section alongwith the concerned wing has to ensure timely submission of Counter Affidavits/evidence etc before the Arbitrator and attend the hearings alongwith the Appointed Counsel.
- The hearings need to be attended by at least one officer as designated nodal officer by the Concerned Wing; He will assist the counsel in the Arbitration. During hearings in case any questions relating to Technical/Finance/Traffic aspect are asked for by the Court/Arbitrator, Nodal officer shall submit with suitable reply accordingly. Moreover, arbitration matters involve huge financial stakes it will be in the in the interest of IWAI to appoint a nodal officer in each of Arbitration matter.

### Conclusion

11. Legal Cases are important matter which requires time bound action by all concerned. Concerned Wing having material facts pertaining to the case has important role to play along with Legal Section of IWAI. Efficient handling of all Legal case is imperative on part of all concerned as stakes of Authority are involved.

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