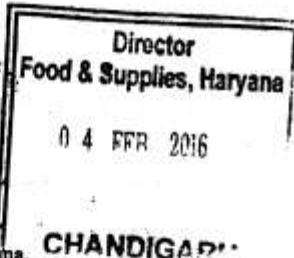


From

Establishment Branch-1
Dairy No. 669
Dated 8/2/16
The Legal Remembrancer and Administrative Secretary
to Government, Haryana
Law & Legislative Department.



To

1. Chief Secretary to Government, Haryana, Chandigarh
2. All the Additional Chief Secretary to Government Haryana,
3. Advocate General, Haryana, Chandigarh.
4. All the Head of Departments in the State of Haryana
5. All the Commissioners of Divisions Ambala, Hisar, Rohtak, Gurgaon.
6. All the Deputy Commissioners in the State of Haryana.
7. All the District Attorneys in the State of Haryana.

Memo No. 6622-6642 MC-2/2016

Dated Chandigarh, the 2nd February, 2016

Subject- Sending request through Controlling Authority/Administrative Department.

I am directed to inform you that this department is receiving frequent request from the officer below the level of Controlling Authority, In-charge of the case without the sanction of Controlling Authority for issuing instructions for the defence of the cases filed against state. Whereas the Controlling Authority/Administrative Department is competent Authority to take final decision for the institution or defence of the case and to issue sanction of the same under para 16.6 (1) of the Law Department Manual.

For facility of reference para 16.6 (1) of Law Department Manual is reproduced as below.

1. 16.6(1) Upon the reports so received, controlling authorities will after consulting the Legal Remembrancer when that course to be desirable decide whether the particular suit is to be instituted or defended, and will instruct the Legal Remembrancer accordingly in all cases in which it is proposed to place the conduct of proceedings in Court in the hands of the Law Department of the Government.

2. "Controlling Authority" has been defined in para 15.1 (a) of Law Department Manual which says that "Controlling Authority" means an officer empowered to authorize, (i) the institution of a suit on behalf of the State (ii) the defence of any threatened suit to which the State has been made a party (iii) intervention by the State in any suit in which the State is interested or (iv) the institution or defence of a suit by or against a public officer in his public capacity. In those classes of cases for which no officer is specifically empowered to act as controlling authority these functions will be discharged by Government which will itself be regarded as the controlling authority.

Thus a bare perusal of the aforesaid paras stipulates that the Controlling Authority/Administrative Department is to take final decision for defence of the cases and to issue sanction of the same. Presently the instructions for defence of the case are issued by this department in

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anticipation from the Controlling Authority. At times the sanction is received after a long period and multiple files relating to a case are opened as several letters are forwarded by various officers/branches of the department under the name Controlling Authority and even without mentioning any previous references of this department which poses a great hassle in locating the relevant files and un-necessary delay caused thereby increases the workload with huge volume of paper work.

And it affects the smooth functioning of this department as such practice leads to confusion, delay and legal complication because in absence of previous references, this department has to open new files every time to dispose of the case well in time and thereby remains a chance of issuance of multiple instructions on the same subject and it is further pertinent to mention that it puts extra financial burden also on the department as this department has to endorse many letters to subordinate offices time and again which results into excess use of postal stamps.

Keeping in view the difficulty being faced by this department and to curb the un-necessary correspondence with this department. You are hereby requested to send the cases/references to this department through Controlling Authority/administrative Department alongwith sanction for defending the cause on behalf of the State of Haryana by specifically mentioning previous reference of this department as per Chapter 16 and 18 (18.14) of the Law Department Manual and any reference received from any subordinate officer for defence of the case without sanction of controlling authority on behalf of the State of Haryana shall not be entertained by this department and further if any reference is received without previous reference of this department that will also be filed without any action and department itself will be responsible for any delay or legal complication due to this lapse So it is to be ensured that all reference should be moved to this department through the Administrative Department/Controlling Authority only otherwise this department shall not be responsible for any delay caused due to non-compliance of these instructions.

Handwritten Signature
DLR & DS (Lt.Br.)
for Legal Remembrance and Administrative Secretary
to Govt., Haryana.

OFFICE OF DIRECTOR FOOD & SUPPLIES, HARYANA, CHANDIGARH

Endst. No. 6E(I)-2016/ 3915 Dated, Chandigarh, the 16.02.2016
A copy of the above is forwarded to the following for information and necessary action:-

- 1. All the District Food & Supplies Controllers in the State of Haryana.
- 2. All the Officers/Branch Incharges at Hqrs.
- 3. DCLM, Haryana, Near Football Chowk, Ambala Cantt.
- 4. 2E(1), 3E(1), 4E(1), 5E(1), 6E(1), 7E(1) & 8E(1) through AFSO (Admn.).

Handwritten Signature
Assistant Food & Supplies Officer (Admn.)
for Director Food & Supplies, Haryana