

Personal Attention
Court Matters

No. LLR-A (3)-1/2020
Government of Himachal Pradesh
Law Department

From

The Chief Secretary to the
Government of Himachal Pradesh,
Shimla-171002

To

1. All the Administrative Secretaries to the Government of Himachal Pradesh
2. All the Heads of Department.
3. All the MDs, Secretaries, Registrars etc. of the Boards/Corporations/Co-operative Banks and Universities etc.
4. All the Deputy Commissioners,
5. Himachal Pradesh.

Dated Shimla-2, the 18th of August, 2023

Subject: Deletion of the name of the Chief Secretary from the array of respondents in Litigation/Court Cases-regarding.

Sir/Madam,

I am directed to say that it has been observed that the office of the Chief Secretary has been receiving a large number of cases from different courts/Tribunals wherein the Chief Secretary has been arrayed as respondent in such cases despite the fact that the Chief Secretary is not directly concerned with

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the subject of the case. The actions in such matters are required to be taken by the different departments on their own. The departments sometime submit files to the Chief Secretary for approval only due to the reason that he has been arrayed as respondent. This results in unnecessary delay in filing replies. Therefore, it has been decided that:-

- i) All the departments will seek deletion of the name of the Chief Secretary from array of respondents immediately after receiving the notice and defend the interests of the State Government after the approval of the Competent Authority. Similar action may also be taken in the Execution Petitions and the Contempt Petitions, wherein the Chief Secretary is not directly related to the lis of the case.
- ii) It has also been observed that sometime the Chief Secretary is arrayed as Respondent in Execution Petition or the Contempt Petition despite the fact that he was not arrayed as Respondent in the main petition. Therefore, the department concerned will seek deletion of the name of the Chief Secretary from array of respondent as he is not covered under the definition of judgment debtor and hence it is not appropriate to array him as respondent in such cases;

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- iii) In case only the Chief Secretary has been arrayed as respondent, the department concerned will get an application drafted in consultation with the Government Counsel to implead itself as a respondent (in case the department has not already been impleaded as respondent) and also to seek deletion of the name of the Chief Secretary from array of respondents, incorporating a prayer to the Hon'ble Court/Tribunal on the following lines:-

"... It is submitted that the Governor of Himachal Pradesh has formulated two sets of Rules under article 166 of the Constitution of India for convenient transaction of Business of the State. Under the Business of the Government of Himachal Pradesh (Allocation) Rules, 2021, business of the State Government is allocated by assigning one or more Departments in the Charge of a Secretary (Rule 2). Under the Rules of Business of the Government of Himachal Pradesh, 1971, each department of the Secretariat shall consist of a Secretary to the Government, who shall be the official Head of that

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Department (Rule 7). It has further been provided that the Minister-in-Charge of a department shall be primarily responsible for the disposal of the business pertaining to that department (Rule 8). In short, the business allocated to the department is disposed of by the Minister-in-charge/Secretary of that department after following the Rules cited above. Therefore, the name of the Chief Secretary, to whom the subject matter of the instant petition/case is not allocated, may be deleted as a Respondent....";

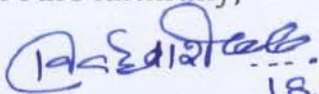
- iv) The Department will also simultaneously prepare para-wise reply in consultation with the office of the Advocate General/ Government Counsel, wherein it shall be ensured that the legal defence which are available to the Government are properly reflected in the counter. The counter affidavit will also contain a paragraph containing the prayer that the name of the Chief Secretary be deleted from the array of respondents, by reproducing the text as given in para (ii) above.
- v) The Department will keep the office of the Chief Secretary informed of further developments of

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the case, including status of compliance of interim directions, if any, given by the Hon'ble Court/Tribunal.

This issues with the approval of the Worthy Chief Secretary.

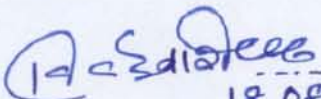
Yours faithfully,


18.08.2023

(Dr. Vivek Jyoti)

DLR-cum-Deputy Secretary (Law) to the
Government of Himachal Pradesh

Copy to the Senior Private Secretary to the Chief
Secretary for information please.


18.08.2023

(Dr. Vivek Jyoti)

DLR-cum-Deputy Secretary (Law) to the
Government of Himachal Pradesh