

**Government of Himachal Pradesh,  
Department of Home-B Section,  
H.P. Secretariat, Shimla-2.**

**No. Home-B(A)2-3/2013-HC**

**Dated Shimla-2, the 16<sup>th</sup> August, 2013**

**NOTIFICATION**

Whereas a decision has been taken in the Conference of the Hon'ble Chief Ministers and Hon'ble Chief Justices of High Court held on 7-4-2013 to lay focus on Pendency Reduction Drives in the country in order to weed out ineffective and infructuous cases from our judicial system;

And whereas the Ministry of Law and Justice, Government of India, has issued directions and guideline to enable the Registrar Generals of High Courts and Law/Home Secretaries of the State Governments to make necessary preparation in advance for launching the above-mentioned drives in the States;

And whereas, with a view to achieve objectives of the Pendency Reduction Drive, the High Court of H.P. has framed Guidelines for withdrawal of stale and ineffective criminal cases by the State of Himachal Pradesh and copy of these Guidelines is attached with this notification as Annexure;

Therefore, the Governor, Himachal Pradesh, on the recommendation of the High Court of Himachal Pradesh, is pleased to notify the guidelines enclosed herewith as Annexure for the purpose stated above.

By Order

[P. Mitra]

**Additional Chief Secretary (Home) to the  
Government of Himachal Pradesh**

**Dated Shimla-2, the 16<sup>th</sup> August, 2013**

**No. Home-B(A)2-3/2013-HC**

Copy forwarded for information and necessary action to:-

1. The Registrar General, High Court of Himachal Pradesh, Shimla-1 w.r.t. his letter No. HHC/Admn.10(155)/92-XV-Part-(H.C.)-20114 dated 26<sup>th</sup>/29<sup>th</sup> July, 2013.
2. The Advocate General, Himachal Pradesh, Shimla-1.
3. The Pr. Secretary, Mer Excellency to the Governor of H.P., Shimla-2.
4. The Pr. Secretary to the Hon'ble Chief Minister, H.P.
5. The P.S. to the Chief Secretary to the Government of H.P., Shimla-2.
6. All Administrative Secretaries to the Govt. of Himachal Pradesh.
7. The Director General of the Police, H.P. Shimla-2.
8. All the District & Sessions Judges in Himachal Pradesh.
9. All the HoDs in Himachal Pradesh.
10. All Deputy Commissioners in Himachal Pradesh.
11. The Director, Prosecution, Himachal Pradesh, Shimla-9.
12. The Controller, Printing and Stationery, Shimla-5 with the request to please publish it in the extra ordinary Rajpatra.

  
[Devinder Saraswati]

**Deputy Secretary (Home) to the  
Government of Himachal Pradesh  
Phone No.-0177-2626450**

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(8) MINUTE

## GUIDELINES FOR WITHDRAWAL OF STALE AND INEFFECTIVE CASES BY STATE.

**Draft of the guidelines for withdrawal of Stale and ineffective Criminal cases by the State.**

### **Introduction:**

Whereas approximately two lac thirty thousand cases are pending in the trial Courts in Himachal Pradesh. Majority of them are pending in the Court of Chief Judicial Magistrate and Judicial Magistrate, Ist Class. The summary Triable cases under The Public Gambling (Himachal Pradesh Amendment) Act, 1976, The Himachal Pradesh Police Act, The Himachal Pradesh Shops and Commercial Establishments Act, 1969, Motors Vehicles Act and summary IPC cases constitute a major portion of the arrears of Magisterial Courts.

Whereas, it has also been experienced that in number of cases police machinery fails to secure the presence of the accused and/or witnesses and the time lag takes toll and the cases become infructuous and clog the dockets of the Courts.

Whereas in Himachal Pradesh, the Himachal Pradesh State Litigation Policy is already in existence but the infructuous cases still are in plenty and it is felt necessary that in addition to the provisions of the H.P.State Litigation Policy, Guidelines for withdrawal of stale and ineffective Criminal cases by the State be issued by the State Government on the recommendation of the Hon'ble High Court of Himachal Pradesh.

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Now, therefore, following is the draft of guidelines for withdrawal of stale and ineffective criminal cases by the State.

**Guidelines:**

1. These guidelines may be called "Guidelines for Withdrawal of Stale and Ineffective Criminal Cases by the State".
2. These guidelines may be followed by the concerned prosecuting agency, public prosecutor and the district administration as well as district level officers, in recommending withdrawal of prosecution.
3. Though the judicial discretion of the Court and the Magistrates is not sought to be curtailed, yet, since the guidelines are framed in consultation with the High Court, the concerned Courts and Magistrates may accord due weight to the proposal for withdrawal of prosecution made in pursuance of these guidelines.

**4. Stale and ineffective criminal case:**

A stale and ineffective criminal case means a case of the categories enumerated in Clause 5, wherein the charge sheet has been filed on or before 31<sup>st</sup> December, 2007 and which is still pending before the Court for non availability of the first informant/complainant, victim, witnesses or accused.

For example, the cases in which charge-sheet has been filed on or before 31.12.2007 will become stale and in the year 2013 if the other conditions in these guideline are satisfied.

**5. Category of cases:**

The following categories of cases may be identified as stale and ineffective, if they satisfy the criteria prescribed in Clause 4:

- I. Proceedings under Chapter XXI of the Criminal Procedure Code.
- II. Offences Punishable under:
  - a) H.P. Police Act.
  - b) The Public Gambling (Himachal Pradesh Amendment) Act, 1976.
  - c) H.P. Shops and Commercial Establishments Act, 1969.
  - d) H.P. Weights and Measures Act.
  - e) Motor Vehicles Act.
- III. Offences under I.P.C. punishable and imprisonment for a term not exceeding three years.
- IV. Offences under any other law punishable with imprisonment for a term not exceeding three years.

**6. The Proceedings to which the guidelines shall not apply:**

Provided that the cases:

- (a) of offences involving corruption, misappropriation of public funds, economic offences, whether under the Indian Penal Code, Prevention of Corruption Act, 1947 or any other statute.
- (b) of smuggling, foreign exchange violation and offences under the Narcotics Drugs and Psychotropic Substances Act, 1985.

- (c) under Essential Commodities Act, 1955 and Prevention of Food Adulteration Act, 1954.
- (d) of offences under the Arms Act, 1959, Explosive Substances Act, 1908, Terrorists and Disruptive Activities Act, 1987 and POTA
- (e) of offences relating to public servants,
- (f) of offences relating to coins and government stamp,
- (g) of offences relating to giving false evidence and offences against public justice.
- (h) of any other type of offence against the State.
- (i) under the taxing enactments,
- (j) offence under Section 304-A, 304-AA of the Indian Penal Code.
- (k) the protection of Women from Domestic Violence Act, 2005.

**7. District Committee:**

1. There shall be a Committee for every district, consisting of the following officials for scrutinizing the stale and ineffective criminal cases and to recommend their withdrawal.

(1) The Sessions Judge or his representative      Chairman.  
not below the rank of Additional Sessions Judge.

(2) District Magistrate or his representative      Member.  
not below the rank of Sub Divisional Magistrate.

(3) District Superintendent of Police or his      Member.  
representative not below the rank of Deputy  
Superintendent of Police.

(4) District Attorney/Public Prosecutor.      Member Secretary.

(5) Assistant Public Prosecutor in charge of the case attached to the Court of concerned Magistrate. Member.

(6) Assistant Labour Commissioner. Member.

2. The District Committee shall collect the information in proforma Annexure-A appended hereto as of 31.3.2013 and scrutinize the record and proceeding of the cases to sort out stale and ineffective cases and recommend withdrawal of appropriate cases.

3. The District Committee shall call for the information in the proforma, Annexure-A at the end of every four monthly period i.e. ending with April, August and December.

**8. Norms for identification of stale and ineffective cases:**

1). Though it is not possible to design a strait jacket formula for determining the non availability of the first informant, complainant, witnesses and accused, nor a rigid time frame, say of one or two years can be prescribed to reckon non availability of the concerned, yet the District Committee, while determining non availability of the concerned first informant/complainant, victim, witnesses or accused, shall have regard to all the relevant factors, including the nature of the offence, circumstances of the case, character of the alleged offender, the reason for non-availability of the concerned person, its duration, the efforts made to secure his presence, the reports submitted by the

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police/process server, possibility of his availability in near future and where evidence is partly recorded, the quality of evidence and the possibility of the trial ending in conviction, and the Committee shall take an informed decision.

II) While recommending withdrawal of prosecution the District Committee shall ensure that the cases which were never listed on the daily board of the Courts and the cases wherein summons and warrants have not been issued by the office of the Court, shall not be considered stale and ineffective cases.

III) Where the proceedings are pending for non availability of the first informant/complainant and/or witnesses, the Committee shall examine as to whether the delay in the disposal of those cases is attributable to the accused concerned.

IV) The delay caused on account of stay of the criminal proceedings by the superior Court shall not be computed for the purpose of Clause 4.

V) The District Committee shall also ensure that the cases involving professional criminals and/or habitual offenders are not to be treated as stale and ineffective cases.

**9. Meeting and Proceedings of District Committee:**

I) The meetings of the District Committee shall be held beyond the Court hours and ordinarily the Committee shall meet at least once a month to trace out the stale and

police/process server, possibility of his availability in near future and where evidence is partly recorded, the quality of evidence and the possibility of the trial ending in conviction, and the Committee shall take an informed decision.

II) While recommending withdrawal of prosecution the District Committee shall ensure that the cases which were never listed on the daily board of the Courts and the cases wherein summons and warrants have not been issued by the office of the Court, shall not be considered stale and ineffective cases.

III) Where the proceedings are pending for non availability of the first informant/complainant and/or witnesses, the Committee shall examine as to whether the delay in the disposal of those cases is attributable to the accused concerned.

IV) The delay caused on account of stay of the criminal proceedings by the superior Court shall not be computed for the purpose of Clause 4.

V) The District Committee shall also ensure that the cases involving professional criminals and/or habitual offenders are not to be treated as stale and ineffective cases.

**9. Meeting and Proceedings of District Committee:**

I) The meetings of the District Committee shall be held beyond the Court hours and ordinarily the Committee shall meet at least once a month to trace out the stale and



ineffective criminal cases. The decisions of the Committee shall be minuted.

II) On receipt of the information in proforma, Annexure "A", in respect of the particular four monthly period the District Committee shall make an endeavour to sort out all the cases before the end of the succeeding four monthly period.

III) The District Committee, in appropriate cases, may advise the concerned prosecutor to request the Court to exercise the powers under Section 258 Cr. P.C to stop the proceedings instead of recommending withdrawal of the prosecution by the State.

IV) The concerned prosecutor may request the Court to exercise the power under Section 258 Cr. P.C and the relevant extract of minutes of the meeting of the District Committee may be placed on the record of the Court.

V) Where the concerned Court does not exercise the power under Section 258 Cr. P.C within a reasonable period, not exceeding three months, the Committee may recommend withdrawal of such cases by the State.

VI) On receipt of a recommendation for withdrawal of a prosecution, the Secretary, Home Department may act in accordance with the provisions contained in Himachal Pradesh State Litigation Policy/in accordance with law and

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direct the concerned Additional Public Prosecutor, through the District Magistrate, to withdraw the case.

VII) Every District Committee shall submit bi-monthly report in proforma, Annexure-'B', appended hereto, to the State Committee.

**10. State Committee:**

1) There shall be a Committee at the State level consisting of the following officials to monitor the work of the District Committees and to ensure that the recommendations for withdrawal are properly and expeditiously processed.

|  |           |
|--|-----------|
| 1. Chief Secretary                                       | Chairman. |
| 2. Advocate General, State of H.P.                       | Member.   |
| 3. Registrar General, High Court of H.P.                 | Member.   |
| 4. Additional Chief Secretary,<br>Home Department (Home) | Member.   |
| 5. Principal Secretary (Law)<br>to the Govt. of H.P.     | Member.   |
| 6. Principal Secretary, Labour                           | Member.   |
| 7. Secretary (Transport)                                 | Member.   |
| 8. Director of Prosecution, H.P. State                   | Member.   |
| 9. Director, H.P. State<br>Judicial Academy, Shimla.     | Member.   |

II) The State Committee shall examine the report of every District Committee and ascertain the number of recommendations for withdrawal, which were accepted by the Home Department, and wherein orders for withdrawal have

been issued, and the reasons for pendency of the rest of the recommendations with the Home Department.

III) The State Committee may issue appropriate directions to the District Committee regarding the proposals sent or to be sent for withdrawal of prosecution and make suitable recommendations to the Home Department in the matter of according approval in respect of the recommendations which are awaiting decision.

IV) The State Committee shall maintain record in the proforma, Annexure 'C', appended hereto.

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PROFORMA 'B'

DISTRICT COMMITTEE

| Sr.No. | Name of the Court | No. of cases scrutinized during the bi-monthly period<br><br>From -----to ----- | No. of proceedings recommended to be stopped under Section 258 Cr. P.C. | No. of cases stopped under Section 258 Cr. P.C. | No. of cases recommended to the Government for withdrawal of prosecution.<br><br>(separate list in Proforma 'B-I', to be annexed. | Remarks |
|--------|-------------------|---|---|---|---|---------|
| 1      | 2                 | 3   | 4   | 5   | 6   | 7       |
|        |                   |   |   |   |   |         |
|        |                   |   |   |   |   |         |
|        |                   |   |   |   |   |         |
|        |                   |   |   |   |   |         |
|        |                   |   |   |   |   |         |

Signatures of Chairman and Members of the Committee.

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LIST 'B-I'

| Sr. No. | Case No. | Name of the Court | Charge sheet filed on | Reasons for designating stale and ineffective | Remarks |
|---------|----------|-------------------|-----------------------|---|---------|
| 1       | 2        | 3                 | 4                     | 5   | 6       |
|         |          |                   |                       |   |         |
|         |          |                   |                       |   |         |
|         |          |                   |                       |   |         |
|         |          |                   |                       |   |         |
|         |          |                   |                       |   |         |
|         |          |                   |                       |   |         |
|         |          |                   |                       |   |         |

Signatures of Chairman and Members of the Committee.

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PROFORMA 'C'

STATE COMMITTEE

| Sr.No. | Name of the District | No. of recommendations for withdrawal | No. of recommendations for withdrawal approved by the Government | No. of recommendations awaiting decision | Remarks. |
|--------|----------------------|---------------------------------------|--|--|----------|
| 1      | 2                    | 3                                     | 4  | 5  | 6        |
|        |                      |                                       |  |  |          |
|        |                      |                                       |  |  |          |

**Signatures**

Chief Secretary  
Advocate General, State of Himachal Pradesh  
Registrar General, High Court of Himachal Pradesh  
Additional Chief Secretary, Home Department (Home)  
Principal Secretary, Law to the Govt. of H.P.  
Principal Secretary, Labour.  
Secretary (Transport)  
Director of Prosecution, State of Himachal Pradesh  
Director, H.P. State Judicial Academy.

Chairman  
Member.  
Member.  
Member.  
Member.  
Member.  
Member.  
Member.  
Member.