CHAPTER - VI

PAYMENT AND ACCOUNTS

1. PAYMENT INTO COURTS

(i) Public Account

C.L. No. 120 dated 20th December, 1958 read with

C.L. No. 102/VIII-b-108 dated 8th November, 1958 and

C.L. No. 13/VIII-b-108 dated 11th February, 1960

Article 284 of the Constitution of India requires that all moneys received by or deposited with any court within the territory of India to the credit of any cause, matter, account or person, shall be paid into the Public Account of India or the Public Account of the State, as the case may be.

The court has accordingly decided that the following funds unless refundable on the date of receipt, should be deposited in the Public Account:

(i) Money in land acquisition cases.
(ii) Money in trust and waqf cases.
(iii) Money in Regular suits in which there is a dispute of title and a Receiver has been appointed.
(iv) Security of the Official Receiver.

The money received in courts on account of diet money, traveling allowance, fees and pay of witnesses, the money received for service and publication of summonses and notices, fees and pay of witnesses, fees and other charges of commission and arbitration, expenses of civil prisoners and other similar purposes may, however, be utilized as and when requires during the month and only the balance left at the end of the month may be deposited in the Public Account.

(ii) Security deposit in election petitions and appeals

C.L. No. 102 dated 8th November, 1958

In partial relaxation of rules 95 and 431 (3) of the Treasury Rules, Volume I, the Government of India have decided that the deposits required by sections 117 and 119-A of the Representation of the People's Act, 1951, to be made in a Government Treasury or the Reserve Bank of India, may be deposited without getting the challans endorsed by the Election Commission. The credits will be accounted for under the new minor head "Deposits in connection with Elections" under the major head "Civil Deposits" in Section "S-Deposits and Advances- Part II- Deposits not bearing interest- (C) Other Deposit Accounts- Departmental and Judicial Deposits". The relevant sub-heads for the purpose under the above minor head would be as follows:

(i) Deposits made for Election Petitions.
(ii) Deposits made for Election Appeals.

As the deposits in respect of all election petitions of Parliamentary and Assembly Constituencies will be made in favour of the Secretary, Election Commission, and the refund will also be allowed by him in accordance with the recommendations of the Election Tribunals the deposits in respect of State Assembly election petitions also should be made under the Central head mentioned above.

(iii) Registration fees paid by Lawyer's clerks

C.L. No. 67/III-3 dated 12 July, 1958 as amended by

C.L. No. 78/III-d-3 dated 7th August, 1958

The registration fee of Re. 1 realized from lawyers' clerks under rule 609 of Chapter XXV of General Rules (Civil), 1957 Volume I, should be collected in case and deposited in the treasury under sub-head "Miscellaneous- Civil" under the main head "XXI- Administration of Justice." (Now 0070 Administration of Justice).

(iv) Sale proceeds of stationery boxes

C.L. No. 1 dated 9th July, 1902

The sale proceeds of stationery boxes should be entered in column 13 of the From No. 42, General Rules (Civil), 1957.

(v) Security by public Accountant

C.L. No. 1/J dated 22nd November, 1904

Whenever any cash is deposited as security by a Public Accountant in the Office of a District Judge the money should be invested in Government promissory notes, small sums being deposited in the Post Office Savings Bank and the passbook forwarded to the Treasury Officer for safe custody.

Any case in which the public accountant objects to his cash security being dealt within the manner suggested above should be reported to the High Court for orders.

(vi) Dues of Registrars of Companies

C.L. No. 168/VII-f-21 dated 21st November, 1974

For expeditious realisation of costs by the Registrar of Companies awarded under section 626 of the Companies Act, 1956, the fine clerk of the court concerned should realize the cost along with the fines from the accused persons and deposit the same in the treasury by a treasury challan which should be passed on to the office of the Registrar of Companies under appropriate head of account.

Where on appeal the fine is reduced, and/or waived by the court, the accused should obtain refund of the amount due from the Registrar of Companies direct.

(vii) Deposit of securities by contractors

C.L. No. 30/Xb-53 dated 15th March, 1980

Invites attention towards G.O. No. B-N.S-4148/Ten-32-56, dated 6th September, 1972 and G.O. No. 7191/Prachar-32-56, dated 2nd October, 1979 regarding deposit of securities in the courts by contractors and employees etc., in the shape of National Savings Certificates.

All the District Judges are requested to comply with the provisions of the said G.Os. as far as possible.

(viii) Transactions between court and treasury

C.L. No. 3451/94-5(1) dated 24th August, 1922

When money is received by the Nazir in notes, full particulars of such notes should be entered in a register to be opened for the purpose. The notes and cash to be sent to the treasury should be put in a bag, which should be sealed in the presence of the peon, or peons taking the remittance, and a list of the notes should be sent along with the bag to the treasury. Notes should never be sent to the treasury in halves.

If the amount to be sent to the treasury is above Rs. 200, two peons should be deputed to take the bag.

C.L. No. 673 dated 24th February, 1923

The Court has prescribed the following procedure in order to prevent possible delivery of cash box by the treasury to an unauthorized person:

Where the treasury or sub-treasury is in the same compound as the civil court, the Nazir or one of his assistants should himself give or take delivery of box.

When the treasury is at a distance, care should be taken that only a trustworthy peon is allowed to take or fetch the box, and the messenger sent should be given a receipt signed in full by the Nazir and not merely initialed by him.

G.L. No. 3410/94-1(14) dated 26th October, 1923

In stations where a messenger has to be sent to procure the box from the treasury, it should be arranged that the name of the peon is communicated to the treasury and his personal appearance made known to the treasury officials concerned.

(ix) Additional cash box of Nazir

C.L. No. 93/20-C dated 15th September, 1963

Note I to Para 36 of the Financial Handbook, Volume V, Part I, requires that the cash box of the Central Nazir or Nazirs of civil court has to be deposited for safe custody in the strong room of a Treasury or Sub-Treasury and that it is only when the District Judge has exercised the option provided for in Para 38-A Financial Handbook Volume V, Part I, that the cash box can be kept in the Single Lock Room of a Treasury. All District Judges should, therefore, make sure that the cash boxes of their courts as also those of any outlying court in their judgeships are always deposited for safe custody in the strong room unless they exercise the option vested in them under Para 38-A, Financial Handbook, Volume V. Where such option has been exercised, it should be communicated to the Treasury Officer in writing.

(x) Responsibility for loss occasioned in Nazarat

C.L. No. 14/94-1(13) dated 8th June, 1931

It is obligatory on Nazirs to carry out the directions contained in rule 351 of Chapter XII of the General Rule (Civil), 1957. Any loss occasioned owing to a breach of this rule will be seriously punished.

District Judges are also under a personal obligation to see that the rule is fully observed. Should a case of loss owing to a breach of this rule occur in future the Court will have to consider whether the loss should not be partly made good by the District Judge (whether in active service or in retirement) who may be found to have condoned a breach of that rule or to have neglected to see that the rule was being properly observed.

District Judges or officer-in-charge of the Nazarat should pay unexpected visits to the Nazarat and satisfy themselves that rule 351 of Chapter XII is being observed and mention this fact in their annual civil report.

G.L. No. 22/94-1(3) dated 5th May, 1932

The Nazir must deposit all jewels and other valuables entrusted to him in his official capacity in the treasury.

Any valuable deposited with the Nazir not in his official capacity, are deposited with at the depositor's risk.

2. PAYMENTS BY COURT

(i) Repayment orders

(a) Repayment applications

C.L. No. 62/IVh-36 dated 22nd March, 1977

Henceforth, the Munsarim himself should obtain the report of the record room and Nazir on the repayment applications and after giving his own report on the applications, prepare the voucher and hand it over to the applicant.

G.L. No. 20/VIII-b-102 dated 20th October, 1951

The following directions are issued with regard to applications for refund of civil court deposits:-

(1) All repayment orders must be prepared within a week of the date of presentation of the application. If the preparation of any repayment order is delayed beyond a week, a report explaining the cause of delay should be submitted to the district judge for orders.

(2) Where an application for repayment is defective, it should not be thrown out unless the error is a material one. Minor errors should be pointed out to the applicant and allowed to be corrected by him and the application should normally not be rejected on account of minor mistakes.

(3) Where the record-room from where a report is required before repayment can be made is situated at another station, the limit of one week mentioned above may be extended by another week.

(4) Where the decree-holder applies for the withdrawal of a deposit immediately after it has been made, the time for the preparation of the repayment order may be reckoned not from the date of application but from the date on which the General Number of the deposit is received from the District Judge's Office or the date on which intimation is received from the treasury of such deposit, whichever is later. The District

Judge should arrange so that the dispatch of General Number in the case of such deposit to the court concerned is not delayed.

The Presiding Officers should keep an adequate control over their staff so as to ensure the early issue of repayment orders. Habitual delay in the issue of repayment orders by the staff may be regarded as indicating a lack of administrative capacity in the judicial officer concerned.

(b) Register of applications for repayments

G.L. No. 16-44-7(1) dated 17th March, 1937

The register introduced under the general letter noted in the bloc and referred to in rule 296, Chapter XI of General Rules (Civil), 1957, Volume I shall be maintained by the Munsarim or clerk of the court in manuscript.

(c) Office Report

G.L. No. 19/67 dated 1st May, 1929

The report of the clerk should not only be that money is due to the applicant and in deposit, but further that the address given by the applicant to which he desires the money to be sent is the registered address on the file.

(d) Identification of payee

G.L. No. 3440 dated 30th October, 1907

The Munsarim or the court will, especially when the sum to be paid is of considerable amount, consult the record, send for the pleader who represented the applicant in the original litigation and ask him whether or not he can identify the applicant as his former client. If he says he cannot, the payment order should not be made over until the applicant has been identified to the satisfaction of the Presiding Officer.

(e) Repayment orders not to be drawn in the name of court officials

G.L. No. 48/94-1(72) dated 5th November, 1938

When the charges of publication of notices, etc. in newspapers are remitted to the treasury, the bills of publication charges should not be paid by issuing repayment orders in the name of the Nazir who may cash the vouchers from the treasury and send the money by money order to the managers of the newspapers concerned as it is contrary to the provisions of paragraph 109 (XI) (b) of the Treasury Manual under which payment of amounts from the treasury to officials for or on behalf of the original payees are strictly forbidden.

(f) Date of issue

G.L. No. 13/165-5(1) dated 23rd June, 1945

The Presiding Officers of courts when passing a repayment order should invariably give the date below their signature to be treated as the date of issue for all purposes.

(g) *Refund of lapse deposits*

C.L. No. 6/xb-17 dated 10th February, 1981

Henceforth, strict compliance of the new provisions of sub para (2) of paragraph 352 of the Financial Hand Book, Volume V, Part I, should be made by all concerned with regard to the refund of lapse deposits to the rightful claimants and no unnecessary delay or harassment is caused to them in this behalf.

(h) ***Prevention of double or excess repayments***

G.L. No. 1951-19-C-1(b) dated 15th May, 1915

The following suggestions regarding the maintenance of From No. 43 Register of Petty Receipts and Repayments may be of use to District Judges in the event of any difficulty being experienced by them in the matter of excess repayments:

Columns 1 to 8 relate to receipts and columns 11 to 17 relate to repayments while column 9 and 10 serve as an index of repayments and a check to double repayments. Munsarims in checking the items on the receipt side with the tenders should write their initials below the total and at the time of checking repayment items on the register should sign column 10 against the corresponding items on the receipt side, and should see carefully that each item, shown on the repayment side, has been properly written off on the receipt side and that the amount repaid does not exceed the actual credit or the available balance. If these instructions are carefully observed excess payments will not occur in future.

Double payments are of frequent occurrence in judgeships and cause great confusion. The failure of the Munsarims to check column 9 is partly due to the mistake committed by Munsarims in signing column 10 at the time of checking the entries on the receipt side with the tenders. Munsarims at the time of making this check should initial the daily total in column 8. They should not sign column 10 till the repayment of the receipt item has been entered by the Nazir in column 9. Munsarims shall sign column 10 to show that they have checked the accuracy of column 9.

G.L. No. 1750 dated 24th March, 1926

The Nazir or officer who is responsible for the issue of processes to process-servers, shall acknowledge receipt of all sums refunded by them by making entry in the process-servers' diary, when the money is refunded.

C.L. No. I/VII-126 dated 5th January, 1961

Apart from the process-servers' diary an entry relating to undisbursed money received from any process-server shall also be made by the Central Nazir or any of his assistants in the register in Form no. 43 or on the process itself by way of acknowledgement of the receipt.

C.L. No. 67/VIII-b-105 dated 15th June, 1970 read with

C.L. No. 73/VIII-b-105 dated 21st July, 1972 and

C.L. No. II/VIII-b-105 dated 20th January, 1976

Provisions of rule 329 of General Rules (Civil) and the directions contained in the Circular Letter referred to above should be strictly followed by all the officials concerned and every breach of the instructions should be brought to the notice of the Court and be severely dealt with.

(i) Payment of Amounts to-claimants/parties

C.L. No. 7/Admn. Dated February 8, 1995

The Hon'ble Chief Justice and Judges have been pleased to direct that all payments to claimants under the Motor Vehicles Act or the Land Acquisition Act or to any party by the Family Court or any other payment to any party by the Court be made by cheque or repayment vouchers and that too only in the name of the claimants/party and not in the name of any Advocate, Attorney or any other person on their behalf.

3. REFUND CERTIFICATES

(i) Amount of refund to be written also in words

C.L. No. 44/V-c-112 dated 4th August, 1950

In order to prevent defalcations in respect of certificates for refund of court-fees under rule 392, Chapter XIII of the General Rules (Civil), 1957 Volume I, it is imperative that the instructions contained in paragraph 47(c) of the Account Rules which require that the amount of each voucher should as far as whole rupees are concerned, be written in words as well as in figures, should be strictly followed in preparing certificates of refund of court-fee and the Presiding Officer of each court while signing such certificate, must write in words in his own handwriting both on the original certificate as well as on its counterfoil the amount to be refunded.

C.L. No. 11/VIIIb-236 dated 20th February, 1963

Instructions contained in paragraph 47 (c) of the Financial Handbook, Volume V, Part I regarding refund of court-fee in Form no. 104, Appendix 4-V of the General Rules (Civil) should be strictly complied with and care should be taken not to leave any space for interpolation and cross entry should be made (both in office and fair copies) before signing the certificate.

(ii) Renewal or issue of duplicate of refund certificate in Form no. 104

C.L. No. 20/44-18(4) dated 3rd July, 1931

The following directions are given for guidance and compliance in cases where a refund certificate in Form no. 104 issued under rule 396, Chapter XIII of the General Rules (Civil), 1957 has not been utilized within the prescribed time of fifteen days or has been lost.

When a court is satisfied that the certificate was for sufficient reasons not cashed within fifteen days, there is no objection to issuing a fresh certificate in lieu of the original certificate which should be filed in court and cancelled before a fresh certificate is issued.

If the original certificate has been lost, a duplicate certificate may be issued when the court is satisfied by an affidavit that the original has been lost and that no refund on it has been obtained. A note should be made on the duplicate certificate for the guidance of the Treasury Officer that the original is reported to have been lost and that payment should be made only, if no payment has been made on the original certificate.

4. EXPENSES IN CONNECTION WITH CIVIL CASES

C.L. No. 66/4-BB dated 27th July, 1959

Miscellaneous legal expenses in connection with civil cases relating to the matters, which are under the administrative control of the District Judges, should be incurred by them from the contingent funds placed at their disposal. In case the funds fall short, Government should be moved by them for additional grant for the purpose.

C.L. No. 19/VII-d-144 dated 23rd February, 1970

Instructions contained in G.O. No. X- 2507/VII-bf-4001-1957 dated January 14, 1959, regarding advances to the State Counsel for meeting miscellaneous expenses in civil cases should be followed strictly.

5. PROMPT VERIFICATION OF PLUS AND MINUS MEMOS

C.L. No. 83/VIII-b-104 dated 18th August, 1958

Under rules 321 and 323 of Chapter XI of the General Rules (Civil), 1957, it is the duty of the Treasury Officer to check the totals of the receipts and the repayments in a subordinate civil court, during the previous month, with the treasury accounts, and to certify the correctness of the plus and minus memos and to return it to the court concerned. Under rule 324, the Presiding Officer has then to furnish a monthly certificate to the Accountant General, Uttar Pradesh, about the examination of the plus and minus memos.

C.L. No. 20 dated 25 February, 1961

Directions contained in Government Letter No. 3820/VII-929-60. dated February 4, 1961 to the effect that the henceforth guide numbers be put prominently on the right hand corner of each bill by encircling it with red ink before sending it to the treasury, should be followed strictly so that correct classification of expenditure by the office of the Accountant General and consequent reconciliation of accounts figures with the departmental figures may be done.

A copy of the Accountant General's Letter No. C.D.I. appra/767, dated September 8, 1960 along with a list of relevant account heads from numbers 55 to 160-A and 356 concerning the subordinate civil courts has also been sent to the District Judges for future guidance along with this C.L.

C.L. No. 47/VIII-b-104 dated 30th April, 1969

All courts/treasuries should submit the plus and minus memo in respect of each head, i.e., civil, criminal and revenue deposits separately in time and in proper form according to the instructions contained in Accountant General's Letter no. Deposit I/EXI/2370, dated March 10, 1969, a copy of which has been sent with this C.L.

If there is any delay in the verification or reconciliation of accounts and in the return of plus and minus memos on the part of the treasury, the matter should at once be brought to the notice, of District Judge who should take up the matter with the Collector, demi-officially without delay.

C.L. No. 29/VIII-b-104 dated 6th April, 1972

The plus and Minus memoranda in Form T.A. 46 should indicate the opening balance in regard to each detailed head and should give particulars in respect to each civil and criminal court. It should be submitted to Accountant General, Uttar Pradesh well in time and in proper form.

C.L. No. 47/VIII-b-104 dated 30th May, 1973

District Judges should ensure preparation and submission of plus and minus memo every month in accordance with the directions contained in circular letter no. Dep. Ex. II/5818, dated March 23, 1966 of Accountant General, Uttar Pradesh, Allahabad.

6. ADVICE LIST OF RECEIPTS AND REPAYMENTS

C.L. No. 109/VIII-b-140-61 dated 27th November, 1961

To eliminate or minimize the chances of delay in sending the advice lists by the treasury to the civil courts, the District Judges should indent Form no. 59 (Old no. H.C.J. 76) Part VI of the General Rules (Civil), 1957, Volume II (Advice list of receipts and repayments of deposits made at the Treasury) from the Government press and supply the same to the treasury in due time.

7. PROPOSITION STATEMENTS

C.L. No. 1648 dated 16th June, 1902

In every case in which the entertainment of a new establishment or a change, temporary or permanent, is proposed, care should be taken to see that the proposition statement is drawn up in strict accord with Article 57 of the Civil Account Code and submitted to the Court in duplicate.

The statement referred to in Article 158 of the Civil Account Code should also be prepared and submitted in duplicate.

8. DISBURSMENT OF BILLS

C.L. No. 23/VIII-b-112 dated 2nd September, 1950

District Judges are themselves responsible for the preparation of the bills mentioned in rule 352, Chapter XII of the General Rules (Civil) 1957, in accordance with the rules and for the disbursement of all the items to the persons entitled to receive them. The bills should accordingly be prepared in District Judge's own office and the acquaintance rolls maintained there.

In case, however, for some reason, it is considered necessary to authorise, under Note (1) to paragraph 47(g) of the Financial Handbook, Volume V, Part I any other gazetted officer to sign the bills and to receive moneys thereof for payment, it would be desirable that these bills and acquaintance rolls be scrutinized in the District Judge's office after disbursement and the acquaintance rolls including office copies of the bills containing receipts, of the officials retained in the District Judge's office as prescribed in paragraph 138 of the Financial Handbook, Volume V, Part I.

C.L. No. 63/41-11(50) dated 9th October, 1937

The signatures of officials for the receipt of pay and allowances should be obtained on the office copy of the pay bill and those of peons and other inferior servants on the acquaintance roll in Form no. 11-B of the Financial Handbook, Volume V.

9. PROVISIONAL PAY SLIPS

G.L. No. 16/53-27(1) dated 28th July, 1945

All District Judges should see that they take necessary action to obtain sanction of the Government for the extension of temporary posts, if required, well in advance of the dates on which the post are likely to terminate. If, for some unavoidable reasons this course is not possible, requests to the Accountant General for the issue of provisional pay slips pending the sanction of the Government should be made through the administrative department under the signature of the head of the office.

10. PROVIDENT FUND SCHEDULE

C.L. No. 72/X-b-15 dated 1st August, 1952

The preparation of Provident Fund Schedules is an important and responsible job. Trivial errors result in serious mistake in the subscribers' accounts resulting in unnecessary correspondence. Special attention should, therefore, be paid to the following:-

1. Proper schedules should be attached to the pay bills,
2. Names of subscribers and account numbers should be correct.
3. Deductions should be given after account numbers have been allotted.
4. Total of the schedule should be correct and it should agree with the deductions made in the pay bill.
5. Full nomenclature of the fund should be mentioned.
6. Subscriptions and refunds should be shown separately in appropriate columns.
7. Reasons for discontinuance should be given against the name of the subscriber concerned.
8. Names and account numbers of subscribers should appear in the schedules in the same order month after month which is essential for facility of machine posting.

11. CLAIMS

C.L. No. 81/VIII-f-23- dated 17th January, 1958

District Judges should ask their Account Section and the assistants concerned to follow strictly the instructions contained in the different sets of rules specially the Financial Handbook and Treasury Manual and to be prompt and careful in making payments with a view to avoid congestion of pre-audit bills of the Office of the Accountant General. Whenever a request is made to the Court or Government for investigation of claim under para 74 of the Financial Handbook, Volume V, the reasons for delay in preferring the claim should be fully explained.

C.L. No. 20 dated 28th March, 1966

The following instructions should strictly be complied with in respect of personal claims of government servants:-

1. As required under para 74(a) of the Financial Handbook, Volume V, Part I, claims of Rs. 5 or less which are less than a year old, having not been preferred within six months of their becoming due, should be passed by the District Judges themselves and thereafter sent with all the papers complete in all respects direct to the Accountant General, U.P., Allahabad for investigation.

2. As required under para 74(b) (1) of the Financial Handbook, Volume V, part I, claims which are more than a year old but less than three years old should be submitted by the District Judges direct to the Court for orders for their investigation by the Accountant General, U.P., Allahabad. Such claims should not be submitted direct to the Accountant General, U.P., Allahabad by the District Judges. Under the aforesaid provision, order for investigation of the claim can only be made by the Head of the Department.

3. As required under para 74(b) (ii) and (iii) of the Financial Handbook, Volume V, part I, claims which are more than three years old should also be sent to the Court for onward submission to the Government for the orders for investigation by the Accountant General, U.P., Allahabad. The practice of sending such claims direct to the Government must be put a stop to.

4. (a) As required under the Court's circular letter No.8/VIII-f-23, dated January 17, 1958, causes of delay in preferring the claim should invariably be given along with the claim itself.

   (b) As required under C.L. No. 30/VC-75, dated March 30, 1951, it is also necessary that all such claims under para 74, Financial Handbook, Volume V, Part I, should be looked into and taken up with as little delay as possible.

5. In case of there being a claim constituted of several parts, it should be split up into various parts according to the period covered, and then each part dealt with suitably in accordance with the aforesaid rules. For example, if there is a claim, part of which is less than a year old and part of which is more than a year old, but less than three years old the District Judge should pass orders himself, about the part which is less than a year old and send it direct to the Accountant General, and that part of the claim which is more than a year old but less than three years old, be submitted to the Court for orders for being investigation by the Accountant General.

6. Petty claims not exceeding Rs. 5/- should be avoided if they do not affect the pension of the claimant under rule 74(b) (IV) of the Financial Handbook, Volume v, part I.

7. Munsarim of the District Judge and the Munsarim of Additional District Judges not at headquarters shall check up once every three months with a view to see that claims of this nature, which have accumulated in the meantime are put up before the District Judge/Additional District Judges not at headquarters for proper orders.

12. AUDIT REPORT

C.L. No. 14/xb-11 dated 31st January, 1958

The delay in the finalization of the audit inspection reports is due, mainly, to the fact that the District Judges do not take prompt action on the audit objection so as to be able to give final replies to them in the annotated copies themselves. Even objections relating to small recoveries are not replied to finally and in detail. In most cases the Office of the Accountant General, Uttar Pradesh, closes the objections if the replies of the heads of offices are final and the heads of departments find them satisfactory and recommend closure of the objections. Since the replies in most cases are not final, the Court too is unable to give categorical and final comments thereon.

District Judges should, therefore, ensure that the final replies to as many audit objections as possible are furnished in annotated Copies so that the Court may ensure that there is sufficient justification for not sending the final replies, in the first instance on the annotated copies.

C.L. No. 48/X-b-11 dated 14th June, 1965 read with

Government Letter No. B-1-905/X-54, 1964 dated 20th March, 1965

To avoid financial irregularities regularly pointed out in audit reports the instructions contained in the Budget Manual and general orders issued by the Vitta Vibhag from time to time should strictly be observed.

C.L. No. 84/X-b-11 dated 8th October, 1968

Instruction contained in G.O. no. 8(3)/68-Nyaya (Ka-II) Vibhag, dated June 28, 1968 and 3037/VII-(Ka-I)-133/66 dated August 26, 1968 should be strictly complied with so that in future there may not be any delay in settlement of the audit objection.

C.L. No. 45/X-b-11 dated 23rd April, 1969

In order to avoid delay in settlement of the audit objections relating to the judgeships concerned the District Judges should see that the instructions contained in G.O. no. 10/1/4/68, dated October 31, 1968 are strictly complied with.

C.L. No. 50/X-b-11 dated 8th May, 1968

The revised procedure as contained in Government Endorsement no. 8(2)/68-Nyaya (Ka-II) Vibhag, dated April 1, 1968 regarding Audit Inspection Reports may be strictly complied with and audit objection should be attended to promptly.

C.L. No. 77/VIII-b-104 dated 20th May, 1971

For simplification in the procedure of accounts and audit of Revenue, Civil and Criminal Court Deposits, directions contained in Accountant General's Circular Letter no. Deposit I/Lx. 11/1420, dated December 14/18, 1970, should be strictly followed.

13. AUDITS BY COMPTROLLER AND AUDITOR GENERAL FOR THE REVENUE REALISED ON DATED COURT-FEE AND ON SUITS VALUATION

C.L. No. 6/VIIF-26/Admn. (G), dated January 9, 1992

I am directed to enclose herewith a copy of letter No. 4016/VII-Nyaya-9 (Budget)/1990 dated 19.9.1990 from the Joint Secretary to Government of U.P. Nyaya Anubhag-9 (Budget), Lucknow, on the above subject and to say that in the light of the contents of the above letter the Court has decided to carry out audit of the accounts of the revenue realized on Court fee and Suits Valuation in the Judgeship by the Comptroller and Auditor General.

I am therefore, to request you kindly to make available the relevant record/information to the Comptroller and Auditor General for the purpose when required.

कोर्ट फीस तथा सूट्स वैल्युएशन फीस के अन्तर्गत राजस्व प्राप्तियों का लेख परीक्षण

पत्र संख्याः 4016 सात-न्याय-9(बजट)/1990, दिनॉक 19 सितम्बर, 1990

कृपया उपरोक्त विषय पर शासन द्वारा भेजे गये पत्र दिनॉक 2.2.90, 18.6.90 तथा अनुस्मारक दिनॉक 13. 9.90 का अवलोकन करें। भारत के नियंत्रक महालेखा परीक्षक ने भारत सरकार के वित्त मंत्रालय (आर्थिक कार्य विभाग) तथा विधि मंत्रालय की राय से उत्तर प्रदेश में कोर्ट फीस तथा सूट्स वैल्युएशन फीस के अन्तर्गत राजस्व प्राप्तियों का लेखा परीक्षण कराने का निर्णय लिया है। दिल्ली प्रशासन द्वारा कोर्ट फीस एवं सूट्स वैल्युएशन फोस के अन्तर्गत राजस्व प्राप्तियों का लेखापरीक्षण भारत के नियन्त्रक एवं महालेखापरीक्षक के द्वारा कराये जाने के संबंध में विषय भारत सरकार को संदर्भित किया गया जिस पर भारत सरकार के वित्त मंत्रालय (आर्थिक कार्य विभाग) ने विधि मंत्रालय के परामर्श से यह निर्णय लिया कि भारत के नियंत्रक महालेखापरीक्षक धारा 16, कंट्रोलर एण्ड आडिटर जनरल (ड्यूटीज़ पावर्स एण्ड कंडीशंस आफ सर्विस) एक्ट, 1971 के अन्तर्गत उन समस्त लेखा प्राप्तियों जो कन्सॉलीडेटेड फण्ड्स आफ इण्डिया में समायोजित होती है उन समस्त लेखों का परीक्षण कर सकते हैं। भारत के नियंत्रक एवं महालेखापरीक्षक ने भी यह स्पष्ट किया है कि कोर्ट फीस तथा सूट्स वैल्युएशन ऐक्ट के अन्तर्गत प्राप्त हाने वाली फीस भी कन्सॉलीडेटेड फण्ड्स में जमा होती है अतः इन लेखा-प्राप्तियों का उनके द्वारा संपरीक्षण किया जाना अपेक्षित है।

2- अतः आपसे अनुरोध है कि मा. उच्च न्यायालय से अनुमति प्राप्त करके उच्च-न्यायालय, जिला न्यायालय तथा अन्य अधीनस्थ न्यायालयों को उक्त विषय पर लेखापरीक्षण कराने तथा भारत के नियंत्रक महालेखापरीक्षक को वांछित सूचनाएं उपलब्ध कराने हेतु निर्देश प्रसारित करने का कष्ट करें।

14. REGISTER FOR CONTINGENT GRANTS

C.L. No. 109/VIII-b-112 dated 14th December, 1956

The contingent register should be maintained in Form no. 13 of Financial Handbook, Volume V, Part I. For the sake of convenience, however, separate registers for each class of contingencies may be opened vide note (1) to para 173 *ibid*. The register/registers thus maintained may be divided in two parts, i.e., one for contract contingency and the other for non-contract contingency.

In order to meet the requirements of the Department it may be suggested that the first three columns should be opened in the register/registers as given in the form itself and sub-columns under column 4 meant for detailed head may be adopted in accordance with the detailed head prescribed in the budget grant under the head contingencies. These sub-columns should also incorporate the amount sanctioned in the budget grant to watch the progress of the monthly expenditure. The claim when preferred should be entered in the column meant for it. The remaining columns, i.e., from 5 to 10 need no alterations and should be opened accordingly.

15. BILLS DURING LAST DAYS OF THE FINANCIAL YEAR

C.E. No. 132/X-b-2 (Budget) dated 23rd December, 1972

Too much expenditure during the last few weeks of the financial year leads to many financial irregularities besides affording an opportunity for corruption. It should therefore, be ensured that large number of bills are not presented in the Treasury and the State Bank in the month of March towards the close of the financial year. The directions issued by the Government and the Court in this regard should be strictly followed.

16. STATEMENT OF LAPSED DEPOSITS

C.L. No. 74/VIII-b-105 dated 30th November, 1963

Attention of all the Presiding Officers is drawn to the instructions contained in para 349 and 351-A of Chapter XV of Financial Handbook, Volume V, Part I, and Rules 328 and 331 of Chapter XI of General Rules (Civil), 1957, Volume I with the remarks that the statement of lapsed deposits and clearance register of "Civil Court Deposits" should be submitted punctually in April each year and should be checked thoroughly before submission.

17. CIVIL COURT ACCOUNTS

C.E. No. 6/VIII-b-104 dated 13 January, 1966

District Judges should see that the accounts are furnished to the Accountant General, Uttar Pradesh, Allahabad regularly and in time under intimation to Government and the Court.

18. SALES TAX

C.L. No. 81/VII-f-144 dated 23rd September, 1968, read with

G.O. No. 1700/VII-Ka-1-83/68 dated 23rd September, 1968

In order to check unauthorized realization of Sales tax, the District Judges should ensure that while purchasing articles for their departments, no payment of Sales Tax is made against such cash memos and vouchers on which the registration number of the firms from which the purchases are made and the date from which it is effective are not printed. They should also send the quarterly statement of such purchases to the Sales Tax Officer concerned.

19. TELEPHONES

C.L. No. 10-X-b-2- (Budget) dated 13th January, 1975

A separate sub-head may be given for expenditure on telephone and a statement showing the expenditure on telephone connections of each court should invariably be submitted to the Court in April each year.

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CHAPTER - VII

COPIES

1. APPLICATION FOR COPY

(i) To head copyist

C.L. No.64/IVh-36 dated 24th March, 1977

An application for obtaining copy should be directly filed before the Head Copyist who will maintain a Siyaha Register in respect thereof. The Head Copyist shall perform all such functions which were hereinbefore being performed by the Sadar Munsarim.

C.L.No. 62/VIII-h- 18-50 dated 4th October, 1950

An application for copy should not be returned to the party concerned on the ground that a decree or formal order has not been drawn up by the office.

(ii) From prisoners to be treated as urgent

C.L.No.94/VII-b-35 dated 17th September 1953

All applications under section 363 of the Code of Criminal Procedure for copies of judgments from prisoners confined to jail should be treated as urgent applications and should be issued without any delay.

(iii) Estimates for copy of books, maps etc.

C.L.No. 28/VIII-b-236 dated 16th April, 1963

Sanctioned estimate for preparation of copy of book, a paper not in the language of court, map or plan, etc. should be entered in a separate sheet in Form no. 28, the sanctioned estimate should then be entered by the Munsarim in a register in Form no. 29 and thereafter the separate sheet of Form no. 28 be attached to the paper of which copy is applied for, so that the same amount may be realized in case a copy of the said document is subsequently applied for.

G.L.No.221/44-5 dated 19th January, 1915 read with

G.L. No. 3053 dated 27th July, 1915

In every case where application is made for a copy of a map whether forming part of a decree or otherwise under chapter X, rule 258 of the General Rules (Civil), 1957, the applicant must supply the tracing paper required.

(iv) Received on transfer

C.L.No. 47/VIII-b-84 dated 15th May, 1959

Copying fee in magisterial courts is now realized in court-fee labels with the result that in cases in which the record happens to be in the Sessions Court in appeal the applications for copies with the court-fee labels attached thereto are transferred to the Sessions Courts. In relaxation of the provisions of rule 149, General Rules (Criminal), 1957,* the Court has decided that in all such cases court-fee labels in place of stamp folios may be accepted by all Sessions Courts.

(v) Pressure of work

* Now 1977, vide Notification no. 504/V-b-13 dated 5th November, 1983

C.L.No. 61/VIIIb-82 dated 20th May, 1980

In such judgeships where the number of courts is quite large and the work load on the Head Copyist in the Copying Section is heavy, the District Judges may depute one or two copyists to assist the Head Copyist in the performance of his functions, so that the copy-applications are promptly disposed off.

C.L.No. 64/IVh-36 dated 24th March, 1977

As and when pressure of work demands, one or more copyists should be posted in the Record Room to make copies of the documents in decided cases consigned in the Record Room. This will avoid records being summoned and going out of the Record Room either as a whole or in parts after breaking Natthis. This will eliminate chances of loss of papers.

A Siyaha Register shall henceforth be maintained for all criminal courts.

(vi) Special copyist

C.L.No. 57/VIII-b-86 dated 5th May, 1970

Services of special copyists should be requisitioned for preparation of copies of papers/ documents enumerated in rule 258 of General Rules (Civil) or for preparation of a copy of a decree which, owing to its length and complexity cannot reasonably be prepared by the regular copying staff for the charges fixed under rule 256 of the said rules. In case no special copyist is available the document may be sent to another district or State with a request for having the copy made. If there is any person on the regular copying staff the copies may be got prepared by him without any extra remuneration. The practice of having such copies prepared by regular copying staff and payment of extra remuneration therefore is irregular.

(vii) Supply of records

G.L.No. 3/Ve-81 dated 27th Februlary, 1952

Records should normally be supplied to the copying office on the same day on which they are asked for and in no case later than the next day. Any further delay in supplying the record to that office should immediately be brought to the notice of the Munsarim and, if necessary, the officer-in-charge.

2. INSTRUCTIONS REGARDING PREPARATION OF COPIES

C.L.No. 59/Ve-65, dated 22nd September, 1950

The issue by the subordinate courts of incorrect or undecipherable copies, copies prepared faintly, or copies prepared on brittle or worn out paper, can be ascribable only to lack of appreciation of the object for which these copies are filed in court and lack of interest on the part of the officers concerned. It seems that the instructions of the Court issued from time to time are not carefully followed but merely shelved. Copies issued by the subordinate courts and certified as "true" have sanctity of their own and if they abound in mistakes it defeats the very object of a certified copy. It is unnecessary to emphasize that when originals are destroyed or weeded out; their certified copies serve the purpose of the originals, and if they are not correctly prepared the results that incorrect copies would produce can very well be imagined. Mistakes detected in copies are of multifarious types; sometimes dates are incorrect; at other times mistakes occur in numbers, words or expressions, or tabular statements. Sometimes abbreviations are used.

In one case it was discovered that a pedigree was not correctly copied out in a certified copy in which a person was shown as the son of his grandfather.

Incorrect and undecipherable copies have to be sent back to the court concerned for correction. This entails unnecessary correspondence and impedes the progress of cases in which they have been filed in the High Court. A little vigilance and effort on the part of District Judges and on the part of the officer-in-charge of the Copying Department is sure to lead to better and desirable results.

District Judges should take more interest in the matter and issue necessary instructions to the officer-in-charge of the Copying Department and the head copyist to ensure that incorrect and undecipherable copies, faint copies and copies prepared on worn out and used paper are no longer allowed to issue from their office. One way of detecting mistakes and carelessness on the part of copyists is for the officer-in-charge of the Copying Department to send for some copies prepared by the department at random and to punish the copyists who prepared them and examined them if they contain any mistakes or have been illegibly and faintly prepared. If, after due and sufficient warning, the examiner or the copyist does not improve he should be reduced or even removed from service on the ground of inefficiency.

Whenever a copy is sent back for correction, not only should the mistakes be rectified, but the explanation of the copyist or the examiner called for and suitable departmental action taken against him. In all such cases, a report on the action taken by the District Judge and the punishment awarded to the persons at fault should invariably accompany the letter returning the copy after correction. The Court trusts that District Judges and officers-in-charge of Copying Department would take personal interest in eradicating this evil which is apparently on the increase and that it will no longer be necessary in further to issue any instructions in this behalf.

C.L.No. 56 dated 24th September, 1963

In spite of detailed and repeated instructions incorrect and undecipherable copies are being issued. This can be ascribed only to lack of appreciation of the object for which these copies are filed and lack of interest on the part of the officers concerned. The instructions issued must be carefully and strictly followed. There should be regular checking by the officer-in-charge, who should maintain a record of such checking so that action may be taken against habitual defaulters.

C.L.No. 58/VIIIb-58-Admn.'G' dated 22nd September, 1982

Hence forth Photostat certified copies of the illegible hand written orders should not be issued by the subordinate courts.

C.L.No. 80/Ve-65 dated 2nd November, 1985

Incorrect and illegible copies of the lower court judgments cause much difficulty in deciding cases and also cause delay in the disposal.

District Judges should take personal interest in the matter and issue necessary instructions to the Officer-in-charge of the Copying Department and to the Head Copyist in this behalf so that such tendency be curbed. The instructions already issued in the matter should strictly be observed in future.

District Judges are directed to see, that no illegible copies of the lower court judgments are issued from the Copying Department in future. The Court will take serious view of the matter if illegible and undecipherable copies of the lower court judgments are again issued from the Copying Departments of the subordinate courts.

C.L.No. 41/Ve-65 dated 6th May, 1957 and

C.L.No.21/Ve-65 dated 31st January, 1975

It is the duty of the District Judge and the officer-in-charge of the Copying Department to ensure that legible and accurate copies are issued. When they inspect the Copying Department they must examine some of the copies that are ready and take severe action if they have been prepared in contravention of the instructions issued by the Court.

C.L.No. 5/Ve-65 dated 19th January, 1970

Officers incharge of the Copying Departments should see to the strict compliance of the Court's instructions contained in the General and Circular Letters noted below and every week should pick up some ready copies at random, examine them and report invariably to the District Judge the result of such examination:

1. C.L.No. 59 dated 22-9-1950
2. C.L.No. 95 dated 27-9-1951
3. C.L.No. 84 dated 06-8-1952
4. C.L.No. 62 dated 1-11-1955
5. C.L.No. 41/Ve-55, dated 6-5-1957
6. C.L.No. 109 dated 06-12-1951
7. C.L.No. 59 dated 15-10-1960
8. C.L.No. 56 dated 24-9-1963

G.L. .No. 29/86-9 dated 14th November, 1944

Whenever possible both sides of folios should be used in preparing copies of documents in civil courts.

C.L.No. 105/VIII-b-85 dated 8th October, 1969

As recommended in paragraph 39 of the Report on the Re-organization and Rationalization of the Civil Courts copy folio supplied with application for copies should invariably be fully utilized for preparing copies.

C.L.No. 23/Ve.65/Admn. (D) dated 7th April, 1981

Certified copies issued by the subordinate court are sometimes prepared on rice paper on both the sides and that too with a carbon paper which has outlived its utility, with the result that such copies are not decipherable.

The District Judges are requested to see that the certified copies issued in future are free from the above defects and are neat, clean and decipherable.

C.L.No. 53/Budget dated 25th August, 1983

The District Judges should ensure that copies prepared in good handwriting are issued and that the copies are prepared on durable paper and not on unused forms, so as

to avoid recurrence of inconvenience caused to the Hon'ble Court due to bad handwriting.

C.L.No. 39/Ve-65/Admn. (G) dated 26th August, 1988

Often the copies supplied by the subordinate courts do not contain either the signature of the Head Copyist or the seal. Sometimes copies are being issued by the courts directly and not through the Copying Department. Such practice not being in accordance with the mandatory provisions of rules 254,255 and 259 of General Rules (Civil) should be put to an end. Henceforth, the Copying Department should be directed to be more careful in this respect and no copy should be issued unless it is properly signed and sealed.

C.L.No. 67/Ve-65-Admn. (G) dated 22nd September, 1989

A strange practice seems to be developing in the subordinate courts of issuing true copies of the order passed by the court by the Munsarim or clerk of the same court which passes the order with the seal of the Munsarim and in some cases also the metal seal of the court. Whereas according to rule 253 and 254 of the General Rules (Civil), 1957, Volume I, no one except the Head Copyist of the Copying Department of the district is competent to issue a copy of any order passed by the Court, even otherwise copies of the judicial record cannot be issued except by the Copying Department.

Henceforth no copy shall be issued except under the authority of the Head Copyist of the judgeship under Copying Department and in case of any laches in this behalf the person liable shall be dealt with severely.

G.L.No.29/A dated 1st August, 1929

Copyists shall put down the number of words on each copy they prepare.

G.L.No. 43 dated 10th August, 1934

The correct procedure for counting words in a copy is to count three or four lines taken at random from a page in a prepared copy and then to strike an average per line. Lines on the whole copy are then counted and multiplied by the average number of words per line to represent the total number of words in a copy. The copyist who prepares the copy is responsible for counting correctly and the Head Copyist should verify some entries by checking a few copies at random.

G.L.No.6/A- 17(1) dated 1st November, 1935 as amended by

G.L.No.7/A-2 (1) dated 27th January 1936

The register of karguzari referred to in rule 268, Chapter X, General Rules (Civil), 1957, should be submitted to the officer-in-charge of the Copying Department, or to the presiding officer of the court by the head Copyist fortnightly or monthly as the District Judge may direct.

(i) Supply of copy through Electro Photostat copier

C.L.No. 24/VIIb-104/Admn. (G) dated March 1, 1990

I am directed to say that under the Modernization Scheme, one Electro Photostat copier has been supplied to the Judgeships for the smooth functioning of the

administration work in the judgeship and other allied matters in the field and with a view to meet the expenses to be incurred on the maintenance and running cost of the said Electro Photostat copier the Court has been pleased to issue the following directions in this behalf:

1. An applicant desirous to obtain a copy on urgent application under Rule 255 of the General Rules (Civil) on supplying the usual charges of urgent copying fees, if he opts for a copy through the Electro Photostat copier, it shall be given to him on additional payment of rupee one per page.
2. The Applicant if desires to obtain a Photostat copy as above, he shall with the application for copy enclose an application separately without stamps requesting for urgent copy through Electro Photostat copier.
3. The Head Copyist on receipt of such an application shall summon the record and count the number of pages and direct the applicant desirous to obtain a Photostat copy to deposit a sum equivalent to number of pages calculated at the said rate and made an endorsement to this effect on the application and shall return the same to the applicant for deposit of money in the manner prescribed below.
4. The applicant shall deposit the amount with the cashier who will maintain a Receipt Book in triplicate of which two folio will be supplied to the applicant, who in turn shall retain one foil with him and paste the other on the book of that plain application which will be returned to the Head Copyist and it shall form Part 1 of the original copying application.
5. The Head Copyist shall maintain a Register in the following form so that a proper account of the money received under this Head "Income from photo copier Machine" is maintained.

Register of Copies issued from the Photostat Copier

Sl. No	Number of Application And date	Details of Record	Number of Pages required	Amount Deposited @ Re.1/- per page with receipt number and date	Signature of Cashier with date regarding receipt	Remarks
1	2	3	4	5	6	7

6. The Cashier shall also maintain a Register in the following form to give an idea of the income and expenditure under this Head:

Register of income and expenditure relating to the Electrostat Copier

Date	Opening Balance	Income during the day, if any	Expenditure incurred if any	Closing balance	Remarks
1	2	3	4	5	

7. The Cashier shall deposit the amount received every day in the Bank under the account "Income from the Electro Photo Stat Copier" on the next opening day. The pass book with the Cashier and the Registers maintained by the Head copyist, the Register must be placed before the District Judge or the Officer-in-Charge to be nominated by him for the purpose once …….. preferably on

Monday and the District Judge or the Officer-in-Charge after checking the same shall put his signatures in the remarks column of the Register.

8. The amount is to be deposited in the account opened by the District Judge specifically for this purpose in the above "Head".

9. The District Judge shall submit a quarterly statement of the income and expenditure under this "Head" to the High Court regularly.

I am, therefore, to request you kindly to take steps as directed and bring the contents of this circular letter to all concerned.

C.L. No. 50/VIIb-104/Admn. (G) dated 21st September, 1992

I am directed to invite your attention to Court's circular letter No. 24/VIIb-104/Admn. (G), dated March 1, 1990, on the above subject, and to say that on the basis of recommendations made in the Administrative Conference, 1991 as to charging of rupee one per page from the applicants who apply for Urgent copy of orders/judgment and opt a copy through photo copier machine, and on the basis of other suggestions received, the Court has re-considered the matter and has decided that the District Judges are authorized to fix charges for supply of copy of orders/judgments through Electro photo copier machine at per with the market rates.

I am to add that para 1 of the Court's Circular Letter No.24/VIIb-104/Admn. (G) dated March 1, 1990 be deemed to have been modified to the extent stated above.

I am, therefore, to request you kindly to take steps as directed and bring the contents of this Circular letter to all concerned.

C.L.No.1/Admin. (B-I) dated 19th September, 2001

In continuation of the Court's Circular Letter No. 24/VIIb-104/Admin.(G) dated March 1, 1990, on the above subject, I am directed to say that in case, there is sufficient amount of saving out of the amount so received for supply of copies through Electro-Photostat copier, the said saving amount may with the prior permission of this Hon'ble Court, be utilized in purchasing of the new Photostat machine.

(ii) Application of Rules 224, 225 of General Rules (Civil), 1957 and Rule 141 of General Rules (Criminal), 1977

C.L. No. 60/VIII-1/Admn.(G) dated November 30, 1992

I am directed to say that it has been brought to the notice of the Court that rules 224 and 225 of General Rules (Civil), 1957 and Rule 141 of General Rules (Criminal), 1977 are not being complied with by the subordinate courts in true letter and spirit of the rules. With the result, the information's are being supplied in such matters, which are not registered particulars of suits and other proceedings. The aforesaid rules are being wrongly utilized for avoiding the expenditure in obtaining certified copies etc. which is not in intention of the aforesaid rules. The abuse of rule should be checked.

I am to add that the application through which information is sought under Rule 224 of General Rules (Civil), 1957 and Rule 141 of General Rules (Criminal), 1977 is also returned to the applicant, in spite of the provision that after disposal the application

for search it shall be posted in file-book in serial order and each file book shall be consigned to the record room at the end of each of the calendar year.

I am, therefore, to request you kindly to ensure that the aforementioned rules of General Rules (Civil) and General Rules (Criminal) be complied with strictly in its true letter and spirit by all concerned.

(iii) Preparation and issue of copies of judgments by the Subordinate Courts

C.L. No. 6/Ve-65/Admn.(G) dated January 31, 1991

I am directed to invite your attention to the Circular letter noted on the margin issued by the Court from time to time and printed at pages 221 to 227 of the Book of Circular Orders of High Court 1990 Edn., published by the Institute of Judicial Training & Research, Luck now, on the above subject, and to say that inspite of detailed and repeated Instructions incorrect and undecipherable copies are being issued by the Subordinate Courts. This can be ascribed only to lack of appreciation of the object for which these copies are filed and lack of interest on the part of the officers concerned. Besides, the Court has noticed several defects in the matter of preparing and issuing certified copies of the judgments, which betrays total lack of control over Copying Department in the Districts.

1. C.L. No. 59/Ve-65	D-22.9.1950
2. C.L. No. 41/Ve-65	D/-6.5.1957
3. C.L. No. 59/	D/-15.10.1960
4. C.L. No.56/-	D/-24.9.1963
5. C.L. No.5/Ve-65	D/-19.1.1970
6. C.L. No.21/Ve-65,	D/-31.1.1975
7. C.L. No.64/Ivh-36	D/-24.3.1977
8. C.L. No.23/Ve-65	D/-7.4.1981
9. C.L. No.58/VIIIb-58	D/-22.9.1982
10. C.L. No.53/Budget	D/-25.8.1983
11. C.L. No.80/Ve-65	D/-2.11.1985
12. C.L. No.39/Ve-65	D/-26.8.1988
13. C.L. No.67/Ve-65	D/-22.9.1989

With a view to eradicate these defects the Court directs that henceforth, the following instructions must be strictly complied with by all concerned in the above matter:-

1. It should be made compulsory that certified copy shall be issued only when the application is accompanied by requisite stamp folio and otherwise. An effort be made that Stamp folio are available in sufficient number in all the Districts.
2. The certified copies shall bear the date of application, the date when the copy was ready and the date of its delivery both in figures and words to avoid any tempering in dates.
3. The copies be issued only as far as possible on a paper of standard weight as may be prescribed.
4. The certified copies so desired by the applicants shall be typed only on one side, with double space, using a good ribbon and a good carbon.
5. The hand-written copies may be prepared only by such persons whose handwriting is fair and legible. No one should be employed or retained in copying Section if his handwriting is not up to the mark. The Officer Incharge, Copying Department shall certify that the handwriting of each such person in the Copying Department is good and legible.

6. The Head copyist, before putting his seal and signature, should ensure that certified copy ready for delivery is legible, in good handwriting, fairly typed and is readable.

I am, therefore, to request you kindly to direct the Copying Department of your judgeship accordingly for strict compliance.

(iv) Preparation and issue of copies by the Subordinate Court

C.L.No. 23/Ve-65/Admn.'G' dated May 3, 1996.

I am directed to invite your attention to the marginally noted Circular letter issued by the court from time to time on the above subject and to say that it has been observed that hand written certified copies issued in many cases are not legible. This is an unsatisfactory state and reflects upon the inefficiency of the copying department in the district courts.

I am, therefore, to request you kindly to direct the copying department of your judgeship for strict compliance of the Circular Letters and orders, which have been issued from time to time.

1. C.L. No. 59/Ve-65, dt 22.09.50
2. C.L. No. 41/Ve-65, dt. 06.05.57
3. C.L. No. 56/Ve-65, dt. 24.09.63
4. C.L. No. 5/Ve-65, dt. 19.01.70
5. C.L. No. 21/Ve-65, dt. 31.01.75
6. C.L. No. 23/Ve-65, dt. 07.04.81
7. C.L. No. 53/Budget, dt 25.08.83
8. C.L. No. 80/Ve-65, dt. 02.11.85
9. C.L. No. 6/Ve-65 dt. 31.01.91

(v) P.As./Stenographers to provide extra typed copy of judgment/ orders/ interim orders for use in Copying Department.

C.L.No.41/98 dated 20th August, 1998

I am directed to say on the above subject that with a view to avoid unnecessary delay in furnishing certified copies of the judgments/ orders/ interim orders, the Court has been pleased to direct that an extra copy be taken out the P.As. / Stenographers, of the judgments/ orders/ interim orders and be presented in the Copying Department for supplying certified copies, whenever necessary.

I am, therefore, to request you kindly to ensure strict compliance of the aforesaid direction.

3. PREPARATION OF COPIES

(i) Of judgments and decrees

C.L.No. 59 dated 15th October, 1960

The Court has noticed that in a large number of cases copies of judgments and decrees issued by the subordinate courts do not give the correct number and year of the suit or appeal or the date of decision. Sometimes discrepancies are found between the copies of judgments and decrees in the same case. All such copies have to be sent down

to the courts below for necessary corrections. This entails duplication of work and also causes delay in the proceedings in the Court.

In order to avoid such mistakes in future all the District Judges are requested to issue necessary instructions to the officials under them to avoid such mistakes.

C.L.No.4174/44 dated 17th December, 1912

The following instructions govern the preparation of copies of judgments and decrees under order XLI, rule 37 of the Code of Civil Procedure, 1908, namely-

(1) The work of preparing copies of judgments and decrees under order XLI, rule 37 of the Civil Procedure Code, shall be performed by one or more clerks (or copyists) appointed for this purpose.

(2) The copies shall be prepared in the order in which the decrees are passed.

(3) It shall be the duty of the Munsarim to see that the register in form No. 32 is properly kept up. He shall examine the register at least once a week to see how the work is progressing.

(ii) Revenue Court findings to form part of Civil Court judgment

C.L.No.98 dated 2nd November, 1957

The findings of the revenue court are often the basis of the decision of the civil court. The Court has, therefore, decided that the findings of the revenue court should be treated as a part of the judgment of the civil court and a copy thereof issued along with a copy of the judgment on payment of the requisite charges.

C.L.No. 105/VIII-b-84 dated 22nd November, 1961

The findings of the revenue court or the earlier findings of the civil court, if any, should be made a part of the judgment of the civil court by an express order in the operative part of the judgment.

(iii) Of documents forming part of election tribunal records

C.L.No. 65/IV-g-66 dated 23rd November, 1954

Copies of documents forming part of records of Election Tribunals constituted to hear petitions arising out of elections to local bodies may during the pendency of a case be issued through the Copying Department of the judgeship concerned.

4. ISSUING FREE COPIES

(i) of judgments

C.L.No.75/VIII-a-51 dated 3rd December, 1960

The Court has noticed that copies of judgments were supplied to the appellants even up to 2 years after the orders were passed, in several cases in which appeals were filed by convicts from jail. This indicates that some courts do not give effect to section 363(1) of the Code of Criminal Procedure and rules 152 and 155 of the General Rules (Criminal), 1957, which provide that, on the application of the accused, a copy of the judgment should be given to him without delay, that if a copy is to be delivered to a prisoner it should be dispatched to the jail at once and that if the order for issue of the copy cannot be completed or complied with by reason of the record being in the appellate

court or in any other court, it should be sent to the court concerned for completion or compliance forthwith.

All subordinate criminal courts shall, therefore, strictly follow the provisions of section 363(1) of Criminal Procedure Code and rules 152 and 155 of the General Rules (Criminal) 1957* so that delay may not occur in the issue of copies to the accused in future.

C.L.No. 23/VII-b-35 dated 28th February, 1961

An accused sentenced to imprisonment should be supplied, free of cost and without delay, a copy of the finding and sentence. The convicted person should not be given a copy of the complete judgment but only a copy of that part of the judgment which gives the finding and the sentence.

C.L.No. 128/IX-f-69 Admn.(G) dated 20th November, 1978

Rules 146 and 152 of the General Rules (Criminal) provide for preparation and delivery of copies of judgments on receipt of application for copies from the prisoner from jail. In view of the mandatory requirement of sub-section (1) of section 363 of the Code of Criminal procedure, 1973 for giving a free copy of the judgment to the accused when sentenced to jail imprisonment, immediately after the pronouncement of the judgment, and the directions of the Supreme Court in Special leave Petition (Criminal) No. 408 of 1978 (Madhav Rayawadanrao Hoskot v. State of Maharashtra)** decided on 17th August, 1978 that "Courts shall forthwith furnish a free transcript of the judgment when sentencing a person to prison terms", it is necessary that such copies whether from appellate, revisional or other courts, should be quickly dispatched to the jail authorities for delivery to the prisoner.

(ii) Issuance of copy of judgment dated 10.1.2001 of the Hon'ble Court passed in Civil Misc. writ Petition No. 51928/2000.

C.L.No.5/2001 dated 22nd January, 2001

While disposing of the Writ Petition No 51928 of 2000-constable C.P. 117-Yad Ali and others Vs. Supdt. Of Police, Chandauli and another, Hon'ble

O.P. Garg , Judge, High Court, Allahabad has been pleased to direct that a copy of the judgment dated 10.1.2001 rendered in the Writ Petition No. 51928/2000 aforesaid be sent to all the District Magistrate/ Supdt. Of Police/ Supdt. Of Police of the State including the chief Secretary, Govt. of U.P.

I am, therefore, to send herewith a copy of the judgment dated 10.1.2001, aforesaid for information and necessary action.

(for judgment See 2001(1) A.W.C. 578)

(iii) Issuance of certified copies of the judgments.

C.L.No.20/2002/Ve-65 dated 3rd July, 2002

I am directed to request you to kindly ensure that strict compliance of the Court's Circular Letters No. 59/ve-65 dated 22nd September, 1950.C.L. No. 56 dated 24th September, 1963 C.L. No. 80/ve-65dated 2.11.1985 C.L. No. 41/ve-65 dated 6th May,

* Now 1977, vide notification no. 504/V-b-13, dated 5th November, 1983
** Reported in AIR 1978 SC 1548

1957. C.L.No. 21/ve-65 dated 31st January 1975 and C.L. No. 23/ve-65 Admin (D) dated 7th April, 1981 be made and directions issued by the Hon'ble Court on 21.5.2002 in connection with Criminal Appeal Nos. 648 of 2002 Parsadi and other Vs. State of U.P. and 665 of 2002 Yamuna Prasad Vs. State of U.P. be strictly followed while issuing the certified copies of the judgment.

Registrar

Certified copies of the judgments under appeal filed in Crl. Appeal Nos. 648 of 2002 Parsadi and others Vs. State of U.P. and 665 of 2002 Yamuna Prasad Vs. State of U.P or not legible and decipherable and appears to have been prepared on rice papers in breach of court's circular letter no. 59/ve-65 dated 22nd Sept., 1950 C.L. No. 56 dated 24th Sept., 1963 C.L.No. 80/ve-65 dated 2nd Nov., 1985. C.L. No. 41/ve-65 dated 6th May, 1957, C.L. No. 21/ve –65 dated 31st Jan., 1975 and C.L. No. 23/ve-65/ Admin (D) dated 7th April 1981 and inspite of the repeated directions of this Court on the administrative side, the copies of the judgment are not being prepared in a desired manner. If copy is prepare on rice papers using both the sides of the leaves, it becomes difficult to decipher the words and sentences and the very purpose of issuing the certified copy is defeated. Not only in this case, but in so many cases, this Court has noticed such type of copies. It appears that the Head Copyist and Officer Incharge. Copying Section are not aware of the direction issued by this Court from time to time in regard to the preparation of copies.

Call for the explanation of the Head Copyist and Officer Incharge, Copying Section of Rae Bareli Judgeship as to how such certified copies of the judgments and orders such as dated 10.5.2002 passed in S.T. No. 285/95 and dated 17.5.2002 passed in S.T. No. 8/2002, have been issued in breach of the aforesaid circular letters.

Write a letter to all the District and Sessions Judges drawing their attention towards the directions contained in aforesaid circular letters. They may be asked to keep watch on the issue of copies and they will ensure that legible and decipherable copies are issued on comparatively stout paper and if carbon is used, the other side of the leaf should not be used.

(iv) Non-compliance of the directions of the Court with regard to issuance of proper, clear and legible certified copy of Judgments.

C.L.No.5/2003, dated 25th February, 2003

During the proceedings in First Appeal from Order No. (166) of 1996 (Prem Singh and another vs. Jai Pal Singh and others), the Hon'ble Court (Hon'ble A.K. Yog, J. and Hon'ble Ghanshyam Das, J.) has observed with concern that certified copy of judgments supplied by the court below is not legible since they are typed on both sides on rice papers. The Hon'ble Court has directed that the practice of typing on both sides of rice papers be stopped and certified copy must be typed on enduring paper on one side only so that it is quite legible.

In this regard, a C.L. No. 3/2002, dated January 10, 2002 was issued by the Court to ensure issuance of proper, clear and legible certified copy of judgments. But it appears that the directions given in the aforesaid Circular Letter are not being followed strictly.

I am, therefore, directed to say that the directions of the Court referred to above, be complied with in letter and spirit.

I am, further, directed to enquire from you about the difficulties, if any, being faced in implementing the directions issued by the Court in this regard.

(v) Courts concern for not supplying proper clear and legible certified copy of judgment by the subordinate courts.

C.L.No.37/2004 dated 12th October, 2004

In Government Appeal No. 1373 of 2002- State Vs. Jitendra Singh and others, the Hon'ble Court (Hon'ble S.K. Agarwal, J. and Hon'ble R.C. Pandey, J.) has been pleased to observe with concern that despite standing orders of this Court regarding providing legible typed and duly corrected copies of judgment the courts below are still not following the directions of the Court and are issuing copy of judgments generally in hand writing to the accused and the State for filing Govt. Appeal which is causing much inconvenience to the Court.

Therefore, in continuation of the Court's earlier circular letter No. 3/2002 dated 10.1.2002 and no 5/2003 dated 25.2.2003, I am directed to say that the Hon'ble Court has taken serious view of the matter and noticed that the directions of the Court in this respect are not being followed strictly in letter and spirit. Due to non-supply of legible typed and duly corrected copies of the judgment much inconvenience is caused to the Hon'ble Court.

In this regard, while sending herewith a copy of the order dated 20.7.2004 passed in the aforesaid Government Appeal, I am to request you to kindly ensure strict compliance of the directions of the Hon'ble Court faithfully-religiously.

(vi) In Special Police Establishment cases

C.L.No. 10/VII-b-35 dated 30th January, 1951

There is no objection to copies of judgments, depositions of witnesses, etc., being supplied free of cost to Public Prosecutors conducting Special Police Establishment cases, when applied for by them.

(vii) To naval authorities

C.L.No. 25/VIIb-35 dated 28th February, 1979

Section 25 of the Navy Act, 1957 provides that a criminal court before which any proceedings have been taken against a person in the naval service while subject to naval law shall, on application by the Chief of the Naval staff or the Commanding Officer of that person, grant copies of the judgment and final orders in the case free of cost and without delay.

It is therefore directed that the copy of judgment and final order should be supplied free of cost to naval authorities expeditiously.

(viii) Interpretation of rule 251

C.L.No. 113 dated 5th December, 1958

Rule 251, General Rules (Civil), 1957 is not meant to help an officer or representative of the Government conducting a case to which the Government is a party. The proper discretion of Presiding Officers to exercise in such cases will be to decline the request for issue of a copy free of cost.

In cases where the Government for some administrative reason wants to obtain a copy, the Presiding Officer should exercise his discretion under the above rule in favour of the Government.

C.L.No. 21 dated 8th April, 1966

Applications received under rule 251, General Rules (Civil) Volume I, 1957 should be treated as ordinary application for copies except when the applicant expressly desires to get an urgent copy and the Officer-in-charge Copying Department is satisfied that it would be in the interest of justice to treat it as an urgent application for copy.

5. SUPPLY OF COPIES BY COURTS

(i) Of bail orders

C.L.No. 78/VII-b-47 dated 21st May, 1971

The following directions are issued for observance in connection with the issue of copies or orders granting bail:

The steno typist of the Sessions Judge should prepare three copies of the order granting bail and hand them over to the Sessions Clerk by 3 p.m. The copies can be certified as True Copies by 3.15 p.m. and a certified copy of the order granting bail can be handed over to the Advocate for the accused person by 3.20 p.m. In case no Advocate turns up by 3.20 p.m. to taken delivery of the certified copy of the bail order, all the three copies shall forthwith be transmitted to the Magistrates concerned, who shall transmit one copy of the bail order to the Superintendent of Jail and take further action in compliance of the order passed by the Sessions Judge as and when moved. Where the Advocate takes delivery of the copy of the bail order, the remaining two copies shall be transmitted to the Magistrate concerned, one copy to be transmitted to the Superintendent of Jail and the other shall be placed on record.

Where the bail order is passed in the later part of the day, action on the above lines shall be taken as promptly as possible. When bail order is passed after 4 p.m., further action shall naturally be taken on the re-opening of the Court the next day.

In the case of Magistrates only two copies of the order granting bail need be prepared, one for purposes of record and the other for transmission to the Superintendent of Jail.

In case the accused person furnishes bonds to the satisfaction of the Magistrate, it should be possible for him to issue the release order the same day.

(ii) To District Magistrates

G.L.No. 40-35(a)-9(1) dated 1st October, 1942

As required by order XXXIII, rule 14 of Civil Procedure Code, 1908, a copy of the decree in a pauper suit shall invariably be forwarded to the Collector.

C.L.No. 27, dated 19th March, 1957

Copies of judgments in which strictures are passed against police officers should be sent to District Magistrate concerned as soon as judgment is pronounced.

C.L.No. 65/VIIc-8-Admn.(G) dated 21st October, 1983

Attention of District Judges is invited to the provisions of Section 363 of the Criminal Procedure Code 1973, Section 2 of the U.P. Prisoners Release on Probation Act, 1938, rule 6 of the U.P. Prisoners Release on Probation Rules and rule 143 of the General Rules (Criminal) 1957.* The District Judges are further directed to supply free copies of judgments to the District Magistrates, if they move a written application for the same.

(iii) To Inspectors of Stamps

G.L.No. 5832/VII-f-26 dated 9th August, 1946

The mandatory provisions of section 6(6) of the Court Fees Act, 1870, should be strictly complied with by all subordinate courts. A copy of the plaint with a copy of the court's finding on the question of deficiency in court-fee should invariably be sent to the Chief Inspector of Stamps.

(iv) To Superintendent, Model Prison, Lucknow.

C.L.No. 21/VII-b-35, dated 9th March, 1951

The Superintendent, Model Prison, Lucknow, shall be supplied free of cost with a copy of the judgment of the Sessions Court in the case of every convict who is sentenced to a term of five years or more and who is classified in the star sub-category of casual prisoners.

(v) Preparation and supply of copies of statement of witnesses.

C.L.No.36/VIIIb-281 dated 24th September, 2003

The Hon'ble Court has observed with concern that the provisions contained in Section 207 and 208, Criminal Procedure Code, 1973 regarding preparation of copies of records relating to statement of witnesses recorded u/s 161 and supply thereof to the accused persons under Section 207 and 208 of the Code of Criminal Procedure are not being complied with in letter and spirit causing undue delay in disposal of criminal cases.

I am, therefore, directed to request you to kindly take remedial measures for early preparation of the records of the statement of witnesses and to supply of the copies of statement recorded under Section 161 of the witnesses to the accused persons to ensure speedy disposal of criminal cases.

I am also to add to kindly bring the contents of the Circular letter to the notice of all the concerned in your Judgeship for guidance and strict compliance.

6. PREVENTION OF ISSUE OF SURREPTITIOUS COPIES

C.L.No. 14/67-3 dated 14th February, 1936

The following remedies are suggested for necessary action by District Judges and presiding officers in order to prevent the supply of surreptitious copies to lawyers' clerks and litigants and the leakage of information from offices and record-room.

* Now 1977, vide notification no. 504/v-b-13 dated 5th November, 1983

If a pleader is found making use of unauthorized copies in the conduct of his cases, the presiding judge should inform him that the use of such copies is disapproved by the court and that if it is persisted in, the name of his registered clerk will be removed from the list of such clerks.

The presiding judge should maintain a list of pleaders who use copies which the court has reason to think have been obtained surreptitiously.

The Presiding Officer should keep a vigilant eye on incomes in their offices from inspection and search fees and protect their ministerial officers from their own weaknesses and defend them from the importunity of those who tempt them from the path of honesty and rectitude.

G.L.No. 11/17-2(11) dated 1st March, 1937

The court desires each presiding officer to use his powers of observation in detecting the use of unauthorized copies and to take action, if necessary. It will, therefore, be necessary for District Judges to take action against these registered clerks who persist in the use of unauthorized copies and to maintain a list of pleaders who use copies which the court has reason to think have been obtained surreptitiously. This will have to be done with circumspection, as the rule as now amended allows full copies of papers under inspection to be made in pencil. Any how the record is always at hand to enable the Presiding Officer to ascertain whether the record has in fact been inspected for this purpose or not.

7. PREPARATION AND ISSUE OF COPIES OF DEPOSITIONS

C.L.No. 77/IVh-36 dated 28th May, 1976 and

C.L.No. 98/VIIIb-281 dated 7th June, 1976

On a fixed fee of Rs.1/-* per deposition, copies of depositions of witnesses be issued by courts as far as possible the same day provided that not more than one copy would be supplied irrespective of the parties involved in the case and that such copy shall bear the endorsement of the Reader of the court that it is a true copy of the deposition of the witness recorded in the court. Copies of depositions should be prepared with the help of ball-point pen where there is no typewriter provided for the purpose, and three copies should be prepared one for record and two for supply to parties. The copies so supplied shall be treated as certified copies for any other purpose.

C.L.No.62/VIIIb-281/Admn.(G) dated 6th September, 1989

The rate of supply of copies of deposition of witnesses is increased from Re. 1/- per deposition to Rs. 3/- per deposition, with effect from 1st October, 1989.

C.L.No.188/VIIIb-281 dated 25th November, 1976

Further instructions for strict compliance in future are listed below:-

(1) The money, for providing copies of depositions be taken by the Court in cash.

(2) Each Court will maintain a register in the annexed proforma.

* Note: It has been increased to Rs.3/- by following circular.

(3) At the end of each day the money so collected, shall be deposited in the Central Nazarat.

(4) At the Central Nazarat the money will be kept in suspense account.

(5) The expenses of paper, carbon and ball point pen, for preparation of depositions shall be met out of the collection so made.

(6) Copies of depositions shall not be given to parties under the aforesaid C.L. No. 98 unless they apply for the copies of depositions of all witnesses.

PROFORMA

Register regarding the carbon copies of depositions of Parties and fees realised from them

Sl. No.	Date	No. of the case and names of parties	Name of the party to whom the carbon copy of deposition supplied	Parti-culars of PW/ DW	Amount of fee realised	Initials of reader receiving cash amount	Signature of receiving officer of Nazarat	Remarks
1	2	3	4	5	6	7	8	9

[Note: This proforma has been substituted by para-4 of following circular]

C.L.No.191/VIIb-281 dated 27th November, 1976

1. It may be impressed upon the party applying for the copy that if he wants such copies in a particular case he would have to obtain copies of each and every witness examined in the case whether on plaintiff/ prosecution side or defendant/ accused side and he would have to pay Re. 1/-[*] per witness in the case.

2. Such copies should be prepared with a ball pen and the Reader should ensure that the carbon used for preparing the copy is in good condition so that the copy prepared is fair and legible.

3. The parties shall pay the copying fee aforesaid in cash to the reader, who will keep the same with him and deposit it with the Nazir in the evening of every working day of the week. The Reader will maintain a register in the following proforma:

Sl. No.	Date	Nature and No. of case	Name of Advocate Applying for copy	Party on whose behalf copy is applied	No. of witnesses examined on the day	No. of pages in which the statement of the witness was recorded	Amount realised
1	2	3	4	5	6	7	8

Signature with date of counsel receiving the copy	Amount handed over to Nazir	Signature with date of Nazir	Remarks
9	10	11	12

4. These copies must be handed over to the party on the same evening on which the statements are recorded and signature of the counsel receiving the copy shall be taken in column No. 9 of this register.

[*] Increased to Rs. 3/- with effect from 1st October.1989; vide C.L. no. 62, dated 6.9.89, at page 234

5. When the amount is handed over to the Nazir, his signature shall be taken in column No. 11 of this register and this register shall be placed before the Presiding Officer on every first working day of the week for his perusal.

6. Weekly, monthly and quarterly totals of the amount realized by the reader shall be drawn in this register.

7. When the Nazir receives the amount in cash from the Readers of the Courts concerned, he shall put his signature in the relevant column of the register maintained by the Reader.

8. The Nazir shall maintain a register in the following proforma:-

Sl. No.	Date	Name of the Court from which amount is received	Amount received	Signature of the Reader who has paid the amount	Remarks
1	2	3	4	5	6

9. Weekly, monthly and quarterly totals shall be drawn by the Nazir in this register, which shall be placed before the officer-in-charge, Nazarat every month

10. The amount so received by the Nazir shall be kept separate by him in cash and would be utilized in purchasing stationery etc., required for recording evidence in triplicate.

11. In order to see as to how this amount has been spent another register shall be maintained by the Nazir in the following proforma:-

Note: This proforma has been substituted by by C.L. No. 50 dated 25.4.90]

12. The purchase of the stationery shall be made under the orders of the Officer-in-charge, Nazarat. The said orders and vouchers for purchase in pursuance thereof shall be tagged by the Nazir in a separate file for verification at any stage.

13. The Nazir shall also maintain a stock register in the following proforma:

Date.	Stock in hand				Stock supplied				Date of supply	Name of the Court which stationery supplied	Remarks
	Ball pen	Re-fills	Rice paper	Car bon	Ball pen	Re-fills	Rice paper	Carbon			
1	2		3		4				5	6	

14. In this register the balance of stocks in hand shall be drawn every fortnight and thereafter the register shall be placed before the officer-in charge, Nazarat for his perusal and signature.

15. The supply of the stationery shall also be made to Courts every fortnight for which the Reader of the Court shall place a proper indent duly forwarded by the Presiding Officer of the Court concerned. The orders of the officer-in-charge, Nazarat shall be obtained for supply of stationery and these indents shall be kept properly tagged in a separate file.

C.L.No.73/VIIIb-281 dated 2nd April, 1977

A quarterly statement of income and expenditure as a result of the implementation of the Court's directions contained in above mentioned C.L. should be sent to the Court after the close of each quarter in the year.

C.L.No.68/VIII-b-281 dated 27th October, 1983

Henceforth, it will be the personal responsibility of the District Judge to submit a certificate quarterly, after satisfying himself that the aforesaid instructions have been strictly observed. A quarterly statement should also be submitted court-wise giving the figures.

C.L.No.169/VIII-b-281 dated 21st November, 1977

In case there is sufficient saving out of the amounts received for supply of copies of deposition of witnesses, the same may, with previous permission of the Court, be utilized in purchasing Cyclostyle machine or Typewriters, whichever is considered useful.

C.L.No.11/VIII-b-281 dated 17th January, 1978

If the State Counsel makes a request for supply of copies of depositions of witnesses, one set of such copies, wherever practicable, be supplied to him free of cost. The free copy/copies so supplied shall be deemed to have been supplied under rule 143 of the General Rules (Criminal), 1957[*] and rules 251, 252 of the General Rules (Civil), 1957.

C.L.No.50/VIII-b-281 dated 25th April, 1979

(1) The amount of savings out of the fees realized from issue of copies of depositions of witnesses in triplicate shall be deposited in the State Bank in Savings Bank Account in the name of the District Judge on the 7th day of each month of the calendar year.

(2) The proforma of the register prescribed by para 12 of the Courts C.L. No. 191/VIIIb-281, dated 27.11.76, shall stand modified and the Nazir shall henceforth maintain the said register in the following proforma:

Sl. No.	Date	Article purchased	Quantity purchased	Amount spent	Amount of saving	Date of deposit of saving in the Bank	Date of withdrawal of the amount of saving
1	2	3	4	5	6	7	8

Purpose for withdrawal	Balance	Signature of the officer-in-charge	Remarks
9	10	11	12

(3) All transactions regarding deposits, withdrawals and purchases etc. out of the amount of the savings shall be made under the orders of the officer-in-charge, Nazarat. The said orders and vouchers for purchases etc. shall be tagged by the Nazir in a separate file for verification at any stage.

(4) The aforesaid register shall be placed before the officer-in-charge, Nazarat every month for his checking and signatures.

[*] Now 1977, vide notification no. 504/V-b-13 dated 25th November, 1983

(i) Preparation and issuance of copies of Depositions

C.L. No. 34/2010/Admin.-G-II Allahabad Dated 15.11.2010

It has been directed by the Hon'ble High Court that the Presiding Officers of the subordinate courts to see that the Readers of the respective courts and Nazir of the Judgeship must have maintained the Registers of depositions in proper format in accordance with C.L. No. 191/VIIb-28, dated 27th November, 1976 and C.L. No. 50/VIII-b-281 dated 25th April, 1979, respectively.

I am further directed to intimate that the rate of supply of copies of depositions of witnesses is now increased from Rs. 3/- to Rs. 10/- per deposition, with immediate effect.

You are, therefore, communicated to implement the directions contained in this Circular Letter by all concerned with immediate effect.

8. PURCHASE OF GENERATORS OUT OF THE DEPOSITION MONEY

C.L. No. 77/VIII-b-231/Admn.(G) dated December 20, 1991

I am directed to invite your attention to Court's Circular Letters No. 169/VIII-b-231, dated 21.11.1977 which says that in case there is sufficient saving out of the amount received for supply of copies of deposition of witnesses, the same may, with previous permission of the Court, be utilized in purchasing Cyclostyle machine or typewriter, whichever is considered useful. Now, the court has again considered the matter in view of representations received from the District Judges and has decided that in the items mentioned in the said C.L., the District Judges may also purchase 'Generators' from the deposition money, with other conditions already laid down in the said Circular letter dated 21.11.1977.

9. PURCHASE OF FAX MACHINE OUT OF THE BALANCE AMOUNT OF DEPOSITION FUND.

C.L.No.2/Admin.(B-H) dated 3rd October, 2001

In continuation of the Court's Circular Letter Nos. 169/VIII-b-281 and 77/VIII-b-281. dated November 21, 1977 and December 20, 1991. I am directed to say that with the prior permission of this Hon'ble Court the FAX machine can also be purchased by you out of the balance amount of the deposition fund.

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CHAPTER - VIII

COMMUNICATIONS

1. COMMUNICATIONS WITH HIGH COURT

(i) Address

C.L. No. 16/Vb-18 dated 3rd March, 1986

All correspondence in the matters concerning subordinate courts, mentioned below should be addressed to the Deputy Registrars concerned.

DEPUTY REGISTRAR [JUDICIAL (CIVIL)]

1. All matters connected with civil cases of all kinds including writ petitions and habeas corpus petitions.
2. Supervision over Receipt and Dispatch Section of all Judicial Records (Civil) including correspondence pertaining to matters dealt with by him.
3. Compliance report about stayed cases on statements received from subordinate courts.

DEPUTY REGISTRAR [JUDICIAL (CRIMINAL)]

1. All matters connected with criminal cases of all kinds including criminal contempt.
2. Supervision over receipt and dispatch of criminal records and correspondence in matters dealt with by him.
3. Compliance reports about stayed cases on statements received from subordinate courts.

DEPUTY REGISTRAR (GENERAL*)*

1. Departmental Appeals and representations from the sub-ordinate courts' staff.
2. Matters relating to Civil Court Employees Association and Anjuman Himayat Chaprasian.
3. All matters pertaining to creation and extension of the terms of posts in the subordinate courts' staff.
4. All matters regarding re-organisation of Civil Courts.
5. All matters of subordinate courts' staff before the U.P. Pay Commission.
6. Reference regarding refund of C.D.S. amount and pay fixation matters of subordinate court staff.
7. All matters concerning recruitment, reservation of vacancies for reserved categories of candidates in subordinate courts including litigation matter of subordinate courts staff.
8. All matters concerning Judicial Officers' Conference, Chief Justices' Conference, Higher Judicial Service Examination, etc.

9. All matters pertaining to closure of subordinate courts due to flood, curfew, sad demise, etc.
10. Service of summons from or upon Courts/persons within the jurisdiction of other High Courts or in other countries.
11. Matters not assigned to any other Deputy Registrars.

DEPUTY REGISTRAR (PROTOCOL & BUILDING*)*

1. Tour programmes, reservation of accommodation and other matters of Hon. Judges and State Guests.
2. Annual Report on the Administration of Justice and all kinds of statement of cases of the High Court, and subordinate courts.
3. High Court and subordinate court s' calendars.
4. U.P. Bar Council elections.
5. All matters relating to the staff cars of High Court and subordinate courts.

DEPUTY REGISTRAR (S)

1. Transfer and posting of judicial officers and maintenance of posting register.
2. All matters pertaining to creation, confirmation, abolition and extension of courts of Additional District Judges, Civil Judges, J.S.C.C., Chief and Special Judicial Magistrates.
3. All matters pertaining to demand for more officers for criminal or civil work or decrease in number of officers in subordinate courts.
4. All matters pertaining to conferment of powers on Munsif Magistrates, Chief Judicial Magistrates, Judicial Magistrates, Civil Judges and Additional District Judges.
5. Training of Munsifs.
6. Matters relating to transfer of cases of subordinate courts including part-heard Sessions Trials.
7. Calculation of vacancies in the cadre of judicial officers and publication of Civil List.
8. All matters relating to Leave, Pension, Gratuity, Fund, Insurance etc.
9. Sitting of subordinate courts including vacation proposals, morning courts etc.
10. Tour programme, casual leave and station leaving permissions of District Judges.

DEPUTY REGISTRAR (BUDGET)

1. All matters pertaining to construction of buildings (court rooms, offices and residences), taking buildings on lease/rent, acquisition of land/buildings, maintenance of all types of buildings, allotment of residences and granting of land to Bar Association in the subordinate courts. In other words, all matters relating to all kinds of building and land in the subordinate courts

2. Control and budgetary allotments over subordinate courts and courts of Judicial Magistrates.
3. Resumption of saving, allotment of process, realization of arrears of rent, telephone and electric charges, enhance-ment of permanent advances etc.
4. Matters relating to purchase and supply of photocopier machines, duplicators, typewriters and the like to the District Judges.
5. Allotment of funds for original works, annual repairs, special repairs, electric and telephone installations and whitewashing.
6. Matters relating to local purchase of stationery to the subordinate courts.
7. Supervision over Receipt, Dispatch and Type Section of the Budget Department.
8. Matters relating to income from the court compound and official residences in the subordinate courts.

DEPUTY REGISTRAR (MISCELLANEOUS)

1. T.A. Bills, House Building, Motor Car and Scooter advances, G.P.F. advances, Fixation of Pay, counting of previous service, special increment (Family Planning), sale and purchase of moveable and immoveable property, permission to join class or to act as examiners or to deliver lectures or talks.
2. Appointment of arbitrators, umpires, and official receivers.
3. Inspection notes recorded by Hon. Judges, District Judges and Inspector of Government Offices.
4. All matters pertaining to audit reports and objections.
5. Matters relating to loss or theft of record or any other government property and embezzlement in subordinate courts.
6. Matters relating to Oath Commissioners and Notaries in the subordinate courts and issue of coupons.
7. Lapsed accounts of Civil Deposits.
8. Stationery of subordinate courts, except local purchase.
9. Recoveries of dues from judicial officers.
10. Matters relating to deposition money received in subordinate courts.

G.L. No. 4 dated 13th January, 1933 as modified by

G.L. No. 12/B-2 (i) dated 6th March, 1935

When a District Judge asks for the creation or extension to the term of a temporary court of Additional District and Sessions Judge, he should send to the Court a letter with necessary enclosure in triplicate.

C.L. No. 44/B-6 dated 30th June, 1949

All communications involving extra expenditure, such as those relating to the creation of a temporary court or the creation of an extra post of a clerk or menial servant on a permanent basis and all. Letters copies of which may have to be sent to the

Accountant General, or the Government, should be sent duplicate. But where copies have to be sent both to Government and the Accountant General, the letters should be sent in triplicate. The enclosures accompanying such letters have also to be sent in duplicate or triplicate, as the case may be.

C.L. No. 69/VIII-b-71 dated 23rd August, 1956

All letters and requisitions with which postage stamps, etc. are sent to the Court should be addressed to the Deputy Registrar of the Court by name.

Before sending such letters and requisitions to the Court, care should be taken to check the stamps, their number, denomination and total value and this should be clearly written on the left-hand corner at the foot of the forwarding letter.

C.L. No. C-161/76 dated 15th October, 1976

The letters forwarding statements of outturn should be addressed to the Registrar in the Confidential Department.

C.L. No. 38/VIIIg-48/Admn. (G) dated 26th August, 1988

The directions issued by the Court should be sent to the outlying courts in tahsils at the earliest.

C.L. No. 87/VIII b-263 dated 27 August, 1958

Notices to parties and requisitions of files received from the High Court should not be entered in the Registers of receipts and issues (Form nos. 62 and 63), maintained in the District Judge's office. They should continue to be entered in registers maintained only by the miscellaneous clerks, the Nazirs and the Record Keepers of the courts concerned. Due precautions must, however, be taken to see that they do not remain unattended beyond a reasonable time.

(ii) Compliance of D.Os.

C.L. No. 119/VIII-g-41-29 dated 8/13th December, 1951

District Judges should take steps to ensure that replies to the Court's letter are sent as expeditiously as possible. If for some reason it is not possible to send a complete reply within four weeks, an interim reply should invariably be sent intimating the approximate time within which a complete reply will be sent.

C.L. No. 155/Admn. (G) dated 12th October, 1977

The District Judge should maintain a separate file of all D.O. letters received from the High Court and instruct the Munsarim to put up that file before him once a week on a fixed day so that he may be able to find out which D.O. letters have been complied with and, if not, for what reason the compliance has not been made.

Necessary instructions in this behalf may also be issued to all the officers, particularly the Chief Judicial Magistrate, for strict compliance.

C.L. No. 198/Admn. (A) dated 10th December, 1976

While distributing the administrative work, hitherto done by the Chief Judicial Magistrates, between the Chief Judicial Magistrates and Additional Chief Judicial

Magistrates, the Court has directed that the correspondence work, compliance of High Court orders etc. and collection of statements will be done by the Chief Judicial Magistrates.

C.L. No. 146/VIIIa-30 dated 15th September, 1977

The Court has noticed that compliance reports in respect of orders and directions issued by the Court are not submitted with due promptitude and that in most of the cases even after reminders compliance reports are received after inordinate delay.

All judicial officers should ensure that the compliance reports are submitted to the Court without avoidable delay.

(iii) Reminders to Registrar

C.L. No. 50/VIII-g-41 dated 19th May, 1951

District Judges should remind the Registrar demiofficially whenever any letter sent to this Court by them or any officer subordinate to them remains unreplied for a period of two months. They should also send to the Registrar a list of letters which have remained pending for over two months.

C.E. No. 21 Main L dated 18th March, 1972

Reminders should be issued on printed post cards or Inland letters which may be requisitioned from the Government Press.

(iv) Channel of representation

C.L. No. C-126 dated 26th November, 1970

Officers working under the District Judge should send all their communications to the Court through the District Judge and in the ordinary circumstances no advance copy of a letter or representation need be sent to the Court by them. In extraordinary circumstances an advance copy may be sent by them but to the Registrar and in no case to any Hon'ble Judge of the Court.

(v) Writing of full name by the Judicial Officers

C.L. No. 21/Admn. (A) dated 23rd February, 1979

All the judicial officers should mention their full names invariably in all correspondence, which is made with the Court in future.

The officers may put their signatures in short form but they must mention their full names below their signatures adding, I, II, III etc. if any.

C.L. No. 1/IVf-103 dated 2nd Junuary, 1984 and

C.L. No. 24/IVf-103 dated 29th March, 1984 and

C.L. No. 70/IVf-103 (Admn.-H) dated 24th October, 1986

It encloses a list containing the names and numbers of the judicial officers.

All the judicial officers should write their full names as well as quote their number invariably in all future correspondence with the Court.

2. COMMUNICATIONS BY JUDICIAL OFFICERS

(i) Communications with the High Court

C.L. NO. C-2/DR (S) 95, Dated January 2, 1995

All official communications to the high court by judicial officers or others must be addressed only to the registrar of the high court and to none else and no advance copy thereof is to be sent to the Hon'ble Chief Justice.

This may kindly be brought to the notice of all the judicial officers posted in your Sessions Division.

C.L. No. 40/J.R. (S)/2007; Dated: Alld. September 17, 2007

In continuation to C.L. No. C-2/D.R.(S)/95 dated: Allahabad: January 2, 1995, in the above reference I am directed to say that no correspondence shall be made directly to the Hon'ble the Chief Justice/Hon'ble Administrative Judge by the Judicial Officers. All the official communication must be routed out through the Registrar General/Registrar of the Allahabad High Court or Lucknow Bench as the case may be.

I am, therefore, to request you kindly to circulate it amongst the Judicial Officers of the Judgeship for strict compliance.

(ii) Disposal of applications of the Judicial Officers regarding their service conditions by the office of the Registrar, High Court, Allahabad

C.L. No. 88/VIIIG-32. ADMN.(H) Dated September 26, 1994

I am directed to say that by virtue of an amendment in Chapter III of the Rules of court, 1952, now for each district there is one Hon'ble Inspecting Judge w.e.f. 1.8.1994. On account of this arrangement Hon'ble Inspecting Judges pertaining to district falling under the jurisdiction of Lucknow Bench are sitting at Allahabad and vice-versa.

Therefore, the court has decided that henceforth all communications pertaining to Judicial Officers service conditions shall only be done with by the office of the Registrar, High Court, Allahabad.

I am, therefore, to request you kindly to forward the applications of the Judicial Officers regarding their service conditions only to the office of the Registrar, High Court, Allahabad for disposal.

3. COURIER SYSTEM

C.L. No. 10/Admn. G. dated 11th January, 1977

It encloses a chart showing the names of judgeships and the day fixed for each judgeship. The District Judges should send an employee of their judgeship (Courier) to the office of the Court at Allahabad or Lucknow Bench (mentioned in remarks column) on the fixed day of each month with a big box carrying therein all the daks and papers (excluding urgent ones ready for dispatch to) the High Court up to the day of his departure from the judgeship. On his return from Allahabad or Lucknow, he will carry with him in the same box all the daks and papers, ready for dispatch to his judgeship. The judgeship within the jurisdiction of Lucknow Bench may continue to send their papers to Allahabad, if any, by post.

This system of receipt and transmission of dak has been introduced in the interest of the daks and papers reaching the destination safely, without any chance of their loss or misplacement in the course of transit and to ensure economy.

Name of Judgeship	Day fixed for the dak Messenger to bring dak of the Judgeship to High Court and to Collect dak from the High Court during each month	Remarks
1	2	3
1. Agra	1st Day of the Month	At Allahabad
2. Aligarh	2nd ” ” ” ”	”
3. Allahabad	3rd ” ” ” ”	”
4. Almora	4th ” ” ” ”	”
5. Azamgarh	5th ” ” ” ”	”
6. Baharaich	1st ” ” ” ”	At Lucknow
7. Ballia	6th ” ” ” ”	At Allahabad
8. Banda	7th ” ” ” ”	”
9. Bara Banki	2nd ” ” ” ”	At Lucknow
10. Bareilly	8th ” ” ” ”	At Allahabad
11. Basti	9th ” ” ” ”	”
12. Bijnor	10th ” ” ” ”	”
13. Budaun	11th ” ” ” ”	”
14. Bulandshahr	12th ” ” ” ”	”
15. Dehradun	13th ” ” ” ”	”
16. Deoria	14th ” ” ” ”	”
17. Etah	15th ” ” ” ”	”
18. Etawah	16th ” ” ” ”	”
19. Faizabad	3rd ” ” ” ”	At Lucknow
20. Farrukhabad	17th ” ” ” ”	At Allahabad
21. Fatehpur	18th ” ” ” ”	”
22. Ghazipur	19th ” ” ” ”	”
23. Gonda	4th ” ” ” ”	At Lucknow
24. Gorakhpur	20th ” ” ” ”	At Allahabad
25. Hamirpur	21st ” ” ” ”	”
26. Hardoi	5th ” ” ” ”	At Lucknow
27. Jalaun at Orai	22nd ” ” ” ”	At Allahabad
28. Jaunpur	23rd ” ” ” ”	”
29. Jhansi	24th ” ” ” ”	”
30. Kanpur	25th ” ” ” ”	”
31. Kheri	6th ” ” ” ”	At Lucknow
32. Kumaun at Nainital	26th ” ” ” ”	At Allahabad
33. Lalitpur	27th ” ” ” ”	”
34. Lucknow	7th ” ” ” ”	At Lucknow
35. Mainpuri	28th ” ” ” ”	At Allahabad
36. Mathura	29th ” ” ” ”	”
37. Meerut	30th ” ” ” ”	”
38. Mirzapur	13th ” ” ” ”	”

39.	Moradabad	14th ” ” ” ”	”
40.	Muzaffarnagar	15th ” ” ” ”	”
41.	Pauri	16th ” ” ” ”	”
42.	Pilibhit	17th ” ” ” ”	”
43.	Pratapgarh	8th ” ” ” ”	At Lucknow
44.	Rae Bareli	9th ” ” ” ”	”
45.	Rampur	18th ” ” ” ”	At Allahabad
46.	Shahjahanpur	19th ” ” ” ”	”
47.	Saharanpur	20th ” ” ” ”	”
48.	Sitapur	10th ” ” ” ”	At Lucknow
49.	Sultanpur	11th ” ” ” ”	”
50.	Tehri Garhwal	21st ” ” ” ”	At Allahabad
51.	Unnao	12th ” ” ” ”	At Lucknow
52.	Varanasi	22nd ” ” ” ”	At Allahabad
53.	Gyanpur	23rd ” ” ” ”	”
54.	Ghaziabad	24th ” ” ” ”	”

C.L. No. 14/Admn. (G) dated 25th January, 1977

In case the date noted against each judgeship/station in the chart enclosed to the aforesaid circular letter happens to be Sunday or any other holiday, the dispatch shall be made on the next working day.

C.L. No. 80/Xf-51 dated 14th April, 1977

The monthly and other statements shall continue to be dispatched to the Court by post as before.

C.L. No. 86/Xf-51 dated 9th December, 1985

The District Judges should see that the courier system introduced by the aforesaid Circular Letter is strictly followed and henceforth, the lower court records and other papers are sent to the Court through Courier and not by Rail, to save time, extra expenditure and risk of loss and damage of important records.

C.L. No. 54/Admn. (G) dated 14th March, 1977

The following statements for each class of cases separately should be furnished to the Court a week ahead of the date fixed for the arrival of the courier :-

1. Statement showing cases in which proceedings are stayed.
2. Statement showing cases in which copies of judgments had been received but record and decree were awaited.
3. Quarterly statement of requisitioned records (if due)

A Copy each of the statements should be sent through the courier also who should be directed to take back the statements after due verification by the Court’s office.

C.L. No. 75/VIII-h-39 Admn. (G) dated 4th April, 1977

Timely submission of such statements should be ensured so that they can be verified before the courier arrives, and made over to him on his arrival at the office of the Court.

4. RECEIPT AND DESPATCH

(i) Receipt and dispatch register

C.L. No. 18/VIIIb dated 7th March, 1960

The 'Register of Letters received' in Form no. 62 and the 'Register of Letters issued' in Form no. 63 General Rules (Civil), 1957, should be maintained separately, one set being used for criminal side and the other for civil side.

C.L. No. 7/IXc-28 dated 27th January, 1961

With a view to ensure proper maintenance of the account of service postage stamps, the dispatch register maintained by the Nazir in State (Provincial) Form No. 52 should be checked and signed by the Munsarims once in every month.

(ii) Acknowledgement of money order

G.L. No. 3379/3-0-4(14) dated 12th October, 1916

A Munsif should not sign an acknowledgement on money order until it bears the counter-signatures of the Munsarim and of the Nazir in full and not their initials only.

(iii) Receipt for papers

G.L. No. 45/44-23(9) dated 6th September, 1935 as amended by

G.L. No. 13/44-13 dated 12th February, 1936

The form of receipt given below should be sent with all-important papers sent out of station when it is necessary to obtain a receipt for them. As letters and papers sent to the High Court are usually acknowledged, the form of receipt should be sent to the High Court only on exceptional occasions.

Sl. No.	Description of paper or record	Number of heets	Signature of recipient with date
1	2	3	4

C.L. No. 7/X-f-34 dated 23rd January, 1968

All District Judges and Additional District Judges and Munsifs not at headquarters and Magistrates subordinate to the High Court will issue strict directions to their staff to send the railway receipt by registered post promptly and an intimation thereof also through ordinary post to the Registrar thereby eliminating payment of heavy demurrage by the Court due to non-receipt of railway receipt.

(iv) Envelopes to be properly stamped

G.L. No. 1794 dated 8th July, 1901

Under the rules of the Post Office, communications such as notices, summonses and other papers of a similar nature must be stamped as letters.

All envelopes issuing from the subordinate courts should be properly closed and stamps of the required value affixed on the cover.

(v) Filing of addresses

G.L. No. 22/45-18 dated 6th May, 1929

In order to avoid the delay and inconvenience arising out of the non-delivery of communications sent by registered post containing incorrect name of postal town, the post office has issued a rule providing for the non-acceptance of any article for registration unless the postal town is clearly mentioned on the cover.

The Court also desires that no address for service or notice of change of address furnished by parties for purposes of Orders VII, VIII, XLI, XLVI And LII (see Book of Rules framed by the Court), shall be accepted for registration, or any letter of any description issued for registration, or any letter of any description issued by registered post to an address which does not clearly mention the name of the postal town. In Form no. 17, Appendix H, of the Civil Procedure Code, column 4 is provided for name of post office and all the clerks of civil courts shall be instructed to make certain that this column is properly and legibly filled up by every person who furnishes an address in this form.

(vi) Use of polite language

C.L No. 75/VIII-a-58 dated 19th July, 1951.

District Judges should issue instructions to all offices subordinate to them to use polite language in all correspondence, and where the English form hitherto in vogue is translated into Hindi, to use the correct Hindi form and correct Hindi equivalents of English words.

C.L. No. 10/VIII-a-58 dated 24th February, 1965

In all vernacular forms of notices and summonses etc., the words "TUM" and "TUMHARE" should be changed by the words "AAP" and "AAPKE" and necessary corrections should invariably be made before issuing it.

5. GENERAL

(i) Private Communication

G.L. No. 38/46-30-42 dated 19th November, 1929 and

G.O. No. 243/XVIII-590 dated 25th January, 1926

A telegram from an officer, applying for casual leave is of a private or personal character and should not be sent as a "State" message at government expense. In the event of a reply to a private telegram being required by telegram, a reply paid message at the officers' own expense should be sent.

Such telegram sent at state expense render the sender liable not only to refund of actual cost but also to such disciplinary action as may be considered necessary.

G.L. No. 44-46/23-98 dated 1st December, 1931

Communications by a government servant regarding his leave, pay, transfer, leave, allowances, fund subscriptions and analogous matters are private and not official, and should not, therefore, be sent at public expense.

G.L. No. 30/X-f-19 dated 7th May, 1954

Government stationery and service postage stamps should not be used for sending communications which are wholly private or personal.

(ii) Economy in expenditure over postage and telegrams

C.L. No. 85/X-b-2-(Budget) dated 9th August, 1972

Utmost economy should be affected in expenditure over postage and telegrams and ordinary letters should not be sent in registered cover unless there be any important enclosure.

C.L. No. 176/9-G-19 Admn. (B) dated 13th December, 1976

All the letters or monthly statements etc., except important and confidential, should be sent by ordinary post.

(iii) Classification of criminal correspondence

C.L. No. 19/VIII-a-34 dated 26th March, 1966

The following heads of classification should be strictly adhered to in regard to correspondence relating to criminal matters:-

1. Commitment
2. Appeals and Revisions in Sessions Courts
3. Appeals and Revision in High Court
4. Assessors and Jurors
5. Reports and Returns
6. Application for copies
7. Rules and practice
8. Miscellaneous

(iv) Correspondence with the Supreme Court

C.L. No. 26/VIII-f-7 dated 16th April, 1955

No Sessions Judge, Additional Sessions Judge, Assistant Sessions Judge, or a Magistrate should enter into direct correspondent with the Supreme Court specially in pending cases. If any submission has necessarily to be made to Supreme Court it should always be communicated to the counsel for the State Government in the Supreme Court.

(v) Communications with Accountant General

C.L. No. 33 dated 2nd April, 1957

All communications to the Accountant General, U.P., Allahabad, relating to pay and allowances of gazetted officers should be addressed as under: -

"THE ACCOUNTANT GENERAAL (G.A.D.),
UTTAR PRADESH,
ALLAHABAD."

In case there is a correspondence in response to any communication from the G.A. Section of the said office, the name of the particular gazetted section should also be inserted in the aforesaid address.

C.L. No. 51 dated 6th April, 1971

Correct and complete name of judicial officers should be mentioned in all correspondence with the Accountant General, U.P., Allahabad.

(vi) Correspondence with inspectors of stamps

G.L. No. 27/67-3 dated 13th May, 1935

Correspondence in matters arising out of the inspection notes of Inspector of Stamps regarding deficiency of court-fees should not be carried on by Munsarims. It is the duty of the presiding officer of the court concerned to deal personally with such correspondence, and all letters in this connection should be issued under his signature.

(vii) Correspondence with soldiers

C.L. No. 36/VI-f-50 dated 21st May, 1966

All correspondence in connection with Indian Soldiers (Litigation) Act, 1925 in respect of courts in the State of Uttar Pradesh should be round through the G.O.C.-in-C, Central Command (Vide Government of India, Ministry of Home Affairs, letter no. F. 19/24/65-J-II, dated March 26, 1965).

(viii) Replies to Assembly questions

G.L. No. 51/30-16(2) dated 28th November, 1938, reaffirmed by

C.L. No. 30/X-f-2 dated 13th April, 1949

The attention of District Judges is drawn to G.O.No. F.67/XX-1938, dated April 21, 1938 relating to the procedure about furnishing draft replies to Council and Assembly Questions. In no circumstances whatsoever are replies to be sent direct to Government. All replies must go through the Court.

C.L. No. 9/X-f-2 dated 20th January, 1966

In case of extreme urgency and where the communication regarding replies to Assembly and Council Questions has directly been addressed to the District Judges, they are advised to follow the instruction as laid down in G.O. No. 1046-M/XX-E-18-54, dated December 15, 1954 and send the reply direct to Government under intimation to the Court.

C.L. No. 85/X-f-2 dated 23rd August, 1969

Replies to Parliament questions containing classified information may either be transmitted as a telegram or through post when time permits. The officer responsible for originating a radiogram in reply to a Parliament question must ensure that its transmission over the radio does not constitute breach of security.

(ix) Communication with Pakistan

C.L. No. 33/X f-20 dated 3rd November, 1947

The above-noted letter deals with the procedure to be observed in regard to communications with Pakistan and points out that there shall ordinarily be no communication between subordinate authorities in the two countries except where

specially authorized or in the execution of the ordinary processes of law in accordance with the agreement between the two Governments.

C.E. No. 26/VIII-b-31 dated 17th April, 1964

The Government of India, Ministry of External Affairs letter no PII/54/895157, dated May 19, 1955 lays down that the following requirements should be fulfilled before processes intended for execution in Pakistan are transmitted to the Government of India:-

(i) Letters of Request should be issued under Rule 5 of order XXXVI in the First Schedule to the Code of Civil Procedure, 1908. Commissions should be issued under rule 4 of the said order.

(ii) The Letters of Request should be drawn up in accordance with form no. 8 Appendix H, in the First Schedule to the Code of Civil Procedure, 1908. The writ of commission should be drawn up in accordance with Form no. 7 in the said Appendix.

(iii) The date for the return of the Letter of request, if at all specified, should be sufficiently long. Preferably, no such date should be specified in order to avoid the need for extension of the date by the issuing court from time to time.

(iv) Separate Letters of Request or writs of Commission for examination of witnesses should be drawn up when witnesses reside in different districts.

(v) The Letters of Request or writs of commission should begin with the name of the court issuing it and the title of the suit in which it is issued.

(vi) The full and correct addresses of the witnesses should be given in the Letter of Request or the writ of commission.

(vii) The Letter of Request, interrogatories, cross-interrogatories and other accompanying documents should be drawn up in duplicate and signed and sealed by the Presiding Officer of the court.

(viii) All the documents and enclosures should be signed and sealed by the Presiding Officers of the court.

(ix) The interrogatories and Cross-interrogatories should also be signed by the parties and their counsel.

(x) Letters of Request and other accompanying documents should be sewn together in a parchment paper cover down the left hand side, the ends of the silk, tape or thread with which they are sewn being brought out to the front cover and the ends appropriately sealed.

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CHAPTER - IX

MISCELLANEOUS ADMINISTRATIVE

1. TEMPORARY COURTS

G. L. No. 123/7-H-5, dated 12th January, 1915 as explained by

G. L. No. 2259/-B-190, dated 26th June, 1917

When a particular case is expected to be so heavy that it will seriously dislocate the judicial work in a judgeship, a report should at once be made with the necessary details to the High Court to enable assistance to be sent, if possible.

A District Judge should, before sending up any such proposal, satisfy himself that the apprehension is well founded and that help is really necessary.

G. L. No. 10/67-4, dated 1st May, 1941

When assessing the need for additional help in any form in his district, the District and Sessions Judge or the Additional District Judge in independent charge, should take into account not only the state of criminal work in the district but also the state of civil work. And before recommending the abolition of any temporary court he should satisfy himself that its abolition will not result in undue accumulation of either criminal or civil work. District and Sessions Judges and Additional District Judges in independent charge are responsible for doing all that lies in their power to keep the criminal and civil work in their districts under reasonable control.

Where a temporary court has been established in a district, the request for the renewal of the term of such temporary court should reach the High Court at least two weeks before the temporary court is due to terminate. Every proposal for the extension of the term of such court or for its termination should be accompanied by figures showing the pending work in the judgeship.

G. L. No. 17/B-1, dated 17th March, 1948

The following instructions should be carefully observed when any proposal for the extension of the term of an additional court is forwarded to the Court:

(1) Figures should be supplied not only of the number of cases disposed of after full trial by the additional court but also by other courts of the same status during the last sanctioned term of the additional court (or so much of the term as has elapsed at the time of making the proposal).

(2) Number of days on which the presiding officer of such courts actually worked during each month or part of the month.

(3) Explanation, if any, for insufficient out turn.

G. L. No. 18, dated 17th March, 1958

While applying for extension of the term of a temporary court of Additional District Judge, the District Judge should not omit to mention particularly the number of

cases that would be left part-heard by the presiding officers of such court if the court were to be abolished on the date on which the sanctioned term expires.

The letter recommending the extension of the term of such court should also mention whether there is justification for extending the term of the temporary court by reason only of undisposed or part-heard cases. The letter should contain as much information as possible about the necessity of extending the term of the temporary court.

The presiding officers of such court should, so far as practicable, arrange their work in such a manner, that no part heard cases, specially big ones in which the major part of the hearing has been concluded, remain undiposed of by the time the sanctioned term expires. This has to be particularly borne in mind when the work is light.

C. L. No. 28, dated 12th March, 1969

District Judges should see that the quarterly statements showing the institution, disposal, pendency, and the person-days required for the disposal of pending cases are furnished in respect of each temporary court functioning in the Judgeship.

C. L. No. 12-B, dated 18th January, 1952

All District Judges should submit a report to the Court by the end of October each year, whether, so far as can be foreseen, they are likely to need any additional help in the shape of Additional District & Sessions Judge during the financial year following the year under report. If no help is required the court should be so informed.

In case additional help is needed a rough estimate of the details regarding salaries, establishment charges and contingencies including rent for court building, where necessary, should be given.

G. L. No. 3827-B-1-49, dated 26th April, 1949 as modified by

C. L. No. 15/B-4-60, dated 23rd February, 1960

All District Judges, while proposing creation of temporary courts, should state whether or not the court building is electrified. Where the court building is electrified but fans are required to be taken on hire the amount of such hire charges should also be stated.

The contingent grants for temporary courts of Additional District Judges, Civil Judges, and Munsifs are to be at the following rates, namely:

1. Rs. 25 per mensem for court fitted with electric fans,
2. Rs. 60 for mensem for courts not fitted with electric fans and where either pankha pullers are employed or electric fans are taken on hire for the period 16th April to 15th October, and at Rs. 25 per mensem for the rest of the year.

C. L. No. 115, dated 24th December, 1957

While forwarding proposal for the creation of the temporary court of Additional District Judge, necessary requirements of typewriters, furniture's, accommodation, etc., for the court should also be furnished to the High Court for transmission to Government.

C. L. No. 102, dated 5th August, 1971

District Judges should ensure that proposals for extension of the term of temporary courts should reach the Court three months in advance of the date of expiry of their term positively with fully justification.

C.L.No.27/JR(I),Dated: August 3, 2002

In continuation of other earlier Court's circular Letter No. 24/JR(I) dated 25.7.2001, I am directed to say that the court has been pleased to order that point NO.(i)&(ii) of the said Circular Letter be treated as withdrawn. Now, not only the postings hereinafter but also the earlier postings and appointments made to the Fast Track court by promotions shall be against the court's sanctioned by the government for the purpose.

I am, therefore to say that the regular H.J.S. officers who are posted in the fast Track courts be transferred/posted in the regular courts and the officers promoted against fast Track courts be transferred/posted in the Fast Track Courts.

(i) Monthly statement of pendency of disposal in Fast Track Courts in your District.

C.L. No. 17 /FTC (Monitoring Cell) Allahabad; Dated: 4th May, 2006

In super session of earlier Court's Letter No. 11389 dated: 22.08.03. I am directed to request you to submit consolidated statement of all Fast Track Courts in prescribed proforma on monthly basis instead of fortnightly basis. The same should be sent to this court by means of Fax/Special messenger latest by 5th day of every succeeding month.

Enclosure: Prescribed proforma.

PROFORMA

Monthly Statement of Pendency, Institution and Disposal of cases by Fast Track Courts in District for the period….

Sl. No.	Name of presiding Officers of Fast Track Courts	Fast Track Court No.	Total Number of Sessions Trial pending in fast Track Courts on First day of month	Number of Sessions Trials transferred to Fast Track Courts during the month	Total number of Sessions Trials disposed of by Fast Track Courts during month	Closing Balance at the end of the month	Reasons, if any where 14 Sessions Trials have not been disposed of during the month

Prepared by Checked By **District & Sessions Judge**
(Name & Designation of official) (Name & designation of Official)
Date…….

(ii) Regarding functioning of Human rights courts.

C.L.No.18/ 2006/ Admin.(A-3)/Dated: 10th May, 2006

I have been directed to say that after consideration of the matter regarding functioning of Human Rights courts, the court has been pleased to observe that the functioning of the Human Rights Courts will be treated from the date on which

Notification has been published by the State Government, Specifying the Court of Human Rights under section 30 of the Protecting of Human Rights Act, 1993, I.e. 25.9.1995 and the special court/ designated court cannot take cognizance directly and it can take cognizance only after the cases has been committed to the court of sessions.

Necessary steps in the matter be taken accordingly.

2. NORMS FIXED BY THE COURT IN THE MATTER OF ESTABLISHMENT OF NEW COURTS AT NEW PLACES

C.L. No.C-12/DR(S), dated 28 February, 1995

In the matter of setting up of new courts the Hon'ble Chief Justice and Hon'ble Judges have been pleased to decide, as a matter of policy, that the setting up of a court at a new place of posting shall not be considered unless:

(a) The work load justifies the setting up of at least two courts;

(b) Government owned requisite accommodation as per norms laid down by the High Court, including chambers for lawyers, is made available for the setting up of at least one court;

(c) Government residential accommodation for Judicial Officers as also employees of the court is made available.

The above norms are being communicated for information and necessary action. Recommendations for establishment of new courts be made only if the above-referred norms are satisfied.

(i) Hearing of cases pending in Varanasi Judgeship relating to the cases of Jurisdiction of new Judgeship Bhadohi at Gyanpur.

C.L.No.42/1D/Admin.A-3, Dated: 25th September, 1997

I am directed to say that the District Judge, Varanasi has made a request to the court for obtaining the orders/directions of the court in the matter of hearing of case pending in Varanasi Judgeship relating to the cases of jurisdiction of new Judgeship-Bhadohi at Gyanpur and on consideration of the matter the court has been pleased to order that at the event of bifurcation of the District/ Judgeship on account of creation of new Judgeships the case, in which the cognizance has already been taken by the existing courts, will not be transferred to the newly created Judgeship and the existing-courts would continue to hear the case for which the cognizance had already been taken by them.

I am, therefore, to request you that the order of the court, as aforesaid be complied with if the situation so arises.

(ii) Establishment of debts Recovery Tribunal at Jabalpur (M.P.)

C.L.No.49/ Admin dated 9th September, 1998

Government of India (Department of economic Affairs) (Baking Division) vide Notification No.GSR/181 (E) dated April 7 1998 published in THE GAZETTE OF INDIA EXTRA ORDINARY under part II Section 3(i) whereby Debts Recovery Tribunal has been established to exercise Jurisdiction within the area of the State of

Madhya Paradesh and Utter Paradesh, under Section 3 of the recovery of Debts Dues of Bank and financial Institution Act, 1993 (Act 51 of 1993). As per the provisions of Section 1 (4) read with Sec. 17 Act ibid, the Dues Recovery tribunal Jabalpur from the appointed date (i.e.7-4-98) has been empowered to exercise jurisdiction powers and authority to entertain and decide the applications/suits from the Banks and Financial Institutions for recovery of debt dues to such Banks and Financial Institutions where the amount of debts due to the Bank/Financial Institution is Rs. 10 laces and above. Further section 18 of the Act envisages that from the appointed date no court or other authority shall or be entitled to exercise any jurisdiction, power or authority (excepting the Supreme Court High Court exercising Jurisdiction under Article226 and 227 of the constitution) in relating to the matter.

You are therefore required to transfer all the applications/suits filed by Bank and Financial Institutions for recovery of debts due to Bank and Financial Institution of the valuation of Rs. 10 laces and above to the Debts recovery Tribunal Jabalpur (M.P.).

(iii) Extension of the term of temporary 04 Additional Special Courts/Posts of Special Judges, Anti Corruption of CBI, at Lucknow and 02 Additional Special Courts/Posts of Special Judges, Anti Corruption of CBI, Ghaziabad.

No. 1770/Main-B/Admin.(A-3) dated 29.01.2011

I have been directed to say that vide Government's Order No. 1532/VII-Nyay-2-2010-167-G/2009, dated 26.10.2010, the Government have been created the term of temporary 04 Additional Special Courts/Posts of Special Judges, Anti Corruption, at Lucknow and 02 Additional Special Courts/Posts of Special Judges, Anti Corruption, Ghaziabad alongwith necessary staff for trying the cases investigated by CBI in the State of Uttar Pradesh.

The term of aforesaid temporary Special Courts/Posts along with staff have been extended up to 28.02.2011 vide the aforesaid Government Order No. 1532/VII-Nyay-2-2010-167G/2009, dated 26.10.2010.

It is necessary in the public interest to extend the term of aforesaid temporary Special Courts/Posts alongwith staff in the State of Uttar Pradesh, for a further period of one year more w.e.f. 1.3.2011 to 29.02.2012 with usual contingent grants, etc.

I am, therefore, to request you kindly to move the Government for obtaining necessary orders regarding extension of the term of the above mentioned temporary 04 Additional Special Courts/posts of Special Judges, Anti Corruption of CBI at Lucknow 02 Additional Special Courts/Posts of Anti Corruption of CBI, at Ghaziabad for one year more i.e. w.e.f. 1.3.2011 to 29.02.2012 alongwith necessary staff with usual contingent grants, etc. and orders so obtained may kindly be communicated to the Court, at the earliest.

(iv) Extension of the term of the temporary Courts/Posts of Additional District and Sessions Judge at Bareilly, Meerut, Lucknow, Varanasi & Gorakhpur for trying the pending cases of Vigilance Bureau at Commissionerate level under Prevention of Corruption Act, 1988

No. 1784/Main-B/Admin.(A-3) dated 29.01.2011

I have been directed to say that by the Government's Order No. 3246/VII-Nyaya-2-2000-332(G)/91, dated 24.02.1995, the above mentioned five courts/posts of Additional District and Sessions Judges, one in each district i.e. Bareilly, Meerut, Lucknow, Varanasi & Gorakhpur alongwith staff have been created for trial of cases in regard to the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) instituted by the Uttar Pradesh Vigilance establishment constituted under the Uttar Pradesh Vigilance establishment Act, 1965 (U.P. Act No. 7 of 1965), Anti Corruption Organization in the criminal investigation Department of Uttar Pradesh and Vigilance Cell of Uttar Pradesh State Electricity Board as Special Judge.

The term of aforesaid temporary Special Courts/posts of Additional District & Sessions Judges alongwith staff was lastly extended up to 28.02.2010 vide Government letter no. 3919/VII-Nyaya-2-2008-332(G)/91TC; dated 30.03.2009.

It is to inform you that the extension of the term of temporary Special Court of Additional District and Sessions Judges, one in each district i.e. Bareilly, Meerut, Lucknow, Varanasi & Gorakhpur alongwith staff for the period from 1.3.2010 to 28.02.2011, as desired vide Court's letter no. 14805/Main-B/Admin.(A-3), dated 6.11.2009 (copy enclosed for ready reference) and its subsequent reminder letters dated 22.2.2010 & 22.3.2010, has not been received in the office of the Court, as yet.

It is therefore, necessary in the public interest to extend the term of temporary Special Courts/posts of Additional District and Sessions Judges, one in each district i.e. Bareilly, Meerut, Lucknow, Varanasi & Gorakhpur alongwith staff for a further period of two years w.e.f. 1.3.2010 to 29.02.2012 with usual contingent grants, etc.

I am, therefore, to request you kindly to move the Government for obtaining necessary orders for extension of the term of above mentioned temporary Special Courts/Posts of Additional District and Sessions Judges, one in each district i.e. Bareilly, Meerut, Lucknow, Varanasi & Gorakhpur alongwith the necessary staff with usual contingent grants, etc. From 1.3.2010 to 29.02.2012. The orders so obtained in the above mater may kindly be communicated to the Court, at the earliest.

3. CLOSING OF COURTS

Local festivals

C. L. No. 68/Xe-4, dated 26th July, 1980

The principle of uniformity in the observance of local holidays should be observed in the Civil, Criminal and Revenue Courts. The holidays on account of local festivals shall be determined and declared by the District Judge and the District Magistrate of the district in consultation. The Subordinate Civil Courts shall be closed only if the Revenue Courts are closed on account of any local festival.

No reference to the High Court in this connection is necessary.

During an epidemic

G. L. No. 946, dated 1st March, 1930, 75-23 of 1930

It should be clearly understood that the Subordinate Courts cannot be closed without the permission of the Court. When the District Medical Officer of Health advises the closing of courts during an epidemic, the High Court should be informed by letter or telegram, and orders obtained before the Courts are closed.

On a death

C. L. No. 10/IX-g-11, dated 29th January, 1973

The District Judges may close the courts only for half a day and only in the following circumstances:

1. When a sitting or retired Chief Justice or Judge of the Supreme Court or a sitting or retired Chief Justice or a Judge of the Court or a sitting or retired judicial officer or a senior or prominent member of the Bar dies, and
2. When the death, funeral, or cremation of such person takes place in the district.

If however, the death or cremation or funeral of such a person has taken place early or in a different district, the court should not be closed at all.

C. L. No. 62/IX-g-11, dated 20th May, 1970

In the event of death of an official, the courts should not be closed even for half a day without prior approval of the Court but such members of the staff who may like to attend the funeral may be permitted to leave office early.

During curfew

G. L. No. 30/IX-g-22-1, (21) dated 11th October, 1947

General Administration Department notification No. U.O.152/III, dated the 25th April, 1947, declares that the day for which curfew for all twenty four hours is imposed by order of the District Magistrate shall be public holidays for all courts and offices situated within the areas over which such order extends. Subordinate Civil Courts should also follow this direction. District Judges are, however, authorized to exercise their discretion and close the courts on account of the imposition of curfew even in cases not strictly covered by the notification when court hours fall within the curfew hours although curfew is not imposed for all twenty four hours or is lifted for an hour or two during twenty four hours.

Owing to accidental or unforeseen causes

G. L. No. 11, dated 6th February, 1948 and

C. L. No. 34/XC-26, dated 26th April, 1949

All civil courts in the State shall remain closed on all such days as may, for an accidental or unforeseen reason, be declared by the State Government at short notice to the public holidays for the entire State under the Negotiable Instruments Act 1881 (Act XXVI of 1881), when however, any day is declared as a public holiday not for the entire State but for particular areas only, civil courts in those areas alone shall be closed and not elsewhere.

These orders do not, however, apply to cases where the Government declares a certain day to be a public holiday otherwise than for an accidental or unforeseen reason, e.g. on the occasion of a district exhibition or to supply an omission in their general list of holidays. In such cases the holidays declared by the State Government should be ignored.

Demise of high dignitaries and eminent personalities

C. L. No. 117/X-c-27, dated 23rd September, 1971

Subordinate Courts shall be closed without reference to the court, on demise of high dignitaries and eminent personalities, only when the State Government through All India Radio declares the day in question to be a public holiday under the Negotiable Instrument Act and the flag to be hoisted at half-mast. Even if the Court is not closed the flag shall fly at half-mast as declared by the Government.

(i) Closure of court on occurrence of untoward incident

C.L.No. 125/Admn. (G) dated 9th December , 1994

The Hon'ble Chief Justice and Judge have been pleased to authorize you (District Judges) to use your discretion in the matter of the closure of the courts on the occurrence of any serious untoward incident, which in your opinion render such closure imperative. Such closure of courts shall, however to immediately intimated to this Court.

The Circular Letter is being issued in super session of Circular Letter No. 113/Admn. (G) Of November 23, 1994.

(ii) Concerning closure of courts in the event of happening of some serious untoward incident

C.L. No. 113/Admn. 'G' dated 23rd November, 1994.

I am directed to say that the Court has been pleased to authorize you, at your discretion, to close the court for the day in the event of some serious untoward incident and happening.

I am further to say that it is incumbent upon you to inform the Court of the happening at the earliest possible opportunity.

(iii) Closure of courts and offices on sad demise of an employee of civil court

C.L. No. 37/98 Dated 20th August, 1998

On the aforesaid subject, the Hon'ble Court has taken a decision that the District Judges should exercise their discretion on the occasion of sad demise of an employee of the civil court as the situation warrants. The District Judge can permit few members of the staff to attend the funeral of the employee even during court hours.

I am, therefore, directed to communicate you the aforesaid direction of the Court for compliance.

(iv) Suspension of Judicial work in the District Courts in the event of death/funeral.

C.L. No. 10/Ixg-11; dated; Alld. January 29, 1973

In partial modification of the Court's Circular letter No. 62/IXg-11; dated May 20, 1970, containing directions regarding closure of subordinate courts in the event of

death/funeral of a Gazetted Officer, Advocate or other prominent person in the district and an official of such courts, I am directed to say that henceforth the District Judges may close the courts under their administrative control, only for half a day and only in the following circumstances:-

(i) When a sitting or retired Chief Justice or Judge of the Supreme Court or sitting or retired Chief Justice or Judge of the Court or a sitting or retired Judicial Officer or a senior or prominent member of the Bar dies; and

(ii) When the death or funeral or cremation of such person takes place in the district.

I am to add that if the death or cremation or funeral of such a person has taken place earlier or in a different district, the courts shall not be closed at all.

C.L. No. 27/Admin 'G-I' Section Dated: Allahabad: 12.12.2008

Upon consideration of the matter of the loss of valuable time on account of the closure of Courts and offices in the event of death/funeral of a Hon'ble Chief Justice or Hon'ble Judge of the Supreme Court sitting or retired, a Hon'ble Chief Justice or Hon'ble Judge of the High Court sitting or retired, an Officer of the Subordinate Court sitting or retired or a senior or prominent member of the Bar, the Hon'ble Court has resolved that instead of closing the Courts on such happening, the judicial work should only be suspended after 3.30 p.m. on the concerned date and the offices should continue to work throughout the day.

Therefore, in supersession of the Circular Letter (C.L. No. 10/IXg-11 dated 29.1.1973), I am directed to say that in the event of death/funeral of a person of any of the above enumerated categories, only the judicial work shall be suspended after 3.30 p.m. on the concerned date while the offices shall continue to work till the regular hours.

I am to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers under your administrative control for information and strict compliance.

4. SURPRISE VISIT

C. L. No. 47/VIIId-20-Admn. (G)(B), dated 21st July, 1983

District Judges should see that officers and officials working under them attend the office and court in time strictly in accordance with rule 10 of General Rules (Civil).

C. L. No. 62/VIII-b-4, dated 7th June, 1951 as modified by

C. L. No. 8/VIII-b-4, dated 11th January, 1952

All District Judges and Additional District Judges not at the headquarters should themselves make surprise rounds in their Judgeship/ district at least once a month between 10.30 and 11 a.m. so as to ensure the observance of punctuality in courts and offices. This duty should in no case be delegated to the Munsarim, a peon or any other subordinate.

C. L. No. 24/VIII-b-4, dated 9th February, 1971

For strict observance of punctuality in court and offices, the District Judges should make surprise visits now and then both at 10.30 a.m. and 2 p.m.

C. L. No. 110/H-1, dated 6th November, 1951

This should enable them, among other things, to see whether work in the court and offices commences at the proper time; whether any outsiders are allowed access inside the office; whether any surreptitious inspection of records are allowed; whether the case diaries maintained by the clerks are properly exhibited and posted up to date; whether the court building is kept generally clean; and whether fire precautions are satisfactorily maintained.

C. L. No. 14/VIII-b-12, dated 19th January, 1952

District Judges should examine the case diaries of all courts from time to time in their judgeship and see that they are properly maintained.

District Judges and Chief Judicial Magistrates should take more interest in controlling and guiding the subordinate officers of their judgeship for proper administration of justice in the State.

To check, watch and ward arrangements

C. L. No. 91/IX-g-17, dated 21st August, 1952

District Judges should check, watch and ward arrangements of all the courts and offices of their Judgeship at least once every half year and see if any change is necessary in the interest of security, direct the Nazirs of all courts in their judgeship to check the watch and ward arrangements occasionally and to see that the chaukidars and the police sentries (where they are posted) are alert in the performance of their duty and report to the Court whenever the court building is left without any guard. Normally, whenever a Chaukidar is not available, it should be possible to depute some peons or process servers for the purpose.

C. L. No. 12/31-B, dated 9th February, 1968 and

C. L. No. 71/19-BB, dated 7th May, 1974

To avoid loss of government property, including typewriters, by theft the following preventive measures may be taken:-

1. The Nazir or his assistant should particularly see, with the Chaukidars, before leaving the office that all the rooms are properly locked.
2. The Chaukidars should also lock all the gates where necessary at the appointed hour. They should not be allowed anybody to enter the compound after the gates have been closed except under proper orders.
3. The Chaukidars should keep a strict watch and should not leave the compound until far rashes come in the morning and they have shown them that all the doors are closed and the locks are intact.

4. The Munsarims of each court or the official leaving a particular office room in the last shall see that all the almirhas are locked and articles within the room are at their places.

5. On Sundays and other holidays no office room should be opened without previous sanction obtained from the officer-in-charge Nazarat or the District Judge.

6. The antecedents of Chaukidars should also be got verified and only such persons should be appointed to work as Chaukidars who are above board and whose antecedents are clean.

Strict compliance of the instructions with regard to the question of enforcing pecuniary liability and other forms of disciplinary action contained in Government's Orders incorporated in Appendix XIX-B of the Financial Hand Book, Vol. V, Part I be made.

C. L. No. 152/20-BB, dated 15th December, 1975

To ensure safety of typewriters the following steps should be taken:-

(i) A centrally situated room or safe accommodation available in Nazarat may be had for keeping all typewriters.

(ii) All officials incharge of typewriters should deposit their typewriters every evening at the allotted place.

(iii) Nazir or Assistant Nazir to maintain a register to note receipt of typewriters, name of the official from whom received and the name of the official to whom given next morning.

(iv) Nazir to note every day the number of typewriters received in the evening and the number of typewriters issued in the morning.

(v) Nazir to see that the typewriters are securely placed in the allotted room and should himself lock the door and secure the windows.

(vi) After locking the room the Nazir should call the Chaukidar and show him that the door and the windows have been properly secured.

(vii) Services of Class IV employees in addition to the Chaukidars to be utilized turn wise for keeping watch over the room where typewriters are kept.

(viii) District Judge to keep a page typed on each typewriter for comparison and checking of anonymous complaints.

C. L. No. 12/31-BB, dated 9th February, 1968 and

C. L. No. 71/19-BB, dated 7th May, 1974

To obviate chances of theft of Government Property particularly typewriters, all necessary precautions as mentioned in the C. L. Dated, February 9, 1968 and appendices XIX-B and XIX-C of F.H.B., Volume V, Part I may be taken and those found careless of playing fraud should be severely dealt with.

To check up working of the Copying Department

C. L. No. 70/X-a-14, dated 24th July, 1953

The officer-in-charge of the Copying Department should, from time to time, make surprise visits to the Copying Department and inspect the notice in Form No. 30, compare it with the entries in register in Form No. 31 and check the correctness of these entries from the copy itself, if ready, so that the possibility of any fictitious entry being made be avoided.

C. L. No. 84/V-e-65, dated 6th August, 1952

The officer-in-charge of the Copying Department should carry out occasional checking prescribed under the Court's Circular Letter No. 59/V-e-65, dated 22nd September, 1950, and maintain a regular record of such checking so that suitable action may, in due course, be taken against habitual defaulters.

To check defalcations

C. L. No. 78, dated 21st December, 1962

With a view to check embezzlement of public money by official of the Subordinate Courts, District Judges are required to see that strict compliance of the rules relating to deposit and repayment of money or fine as well as refund of court fee and process fee contained in Chapters XI, XII, XIII and XXIII of General Rules (Civil) and Chapter IX of General Rules (Criminal), 1957* is made by all the officers and officials concerned, that the entries in the various account registers are meticulously scrutinized by all the officers at the time of quarterly, half-yearly and annual inspections, and that adequate security is taken from all the officials, including the sessions clerks, as mentioned in rule 541 of the General Rules (Civil), 1957.

To check use of Hindi

C. E. No. 30/X-e-5, dated 21st March, 1973

All Inspecting officers while making inspection of the offices should mention in their inspection note whether satisfactory progress in the use of Hindi is made or not and instructions issued from time to time are strictly followed or not. They should also mention the percentage of letters etc., issued in English since the last inspection made as also the number of notes written in English and the reason therefore. Non-compliance of instructions without sufficient reasons should be reported to the Court for disciplinary action against the erring officers.

4-A: Decisions to be taken by the District Judge in the routine matters in their respective Judgeship

C.L. No. 5/2010/Admin. 'G-II' Dated 11.02.2010

It has been directed by the Hon'ble Court that all decisions, which do not require approval of the Administrative Judge under any Rule, Circular or instructions, be taken by you.

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* Note : Now 1977 vide Notification No. 504/VB-13, dated 5.11.83

Any deviation in carrying out this direction shall be viewed seriously.

You are, therefore, directed to implement the directions contained in this Circular Letter with immediate effect.

Periodical check-up of materials used in ongoing construction works of the subordinate courts in the districts

No. 10036/Admn.(B-I) dated December 22, 2010

I am directed to say that it has been decided that for effective control over the agencies which have undertaken construction work in various Judgeships, the Zonal Chief Engineers of the Uttar Pradesh Public Works Department have been nominated by this Hon'ble Court who will coordinate with you to exercise effective control and check the quality of work being undertaken by the agencies.

I am further to say that you are requested to fix a meeting with the Zonal Chief Engineer of your Zone at a convenient place in order to be able to thrash out the modalities for checking quality of work.

I am to add that periodical reports after every three months shall be submitted to the Hon'ble Court through the Registrar (Budget) of this Hon'ble Court duly signed by both the authorities attended with information about progress of work.

I am to add that you are further requested to arrange its maiden meeting within 15 days from today in order to be able to work out modalities. Accordingly, I am appending the names of the Zonal Chief Engineers, their phone number/Fax numbers for your kind perusal:

Sl No	Zone	Name of Zonal Chief Engineer	Telephone No.	Fax No.
1.	Agra	Sri Arvind Kumar Bhatia	0562-2227250	0562-2227251
2.	Allahabad	Sri Rakesh Kumar Gupta	0532-2440036	0532-2440036
3.	Azamgarh	Sri Devendra Singh	05462-243903	05462-243794
4.	Bareilly	Sri Ashok Kumar Jain	0581-2510748	0581-2510266
5.	Faizabad	Sri Santosh Kumar	05278-224231	05278-223860
6.	Gorakhpur	Sri Devendra Singh	0551-2334295	0551-2334683
7.	Jhansi	Sri Surendra Kumar	0510-2470441	0510-2470447
8.	Kanpur	Sri Vijay Kumar Srivastava	0512-2304404	0512-2304178
9.	Lucknow	Sri Atar Singh	0522-2235214	0522-2220305
10.	Meerut	Sri Navin Kumar	0121-2647922	0121-2648556
11.	Moradabad	Sri Navin Kumar	0591-2421183	0591-2121183
12.	Varanasi	SriBharat Singh	0542-2502838	0542-2502027

I am, therefore, to request you kindly to fix a meeting with the Zonal Chief Engineer of your Zone at a convenient place within fifteen days in order to be able to thrash out the modalities for checking quality of work.

5. MONTHLY MEETINGS

C. L. No. 129/Admn.(B), dated 8th October, 1975

District Judges should call a meeting of all the presiding officers of civil and criminal courts subordinate to them once each month after 4 p.m. In such meetings problems of subordinate courts as also discovering work load in different courts and redistribution of case work may be taken up for consideration. Discussion may also take place regarding prevention of corruption and solution of any difficulties felt by the litigant public in the working of the courts.

C. L. No. 4, dated 3rd February, 1976

The District Judges should hold a meeting of all officers by the 10th of each month (outside court hours). At such meetings the officers should show him their digest. Matters of interest and law should be discussed. The District Judge should enquire from them as to the compliance of the various suggestions made above.

C. L. No. 86, dated 31st May, 1976

The District Judges should maintain a Minute Book in which the proceedings of all monthly meetings should be recorded and the Minute Book so maintained may be placed before the Hon'ble the Administrative Judge or any other Hon'ble Judge at the time of his inspection.

6. MONITORING CELL MEETINGS

(i) मानीटरिंग सेल की बैठकों में सदस्यों द्वारा भाग लिये जाने की अनिवार्यता।

परिपत्र संख्या 15/चार एफ-93/प्रशासनिक (जी-2) दिनाक 22 मार्च, 1993

उपर्युक्त विषयक शासन के पत्र संख्या 5800/सात-न्याय-2-211जी/92, दिनॉक 2 दिसम्बर, 1992 एवम् पत्र संख्या 6686/सात-न्याय-2-211जी/91, दिनॉक 14 फरवरी, 1993 का अवलोकन करें जो कि आपको सम्बोधित है।

इस सम्बन्ध में आप न्यायालय को यह सूचित करें कि आपके जनपद मे मानीटरिंग सेल की बैठके प्रति मास आयोजित की जा रही है, अथवा नहीं एवम् सम्बन्धित सदस्य स्वयं बैठकों में भाग ले रहे हैं अथवा नहीं, और इन बैठकों में लिये गए निर्णयों का कार्यान्वयन सुनिश्चित किया जा रहा है, अथवा नहीं।

अतः आपसे अनुरोध है कि आप उपरोक्त प्रकरण पर अपनी आख्या एवम् सुधार यदि कोई हो तो न्यायालय को शीघ्रातिशीघ्र भेजने की कृपा करें ताकि विचारोपरान्त शासन को सूचित किया जा सके।

(ii) **Monitoring Cell Meeting-member to attend the meeting Compulsorily**.

C.L.No. 11/ivf-93/Admn. 'G' dated February 18, 1995

In continuation of Court's Circular Letters No. 55/IVf-93/Admn. 'G' dated 4.9.1991 and No. 15/IVf-93/Admn. (G-2) dated 22.3.1993. I am directed to send herewith a copy of Government letter No. 3986/7-Nya-2-64G/94, dated 26.11.1994 with its enclosure on the above subject and to say that meeting of Monitoring Cell shall be held regularly.

(iii) मानीटरिंग सेल की बैठक आयोजित किया जाना।

शासकीय पत्र संख्याः 3986/7-न्याय-2-64जी/94 दिनॉक 26 नवम्बर, 1994

उपर्युक्त विषय पर शासन के संज्ञान में यह तथ्य लाया गया है कि विभिन्न जनपदों में मानीटरिंग सेल की बैठके नियमित नहीं हो रही है। इस संबंध में मुझे यह अनुरोध करने का निर्देश हुआ है कि मा. उच्च न्यायालय द्वारा सभी जनपद न्यायाधीशों को शासनादेश सं.-3982/सात-न्याय-2-211जी/91, दिनॉक 28-12-93 (प्रतिलिपि संलग्न) के संदर्भ में मानीटरिंग सेल की बैठक नियमित रूप से आयोजित कराने हेतु निर्देशित करने की कृपा करें।

अर्द्धशासकीय पत्र संख्या-3982/सात-न्याय-2-211जी/91 दिनॉक 28 दिसम्बर, 1993

आप अवगत है कि प्रदेश में फौजदारी मामलों में त्वरित निस्तारण की दृष्टि से तथा उनके संदर्भ में होने वाले प्रत्याशित विलम्ब के कारणों का विश्लेषण कर उनके निवारण के उपाय खोजने तथा सुझाव एवं संस्तुतियॉ देने के उद्देश्य से राज्य तथा जिला स्तर पर मानीटरिंग सेल/समितियों का गठन जनपद न्यायाधीशों की अध्यक्षता में दिया गया है। इन सेल/समितियों की बैठकें नियमित रूप से आयोजित किये जाने पर शासन द्वारा समय-समय पर बल दिया जाता रहा है। इस सम्बन्ध में कई बार यह भी अपेक्षा की गई कि सेल/समिति की बैठकों में जिलाधिकारी स्वयं भाग लें किन्तु शासन के संज्ञान में यह तथ्य लाया गया है कि अभी भी जिलाधिकारी आदि प्रायः बैठकों में स्वयं उपस्थित नहीं हो पाते जिसके कारण उन उद्देश्यों की पूर्ति नहीं हो पा रही है जिसके लिए मानीटरिंग सेल/समितियों का गठन किया गया है।

2- अतः आपसे अनुरोध है कि आप कृपया मानीटरिंग सेलों/समितियों की बैठकों में स्वयं भाग लेकर फौजदारी मामलों के शीघ्र एवं सामयिक निस्तारण के सम्बन्ध में अपना पूर्ण सहयोग प्रदान करना सुनिश्चित करने का कष्ट करें जिसमें बैठकें नियमित रूप से सम्पन्न हो सकें और उनके द्वारा प्रभावी मानीटरिंग सम्भव हो सके।

C.L.No.62/IVf-93/Admin. (G):Dated: 8 November, 1996.

(iv) Monthly meeting of District monitoring cell.

It has came to the notice of the High Court that the meeting of the Monitoring cell in compliance of the C.L. Nos.55/IV/D-3/-admin (G) dated 4.9.1991, 15/IVf-93/-admin.(G) dated 22.3.93 and 11/IVf-93/Admin.(G)dated 18.2.1995, issued by the Court are not being held in the districts. The Court has taken a serious view of it and has reiterated the District Judges should hold the meetings of the Monitoring-cell regularly every month. The District Judges are directed to send reports every month of the meetings held and the results achieved where of.

I am therefore, to request you to comply with the orders of the Court.

C.L.No. 24/J.R.(I) Dated: July 25,2001

Kindly refer to Court's endorsement No.114/DR (S)/2001 dated 15.5.2001 on the notification making the appointments of the officers against the fast Track Court. In that endorsement some of the guidelines for ensuring the expeditious disposal of the cases and also for keeping these courts certified to the disposal of the sessions triable cases, criminal revisions and criminal appeals were given. It was also made clear in that endorsement that sufficient work should be transferred to these courts including the cases of under trial prisoners who are languishing in jail. Statistics furnished from the district courts reveal that the fast track Court the purpose for which they were established is not being achieved for the reasons (i) non- available of the retired civil court employees, (ii) those retired employees who were employed are not in a position to cope with the work (iii) they are not prepared to own the responsibility of the record and also some other such difficulties were posed.

On consideration of such difficulties Hon'ble court has been pleased to give the following directions:

1. Fast Track court should be manned by the senior experienced Additional Sessions Judge so as fulfill the object for which these courts have been established.

2. Where it is not manned by the senior experienced Additional district Judge, District Judge will make over the case to respective court keeping in view the object of the Fast track court and also to ensure proper administration of justice.

3. Where the retired employees are not available or they are otherwise incapable to perform the duties assigned to them, District Judge may proceed to make ad hoc appointments for specified period and may make internal arrangement by providing experienced personnel to these fast Track Court and these ad hoc appointees may be posted in other courts so as to make these courts more effective and functional.

4. The District Judges should also provide additional hands to fast Track Court from out of the existing strength where numbers of courts are already lying vacant in the district.

5. Necessary infrastructure facilities should be provided to these courts from the existing stock.

(v) To provide information regarding establishment of monitoring committee

C.L.No. 30/ 2001:dated:August 31, 2001

It has come to the notice of the court that in some districts the States Government has established Monitoring committee for looking after the civic amenities.

In this regard, I am directed to request you kindly to furnish the following information to the court:-

1. When and on what grounds the Monitoring committee has been established in your district?
2. Whether it is true that in the year 2001 some complaint made by the corporations of Municipal corporations, chairman of cooperative Bank regarding Monitoring Committee have been received by you?

The above informations may kindly be furnished to the court immediately by FAX.

(vi) Monthly Meeting of the district Monitoring Cell.

C.L.No.34 dated: October 4/2001

It has come into the notice of the Hon'ble court that Monitoring Cell Meeting is not held in the district regularly every month in pursuance of the marginally noted Circular Letters. The importance of the District Monitoring Cell Meeting was discussed in the Joint Meeting of the Divisional commissions and District Magistrates held at Lucknow on 13.3.2001. Thrust was also laid for holding Monitoring cell Meeting regularly and to take up such matters which are helpful in the expeditious disposal of the case, In that regard G.O.

1. C.L.No.55/IVf-93/Admin/'G'dated 4.9.1991.
2. *C.L.No.15/IVf-93/ Admin'G'dated 3.1993*
3. C.L.No.11/IVf-93Admin.'G' dated 18.2.1995

No. 872/VII-Nyay-2/2001-21(G) /91 dated 23.6.2001 (copy enclosed) has also been issued by the state Government.

I am therefore to request you to comply with the orders of the court.

(vii) Monthly Meeting of the District Monitoring cell.

C.L.No.18/ IVf-93:Dated: May 23,2003

The Hon'ble court has issued circular Letter No.55/IVf-93 dated 4.9.1991, No.15/IVf-93, dated 22.3.1993, No.11/IVf-93dated 18.2.1995, No.62/IVf-93,dated 8.11.1996 and No.34/IVf-93,dated 4.10.2001 whereby thrust was given for holing meeting of monitoring cell regularly. But it has come to the notice of the High court that the meetings of Monitoring cell are not being held in the districts regularly.

In this regard, I am directed to say that the district Judge should hold the meeting of the monitoring cell regularly every month and send reports of the meetings held and the results achieved thereof.

I am, therefore, to request you to kindly comply with the aforesaid orders of the court and to hold the meeting of monitoring cell every month send reports thereof to the court.

(viii) For Compliance of the directions contained in certain Cri. Misc Bail Application in regard to taking up the matter in Monitoring Cell Meeting.

C.L.No.42 dated 29 August, 2000

I am desired to convey the observations made by the Hon'ble Court (Hon'ble Mr. Justice P.K.Jain) in regard to the marginally noted criminal Misc Bail Applications:

1. Crl.Misc Bail Application No.10587 of 2000, Baboo Lal Vs. State of U. P.
2. Crl.Misc Bail Application no.10620 of 2000, Fultan Vs. State of U. P.
3. Crl.Misc Bail Application No.10685 of 2000,Karpendra alias Kaka Vs. State.
4. Crl.Misc Bail Application No.10696 of 2000, Ram Roop Ulla Vs. State of U. P.
5. Crl.Misc Bail Application No.8083 of 2000, Nihal Ahmad & another Vs. State of U. P.
6. Crl.Misc Bail Application No. 7786 of 2000 Deshraj Vs. State of U. P.

"This is yet another case where the Investigating officer has failed to perform the duty and had adopted short-cut method to work out the same. The first information Report does not name any accused. However as the statements under Section 161 Cr. PC the witness are said to have named the assailants and the miscreants. It was duty of Investigation Officer to have put the suspects to test identification in order to find out whether the statements of the witnesses were credible or not.

I have observed earlier also that this has become a tendency amongst the Investigation officers to adopt short-cut methods and they spoil criminal cases.

Need deliberations and discussion in monitoring Cell Meeting with Senior Superintendent of police and District Magistrate.

I am, therefore to request you kindly to comply the order passed by the court in the aforesaid Criminal Misc Bail Applications.

6-A. Information regarding Constitution of Infrastructure Cell

No. 560/PS(RG) dated 12 January, 2011

An Infrastructure Cell, in compliance of the order passed by the HC/Supreme Court in Writ Petition No. 1022/1989 (All India Judges Association and Others v. Union of India), has been established and Sri P.K. Srivastava and Sri Shamshad Ahmad have been posted as Officers on Special Duty of the aforesaid Cell. The Fax Number of the aforesaid Cell is 0532-2622956 and the E-mail is infrastructure@allahabadhighcourt.

You are, therefore, requested to make all correspondence with regard infrastructure of your district on ibid number/E-mail.

7. EXTRA CLERK

C. L. No. 102/IVb-11, dated 9th June, 1976

The courts of regular Magistrates and Chief Judicial Magistrates handling files exceeding 1000 in the aggregate may be provided an extra clerk.

8. REGISTERS TO BE MAINTAINED BY SUBORDINATE COURTS

C. L. No. 45, dated 2nd April, 1952

A list of registers to be maintained in the Subordinate Civil Courts is appended to the letter noted in the bloc. All the registers should be maintained and posted up to date. District Judges should also exercise their discretion and make such variations in the distribution or responsibility for the maintenance of these registers as the local conditions may require.

C. L. No. 16/V-e-81, dated 23rd January, 1976

Maintenance of registers in Form nos. 36, 38 and 41 of the General Rules (Civil), 1957, Volume II, by the third clerk of the Administrative Department of the District Judge in not necessary where all the courts are at the headquarters of the Judgeship. In case of outlying courts of Munsifs Civil Judges and Additional District Judges these registers shall continue to be maintained for consolidation of accounts of the judgeship as a whole and for facility of correspondence by the District Judge with the Accountant General.

C. L. No. 2/VIII-b-13, dated 10th January, 1972

Court's direction regarding the making of a note by all the presiding officers on the Daily Sitting Register about the time wasted on account of witnesses not turning up as contained in C.L. No. 121, dated September 25, 1971 should be strictly followed.

C. L. No. 51/VIII-120, dated 6th May, 1969

A register of preliminary decrees has to be maintained in manuscript with appropriate heading and columns specified below:

(1) Serial number
(2) Case number with nature and year

(3) Name of parties
(4) Date of preliminary decree
(5) Date of application for final decree
(6) Date of final decree with result, i.e., whether the final decree was passed after contest or without contest.
(7) Date of the deposit of record into the Record Room
(8) Remarks

C. L. No. 16/Ve-5/Admn.D, dated 18th March, 1982

As soon as the notice of a writ petition is received the District Judge should intimate to the court and the Government whether it would be proper to contest the petition or not and if not the reasons thereof together with the copy of the petition as early as possible.

C. L. No. 64/IV-h-36, dated 24th March, 1977

A Siyaha Register shall henceforth be maintained for all Criminal Courts.

C. L. No. 65/VIIIa-66/2, dated 24th September, 1984

All the District Judges should ensure that siyaha register is properly maintained in all the criminal courts working under their administrative control and that orders are passed on the applications etc. only when the stamps affixed on such applications are cancelled and punched. The Court will take a serious view of the matter, if any deviation from the above instructions is brought to the notice of the Court.

C. L. No. 25/VIIIb-236, dated 14th February, 1977

Registers in the proforma prescribed under Court's G. L. No. 2/IIIb-236, dated November 17, 1959 for making entries of the revisions filed under Provincial Small Cause Courts Act, shall also be utilized for making entries of the revisions filed under Section 115 C.P.C. In order to distinguish the two types of revisions the words 'S.C.C.' may be shown in the Remarks Column of the said register, against the revision filed under Provincial Small Cause Courts Act.

Receipt Register

C. L. No. 69, dated 12th November, 1960

The Munsarim and Nazir of every subordinate court shall maintain a register for entering receipts other than those relating to administrative correspondence in the proforma given below:

Receipt register for entering receipts other than those relating to administrative correspondence

Date of Receipt	From whom received	Particulars of the case		Description of paper	To whom delivered	Remarks
		Number of Case	Names of parties			
1	2	3	4	5	6	7

9. REGISTER OF ARTICLE OF VALUE

C. L. No. 87/VIII-b-154, dated 1st May, 1974

Entries of articles of value deposited in all cases, (except those for which provisions have specially been made) such as cash, jewelleries, government securities or other securities for money, debts, shares in corporation attached or unattached and Pass Book in succession certificate cases kept in the custody of Nazir should invariably be made in the Register in Form No. 57-A. For distinguishing attached or unattached properties the word "unattached" should be written in red ink in the remarks column. Details of any other articles, considered necessary, should also be written in the remarks column.

10. DISPLAY OF COURT FEE RATES

C. L. No. 23/VIII-b-135, dated 13th February, 1976

For facility of litigant's schedules of process fee, fee for copies and fee payable for verification of affidavits should be exhibited on notice boards at prominent places in various courts.

C. L. No. 8/Budget, dated 10th January, 1977

In case wooden boards have not yet been installed, a portion of wall may only be painted white and on it rates of process-fee etc. be painted in black.

In all outlying Munsif-Magistrate Courts, the revised procedure be followed.

C. L. No. 183/F, dated 18th November, 1976

It encloses a list of various types of fees payable in civil and criminal litigation which has to be displayed at a prominent and conspicuous place in the civil court building on a notice board for the benefit of the litigant public. The various items and rates thereof have to be displayed in Hindi letters and figures of one inch in size. The notice board may be made of wood or any other material painted in black, the letters and figures being painted in white. The size of the board may be 4 ft. by 6 ft. and the various items maybe painted in two rows. There are about 100 items. The first 50 items may be painted on the first half side and the remaining on the next half side all serially numbered. The items which may be considered unnecessary for display may be omitted and other items considered necessary may be added to the list. If considered proper and feasible two boards be prepared. The warning in still bolder letters may be translated and painted in Hindi at the end.

Rate of Court fee, process fee, copying fee, etc. chargeable in civil and criminal cases.

1.	Court Fee	Rate of fee chargeable
(i)	Ad valorem fees (Schedule I of Court Fees Act) -	
	(a) on plaint, memo. of appeal and applications for review of judgments	
	(b) on copies and translations	
	(c) on certificates, probates and letters of administration	

(ii) Fixed fees (Schedule II of Court Fees Act)-
  (a) on plaint and memo. of appeal
  (b) on other documents

(iii) On application for-
  (a) Refund and repayments
  (b) Inspection of registers
  (c) On requisition of record
  (d) On tenders for payment of money
  (e) Vakalatnama

2. Miscellaneous Fees-
  (a) Inspection fee -
    (i) Urgent
    (ii) Ordinary
    (iii) For inspection during hearing of cases
  (b) For drummer's service
  (c) For verification of affidavits
  (d) Payable to commissioners
  (e) For search and enquiry

3. For certified copies

		Ordinary fee	Urgent fee
A.	In courts other than the court of small causes		
(i)	Of Judgment		
(ii)	Of Deposition or order sheets		
(iii)	Of decrees		
(iv)	Of any other paper except book, register, etc.		
B.	In courts of small causes	Ordinary fee	Urgent fee
(i)	Judgment		
(ii)	Deposition or order sheets		
(iii)	Decrees		
(iv)	Any other paper except book, register, etc.		

NOTE: The above is the scale of charges when the certified copy does not contain more than 1500 words. When the copy contains more than 1500 words an extra fee sum of 25 paise for ordinary and 50 paise for urgent copy shall be charged for every subsequent 300 words or less.

C. For books, registers, etc.

4. Process Fee-
  (i) In criminal Cases-
    (a) Warrant of arrest
    (b) Summons
    (c) Proclamation for absconding persons
    (d) Warrant of attachment
      (i) In respect of warrant
      (ii) In respect of officers placed in charge of

property

(e) Application for recovery of compensation- in respect of warrant for levy of fees, etc.

(f) Cases in which no fee is chargeable
  (a)
  (b)
  (c) etc.

(g) On processes sent for execution in foreign countries

(ii)	In civil cases-	When the suit property is valued more than Rs. 2000/-	When the value of the suit property does not exceed Rs. 2000/-	Where the value of the property does not exceed Rs. 50/-

(i) Summons to defendants or respondents when not more than four.

(ii) Summons to defendants etc. when more than four in number

(iii) Summons to witnesses when not more than four in number

(iv) Summons to witnesses when more than four in number

(v) Order of attachment

(vi) In respect of services of the officer making the attachment
  (a) Where the property is in one village or town
  (b) Where the property is in more than one village or town.

(vii) Warrant of arrest in respect of each persons.

(viii) In respect of each peon in whose custody a judgment – debtor is left.

(ix) Every order for sale of property-
  (a) In respect of the order for sale,
  (b) By way of poundage of full amount of purchase money.
  (i) Where the sale is affected through a collector,
  (ii) When the sale is conducted by the court where the property pays revenue,
  (iii) When the sale is conducted by the court where the property pays no revenue

(x) Notice, proclamation, injunction or order not specified above
(xi) For emergent processes.
(xii) Cases in which no process fee is chargeable
(a)
(b)
(c) etc.
(xiii) Process fee for commissions
(xiv) Poundage
(a) When the execution sale is held either by the Collector or the civil court Amin or any other person appointed by the Court
(b) When the execution sale is conducted by the Collector
(c) Mode of paying poundage
(xv) Amins fee
(a) Scale of fee
(b) Mode of Payment
(c) Wages of chainman and incidental charges
(xvi) How to file process fee-
Warning: The litigants are advised not to pay more than the amount displayed in this board. In case there is an excess charge they should report the matter to the District Judge in writing for suitable action.

11. GRIEVANCE REDRESSAL

C. L. No. 38/Xf-21, dated 26th February, 1977

The District Judge should make it known generally that on each Saturday he will be available for hearing complaints from public between 10.00 and 11.00 AM.

C. L. No. 55/VIIIh-37/Admn.(G), dated 2nd November, 1988

The Court has issued following instructions for the District Judges and the officers concerned with a view to improve the working in the subordinate courts.

Public complaints

The District Judge should fix a time (preferably 11-30AM) for receiving public complaints. The complaints should be entered in a register to be kept by the Sadar Munsarim. The register should be placed before the District Judge in the presence of the complainant. Many complaints relate to delay in preparation of copies, non-compliance of requisitions of records by the Record Room, delay in preparation of repayment orders or lapsed vouchers, delay in disposal of application given long ago and delay in delivery of judgments etc. Most of the complaints maybe redressed either on the same day of within a few days thereafter. The litigant public will have confidence that there is someone in the district who is prepared to redress their grievances.

Prompt disposal of cases

There are complaints that officers do not promptly dispose of cases. To avoid it if the District Judge gets a register maintained by the Readers of all the courts, this can be checked. When a judgment is not delivered on the date fixed and the case is adjourned to some other date, whispering commences. Sometimes, deal also takes place. The officer concerned may be wholly ignorant. When the judgment is delivered on the adjourned date, someone may have pocketed money in the name of the officer.

Corruption

The District Judge should know his officers. Some of them do not enjoy good reputation for honesty. If he is prepared to listen and ensure that the name of complainant will be kept secret, concrete instances may be brought to his notice regarding individual officers. He may send for the record and see for himself as to how far the complaint is justified. He may report to the Court for vigilance enquiry. He may send for some judgments of the officers who do not enjoy good reputation and examine the same. He may call the officer concerned and point out the contradictory approach made in his judgments on a similar point or discrepant findings recorded. If the officer knows that he is being watched, the pace of corruption will be certainly checked.

Copying Department

The District Judge should ensure that urgent copies are prepared on the same day or on the next day and ordinary copies are prepared within 5 to 6 days.

Record Room

The District Judge should ensure that requisition of records are promptly complied with by the officials of the Record Room. Most of the copying applications are delayed because of the non-receipt of records and old cases have to be adjourned for the same reason.

Sons and Relations of Employees

When a new recruitment takes place, employees already working make every effort that their sons and relations may be selected. As chance would have it, roughly 30 percent of such persons are accommodated. The rest are found below standard. These sons and relations, however, join service under the patronage and protection of their elders. Most of them are in disciplined, impertinent and unwilling workers. When other employees see these employees misbehaving, they follow their example. There is deterioration in discipline and output of work. It is suggested that all the District Judges get a list of present sons and relations of class III and class IV employees in their respective judgeships. One or two transfers may also be made from each district on the recommendation of the District judge. This alone would provide some deterrent to the wholly irresponsible and in disciplined section of the employees.

Transfer of cases and distribution of work

The District Judges should assign important work and transfer important cases to such officers who are capable of disposing of urgent matters promptly and properly. The District Judges should examine the monthly statements. He should recall cases which are pending in courts where there is no prospect of their being disposed of on the ground of

other work, and transfer the same to courts where the same can be disposed of. There is no point in transferring cases to courts without taking into consideration the quantum of disposal. The District Judge can redistribute the work after taking over in a district to ensure that the work of the Prescribed Authority, Rent Control Appeals and Revision, Appeals under the U.P. Imposition of Ceiling and Land Holdings Act and important civil and criminal cases are heard by such officers who are capable of disposing of such matters promptly and properly. The distribution of work should not be left to the officials. This is a work, which the District Judge is required to attend to personally.

Corruption among Class III and Class IV employees

Whenever a District Judge receives a complaint against a Class III or a class IV employee of the judgeship, he should refer the matter to a standing committee of three officers one from the rank of Additional District Judge, one from the rank of Civil Judge or C.J.M. and one from the rank of Munsif-Magistrate of at least five years standing. The Standing Committee should examine the matter and submit a report to the District Judge promptly but not later than a week. If the report shows that a prima facie case has been made out, the District Judge may appoint an Enquiry Officer, charges should be framed and an appropriate enquiry ordered. Thereafter, the enquiry may proceed in accordance with the rules and on his report being submitted, the District Judge should pass appropriate orders. A departmental enquiry should be expeditiously held and firm action should be taken.

C. L. No. 49/Ve-60/Admn.(D) dated 21st September, 1985

The District Judge should constitute an Advisory Committee consisting of two judicial officers for looking into the grievances and problems of the employees of the judgeship.

C. L. No. 2/Ve-60/Admn.(D) dated 11th January, 1988

District Judges, should follow the instructions issued in the aforesaid circular letter strictly with particular attention to the constitution of the Advisory Committee which should' not be delayed.

12. MEASURES TO PREVENT CORRUPTION

C. L. No. 3 dated 3rd February, 1976

It is the duty of every judicial officer to see that no form of corruption prevails in his court or office. There are many sources of corruption, which an officer can easily eliminate without moving from his chair, but with a little care. Some of them are:

(1) Peshkars charge money from litigants for informing them of the date fixed in cases. To abolish this, the officer must himself announce the date fixed, loudly to the hearing of the litigant. In addition he should see that the Peshkar writes down the date on a slip of paper and after signing it hands it to the parties or their pleaders, in the officer's presence.

(2) The Magistrates should never grant the first remand to the police until they have handed over all the requisite papers to the court clerk. This is necessary to eliminate the corruption rampant in the police clerks in keeping the papers with them for the purpose of giving surreptitious

inspections to the accused's people on payment of illegal gratification. This source of corruption has been eliminated in the courts of those Magistrates who are strict in not giving the first remand until the papers have been received.

(3) Common experience is that A.P.P. does not give a report on bail application even for contesting it unless he is paid. This form of corruption can be eliminated. To this end the procedure should be that bail applications are entertained directly by the officers after service of its copy on the A.P.P. leaving it to the A.P.P. to appear and oppose it at the fixed time when it will be heard by the court. The practice of asking the litigant to obtain a report from the A.P.P. before entertaining the bail application must be given up.

(4) Experience is that the clerk who prepares the warrant rehai commits minor mistakes in cases in which he is not paid by the accused's people. Similarly, the peon who takes the warrant rehai to the jail makes delay so as to reach the jail after the closing time, in cases, he is not paid. To eliminate this source of corruption ;the clerk as well as the peon should be told that if they commit even a minor mistake or do not reach the jail within time, it would be presumed that they have done so for dishonest and ulterior motives and that stern disciplinary action will be taken against them. In such cases disciplinary action should be taken whenever an occasion arises.

(5) The procedure for verification for surety bonds, should after a discussion among the officers, be made uniform in the judgeship.

G. L. No. 51/46/120-92 dated 13th December, 1939 modified by

G. L. No. 14 of 1940

(1) Repayment orders should ordinarily be issued within seven days of the granting of the application by the court. Presiding Officers should periodically examine the register of applications for repayment of deposits and see that this is being done.

(2) When dates have been fixed in cases, they should be entered in the diary by the clerks-concerned within three days.

The diary should be kept complete and placed on the table of the munsarims between 12 noon and 4 p.m. on each working day and should be open to inspection by the lawyers or their registered clerks or the parties.

C. L. No. 78/VIII-b-121, dated 6th November, 1973

The Readers of the courts doing exclusively criminal work should maintain a diary in the following proforma:-

FORM

Date, Month and Year

Case Number	Name of Parties	Counsel's Name	Purpose	Date fixed in adjourned cases	Remarks
1	2	3	4	5	6

The readers are directed to strictly follow the instructions contained in above mentioned Circular (vide C.L. No.10/VIIIb-121 dated 30th Jan., 1979.)

(3) Summonses should be sent to the nazarat without delay after they have been received duly filled up from the parties concerned,

(4) Dasti summonses and urgent orders should whenever possible be delivered or issued within two days of the passing of the order allowing dasti summons.

(5) Emergent Processes, if received by 2 p.m., should be sent out for service by the next day, and other processes as soon as possible.

(6) Process-servers should, as a rule, go to the person seeking service or to his agent if so mentioned in the summons, in case the. person seeking service or his agent lives in the same village or quarter in which the person sought to be served resides.

(7) No clerk should, under any circumstances, be allowed to bring any private person into the office to help him in the discharge of his official duties. If any breach of this rule is brought to the notice of the court concerned serious action should be taken against the clerk concerned.

(8) All clerks and munsarims should, as a rule, have orders passed on all applications on the next day of their being presented in the presence of counsel for the parties and if for any reason the application cannot be so disposed of, the presiding officer of the court should note the reason in his own handwriting.

(9) Urgent applications may be presented to the Reader and he should, whenever possible, put them before the court on the day of presentation and obtain the orders of the court in the presence of counsel for the parties.

(10) Applications for amendment of decrees should be carefully scrutinized and in every case it should be noted whether the mistake is intentional or accidental. A clerk who is found to have been guilty of preparing wrong decrees, or of including a set of expenses in the memo of costs in certain decrees and without valid reasons not including these in others of a similar nature should be severely dealt with.

(11) Small Cause Court decrees may (notwithstanding the provisions of Order XX, rule 21, Civil Procedure Code), however, be shown to counsel who want to see them.

(12) The presiding officers should come to court in time.

C.L. No. 4/V-58, dated 27th January, 1949

(13) On coming to court the presiding officer should first take applications and pass orders thereon and no application should be taken after the fixed hour except those in which limitation may be expiring.

(14) No one should be allowed to approach the Ahalmad and Readers for making enquiries with regard to cases.

(15) Reader's diary should be kept on the table in the courtroom where counsel for the parties sits.

C.L. No. 128 dated 6th October, 1975

(16) District Judges should keep a vigilant eye on such officials against whom complaints from public are received and they should also depute a senior officer to inspect the work and movement of such officials by paying regular and surprise visits. Name plates bearing the name of the official deputed to work on counters should also be placed according to the instructions contained in D.O. Letter no.C-61(7)/75, 0& M dated July 25, 1975 of the Chief Secretary to the Government.

C.L. No. 28 dated 3rd April, 1965.

(17) As observed by the Chairman of the Committee for Investigation of Causes of Corruption in subordinate courts in U.P. much control could be exercised on the dilatory tactics of judgment debtors by court's vigilance and judicious use of the provisions of C.P.C.

C.L. No. 40/V-e-58, dated 18th March, 1971

(18) Notice on wooden boards at prominent places be displayed in every office and court to the effect that acceptance and demand of bribe are illegal and if any one demand bribe or tries to extort money, complaint should be made at once to the Presiding Officer or the District Judge.

Whenever an oral complaint is made against any official the presiding officer should see whether there is any substance in the complaint and they proceed to take suitable and prompt action against the official concerned after recording the statement of the complainant. In case of a written complaint, a statement on oath of the complainant should be recorded without delay and further action taken thereafter against the official concerned

C.L. No. 7/Ve-58/78 dated 6th October, 1978

Instructions contained in the above C.L. should be strictly complied with.

C.L. No. 149/V-e-58 dated 26th September, 1974

Presiding Officer/Officer-in-Charge should see that complaints, where there might be any possibility of bribery or corruption, are not kept pending for long and are disposed of promptly.

C.L. No. 24/Ve-58 dated 18th February, 1974

(19) A report regarding the progress and result of corruption proceedings against non-gazetted officials of the subordinate courts should be submitted annually direct to the Government under intimation, to the Court in the prescribed proforma.

C.L. No. 48/Ve-58 dated 11th May, 1978

The District Judges should implement following recommendations of the Committee for purposes of investigation into the causes of corruption in the subordinate courts. While implementing these recommendations, where necessary, action should also be taken under the relevant provisions in the General Rules (Civil): -

(i) Drastic action should be taken against the clerks of the lawyers who work as such in the district courts without getting themselves registered with the District Judge.

(ii) Action should be taken against lawyers also employing unregistered clerks.

(iii) District officers should keep watch on the activities of unscrupulous petition writers and typists sitting in the court compound.

C.L. No. 79/Admn.(D), dated 1st August, 1978

The Presiding Officers and the officer-in-charge, Amins should keep strict supervision and control over the Amins and their work. And whenever there is a complaint of corruption against an Amin, it should be enquired into promptly and if found correct, the Amin should be given deterrent punishment.

C.L. No. 83/Ve-58, dated 28th October, 1980 as modified by

C.L. No. 85/Ve-58 Admn. (G), dated 26th December, 1981

After considering the recommendations of the Committee for Investigation of Causes of Corruption in the Subordinate Courts in U.P., the following instructions should be strictly adhered to and complied with.

Periodical seminar - A periodical seminar on legal topics should be organised in which besides judicial officers, members of the Bar should also be invited to participate.

Minor technical mistakes .- As far as possible the Munsarim should get minor omissions and technical mistakes rectified by the ^party immediately instead of obtaining orders of the Presiding Officer asking the party to make the necessary corrections.

Service of Process - Process servers' reports should be examined immediately on their receipt from the Nazarat and if there is no proper service, an attempt should be made to have another service affected provided the second attempt can be completed before the date fixed.

Recording of statements under section 200 Cr.P.C.- All the statements under section 200 Cr.P.C. should be recorded by the magistrates themselves and should not be left to the clerks of the office or the Court. The practice of getting the statements under section 200 Cr.P.C. recorded by the clerks and merely putting signatures on them by the magistrates should cease forthwith.

Registration of Cases. - Cases received in the magistrates courts should be registered the same day or latest by the next day.

Monthly meeting of all the Presiding Officers of Civil and Criminal Courts .- Once in two or three months the President and the Secretary of the District Bar Association should also be invited to the monthly meeting of the Presiding Officers for discussing matters touching the Bench and the Bar.

13. INQUIRY BY ANTI-CORRUPTION BRANCH OF THE POLICE

C. L. No. 4328, dated 24th August, 1940

(1) The Anti-Corruption Branch of the Police Department is an investigating agency and shall take proceedings only on the written request of the prescribed authority as defined in these rules. Any application or complaint received from other sources shall be forwarded to the prescribed authority with or without comment.

(2) If for any reason the Anti-Corruption Officer considers that his branch cannot or should not undertake any inquiry which he has been asked to undertake by a prescribed authority other than the Government, he shall after taking the orders of the Inspector General of Police, make a report to the prescribed authority to that effect. If after consideration of that report the prescribed authority considers that the enquiry should be made, he may refer the matter to Government for orders.

(3) The Anti-Corruption Branch shall keep the prescribed authority informed of the progress of any inquiry undertaken by it from time to time and shall, when the inquiry is complete or when requested to do so by the prescribed authority, close the inquiry and submit a report, to that authority. It is for the prescribed authority to decide the action, if any, that should be taken on the report of the Anti-Corruption Branch.

(4) If, during the course of an inquiry the Anti-Corruption Branch receives any information against an officer into whose conduct it has not been requested to inquire it shall forward the information to the prescribed authority who may, if it sees fit, request the Branch to inquire into the matter.

(5) If, during the course of an enquiry into the misconduct, of an officer, the Anti-Corruption Branch receives any further information of misconduct by that officer not covered by the written instructions referred to in rule I, it shall send such information to the prescribed authority who shall pass such orders on it as it may deem fit.

(6) (i) In cases in which the head of the department is not the prescribed authority that authority shall send copies of all orders passed by it to the head of the department and the Anti-Corruption Officer shall submit his final report and his interim report through the head of the department and the Anti-Corruption Officer shall submit his final report and his interim report through the head of the department.

(ii) For the purposes of this rule only the following shall be considered heads of departments :

The High Court in the case of gazetted judicial officers.

*** * * ***

The District Judge in the case of non-gazetted judicial officers and of honorary Munsifs.

(7) For the purposes of these rules, the prescribed authority shall be as follows:

* * * *

Gazetted officers —the Provincial Government.

Non-Gazetted Judicial Officers -High Court.

* * * *

Non-gazetted officers, of the Departments.

The Head of the Department concerned.

* * * *

Honorary Magistrates or Honorary Assistant Collectors —The Provincial Government/Honorary Munsifs — The High Court.

C. E. No. 56, dated 23rd September, 1966

Strictly compliance of Court's instructions regarding expeditious disposal of corruption cases as contained in its C. L. No. 69, dated November 6, 1963 as emphasized.

14. SANCTION FOR COMPLAINT

C. L. No. 61/VII-b-19, dated 31st July, 1956

The Secretary to Government of Uttar Pradesh, Home Department, has been authorized under notification nos. 1280/VI-663-1956, dated 19th* June, 1956 and 1280(2)/VI-663-1956, dated 19th June 1956 to accord previous sanction to the making of complaints under section 198B of the Code of Criminal Procedure, 1898,* in cases where such complaints are to be made of an offence alleged to have been committed against the Governor of the State and a Minister of State respectively. The authority to accord similar sanction to the making of a complaint for an offence alleged to have been made against a public servant in the discharge of his public functions is vested in the Secretary to Government, U.P., in the Administrative Department concerned under notification no. 1280(4)/VI-66 3-1956, dated 19th June, 1956.

15. REPORT OF CASES OF DEFALCATION TO A.G., U.P.

G.L. No. 17/X-b-40-1(14) dated 29th May. 1947

Provisions of paragraph 82 of Financial Handbook, Volume V, Part I, should be complied with immediately after the discovery of any defalcation or loss of government money, etc. without waiting for a valuation to be made of the loss sustained.

16. ECONOMY MEASURES

C.L. No. 91/IX-g-19 dated 24th October, 1968 read with

C.E. No. 26-X-g-19 dated 26th May, 1967 and

C.L. No. 144/Budget/1X-g-D dated 31st August. 1976

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* Section 199(2) (f) Cr. P. C. 1973

To avoid wasteful expenditure the following steps *inter alia* be taken and quarterly reports/statements regarding steps taken to effect economy and the results thereof be submitted to the Court regularly :

(1) Witnesses summoned should not be detained for more than a day as far as practicable.

(2) Experts such as Chemical Examiners and Serologists Doctors, etc., summoned for evidence should be examined on the dates they are asked to attend the courts.

(3) Economy may be affected in the use of electricity, water charges, telephone charges, etc. Telegrams, registered letters or express delivery letters should be sent only where absolutely necessary.

(4) Unnecessary inspections in Sessions cases should be avoided.

(5) Wasteful journey may be avoided.

(6) Sufficient number of cases should be listed every day to keep the officers fully engaged.

(7) Wastage of paper, carbon and other items of stationery should be avoided and local purchase of stationery, as far as possible, should be discouraged.

(8) Contingent allowances should be spent judiciously and under no circumstances the contingent expenditure should exceed the budgetary allotment**.**

C. L. No. 176/9-G-19 Admn. (B) dated 13th December, 1976

The District Judge should make necessary arrangements to prevent wastage of water and electricity.

C. E. No. 22, dated 22nd March, 1965 read with

C. L. No. 116/BB, dated 13th November, 1970

Attention is drawn to the provisions of paragraphs 2 and 6 of the Financial Handbook, Volume V, Part I, (Appendix 16) for strict compliance and disposal of cases involving loss of government property or funds, final action regarding recovery or write off should be pursued vigorously to ensure their expeditious disposal. A special watch should be kept on the disposal of such cases which have been pending for six months' or more. Strict action will be taken for failure to comply with the aforesaid direction.

17. CUSTODY OF SECOND KEY OF CURRENCY CHEST

G. L. No. 704/44-11, dated 23rd February, 1915

If it becomes absolutely necessary to entrust the key of the currency chest to a judicial officer, such as a Civil Judge or a Munsif, the previous consent of the District Judge to whom he is subordinate should be obtained.

18. FURNITURES FOR COURTS AND OFFICES.

C. L. No. 750/Budget-II, dated 6th June, 1985

It encloses G.O. No. 2236/VII-A-Nya-35-84 dated 19th April, 1985, prescribing the furniture to be supplied as below:

(i) For the District and Sessions Judges

(a) Court Room

1. Table (For officer)	1
2. Chair (For officer)	1
3. Table (For Reader)	1
4. Chair (for Reader)	1
5. Table (For Stenographer)	1
6. Chair (For Stenographer)	1
7. Table large (For Lawyers)	1
8. Chairs(For Lawyers)	16
9. Bench (For Accused)	1
10. Benches (For Public)	2
11. Book Rack	1
12. Office Box	1
13. Stool	1
14. Stationery Case	1
15. Table (For Stenographer's Room)	1
16. Chair (For Stenographer's Room)	1
17. Steel Almirah	1

(b) Chamber

1. Table (For Officer)	1
2. Chair (For Officer)	1
3. Easy Chairs	1
4. Ordinary Chair	8
5. Small Table	1
6. Stool	1
7. Surahi Stand	1
8. Sofa-set (Three piece)	1
9. Central Table	1

(ii) For the Additional District Judge, Additional Sessions Judge, Chief Metropolitan Magistrate, Civil Judge, Chief Judicial Magistrate, Additional Chief Metropolitan Magistrate, Additional Civil Judge, Additional Chief Judicial Magistrate, Judge Small Cause, Additional Judge Small Cause;

(a) Court Room

1. Table (For officer)	1
2. Chair (For officer)	1
3. Table (For Reader)	1
4. Chair (for Reader)	1
5. Table (For Stenographer)	1
6. Chair (For Stenographer)	1
7. Table large (For Lawyers)	1
8. Chairs (For Lawyers)	10
9. Bench (For Accused)	1
10. Benches (For Public)	2
11. Book Rack	1
12. Office Box	1

13. Stool	1
14. Steel Almirah (Small)	1

(b) Chamber

1. Table	1
2. Chair	1
3. Easy Chairs	1
4. Ordinary Chairs	4
5. Sofa-set (Three piece)	1
6. Central Table	1

(iii) For the Metropolitan Magistrate, Munsif and Judicial Magistrate, Additional Munsif Magistrates etc.

(a) Court Room

1. Table (For officer)	1
2. Chair (For officer)	1
3. Table (For Reader)	1
4. Chair (for Reader)	1
5. Table large (For Lawyers)	1
6. Chairs (For Lawyers)	8
7. Bench (For Accused)	1
8. Benches (For Public)	2
9. Book Shelf	1
10. Office Box	1
11. Steel Almirah (Small)	1

(b) Chamber

1. Table (For officer)	1
2. Chair (For Officer)	1
3. Chairs (For others)	4
4. Easy Chairs	1
5. Stool	1
6. Surahi Stand	1

(iv) For the Special Judicial Magistrate

1. Table (For officer)	1
2. Chair (For officer)	1
3. Table (For Ahalmad)	1
4. Chair (for Ahalmad)	1
5. Office Box	1
6. Table Large (For Lawyers)	1
7. Chairs (For others)	6
8. Bench (For Public)	1
9. Bench (For Accused)	1

(v) For employees of Civil Court

(a) Office

1. Chair (For Each Employee)	1
2. Table (For Each Employee)	1
3. Almirah (per 150 files)	1
4. Rack (For Each Employee)	1

5. Additional Chairs for	
(i) Sadar Munsarim	4
(ii) Administrative Department	4
(iii) Other Munsarims	3
6. Takhats for Daftari & Muharrir	2
7. Stool (For Each Office)	1
8. Bench (For Each Office)	1
9. Rack (For Each Office)	1
(b) Meeting Hall	
1. Chairs (per Officer)	4+1
2. Large Tables	3
(c) Inspection and Inquiry Office	
1. Chairs	4
2. Tables	2
3. Stool	1
4. Racks	2
5. Surahi Stand	1
(d) Library	
1. Chairs	8
2. Tables Small	4
(e) Government Counsel Office	
1. Chairs	8
2. Tables Large	2
(f) Record Room	
1. Chairs	8
2. Tables Large	4
(g) Nazarat Office (Chairs, Tables etc. for 6 persons)	***6***

(vi) Purchase and condemnation of furniture of Subordinate Courts

C.L. No. 4750/Admn.(B-1) Section dated 6th January, 1995.

In the matter of the purchase and condemnation of furniture of the Subordinate Courts, the Hon'ble Chief Justice and Judges have been pleased to direct that a committee be constituted comprising the District Judge and the two senior most Additional District Judges posted in the Sessions Division and this Committee be authorised to certify furniture for condemnation and thereafter to sell such furniture by public auction. The proceeds thereof be deposited under the appropriate head. The said Committee shall also be authorised to purchase new furniture for the courts and offices.

19. INDENTS AND PURCHASES

(i) Forms and stationery

G.L. No. 5/L-51, dated 5th May, 1951

All judicial officers should, as required under paragraph 67 of the Printing and Stationery Manual, note down in the Stationery Registers of their offices reasons for

ordering local purchase of articles required for use in their offices, and these reasons are required to be embodied in the returns to be submitted by 15th April each year.

C.L. No. 30/4-L, dated 10th February, 1971

While moving the Court for sanction of the amount for the purchase of stationery locally under paragraph 63(3) of the Printing and Stationery Manual the value of the stationery not supplied by the Superintendent, Printing and Stationery, Uttar Pradesh, Allahabad must invariably be mentioned.

C.L. No. 73/L, dated 14th July, 1951 and

C.L. No. 80/44-Main-L, dated 23rd September, 1968

Returns of local purchases, in duplicate, should be submitted to the High Court by 15th April, each year as required under the amended paragraph 67(5) of the Printing and Stationery Manual.

C.L. No. 122/ dated 8th December, 1951

All indenting officers should obtain when necessary the previous sanction of the High Court or the Government as the case may be, before actually making such purchases.

Where indenting officers feel that their monetary allotment is .below their requirements they may move the Government with full facts and figures for an increase in the allotment in accordance with paragraph 66(5) and (6) of the Printing and Stationery Manual.

C.L. No. 35/Main L, dated 19th March, 1976

In case the District Judges desire an increase in the monetary limit fixed for the supply of stationery they should write to the Superintendent, Printing and Stationery, U.P. Allahabad proposing an increase in the monetary limit with full justification keeping in view the prevailing rise in prices and increase in the number of courts. A copy of the letter should also be sent to the Court.

C.L. No. 30, dated 30th April, 1962

Regarding the supply of stationery to the additional courts the District Judges have been authorised to obtain stationery for the additional courts by surrendering the amounts to Government sanctioned for the use of stationery by such courts and thereafter by sending a supplementary indent to the Superintendent, Printing and Stationery*. Until the arrival of the stationery, so indented the additional courts may be supplied out of the existing stock.

In case it is not possible to supply the stationery out of the existing stock, local purchases may be made in accordance with the clause (3) of rule 67, Chapter III of the Printing and Stationery Manual.

* NOTE : Now Director, Printing and Stationery, U.P.

C.L. No. 67/IXg-19, dated 17th October, 1966

Instruction contained in G.O. No. C-2470/Xh-666-1965, dated August 19, 1966, of the Finance (C) Department and other G.Os. regarding economy measures to be strictly adhered to. Expenditure on items like stationery, contingencies, etc. should in no circumstance exceed the budgetary allotment and no proposal for additional funds through supplementary estimates should be sent to the Court. Quarterly report/statements regarding steps taken to effect economy and the results thereof to be submitted to the Court positively by the first week of January, April, July and October every year.

Maintenance of Stationery Register

C.L. No. 79, dated 7th August, 1958

The practice of a Stationery Register in Provincial Form no. 180 being maintained both in the office of the District Judge as well as in all the offices of the courts subordinate to him multiplies work. It has, therefore, been decided that this register should be maintained only in the office of the District Judge and in the offices of the Additional District Judges and Munsifs not at headquarters and that stationery at one station should be issued by the court maintaining the register.

C.L. No. 81/Budget-1, dated 27th October, 1980

Effective steps should be taken most expeditiously so as to ensure that sufficient quantity of stationery is available and there is no dislocation of work in the subordinate courts for want of stationery. The practice of local purchase of stationery should be avoided as far as possible. In exceptional cases local purchase of' stationery should, however be made, but that too strictly in accordance with the provisions of the Printing and Stationery Manual, after obtaining the approval of the competent authority.

Indents for H. C. J. Forms

G.L. No. 5/16, dated 16th February, 1943

Indents should not be delayed and should be submitted in the light of remarks made in G.O. No. U.O. 907/XVIII-163(L), dated the 5th October, 1940, regarding the late dispatch of indents by indenting officers.

C.E. No. 66/I-J, dated 1st April, 1937

The District Judges should submit a consolidated indent covering the requirements of stationery for their office as well as for additional courts.

G.L. No. 22/IJ, dated 1st April, 1937

Rule 40, on page 12 of the Printing and Stationery Manual shows that indenting officers should not ask the press to supply any part of the annual indent in advance of the due date, but should submit an emergent indent through the proper channel in accordance with the provisions of that Manual.

C.L. No. 13Q-(a), dated 16th February, 1950

The indent should be prepared with due care so that it may not be necessary to send emergent indents during the course of the year and large surplus stocks are also not

left at the close of the year. No emergent indents will be passed unless there are very cogent reasons to the contrary.

C.L. No. 52/10-Q (a), dated 26th August, 1950

Emergent indents should be submitted only when the stock of forms has, for reasons beyond the control of the indenting officers, been exhausted. In all such cases reasons necessitating submission of an emergent indent should be clearly given either in the indent itself or in the letter accompanying it.

C.L. No. 3-Q(b), dated 7th January, 1953

Provisions of paragraphs 38 and 43 of the Printing and Stationery Manual relating to preparation, submission and compliance of indents for forms should be strictly followed and due consideration be given to avoid the necessity of placing supplementary and emergent indents. Both, over-estimating and under-estimating, lead to unwelcome issues and unnecessary extra expenses to Government. Every effort should, therefore be made to estimate the requirement correctly taking into consideration all possible foreseen demands. The indents should cover the requirements for 15 months minus the stock-in-hand, and should be prepared on the basis of past three years' average consumption. They should be made in the prescribed form only and be submitted through the proper channel strictly according to the time table laid down in paragraph 42 of the Manual. Submitting of indents in contravention of programme, with any special requests followed by telegrams or D.O. letters to comply before time, upset the regular programme of supply in the office of the Superintendent, Printing and Stationery, U. P*. Allahabad.

C.L. No. 4/Q (b), dated 20th January, 1961

In compliance with paragraph 42 of the Printing and Stationery Manual indents for forms should be submitted well in advance so as to reach the Court positively before the date fixed for the purpose. Delay in submission of the indents results in ultimate delay in supply of forms by the Press. Further, there should be no difference between estimate submitted under C.L. No. 66, dated July 11, 1958 and the requirements shown in the annual indent, and where figures are excessive reasons may be recorded.

C.L. No. 103/VIIIb-206, dated 29th September, 1969

In order to avoid delay in meeting demand of saleable forms, the Indenting Officers should take prompt action themselves by submitting the indents for the said forms to the Press well in advance in accordance with the provisions given in the Manual of Printing and Stationery and should follow the direction given in Chapter XX of General Rules (Civil), 1957 in this regard rigidly.

The shortage of forms can be avoided if the quantity of saleable forms which is allowed as a permanent advance to the District is recouped in accordance with the provisions laid down in para 42 of the Printing and Stationery Manual and Rules 514 of the General Rules (Civil) well in advance. If, however, the quantity of saleable forms fixed by the Court as permanent advance is considered inadequate, the matter may be reviewed every third year and variation, if any, brought to the notice of the Court so that

* NOTE : Now Director, Printing and Stationery, U.P.

timely steps for increase in the permanent advance may be taken and in case, the saleable forms in question are not supplied .by the Government Press within a reasonable time, the matter be taken up with it directly so that Government work may not suffer.

C.L. No. 87 /Main C, dated 28th August, 1969

While sending either the indent of stationery or the demand of local purchases the provisions contained in the Printing and Stationery Manual should strictly be complied with. The indent for the above purpose should invariably be submitted to the Court in duplicate well in advance so that the same may be scrutinized by the Court and forwarded to the Superintendent, Printing and Stationery, U.P*.,Allahabad for expeditious supply of stationery. In case stationery is not supplied within a reasonable period, the matter should be taken up with the Superintendent, Printing and Stationery,* so that local purchase may, as far as possible be avoided.

In case it is felt that local purchases are necessary in the interest of government work, prior sanction of the Court should be obtained and while making a request therefore it should be ensured that there is no infringement of the provisions contained in the Printing and Stationery Manual.

C.L. No. 182/Main 2(b), dated 21st December, 1974

Consolidated indent of non-saleable H.C.J. Forms should be sent to the Superintendent, Printing and Stationery, U.P.*, Allahabad, latest by the 1st April, every year.

C.L. No. 132/VIIIb-16, dated 20th December, 1989

Forms declared obsolete should not be used under any circumstance.

C.L. No. 8 Main Q (b)/Budget, dated 17th December, 1977

District Judges should send indents to the Government Press in time and mention therein full details of forms needed viz., form number, part, etc., so that Government Press may be in a position to supply the forms, registers, etc.

Inspectors of Government Press occasionally visit districts to assess the position of non-supply of forms to various District Judges. They should bring to the notice of the Forms Inspector, their requirement of forms or inadequacy in supply of forms, registers, etc. so that Forms Inspectors may ask the Government Press to supply forms in sufficient number.

C.L. No. 53/Budget, dated 25th August, 1983

While inviting attention to the Court's C. L. No. 81/Budget-1, dated October 27, 1980 the District Judges are requested to move the Government Press for enhancement in monetary allotment in accordance with the rules and to ensure that sufficient quantity of stationery is made available in the judgeships so that there may not be any dislocation of

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* NOTE : Now Director, Printing and Stationery, U.P.

* NOTE : Now Director, Printing and Stationery, U.P.

the work in subordinate courts for want of stationery and there is no misuse of printed forms.

C.L. No. 24/Budget-1, dated 13th April, 1983

The indents of forms are required to be submitted to the Government Press latest by January 31 every year.

District Judge should ensure that the indents of forms are in future sent to the Government Press by the stipulated date, i.e., January 31 every year positively, so that the Government Press may not feel any difficulty in getting the forms printed and supplied to District Judges well within time, so as to avoid dislocation of government work for want of required number of forms.

G.L. No. 32/16-5, dated 4th October, 1940

Steps should be taken to ensure that the instructions laid down in paragraph 40 of the Printing and Stationery Manual are carefully complied with; and that unnecessary reminders are not sent to the Government Press, Allahabad, as they not only dislocate the normal working of the Press but also contribute to increase expenditure on account of postage and telegram charges. In this connection attention is also invited to G.O. No. 6956-R (1)/XII-C-621, dated 29th May, 1940.

C.L. No. 65, dated 26th September, 1949 read with

C.L. No. 10131/Q(a), dated 15th September, 1949

Special Messengers should not be sent by District Judges and District Magistrates to the office of the Superintendent, Printing and Stationery, Uttar Pradesh,* Allahabad, for taking delivery of forms included in the Annual and Emergent Indents before being directed by that office to do so. This is necessary to avoid messengers having to wait or go back without the forms which may not be even available in stock. All indenting officers are, therefore, requested to inquire from the above office well in advance before a messenger is sent for collection of forms.

C.L. No. 49/Ve-60/Admn.(D) Sec. dated 21th September, 1985

The District Judges should take steps to get their monetary allotment enhanced according to their requirement and to send the indent well in time for the purpose. And also pursue with the Superintendent,* Government Press vigorously for the full supply of stationery as per indent.

C.L. No. 102/VIb-11, dated 9th June, 1976

It has been decided that the Government Press will not make any cut either in the size of forms required for the courts or in the quantity of indents made by them. Any deficiency in this respect may immediately be reported to the Court.

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* NOTE: Now Director, Printing and Stationery, U. P.

* NOTE: Now Director, Printing and Stationery, U. P

C.L. No. 125/6M dated 23rd December, 1958

Whenever forms are not received in time from the Government Press, District Judges should write demi-officially to the Superintendent, Printing and Stationery, U.P.* Allahabad, for the purpose so that the court work may not suffer and failing that, they should bring the matter to the notice of the Government.

C.L. No. 31/VIIIb-206, dated 4th April, 1973

Use of forms printed by agencies other than the Government Press must not be allowed and directions contained in letter No. Inspection 1906, dated January 6, 1973, from the Superintendent, Printing and Stationery, U.P.*, should be strictly followed.

Non-saleable forms

C.E. No. 27/VIIIb-208, dated 15th April, 1963

Attention of the District Judge is invited to G.O. No. 4344-PS/IXVIII-D/505-PS-58, dated May 8, 1959 which provides for discontinuance of practice of maintaining the stock book of non-saleable forms and instead the observance of the procedure laid down in paragraph 20 of Appendix P to G.O. no. 916/0&M, dated December 26/31, 1956 (copies of the G.Os. sent with the C.E.)

(ii) Library books

Purchase of Hindi books

C.L. No. 9/X-e dated 5th February, 1964

In order to write judgments in Hindi the. District Judges should purchase the necessary Acts and Dictionaries out of the allotment for the purchase of books and periodicals for their court and in case it be found inadequate, proposal for allotment of additional funds may be made through this Court with necessary details justifying the additional grant.

Amendments

C.L. No. 120/K-34 dated 8th/13th December, 1951

District Judges should take steps to ensure that all corrections, amendments and adaptations made in various Acts from time to time, particularly in Acts in common and daily use by the courts such as the Code of Criminal Procedure or the Indian Penal Code, are promptly incorporated in all copies of the relevant Acts (including annotated editions) in all the courts of their judgeship.

C.L. No. 2/K- dated 12th January, 1965

They should also inspect and check the Court Library at their places and see that no book is lost or damaged by white ants, etc.

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* NOTE: Now Director, Printing and Stationery, U. P.

* *NOTE: Now Director, Printing and Stationery, U. P.

G.L. No. 7 dated 5th June, 1894

The following system will be followed to keep up to date the copies of the General Rules (Civil) and General Rules (Criminal) supplied to the subordinate courts:

(1) As soon as possible after notification in the Gazette; each alternation will be printed on a separate slip on one side of the paper only.

(2) Each slip will be serially numbered on the left margin in block type with a continuous series of numbers so that the presiding officers of the civil courts will know whether these slips are regularly received, e.g-, if any officer receives no. 24 after no. 22, he will know that no. 23 should have reached him, and he should apply to the press for the missing number.

Care should be taken to paste the slips as soon as they are received in the copy of the Rules against the rule affected.

C.L. No. 13 dated 20th December, 1902

A blank page should be inserted at the beginning of each copy of the Rules (Civil or Criminal) on which the serial number of each correction slip received may be noted along with (a) the date of the amendment, and (b) the number of the rule amended. This will serve as an index to all correction slips and will enable the inspecting officer to see at a glance whether the copy of the Rules is up to date.

District Judges should notice in their inspection notes whether this direction has been carried out.

Defects or lacuna in statutory enactments

C.L. No. 15/VIII-h-11-1949, dated 22nd April, 1949

All presiding officers of civil and criminal courts in the State should bring to the notice of the High Court any defect or lacuna in a statutory enactment that may. come to their notice in the course of the hearing of a case together with such suggestions as they may wish to make for the improvement of the law.

Lawyers may also submit such suggestions direct to the High Court.

Maintenance of General and Circular Letters issued by the Court

C.L. No. 59/7-67 dated 17th November, 1927 and

C.L. No. 105/VIII-b-8 dated 30th August, 1971

A complete file of all General and Circular Letters issued by the High Court should be kept in the office of the District Judge and whenever an officer arrives on his first appointment or on transfer to a judgeship, he should be directed to read all the General and Circular letters and to put his signature and date on some permanent record to be maintained for the purpose in proof of his having done so.

C.L. No. 78/VIIIb-8 dated 3rd August, 1972

As required under rule 441 of General Rules (Civil) the register of General and Circular Letters should be kept complete and a copy of each of the G.Ls. and C.Ls.

regarding procedure, listing of cases and working of subordinate courts may be sent to the District Bar Association under intimation to the Court.

C.L. No. 105/Vlll-b-B dated 30th August, 1971

According to this provision of rule 441, General Rules (Civil), 1957, Volume I, a register should invariably be maintained of all General and Circular Letter issued by the Court and missing intervening General or Circular Letter should be requisitioned from the Court at the earliest.

Borrowing of books

C.L. No. 34/Admn. (D) dated 24th March, 1979

The Branch President of the Anjuman Himayate Chaprasian Association may be allowed to borrow books from the District, Judge's Library for a period of 24 hours. The book shall be borrowed on a Saturday or a holiday and it shall be returnable by the following Monday morning.

The Branch President should be informed that they should refrain from mutilating, dog-eating and underlining the passages in the books and in case the book is in any way damaged or lost its price shall be recovered from them.

A similar facility on the same terms and conditions may be provided to the Branch Presidents of the U.P. Civil Courts Ministerial Officer's Association also.

Binding of books

C.L. 55-K dated 19th April, 1952

All District Judges should take steps to have the useful books, such as the Indian Law Reports bound as early as possible either at the Government Press or otherwise.

C.L. No. 48/IX-e-33 dated 4th April, 1952

The provisions of para 53 of the Printing and Stationery Manual should be strictly complied with and the books required to be bound at the Government Press should always be sent complete in all respects.

Weeding

C.L. No. 5 dated 13th January, 1959

Court's special seal which is required for stamping the weeded books in subordinate courts should positively be returned within three weeks from the date of its receipt in a judgeship, so that the work of weeding in other judgeship may not be delayed.

C.L. No. 54 dated 21st August, 1962

In connection with the weeding of books under rule 464 of the General Rules (Civil), 1957, Volume I, after the lists of books have been approved by the Court for weeding an enquiry should invariably be made from the District Magistrate and the Chief Judicial Magistrate what books they would like to have out of these lists. The books required by them may be transferred to them without further reference to the Court and the remaining books may then be disposed of in accordance with the rules.

C.L. No. 77/VIII-b-119 dated 11th September, 1956

Since Hindi has now assumed, importance, the Gazette in Hindi should be retained permanently.

C.L. No. 69/11-K dated 10th July, 1972

While deciding to weed out old books the aspect that in deciding cases one may have to find the law as it existed 50 years back or so and in the absence of proper reference books it will be difficult to find out the provisions that existed from time to time should be kept in view.

(iii) Typewriters

C.L. No. 23/IX-g-26 dated 16th February, 1953

Only Hindi Typewriters should be purchased by District Judges. English Typewriters may, however, be purchased by them under special authority of the Court.

C.L. No. 25/11-M dated 14th March, 1957

District Judges, should move the Court first, with full justification, for sanction to the purchase of English typewriters when required and then on receipt of such sanction move the Government again for requisite sanction as also for funds.

C.L. No. 112/IX-g-26, dated 15th October, 1969

Instructions contained in G.O. No. 16/T.W.H. Key-Board/20-S-69, dated September 9, 1969, regarding purchase of Hindi typewriters should be strictly complied with.

C.L. No. 87/IX-g-26 dated 14th August, 1952

There are no funds at the disposal of the Court for replacing condemned typewriters of the subordinate courts. District Judges should, therefore, move the Government direct for funds for such purpose with necessary certificates, etc., in accordance with para 10 of the Printing and Stationery Manual.

C.L. No.-76/17 M dated 20th December, 1962

Since English documents cannot be copied by use of Hindi typewriters, the District Judges while moving the Government for the purchase of new English typewriters or for replacement of a condemned English typewriter or by new English machine for Copying Department should give the necessary details justifying their demand. It should be clearly stated that the typewriter in question is needed for the Copying Department for making of copies of English documents and that the same cannot be done by the use of Hindi typewriters. Besides, detailed information on the-following points should also invariably be given:-

(1) Number of copyists including typists doing English work.
(2) Number of remaining English typewriters.
(3) Number of English documents together with the total number of words contained in those documents copied out during the last six months.

C.L. No. 77 dated 17th December 1963

When a condemned typewriter is proposed to be replaced with a new one, the condemnation certification may be furnished in proforma given below:

> "CERTIFIED that ..... Typewriter No..…..... which was purchased on ..... has outlived its prescribed life and cannot be repaired at a reasonable cost. It is, therefore, beyond repairs and is declared as condemned on the advice of **.....**

C.E. No. 88/IXg-26 dated 20th August, 1969

The demand for the purchase of additional typewriters (Hindi or English) should always be pressed through the Schedule of New Demands and that for the purchase of typewriters in replacement of the condemned ones through the budget estimates, giving full justification and necessary details in accordance with the direction contained in Court's Circular Letter No. 76/17-M, dated December 20, 1962, and No.77, dated December 17, 1963 and various other instructions issued from, time to time. Necessary sanction of Government may also be obtained direct for the purchase of English typewriters.

C.L. No. 70/lXg-26 dated 15th May, 1976

While sending demands for supply of typewriters, the District Judges should furnish following information:

(i) Number of clerks in the judgeship knowing typewriting	(a)	Hindi.....
	(b)	English…….
(ii) Number of serviceable typewriters	(a)	Hindi.....
	(b)	English……
(iii) Number of condemned typewriters	(a)	Hindi …….....
	(b)	English ……...
(iv) Number of condemned Hindi and English typewriters in respect of which condemnation certificates have been issued and sent to the Government/Court	(a)	Hindi …….....
	(b)	English ……...
(v) Number of typewriters required by you in the interest of efficiency or work	(a)	Hindi ..…….
	(b)	English ……
(vi) Full facts and figures in justification of the demand		

C.L. No. 41 of 1983/Budget dated 11th July, 1983

The District Judges should consider the position of typewriters in their judgeship, keeping in view of the work load and furnish information about availability of typewriters, etc., in the enclosed proforma.

They should send demand for minor repairs/maintenance of typewriters and also for extensive repairs of typewriter/change of keyboard, etc., in the enclosed proforma. The demand for extensive repairs/change of keyboards should be accompanied with proper estimate. In the estimate the details of machine (viz. make, number, year of purchase, etc.) parts proposed to be repaired/purchased in replacement, etc., should invariably be mentioned clearly.

The recommendation for condemnation of typewriters and their replacement by new ones, should not made as a matter of routine, immediately after the expiry of the

normal span of life of a machine. Before making any such recommendation it should be ensured that the typewriters sought to be condemned are beyond economic repairs and the expenditure proposed to be incurred on them for their repairs will not be commensurate with the services to be rendered by them after the said repair.

While seeking Government sanction for the purchase of new English typewriters in replacement of condemned typewriters, the amount of work done on English typewriters may please be mentioned and full facts and figures in justification of the demand for .new English typewriters should be furnished so as to enable the Court to examine the proposal and ascertain the genuineness of the demand.

Following certificate should be appended to the estimate for extensive repairs of typewriters:

CERTIFICATE

This is to certify that the machine proposed to be repaired can be put to use after repairs and the amount proposed to be spent on the said repairs will commensurate with the services to be rendered after the repairs of the machine.

Name of judgeship ……..

NUMBER OF TYPEWRITERS REQUIRED

<table>
<tr><td colspan="2">COURTS</td><td colspan="2">ADMN. OFFICES</td><td colspan="2">COPYING SECTION</td><td colspan="2">CASE DIARY SECTION</td></tr>
<tr><td>HINDI</td><td>ENGLISH</td><td>HINDI</td><td>ENGLISH</td><td>HINDI</td><td>ENGLISH</td><td>HINDI</td><td>ENGLISH</td></tr>
<tr><td colspan="8">1</td></tr>
<tr><td colspan="4">NUMBER OF TYPEWRITERS AVAILABLE WITH JUDGESHIP</td><td colspan="4">NUMBER OF TYPEWRITERS CONDEMNED</td></tr>
<tr><td colspan="2">HINDI</td><td colspan="2">ENGLISH</td><td>HINDI</td><td colspan="3">ENGLISH</td></tr>
<tr><td>NUMBER</td><td>DATE OF PURCHASE</td><td>NUMBER</td><td>DATE OF PURCHASE</td><td></td><td colspan="3"></td></tr>
<tr><td colspan="4">2</td><td colspan="4">3</td></tr>
<tr><td colspan="4">NUMBER OF TYPEWRITERS WHICH ARE BEYOND ECONOMIC REPAIRS BUT HAVE NOT BEEN CONDEMNED SO FAR</td><td colspan="4">ADDITIONAL TYPEWRITERS REQUIRED</td></tr>
<tr><td colspan="2">HINDI</td><td colspan="2">ENGLISH</td><td>HINDI</td><td colspan="3">ENGLISH</td></tr>
<tr><td colspan="4">4</td><td colspan="4">5</td></tr>
<tr><td colspan="4">FUNDS REQUIRED FOR MAINTENANCE/ MINOR REPAIRS OF THE TYPEWRITERS</td><td colspan="3">FUNDS REQUIRED FOR EXTENSIVE REPAIRS OF THE TYPEWRITERS*</td><td>REMARKS</td></tr>
<tr><td colspan="2">HINDI</td><td colspan="2">ENGLISH</td><td>HINDI</td><td colspan="2">ENGLISH</td><td></td></tr>
<tr><td colspan="4">6</td><td colspan="3">7</td><td>8</td></tr>
</table>

* Details of typewriters, viz., make, chasis, number, date of purchase, etc., should be mentioned Proper estimate should also be sent..	This is to certify that the machine proposed to be repaired can be put to use after repairs and the amount proposed to be spent on the said repairs will commensurate with the services to be rendered after the repairs of the machine.

C.L. No. 159/Budget/IXg-26/500TW, dated 14th October, 1976

The Court has allotted typewriters, as shown in the enclosed lists, for being used in the Copying Department and courts/office as mentioned against each judgeship. The typewriters should invariably be used in the Copying Department or the court/office, as the case may be.

C.L.No.40/Budget/IXg-26/500TW dated 3rd March, 1977

The typewriters allotted to the Copying Department vide above mentioned C.L., should exclusively be used from the first day in that department and they should not be diverted to any other department or court.

C.L. No. 57/2-M dated 23rd July, 1965

Wasteful expenditure on hiring of typewriters should, as far as possible, be avoided.

No private use of ribbons

G.L. No. 47/39(9-(14), dated 8th July, 1937 read with

G.O. No. U-653-VII dated June. 1937

No officer should be supplied with ribbons from the stock of stationery kept for government machines for his private typewriter even if the machine be used for government work.

(iv) Electric bulbs and fans

C. L. No. 110/X-b-11, dated 3rd December, 1958

Expenditure over the replacement of unserviceable electric bulbs required at occasional intervals in connection with electric installation in the civil court buildings should be debited to the sub-head "Contingencies" as required under item no. 10 of Appendix X to the Financial Handbook, Volume V, Part I.

C.L. No. 57/2-M dated 23rd July, 1965

Wasteful expenditure on hiring of electric fans should as far as possible be avoided.

(v) Indenting of rubber stamps

C.L. No. 34/L-, dated 9th April, 1951

District Judges should, include a sufficient number of rubber stamps in their annual indent for stationery so as to provide for the normal requirements of all the courts in the judgeship.

(vi) Indents for cotton textiles

C.L. No. 14/VIIIc-12, dated 5th March, 1955

Whenever any additional quantity of cotton textile is required,' after a regular indent has been placed, no amendment increasing the quantity should be issued; but fresh indent in the prescribed forms should be submitted to the Director of Supplies, Government of India, Ministry of Works, Housing and Supply, Shahibag House, Ballard Estate, Bombay-1, through the Director of Industries (Textile section) Kanpur, in triplicate.

(vii) Purchase from the grant at the disposal of District Judge

C.L. No- 29/IX-q-19 dated 17th March, 1953 as modified by

C.L. No. 56 of 1953

Articles other than those covered by rule 37 of Appendix X of Financial Hand book, Volume V, Part I, should not be purchased by District Judges from the grants at their disposal. Only articles which are undisputably intended for office use should be purchased from the grants at a cost not exceeding Rs. 50 per annum in a judgeship.

C.L. No. 15/21-M dated 19th/22nd March, 1955

Articles such as Judge's wash basins, mirrors, soap cases, towel stands, easy chairs, angethi and charcoal etc., should be purchased by District Judges only when they are really necessary in the discharge of their duties and the officers subordinate to them. The cost of these items should be debited under the Head "27-*Administration of Justice" and must be met out of the reduced contingent allotment placed at the disposal of the judgeship or court.

C. E. No. 66 dated 26th June, 1961

Special grants are sanctioned to provide for essential articles of common use. Purchase of liveries, electric rods, etc., out of these grants is objectionable. In case there is need for other items which cannot be classified as essential items, for any special reasons, sanction should be obtained before actual purchase.

C.L. No. 75/Xb-2 (Budget) dated 11th August, 1969

As recommended in paragraph 78 of the report on Re-organization and Rationalization of the Civil Court Offices, the District Judges should continue to control the contingent grant of even temporary courts so that there may be uniformity in practice.

C.L. No. 129/Xe-44 dated 28th November, 1970

Attention of District Judges is invited to Government Endorsement No.412(SP)/(i)/XVIII-E, dated June 25, 1969, regarding timely payment to the suppliers for goods procured through the agency of the Stores Section of the Directorate of Industries and strict compliance of the instruction contained in Government Industries (E) Department, office memorandum of date.

* NOTE : Now 2014.

20. USE OF HINDI WRITTEN IN DEVANAGRI SCRIPT

C.L. No. 14/X-e-5 dated 23rd September, 1952 read with

C.L. No. 16/X-e-5 dated 11th February, 1953

Difficult Urdu or Persian words should be avoided and replaced by more easily understandable Hindi words. So far as possible Hindi written in Devanagri script should be used for day to day office work of a non-judicial character.

C.L. No. 38/Xe-5 dated 15th April, 1969

Hindi should be brought in greater use in all the subordinate civil and criminal courts. Hindi should also be used in all the administrative work except in correspondence with the Accountant General, Supreme Court, Central Government, State Government of other States and foreign countries.

C.E. No. 125/X-e-5 dated 2nd December, 1972

Hindi being the official language of the State, only Hindi should be used not only in the correspondence work but also for writing notes and comments on the files. Similarly inspection reports, proceedings, tour programmes, etc., should also be prepared in Hindi. Registers, diaries, etc., should also be maintained in Hindi. Use of a language other than Hindi is unauthorized and improper.

C.L. No. 6/VII-f-97 dated 24th January, 1972

All matters for publication should originally be prepared in Hindi and should be sent along with the requisite copies of its translation in English and Urdu to the newspapers. Weights and measures mentioned in such notices should be according to the metric system only.

C.L. No. 23/VI-c-10, dated 5th February, 1973

All orders pertaining to the interest of employees, especially Class IV employees, should be passed in Hindi so that no inconvenience is caused to them.

C.L. No. 107/E-5 dated 20th August, 1971

All letters received from the State Government, should be replied to in Hindi and so far as possible, all correspondence should be done in Hindi.

C.L. No. 1/10E(5) dated 16th August, 1976 and

C.L. No. 4/10E(5) dated 3rd June, 1977 and

C.L. No. 11/10E(5) dated 26th April, 1979 and

C.L. No. 18/10E(5) dated 20th February, 1980 and

C.L. No. 25/10E(5) dated 24th April, 1982

The judicial officers should do all the works of the court in Hindi.

C.L. No. 178 dated 9th November, 1976 and

C.L. No. 47/Ve-103 dated 8th March, 1977 and

C.L. No. 61/Ve-103 dated 31st May, 1979 and

C.L. No. 26/Ve-103 (Admn.'F') dated 19th April, 1983

The District Judges should issue strict directions to the Readers of all the courts, to learn Hindi typewriting within a period of 3 months from November 15, 1976 so that there may be no difficulty or delay in recording the depositions and statements of witnesses in the Court and their legibility may also be ensured.

Statement of progress in learning Hindi typing by Readers in subordinate courts as on 30.4.1979

Name of Permanent Courts	No. of Temporary Courts	Total Number of Readers in the Judgeship	No. of Readers who have learnt Hindi Typing	No. of Readers learning Hindi typewriting	Remarks
1	2	3	4	5	6

C.L. No. 45/IX-g-12, dated 15th April, 1961

Whenever a seal is prepared in future, old Hindi scripts should be used instead of the new Hindi script used in the specimen, sent with C.L. No. 62 dated August 2, 1956.

C.L. No. 4/Ten-E-5, dated 03rd June, 1977

The Courts has approved following phased programme for delivery of judgment in Hindi by Civil Judges and District Judges:

(1) "The Civil Judges will deliver 50% of their judgments in Hindi in the first year and thereafter they will completely switch-over to Hindi."

(2) "The District Judge will deliver 25% of their judgments in Hindi in the first year, 50% in the subsequent year and in the third year they will completely switch over to Hindi."

(i) ''न्यायालयों में हिन्दी का प्रयोग''

परिपत्र संख्या 2/दस-ई-5-अ.न्या. (भाषा अनुभाग), दिनॉक 7 जनवरी, 1992

मुझे आपका ध्यान न्यायालय के परिपत्र संख्या 85/दस-ई-5-अ.न्या. (भाषा अनुभाग), दिनॉक 4 दिसम्बर, 1989 की ओर आकर्षित करते हुए यह कहने का निदेश हुआ है कि महासचिव, अखिल भारतीय हिन्दी विधि प्रतिष्ठान, लखनऊ ने न्यायालय के संज्ञान में यह बात लाई है कि हिन्दी विधि प्रतिष्ठान द्वारा प्रकाशित ''उच्चतम न्यायालय निर्णय सार'' और ''उच्च न्यायालय निर्णय पत्रिका'' की मांग जनपदों द्वारा न्यायिक अधिकारियों के मध्य परिचालन हेतु नहीं किया जा रहा है जिसके कारण हिन्दी भाषा के विकासोन्मुख में बाधा उत्पन्न हो रही है।

अखिल भारतीय हिन्दी विधि प्रतिष्ठान, लखनऊ उपर्युक्त निर्णय पत्रिकाओं को न्यायिक अधिकारियों के मध्य उपलब्ध कराने हेतु सक्रिय है और न्यायालय से बार-बार इन निर्णय पत्रिकाओं के अधिकाधिक प्रयोग पर बल देती रही है।

अतः आपसे अनुरोध है कि जनपद के मुख्यालय में प्रयुक्त होने हेतु उक्त निर्णय की कम से कम 3-3 प्रतियॉ व मुख्यालय के बाहर स्थापित न्यायालयों हेतु एक-एक प्रति की उपलब्धता को सुनिश्चित करें और कृत कार्यवाही से न्यायालय को भी अवगत कराने का कष्ट करें। इन पत्रिकाओं को सभी न्यायिक अधिकारियों को निरन्तर परिचालित किया जाना भी सुनिश्चित कर लें।

परिपत्र संख्या 85/दस-ई-5/ अ.न्या. (भाषा अनुभाग) दिनॉक 4 दिसम्बर, 1989

महासचिव अखिल भारतीय हिन्दी विधि प्रतिष्ठान, लखनऊ द्वारा न्यायालय को प्रेषित पत्र संख्या 89 सा/1095 एवं पत्र सं. 89/सा/1096 दिनॉक 21.9.1089 की एक-एक प्रति मुझे इस आशय के साथ भेजने का निर्देश हुआ है

कि आप पत्र में वर्णित विधिपत्रिकाओं को न्यायिक अधिकारियों के मध्य परिचालन हेतु उचित कदम उठावें ओर यह सुनिश्चित करें कि सभी न्यायिक अधिकारियों को उक्त वर्णित विधि पत्रिकाएं, अवलोकनार्थ अध्ययनार्थ उपलब्ध हो जाय। इस हेतु आप अपने जनपद में न्यायिक अधिकारियों की संख्या को ध्यान में रखते हुए उच्चतम न्यायालय निर्णय सार की संख्या में वृद्धि की मांग आवश्यकतानुसार सीधे महासचिव, अखिल भारतीय हिन्दी विधि प्रतिष्ठान सी-36, निराला नगर,[1] लखनऊ को प्रेषित करें और कृत कार्यवाही से न्यायालय को सूचित करें।

पत्र संख्या.89 सा/1095, अखिल भारतीय हिन्दी विधि प्रतिष्ठान, दिनॉक 21 सितम्बर, 1989

विनम्र निवेदन है कि माननीय उच्च न्यायालय के आदेशानुसार प्रत्येक जिला न्यायाधीश को इस प्रतिष्ठान द्वारा प्रकाशित दोनों पत्रिकाओं की तीन-तीन प्रतियाँ भेजी जाती हैं। इस समानता का परिणाम यह होता है कि बड़े जिलों में इनका परिचालन अधिकारियों की संख्या अधिक होने के कारण नहीं हो पाता ''इलाहाबाद दण्ड निर्णय'' के सम्बन्ध में सम्भवतः उ.प्र. शासन ही अधिक भिजवाने का निर्णय ले।

ऐसी दशा में हमारी प्रार्थना है कि ''उच्चतम न्यायालय निर्णय-सार'' की भेजी जाने वाली प्रतियों की संख्या बढ़वाने की कृपा करें, जिससे कि अधिकतम छह अधिकारियों के बीच एक प्रति उपलब्ध हो जाय। यह उस व्यवस्था के भी अनुरूप होगा जा इन पत्रिकाओं के प्रारम्भिक वर्षों में उ.प्र. शासन ने की थी। कृपया उचित आदेश शीघ्र प्रसारित कराएं, जिससे कि आगामी वर्ष के प्रारम्भ से ही संख्या बढ़ाई जा सके।

पत्र संख्या 89 सा/1096, अखिल भारतीय हिन्दी विधि प्रतिष्ठान, दिनॉक 21 सितम्बर, 1989

विनम्र निवेदन है कि इस प्रतिष्ठान द्वारा प्रकाशित ''उच्चतम न्यायालय निर्णय-सार'' व ''इलाहाबाद दण्ड निर्णय'' नामक पाक्षिक विधि पत्रिकाएं माननीय उच्च न्यायालय के आदेश से सभी जिला न्यायाधीशों तथा वहिःस्थल (आउटलाइंग) न्यायालयों को भेजी जाती है। किन्तु ज्ञात यह हुआ है कि इन पत्रिकाओं का परिचालन (सर्कुलेशन) नहीं हो रहा है। परिणामस्वरूप हमारा श्रम तो व्यर्थ सा हो जाता ही है, न्यायिक अधिकारी भी पत्रिकाओं के लाभ से वंचित हो जाते हैं।

अतः प्रार्थना है कि पत्रिकाओं के परिचालन के लिए एक प्रपत्र जारी कराने की कृपा करें।

21. SUPPLY OF CIRCULAR LETTERS ETC. TO EMPLOYEES ASSOCIATIONS

C.L. No. 51/Admn. (D) dated 19th May, 1978

All local units of the Civil Court Ministerial Association should be given copies of circular letters and Government Orders, which are of interest to the service of the Ministerial Staff.

C.L. No. 33 Admn. (D) dated 24th March, 1979

Copies of Government Orders, Circular Letters and High Court Orders touching the service conditions and affecting the service interests of the members of the Anjuman Himayate Chaprasian, should be supplied to the Presidents and Secretaries of the district branch.

(i) Regarding supply of the I.L.R. Journals.

C.L.No. 56/Admin. (F) Dated: 18th December, 2000.

I am to inform you that in I.L.R. Meeting held on 16 September 1998 it was resolved that Judicial Officers be supplied I.L.R. issue so that they may be well informed with the latest decisions. Accordingly, Government printing Press was directed to send I.L.R. issue to the District courts so as to make the same available to each Judicial officer.

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[1] *वर्तमान पता- 2/127-बी, विजय खण्ड-2, गोमती नगर, लखनऊ*

I am desired to request you to inform the Hon'ble court as to whether the I.L.R. issues are being received in the District courts well in time. Position of the last issue received may also be indicated so that the matter may be taken up with the Government printing press.

22. FACILITIES TO OFFICERS OF VIGILANCE DEPARTMENT

C.L. No. 57/VIIIb-70, dated 19th May, 1972

All possible cooperation should be extended to the Director of Vigilance and investigating officers in making available to them the records or a part thereof or in getting certified copies of the same and also in providing facility for inspection of records in connection with the inquiries being conducted by them.

(i) Providing of facilities of stay security, staff etc. to the officers of Vigilance Department of the Court.

C.L.No. 20/Vb.23/ Admin/ 999 dated 20th August, 1999

The Hon'ble court has been appraised of unexpected situation caused by non-cooperation of the District judge and the staff of the district court when the officers of the Vigilance department visit a district in connection with enquires. It has been noticed that common courtesy of making arrangement for their stay, security , transport etc. befitting to their status is not extended to them. They do not get access to the records required in connection with the enquiry. In order to avoid the re-occurrence of the said incidence , the Hon'ble court has desired that the following instructions may be followed as soon as a visit of vigilance department is notified to district.

1. Proper accommodation should be reserved in the name of the officer in Govt. Inspection House or Govt. Guest House befitting to the status of the officer.
2. Two orderlies/peons be temporarily attached with the officer during his stay at the headquarter.
3. Proper transport facility i.e. official vehicle be provided to him to perform journey from the railway station to the Inspection house and from Inspection House to the place of enquiry and to visit such places which are required to be visited in connection with the enquiry. Such official vehicle facility be also provided if the place required to be visited in the enquiry is not connected by rail route.
4. Proper sitting accommodation such as the committee room or the chamber be ensured befitting to the status of the officer.
5. Every assistance should be provided to the officer to have access to the record connected with the enquiry and that the record should be made available to the officer before the commencement of the enquiry or at least within a reasonable period of time.
6. One stenographer and one typist be provided to the officer for the purpose of enquiry.
7. Security be provided to the officer at the place of enquiry.

I am, therefore, directed to communicate the directions of the Hon'ble court for strict compliance.

(ii) To provide facilities to a committee appointed by Hon'ble Chief Justice by D.J. and C.J.Ms.

C.L. No. 40/ Dated : 15th December, 2001

I am directed to say that Hon'ble the Chief Justice has appointed, in compliance with the orders of Hon'ble Supreme Court, a high level Committee comprising of (i) Hon'ble Mr. Justice A.B.Srivastave (Retd.), Chairman (ii) Sri A.B. Hajela, Member and (iii) Sri Muhi-ul-Islam, Member. The task of the Committee is to ensure and monitor the implementation of eleven requirements ordained in the case of D.K. Basu [1997(1)SCC, 461]. In that connection the Committee collectively or individually shall be visiting different district for surprise inspection of the records of the police station and the offices of the authorities having the powers of arrest and/ or detention.

It is, therefore, desired that the District Judges and Chief Judicial Magistrates should facilitate all appropriate conveniences to them upon their visit.

23. FACILITIES TO WITNESSES AND THE LITIGANT PUBLIC

C.L. No. 6085/VIII-b-2, dated 28th May, 1949

Government proposes that all witnesses must stand while actually giving evidence before a court. This is in accordance with the practice in the courts in England and probably in most other independent countries. An exception may be made only in the case of witnesses who are unable to stand on account of physical incapacity such as invalids, infirm and aged person or persons who happen to be lame, or suffering from some special injury or ailment.

Facilities should, however, be provided so that a witness may remain seated while he is in the court-room but is not actually giving evidence before the court. A seat similar to that provided for counsel below the dais in the courtroom may be provided in the witness box or at a place set ,apart for the witness. The witness may be allowed to occupy this seat except when he is actually giving evidence or is addressing the court or is being addressed by the court. The facility should be available to all witnesses irrespective of their position, prestige or status.

C. L. No. 2/IX-g-1, dated 20th November, 1948

The Government has accepted the recommendation of the Conference of Senior Administrative Officers held in April, 1948, to consider the subject of "relations between the public and the public servants" and the Standing Committee on General Administration, that seating arrangements and other essential facilities, such as the supply of drinking water, should be provided in public offices, particularly the courts.

Cloak Room

C.L. No. 113/S(b)-(Ladies Lav.), dated 13th July, 1976

District Judges should formulate a scheme for a separate cloak room, i.e., a small retiring room with lavatory and wash basins for use of the lady litigants frequenting the

civil courts. The said convenience is very necessary for the lady lawyers also, who are practicing in a number of judgeships.

Necessary plan and estimate for the proposed work duly scrutinized by the proper authorities should be sent to the Court expeditiously along with a site plan showing the site selected for the purpose.

24. ENTRY IN COURT PREMISES WITH FIRE ARMS

C.L. No. 129/IVh-10, dated 20th November, 1978

District Judges should ensure strict compliance of Rule 614(4) of G. R. (Civil) and persons bringing any kind of arms with them are prohibited entry in the court premises.

G.L. NO. 322/46, dated 25th January, 1913

The Munsarim of each court is responsible for seeing that no person other than an official of the court or a recognized apprentice enters any office rooms or record room without the Written permission of the presiding officer.

25. MODE OF ADDRESSING PARTIES BY COURT PEONS

G.L. No. 16/VI-c-5, dated 21st September, 1951

Peons when calling out the names of parties and witnesses in a case should use more respectful language and should prefix the term "Sri" or "Sarvasri", "Srimati" or "Kumari" to the name or names as circumstances may require. They should also make use of the more respectful term "hazir hain" instead of the term "hazir hai".

26. NO COURT DRESS FOR MEMBERS OF PUBLIC

C.L. No. 37/IX-a-23, dated 14th April, 1951

Peons in subordinate courts should not object to members of the public entering the court room with a cap on. No objection should be taken to the dress worn by any member of the public attending the courts provided he is decently and properly dressed having regard to his status in life. Anyone wearing the European headdress must remove it before entering the courtroom in accordance with European custom.

C.L. No. 53/73, dated 18th June, 1973

Litigants, members of the public and the witnesses should neither be prohibited from wearing Gandhi cap or any Indian head gear neither while entering a court nor should they be asked to take it off.

27. DRESS FOR A.P.P.

C. L.No.42/VIII-b-223, dated 7th April, 1976

It encloses G.O.No. 2312/Eight-Ni-Lo-Aa-2/6(2):74, dated 27th February, 1976 of U.P. Government prescribing, dress for Assistant Public Prosecutor.

While appearing before a Court, the Assistant Public Prosecutors are required to put on a buttoned up black coat or black coat with a black tie.

28. ABBREVIATED FORM OF CIVIL JUDGE

G.L. NO. 20/97-4(4), dated 31st March, 1937

The abbreviated form of "Civil Judge" or "Additional Civil Judge" should be "Civil J." or "Addl. Civil J." In no case should the abbreviation "C.J. or A.C.J." be used as they are the recognized abbreviated forms of "Chief Justice" and "Acting Chief Justice"

29. INTIMATION OF TELEPHONE NUMBERS

C.L. No. 20/Admn. (E), dated 10th May, 1985

The District Judges are requested to intimate to the Court their present telephone numbers (office and residence both) and also the telephone numbers of Additional District Judges and Chief Judicial Magistrate of their district and also the changes which may take place from time to time in the telephone numbers in future.

30. OATH COMMISSIONERS

(i)) Appointment and removal

G.L. No 11/452(15), dated 9th March, 1932 as modified and amended by

C.L. No. 65/45, dated 8th December, 1934,

C.L. No. 76/45-22, (3) dated 3rd September, 1936,

C.L. No. 85/45(8), dated 10th October, 1936 and

C.L. No. 6/45-5(1), dated 22nd January, 1937

It is discretionary for District Judges to have the verification of affidavits done by Munsarims only or to appoint legal practitioner for this purpose. The convenience of litigants, however, is a matter which should be considered.

It is undesirable that the nomination of legal practitioners for appointment as Oath Commissioners should be made by the Bar Association, as the obligation of making proper appointments rests with the District Judge and if he feels that owing to his being new to the district he requires assistance from others for making proper appointment he should obtain such assistance from Munsifs and Civil Judges who may be in a better position to make the necessary nomination. So long as a legal practitioner who has been appointed an Oath Commissioner is doing his work well, he should not be removed from the list but he would be subject to removal if his income at the Bar makes it desirable that he should withdraw his name in favour of a junior.

A District Judge has the power to strike off the name of an Oath Commissioner at his own instance. He need not wait till the Oath Commissioner asks for the removal of his name. The term of appointment of Oath Commissioner should be limited to a period of three years only. In special cases a retiring Oath Commissioner would be eligible for re-appointment.

It should be clearly understood that the object of the above directions is not to provide employment to impecunious members of the Bar, but to get good men for the benefit of the public and so a District Judge should select men who are likely to do well as Oath Commissioners. Other things being equal, however, a legal practitioner with a

small income is to be preferred for this appointment to a legal practitioner who has a good practice.

C.L. No. 87/VIIIa-27, dated 9th December, 1985

In supersession of the Circular Letters No- 39 dated 22nd July, 1960, Circular Letter No. 84/VII-d-27 dated 31st May, 1971, C.E. No. 162/VII/d-27 dated 23rd December, 1971, Circular Letter No. 33/IV-27 dated 18th April, 1973, Circular Letter No 29/VIId-26 dated 25th February, 1974 and Circular Letter No. 38/Vc-94 dated 28th March, 1976 and any other Circular Letters issued in this regard, the following instructions should henceforth be strictly observed by all concerned in order to have an effective control over the appointment, work and conduct of the Oath Commissioners.

1. The appointment of the Oath Commissioners should be made by the District Judge after inviting applications from the practicing advocates. For the purpose of making selection among the applicants, a committee of three officers to be nominated by the District Judge should be formed. The Committee shall scrutinize the applications and shall submit a list of Advocates who, in its opinion, are fit to be appointed as Oath Commissioners. The District Judge shall scrutinize the recommendation made by the Committee and it shall be within his right to add or delete, any name(s) from the list submitted by the Committee. While making appointment of Oath Commissioners, Scheduled Caste and Scheduled Tribe, Lawyers should also be kept in view.

2. The term of Oath Commissioners shall be one calendar year. Appointment shall be made by the end of December and shall be effective from the following 1st of January till 31st of December. The District Judge may strike off name of any Oath Commissioner, if it comes to his knowledge that incorrect facts have been produced by him for securing his appointment as such. The name of the person including the ones indulging in the malpractice or charging fee higher than prescribed or verifying affidavits without the deponent appearing before him or shirking work or engaged in any other sort of malpractice shall be removed from the list of Oath Commissioners by the District Judge. From out of the Oath Commissioners appointed by him, the District Judge shall designate one such Oath Commissioner as Oath Commissioner -in-charge.

3. The place of sitting of Oath Commissioners shall be fixed by the District Judge. The duties of the individual Oath Commissioners shall be assigned according to the place of their practice, that is to say, Civil Court/ or Collectorate. The Oath Commissioner-in-charge shall assign duties to specific Oath Commissioners fixing dates and duty hours to ensure that during working hours, Oath Commissioners are available for verification of affidavits. It shall be the duty of Oath Commissioners to sit in the office during duty hours for verifying affidavits. A copy of the schedule of working programme should always be forwarded by the Oath Commissioner-in-charge for information to the District Judge. Its copies should be sent to the local Bar Association and it should also be pasted on the notice board outside the place of sitting of Oath Commissioners for information to the general public.

4. A pool should be formed for the income from the affidavits and the entire income from affidavits shall be pooled. No individual Oath Commissioner should be allowed to pocket the fee which he gets by verifying affidavits. The Oath Commissioner-in-charge will be responsible for keeping the pool income in his custody and to maintain its account and to disburse it to Oath Commissioners equally once a week.

5. Instead of the register of affidavits prescribed by Court's C.L. No. 39 dated 22nd July, 1960, a register of affidavits in the following form shall be maintained by Oath Commissioners for making entries of affidavits and the income derived from verification of affidavits: -

Sl. No.	Date	Time	Particulars of the suit or criminal case or other proceedings in which affidavit is to be filed	Name of Parties
1	2	3	4	5

Name of the Court to which the suit or case or proceeding relate	Name of the person verifying the affidavit	Name of the person identifying the deponent	Court or authority before which the affidavit is to be filed
6	7	8	9

Name of the Oath Commissioner verifying the affidavit	Signature of the deponent	Signature of the person identifying the deponent	Signature of the Oath Commissioner	Place where affidavit was verified
10	11	12	13	14

Amount realised	Remarks
15	16

After entering affidavits in the register, the serial number at which such entry has been made should be noted on affidavits by the Oath Commissioner along with the date and time of verification. The register of affidavits should be submitted to the District Judge or to any other officer nominated by the District Judge once a month. The District Judge may, in his discretion, at any time summon the register for his perusal.

6. While verifying affidavits each Oath Commissioner should write his full name in legible hand along with his signature and he shall also put a rubber stamp indicating his full name on the affidavit.

7. For the facility of the litigant's .to avail of the services of Oath Commissioners after the court hours arrangement should be made mutually amongst the Oath Commissioners to make one or more of them available at his residence during fixed hours. Names, residential addresses and hours of availability of Oath Commissioners should be displayed on a notice board outside Bar Association or the place where the register of Oath Commissioners is kept and affidavits are verified.

8. Oath Commissioners appointed by the District Judges are not entitled to attest affidavit intended to be used in a proceeding other than a judicial proceeding.

9. A register for maintaining accounts and utilization of coupons shall be maintained by the Oath Commissioner-in-charge. At the time of taking coupons this register will be produced before the Central Nazir who will before issuing coupons, verify whether the coupons issued earlier have been utilized. No coupons should be issued to an individual Oath Commissioner, but only to the Oath Commissioner-in-charge. At the time of issue of coupons the Oath Commissioner-in-charge shall also submit utilization certificate before the Central Nazir. The Coupon Register maintained by Oath Commissioners, should also be put up at least once in a month before the Oath Commissioner-in-charge, for inspection and verification of due utilization of the coupons issued.

A Register for recording the issue of coupons shall also be maintained by the Central Nazir and the coupons issued to the Oath Commissioner-in-charge from time to time will be entered in this register and his signature obtained in token thereof.

10. The Munsarim and Reader of the Court should scrutinize carefully all affidavits filed in any suit, appeal, revision or in any other proceeding and should see that they are in accordance with the provision of Order XIX, rules 3 to 15, C.P.C. An affidavit not duly and properly drawn and verified and not containing coupon would deserve to be rejected. In such a case the Presiding Officer of the court should inform the District Judge or the officer nominated by him, so that appropriate action may be taken against the erring Oath Commissioner.

11. The District Judge or the officer nominated by him may from time to time issue necessary orders regulating the working of the Oath Commissioners and such orders shall be strictly followed by the Oath Commissioners.

C.L. No. 23/VIId-27, dated 26th March, 1954

All Oath Commissioners should carefully read the rules contained in order XIX of Schedule I of the Code of Civil Procedure as amended by this Court (Particularly Rule 11-A) for strict compliance while verifying affidavits. If they do not follow the rules properly their names should be removed from the list of Oath Commissioners.

C.L. No. 76/VIId-27-Admn.(B), dated 4th April, 1977

All District Government Counsel, Additional District Government Counsel and Senior A.P.P.S. may be appointed Commissioners of Oath in order to facilitate swearing of affidavits to be filed on behalf of the prosecution in any court under the Code of Criminal Procedure, 1973. Their appointment as such may be made by the District Judge under section 297 (i) (b) of the said Code.

DRAFT ORDER

(1) The District Public Prosecutor (i.e.. the District Government Counsel, Criminal) and all Additional Public Prosecutors, Class I and Class II (i.e., Additional and Assistant District Government Counsel, Criminal) and all Senior Prosecuting Officers (who under the Code of Criminal Procedure are "Assistant Public Prosecutors" for the time being serving in this district shall ex-officio be Commissioners of Oaths under section 297(i)(b) of the Code of Criminal Procedure, 1973 for the purpose of administration of oath or solemn affirmation to deponents of affidavits to be used on behalf of the prosecution before any court under the said Code.

(2) The Commissioners of Oaths appointed by this order shall not be entitled to any fee.

C.L. No. 121/Budget/VIId-27, dated 13th July, 1977

The legal assistants or any other official recommended by his Head of the Department, working in the Collectorate be appointed as an Oath Commissioner, by designation under section 139 of the Code of Civil Procedure.

The Commissioners of Oath so appointed shall not be entitled to any fee.

C.L. No 183/Budget dated 9th December, 1977

In making appointments of Oath Commissioners in districts, reservation should be made as far as possible for Scheduled Castes, Scheduled Tribes and other backward classes in accordance with the Government orders enforced from time to time providing such reservation.

C.L. No. 5/VIId-27(Budget), dated 12th January, 1978

The Court has approved a form of application for appointment of Oath Commissioners and Amicus-curiae in the subordinate court. Henceforth applications for the aforesaid posts should be invited on the prescribed form.

C.L. No. 7/VIId-27 dated 24th January, 1964 and

C.L. No. 162/VIId-27 dated 23rd December, 1971

In supersession of Courts' C.L. No 45/VIId-27 dated May 7, 1956 the Hon'ble the Chief Justice is pleased to direct that persons appointed Oath Commissioners in District Courts under section 130 Cr. P. C. for a particular term shall ipso-facto be deemed appointed Oath Commissioners under section 297 Cr.P.C., for that term. The fee chargeable for each such affidavit is Re. 1/-.

C.L. No. 19/VIId-27, dated 15th February, 1974

With a view to avoid non-presence of the deponent before the Oath Commissioners and a fake person identifying the deponent, they must, at the time of verification of affidavits, invariably obtain on the register of affidavits the signature or clear thumb impression of the deponent as also of the person identifying him. District Judges should have a periodical checking made of the register to ensure strict compliance of these directions.

(ii) Affixation of coupons

C.L. No. 8/VII-d-27 dated 2nd February, 1974,

C.E. No. 29/VIId-26 dated 25th February, 1974,

C.L. No. 38/VII-d-27 dated 13th March, 1974 and

C.L. No. 106/VII-d-27 dated 10th September. 1979

The Oath Commissioners of the subordinate courts should be directed to make entries about the affidavits verified by them in the common register to be maintained by the Oath Commissioners. The Oath Commissioners should also be asked to maintain individual registers .as well to indicate the number of affidavits verified by them and the number of coupons utilised by them.

The District Judge should submit quarterly report regarding issue of coupons to the various Oath Commissioners during the years, with a certificate that the Oath Commissioners have accounted for the coupons received by them as also to the fact that the sale proceeds of coupons have been credited to the Government in accordance with the above directions.

The affidavit coupons, which remain unused at the close of the year 1979, should be returned to the Court along with the statement in the following proforma :-

1	2	3	4
Kind of coupon	Number of coupons received during the year	Number of coupons issued to the subordinate Courts/ Oath Commissioners	Balance at the close of the year, which are being surrendered to the Court after the close of the year.

The Oath Commissioner should give an undertaking to account for the coupons received by them from the District Judge and to return the unused coupons at the end of his term of appointment as Oath Commissioner. If any coupon is lost or the Oath Commissioner is not able to account for that he should further undertake to render account as if such coupon has been utilized in verifying affidavit, i.e., to account for such coupons also at the prescribed rate of Rs. 2/- or Rs. 1/- per coupon as the case may be, to the pool of income of Oath Commissioners.

This procedure should be continued in future also and quarterly reports should be submitted to the Court regularly.

The indent for approximate quantity of affidavit coupons for the next year should henceforth be sent to the Court (in duplicate) in the first week of October each year, so as to reach the Court positively by the 9th of October.

C.L. No. 46/Admn. (B. II) dated 16th September, 1985

In future the unused affidavit coupons meant for a particular year should be surrendered to the Court regularly after the close of the year every year, so as to ensure that the unused coupons reach the office of the Court latest by 10th April every year.

(iii) Affixation of Coupons of Affidavits meant to the filed in High Court & Subordinate Courts

G.L.NO. 3056/Budget-M dated September 7, 1990

I am directed to invite your attention to the last paragraph of Court's Letter No. 106/VII-d-27 dated September 10, 1979 and the Court's letter No. 2188/B-II dated Sept. August 27, 1984, 1741/B-II dated 26, 1985, 2781/B-II dated September 1, 1986, No. 2334/B-II dated July 22, 1987 No. 2246/B(M) dated September 7, 1988 and no.4447/B(M) dated September 1, 1989, on the above subject, and to request you kindly to sent your demand for approximate quantity to affidavit coupons required for the year 1991, latest by the last week of October 1990.

I am to add that the mater may please be treated as 'Most Urgent' and your demand may be sent to the Court within the prescribed date so as to enable the court to place order for Printing of New Coupons well in advance.

(iv) Affixation of coupons to the Affidavit meant to filed in subordinate Courts

G.L. No. 5176/Budget(M) dated February 14, 1995

With reference to your letter No. 389/K.N. dated 1-3-1995, I am directed to send herewith marginally noted coupons to be used in the Subordinate Court's coupons.

The coupons marked IM are to be filed in Courts of Munsifs, Judges Small Causes and Assistant Collector.

The coupons marked IM are to be filed in Courts of Munsifs, Judges Small Causes and Assistant Collector.

I am also to request that requisite number of coupons may also be sent to the outlying courts where they exist with the directions, that such coupons may be used for affixation with directions contained in the Court Circular Letter No. 8/VIII-D-27, dated February 2, 1974 and No. 106/VII, dated September 10, 1979.

Coupons in Yellow paper with Green colour background(M).
Coupons in Blue paper with pink colour back ground (IM).
High Court Coupons:
Coupons in white paper with Violet colour back ground.

I am to add that further demand may pleased be sent to the court well in advance so that work may not be held up for want of coupons.

The account may pleased be maintained in accordance with the Court's direction in the matter and unused coupons may please be surrendered at the end of the required under the Court's C.L. dated September 10, 1979 referred to above.

31. APPOINTMENT OF NOTARY PUBLIC

G.L.No.7/152-3,dated 14th March, 1939 read with Judicial Department

G.O. No. 598/VII-220-38 dated 16th February, 1939

The Government of India has delegated to the State Government their powers under sections 138 and 139 of the Negotiable Instruments Act, 1881 (XXXVI of 1881).

32. SUPERVISION OVER DISTRIBUTION OF COMMISSIONS

G.L. No. 4386/89, dated 4th December, 1922

It is most important that District Judges should ascertain periodically the number of commissions issued by each court subordinate to them and see that there is a fair distribution of such work.

33. NATIONAL FLAG

C.L. No. 106/IX-d-25, dated 20th October, 1951

The size of the national flag as prescribed under Government of India letter no. 87/47-Public (B), dated 29th July, 1949, is reproduced below for the information and guidance of subordinate courts.

Extracts from enclosures to letter No. 87/47-Public (B) dated 29th July, 1949 :

Serial No.	Name of Offices	Size of the national flag flown
3	High Court, Chief Courts and Judicial Commissioners' Courts	12' x 8'
7	Courts of District and Sessions Judges when the flying of the flag has been authorised by the State Government	6' x 4'

34. NATIONAL INTEGRATION

C. L. No. 52/VIII-e-44, dated 9th August, 1962

Correspondence between the State headquarters and the district falls in the sphere of internal administration. Ordinarily, therefore, it would be appropriate to use the official language of the State for correspondence between the State and district headquarters and -vice-versa. The use of the Union official language should also be permitted for this purpose in place of the official language of the State. This union official language will thus be either English or Hindi.

In recruitment to State Services under the State Government, language should not be a bar. Therefore, besides the official language of the State, option should be given for use of English or Hindi as the medium of examination. A test of proficiency in the State official language should be held after selection and before the end of probation.

35. FAMILY PLANNING

C.E. No. 27/IX-g-54, dated 12th February, 1969

When approached by a representative of the Family Planning Department permission may be accorded for erection of a notice board at a suitable place in the compound of the civil courts on which Family Planning messages (Slogan) may be painted.

C.L. No. 25/VIII-e-42, dated 1st March, 1976

All possible efforts should be made in the direction of propagating the cause of family planning among officers/officials working under the District Judges by explaining to them its beneficial effects.

36. BYE-ELECTIONS

C.L. No.11/IV-g-3, dated 26th February, 1955 read with

C.L. No. 74/IV-g-3, dated 22nd December, 1955

All possible assistance should be rendered by District Judge to the District Officers and Election Officers, when approached by them in connection with the bye-election which may be conducted in their jurisdiction.

These directions are of a general nature and are meant to apply to all such elections.

37. ENTITLEMENT TO V.I.P. LOUNGE

C.E. No. 70 IC-50, dated 1st April, 1977

The Government of India, vide letter No. 35/6/77-Jus.(M) Ministry of Law, Justice & Company Affairs, have informed that, the Judges of the Supreme Court and

Chief Justices and other Judges of the High Courts are entitled to the V.I.P. Lounges at the International air ports of the International Airports Authority of India and at the domestic aerodromes of the Civil Aviation Department.

38. COMPENSATION BONDS OF FEMALE HINDUS

C.E. No. 75/VII-f-162, dated 28th July, 1961

The District Judges should deal with the compensation bonds of the female Hindus according to rules as amended vide Government notification no. U.P. 733/I-A-375 D-59, dated May 19, 1961.

39. USE OF METRIC TAPES ONLY

C.E. No. 41/VIIF-97, dated 24th April, 1968

Departments using measuring tapes should use only metric tapes graduated exclusively in metric units, and no other tapes; because use of non-metric tapes is an offence under the Weights and Measures Laws.

40. DECLARATIONS BY PRINTERS AND PUBLISHERS OF NEWSPAPERS

G.L. No. 5, dated 26th November, 1906

The following directions with regard to the filing of declarations made by printers and publishers of newspapers and periodicals under Act No. XXV of 1867 should be strictly adhered to-

Duplicate copies of all declarations made by printers and publishers of newspapers and periodicals under Press Regulations of Books Act, 1867, before Magistrates be sent to the District Judge's court.

Care should be taken to see that all declarations so received have been properly authenticated. Any declaration not so authenticated should be returned for having the omission repaired.

The papers should be retained permanently.

41. CONFLICTING INSTRUCTIONS OF COURT

C.L. No. 136/VIII-h, dated 12th September, 1974

Where the provision of any Act are found to be in conflict with any previous instructions issued by the Court, the discrepancy should immediately be brought to the notice of the Court for necessary action.

42. CENSUS WORK

Concerning cooperation of state employees for the census of 1991

C.L. No. 99/1990 dated October 24, 1990

I am directed to enclose herewith a copy of the D.O. letter No. 4254/rhu-15 (2)/87-lk-iz-vuq-, dated September 12, 1990 alongwith its enclosure received from the Secretary to Government, General Administration Section, Uttar Pradesh, on the subject, and to ask you kindly to spare employees for census work.

अ.शा.प.सं.-4254/तीन-15(2)/87 सामान्य प्रशासन अनुभाग, उत्तर प्रदेश शासन दिनॉक 12 सितम्बर, 1990

कृपया जनगणना 1991 के लिये अपने अधीनस्थ कर्मचारियों को जिला मजिस्ट्रेट तथा महापालिकाओं के मुख्य नगर अधिकारियों को उपलब्ध कराने विषयक उत्तर प्रदेश शासन के मुख्य सचिव के पत्रांक 585/तीन-15(2)/87 सा.प्र. अनु. दिनॉक 13 फरवरी, 1990 (प्रतिलिपि संलग्न) का संदर्भ लेने का कष्ट करें।

2- *प्रदेश की विभिन्न महापालिकाओं के सम्बन्ध में निदेशक जनगणना कार्य, उत्तर प्रदेश के माध्यम से प्राप्त सूचनाओं के अनुसार जनगणना कार्यों हेतु विभिन्न कार्यालयों/विभागों से कर्मचारियों की आपूर्ति वांछित संख्या में नहीं हो पा रही है। प्रदेश शासन के लिये यह अत्यन्त चिन्ता का विषय है क्योंकि जनगणना के फील्ड कार्यों का निष्पादन जनगणना अधिनियम 1948 की धारा 4(2) के अनुसार राज्य प्रशासन का संवैधानिक दायित्व है तथा तद्नुसार राज्य सरकार के किसी भी कर्मचारी को जनगणना का कार्य दिये जाने पर वह इन्कार नहीं कर सकता।*

3- *यह उल्लेखनीय है कि 1991 की जनगणना के फील्ड कार्यों हेतु उत्तर प्रदेश में लगभग 3 लाख कर्मियों की आवश्यकता होगी जिनकी आपूर्ति राज्य सरकार के किसी एक विभाग/कार्यालय से सुनिश्चित नहीं की जा सकती।*

आपसे अनुरोध है कि कृपया प्रदेश के समस्त सिविल कोर्टों को अपनी अधीनस्थ लिपिकीय कर्मचारी जिला मजिस्ट्रेटों तथा महापालिकों के मुख्य नगर अधिकारियों को उनसे मांग आने पर जनगणना कार्यों हेतु उपलब्ध कराने के निर्देश जारी करने का कष्ट करें।

जनगणना 1991 में राज्य सरकार के कर्मचारियों की नियुक्ति तथा सहयोग पत्र

पत्रांक संख्या-585/तीन-15(2)/87 सामान्य प्रशासन अनुभाग, दिनॉक 13 फरवरी, 1990

1- *भारत सरकार द्वारा जारी अधिसूचना के अनुसार अगली जनगणना फरवरी-मार्च 1991 में होगी। इसकी संदर्भ तिथि तथा समयकाल 1 मार्च, 1991 का सूर्योदय रखा गया है।*

2- *विगत जनगणना की भॉति 1991 की जनगणना कार्य भी दो चरणों-मकान सूचीकरण तथा प्रगणना में पूरा किया जायेगा। प्रथम चरण के दौरान मकान सूचीकरण एवं उद्योगों की सूचीबद्ध किया जाना प्रस्तावित है।*

3- *यह कार्य मई, 1990 में सम्पन्न किया जाना है इस हेतु प्रारम्भिक तैयारियॉ जनगणना निदेशालय, उत्तर प्रदेश तथा राज्य सकरार के जिला प्रशासनों तथा महापालिकाओं द्वारा प्रारम्भ कर दी गयी है विगत जनगणनाओं की भॉति इस बार भी जनगणना के क्षेत्रीय कार्यों का निष्पादन राज्य सरकार के कर्मचारियेां द्वारा किया जाना है। जनगणना के इस चरण में लगभग 3 लाख कर्मियों की आवश्यकता पड़ेगी जिनको उपलब्ध कराना राज्य सरकार के किसी एक विभाग द्वारा सम्भव नहीं होगा। यद्यपि जनगणना कार्यों के प्राथमिक कर्मी-प्रगणक तथा पर्यवेक्षण मुख्यतया राज्य सरकार के शिक्षा तथा राजस्व विभाग से लिये जायेंगे किन्तु इनसे ही आवश्कता की पूर्ति नहीं हो पाती। इस संदर्भ में यह आवश्यक तथा अपरिहार्य हो जाता है कि राज्य सरकार के सभी विभाग इस दायित्व का वहन समान रूप से करें। अतः यह निर्देश दिये जाते है कि जिला/महापालिका प्रशासन से कर्मियों की मांग आने पर उन्हें तुरन्त उपलब्ध कराया जाय ताकि उन्हें समय से प्रशिक्षित किया जा सके।*

4- *चूंकि जनगणना के केन्दीय कार्यों में लगाये गये कर्मचारियों को अपना नियमित कार्यालय कार्य भी करना पड़ता है अतः उन्हें मकान सूचीकरण का कार्य प्रारम्भ होने पर उन्हें नियमित कार्यभार तथा कार्यालय आने-जाने के समय में पर्याप्त छूट दी जाये जिससे प्रगणक/पर्यवेक्षक रूप में कार्य कर रहे सभी कर्मचारी जनगणना के विशाल तथा समयबद्ध कार्य का निष्पादन सफलतापूर्वक कर सकें।*

43. CIRCULATION OF BOOKS AMONGST THE JUDICIAL OFFICERS PUBLISHED BY THE I.J.T.R., LUCKNOW

C.L No. 12898/VIIIh-8/Admn.(G) dated November 30, 1990

I am directed to enclose herewith a copy of D.O. letter No. JTRI/Trg/90-1535, dated 13.11.1990 from Sri I.S. Mathur, Director, J.T.R.I., Lucknow addressed to Sri P.C.

Agarwal, Additional Registrar, High Court, Allahabad, on the above subject and to say that the Court has approved the proposal of the Director of the Institute and direct that you may kindly depute a special messenger (preferably a Class IV employee) to receive the book from the Institute of Judicial Training and Research, 1/19, Vishwas Khan-1, Gomtinagar, Lucknow*, for being distributed amongst every Judicial Officer posted in each judgeship.

I am to add that the special messenger so deputed may be informed about the strength of Judicial Officers in your judgeship so that the Institute be able to handover him as many books as are required for a judgeship. After distribution of books amongst the Officers, a receipt in token be obtained from them, which shall be forwarded to the Institute immediately thereafter.

Kindly comply as mentioned in the letter.

44. FIRE

C.L. No.75/Ixd-17/Admn.(G) dated August 17, 1990

I am directed to invite your attention to Rule 637 of the General Rules (Civil), 1957, Volume I, and the guidelines to be observed in the matter of Fire in the Civil Courts which are contained in Appendix 21 of the General Rules (Civil), 1957, Volume II, and to say that you may see that the directions issued by the Government and by Court in the matte of fire are strictly followed and the maintenance and service of extinguishers are made periodically.

45. ISSUANCE OF CERTIFICATES OF EXPERIENCE TO ADVOCATES

C.L. No. 15/Admn.(F) dated March 24, 1995.

The Hon'ble Chief Justice and Judges have been pleased to direct that the District Judges shall not issue certificates of experience to any Advocate without verifying whether such Advocate is in fact practicing in the Judgeship.

46. RESERVATION OF CIRCUIT HOUSE/ INSPECTION HOUSE/ OTHER GOVERNMENT ACCOMMODATION TO HON'BLE JUDGES

C.L.No.1/ dated: Allahabad: January8, 1998.

I am directed to circulate the directions given by Hon'ble court in contempt petition No.13 of 1995-state of U.P.Vs.Satyajit Thakur in the matter of reservation of circuit House /Inspection House/ other Government Accommodation to Hon'ble Judges. Those directions relevant to the extent are extracted here in under:

"In our considered view as the chief Justice of the High court is equal in statuses to that of the Chief Minister and the Judges of this court are equal in status to that of a cabinet Ministers of the state and not of the State Minister's of the state."

"We, accordingly direct the State of U.P. to make suitable amendments to G.O's/Rules in light of our conclusion, in regard to precedence and allotments of its accommodation where-ever available and till then to provide accommodation to the

* Present address- Vineet Khand, Gomti Nagar, Lucknow.

Chief Justice and Judges of this court keeping this very principle in mind. It is also relevant to remember that the allotment rules governing the allotment of accommodation in Circuit Houses provides that in case of the availability of a V.V.I.P. room the same could be allotted to other dignitaries in order of seniority but in case it is required for the President/Vice President/ Prime Minister of India, in that event it has to be vacated by the dignitary occupying the said room; this shows that except the aforesaid three V.V.I.P. dignitaries the room allotted to the other dignitaries need not be vacated by them. It is, however, clarified that if there is only one room/ suit available in a Government accommodation, which is under occupation of the chief Justice or Judge of this court and any Constitutional Authority Higher in rank is to be provided that very accommodation, in that event the accommodation has to be vacated and the chief justice and Judges, as the case may be are to be accommodated in some other suitable accommodation by the State or its authorities. This situation, however, is likely to arise in a rare case but a workable solution has to be found out to avoid anyone's embarrassment and we hope and trust this case be found out by the bureaucracy of this State."

Hon'ble court has also taken into consideration Government Letter No.3796/23-8-97-178 C.P.-96 dated 9.1.1997, directing to the Engineer-in –chief P.W.D. for ensuring reservation also in the name of dignitaries whether retired, so that they are not put to any inconvenience. In this regard following directions were issued by the Hon'ble court.

"We hope and trust and reiterate that all concerned in this state concerning allotment of accommodations in the Circuit House /Inspection Bungalows /any other Government Accommodations in this State /concerning this state situated anywhere in the country shall henceforth follow the aforementioned directions and the Government order aforementioned strictly and if they violate or even attempt to violate, the District Judge of this State or any other authority or the person concerned, who comes to know of the dilly-dallying of the authority concerned shall report the matter to be Registrar of this Court for taking appropriate action against such a delinquent person/authority, apart from communicating that fact immediately to the Chief Secretary of this State to take immediate appropriate disciplinary action against the delinquent person/authority who in addition shall secure immediately an appropriate accommodation for such visiting dignitary.

"We hope and trust that an early action by the executive will stay at rest separate this unfortunate controversy at the earliest. We also need to mention that word punisne Judge in the protocol rule is somewhat a misplaced expression. The word puisne means inferior. this expression has not been used in the Constitution. The Judges of this court while discharging their Constitutional functions are not inferior and the Chief Justice is only first amongst equals though undoubtedly he is the administrative head of the High Court and master of the roster of the Judges.

"Court further held that even an attempt to obstruct or interfere with the due administration of Justice by the Judges of this Court amounts to gross contempt of court.

According to the decision of the Government taken in 1984 the Judge of this Court figure as against serial No.4 whereas the Chief Minister of Delhi figured at Serial No.8.

You are, therefore, requested to communicate the aforementioned direction to all concerned.

47. ISSUE OF IDENTITY CARDS TO CIVIL COURTS' STAFF AND TO ADVOCATES' CLERKS

C.L.No.32 /98 Dated 20th August, 1998

It has come to the notice of the court that persons not on the roll of the subordinate courts are found handling the judicial records. Such situation can not be permitted to continue for long. The matter came for consideration in the Administrative Conference held recently. The Hon'ble Court has taken a decision that for enforcing better behavior from the civil courts staff, all the employees of the subordinate courts should bear badges indicating their names. The Advocate's clerks must have an Identity card with photograph duly stamped and signed by the District Judge or his nominee. The Advocate's clerks, not possessing the Identity card be not permitted to enter the offices of the subordinate courts.

I am, therefore directed to communicate that the aforesaid directions of the Hon'ble Court may be brought to the notice of all concerned and be strictly complied with.

48. PRINTING OF SALEABLE AND NON SALEABLE FORMS AND REGISTERS USED IN THE CIVIL COURTS

C.L.No.34 /98 Dated 20th August, 1998

The Hon'ble court has noticed the non-supply and short supply of registers, saleable and non-saleable forms by the Superintendent, Printing and Stationery, U.P. Allahabad. The Court has taken a decision that the District Judges initially will indent for the supply of registers and forms to the Superintendent, Printing & Stationery. In case the superintendent, Printing and Stationery, does not supply the required quantity then the District Judge can get these forms etc. printed locally and the payment of the charges of such printing and paper be made from the deposition funds. The District Judges are further directed that they will submit a proposal of Rs. 5000/- in their annual budget to meet such exigencies.

I am, therefore, directed to communicate you the direction of the Hon'ble Court for compliance.

49. ATTACHMENT OF P.C.S. (EXECUTIVE) AND I.A.S. PROBATIONERS WITH THE DISTRICT COURTS FOR TAKING TRAINING.

C.L. No. 6/Admin.A-3 Sec Dated: 30th March, 1999

I am directed to say that the court has been pleased to order that P.C.S. (Executive) and I.A.S. Probationers be attached and allowed to attend the Courts with the District Courts for taking training as and when the training programme is received by you from the Government or by the District Magistrates concerned.

50 MID TERM LOK SABHA ELECTION, 1999 – APPOINTMENT OF SECTOR MAGISTRATE AND PROVIDING OF STAFF CARS

C.L.No.21/IVg-3/ Admin.A-3/99 Dated: 27August, 1999

I am directed to say that some of the District Magistrates of this state have requested for deployment of Judicial Magistrates as Sector Magistrates and using of Staff cars for election duties and to inform that the Court has been pleased to order that only such number of Magistrates and staff may be sent for election work who can be spared without seriously affecting functioning of Courts. Staff cars cannot be spared.

51. REGARDING RETURN OF HON'BLE SUPREME COURT NOTICES OR ITS SERVICE REPORTS.

C.L.No. 11/Sec./2001/Supreme Court Appeal Dated 13 March, 2001

I am directed to requests you not to send any notice or service report directly to Hon'ble Supreme Court if the same has been issued by this Registry for effecting service upon the respondents such notices or service reports henceforth shall be returned to this court and thereafter certificate of service will be transmitted by this Court to the Apex Court as per direction contained in Hon'ble Supreme Court's letter No. D No.4701/2000/XVIA dated 7.12.2000 in connection with transfer petition © Nos. 573-579 of 2000.

52. OBSERVANCE OF YEAR COMMENCING FROM 1st OF JANUARY, 2004 as "ARREARS CLEARANCE YEAR"

C.L. No.45/2003 Dated 20th December, 2003

As per resolutions passed in the Chief Justice Conference 2003 the year commencing from 1st January, 2004 is to be observed in all over the country as the "Arrears Clearance year"

To make successful Arrears are to be cleared in the subordinate courts by effective and improved Court Management.

I am, therefore, directed to request you to kindly circulate among the judicial officers posted in your Judgeship for its strict compliance.

53. TO ENSURE STRICT COMPLIACE OF THE JUDGMENT AND ORDER OF HON'BLE SUPREME COURT PASSED IN PETITION FOR SPECIAL LEAVE TO APPEAL (C) No. 9140 of 2003 : CH. VENKATESHWAR RAO V. THE REGISTRAR (ADMINISTRATION) HIGH COURT OF ANDHRA PRADESH, HYDERABAD, A.P. & ANOTHER

C.L. No. 30/2003, Dated 19 August, 2003

The Hon'ble Supreme court in Petition for Special Leave to Appeal (C) No.9140 of 2003:Ch Venkatesnwar Rao Vs. The Registrar (Administration) High Court of Andhra Parades, Hyderabad, A.P.& Anr. has observed with concerned that in District Courts charge sheets has been found lying with concerned staff without any action having been taken by verifying them and placed them before the Presiding Officer and in some preliminary registered case, records were not sent to the Sessions Court even after committal of the cases. The Hon'ble Supreme Court has further observed that several

unregistered private complaints, unregistered criminal miscellaneous petitions in maintenance cases, unregistered maintenance cases and criminal miscellaneous petitions were not called and were not placed before the Presiding Officer.

I am, therefore, directed to send herewith a copy of Order Dated 5.5.2003 passed by Hon'ble Supreme Court in petition for special Leave to appeal (C) No.914:Ch. Venkateshwar Rao Vs. The Registrar (administration) High Court of Andhra Pradesh, Hyderabad, A.P.& Anr. For your Information and necessary action.

54. NON COMPLIANCE OF THE PROVISIONS AS CONTAINED IN SUB RULE 6 OF RULE 196 OF THE CENTRAL RULES (CIVIL), 1957 VOL. I AND RULE 18 OF CHAPTER 12 OF GENERAL RULE (CRIMINAL), 1997 BY THE SUBORDINATE COURTS.

C.L.No. 12 /2004: Dated: 31st March, 2004

The Hon'ble court in the past has issued circular letter No.2dated 2.1.1984, C.L. No. 38 dated 11.8.2000 and C.L.No.9dated 4.3.2003 whereby directions were issued that the provisions as contained in first & second proviso of sub Rule (6) of Rule 196 of the General Rules (civil) 1957, Volume I and Rule 118 of Chapter XII of General Rules (criminal) 1977 be followed strictly but time and again the Hon'ble Court is noticing that the aforesaid provisions are still not being complied with strictly causing much inconvenience in the proceedings of the cases filled in the court.

In continuation of the courts circular letters referred to above. I am sanding herewith a copy of order dated 14.1.2004 passed by the court (Hon'ble Mr. Justice R.S.Tripathi) in Criminal Revision No.54 of 1986 wherein the Hon'ble court has observed with concern that in several cases when the original record s requisitioned by the court it has been found that the record has been weeded out

I am, therefore directed to say you to kindly comply with the directions as contained in the court's circular letter strictly and the original records of all those cases in which stay/bail orders are communicated after filing of records/ appeal before this court be preserved.

55. MORNING COURT IN THE DISTRICTS.

C.L.No. 15/ Main P/Admin. A-3 dated 19 April, 2004

I am directed to inform you that the matter regarding functioning of the Morning courts was considered by the Hon'ble Court and the Hon'ble court has been pleased to resolve that the courts in all the District shall function from 10.30 A.M. to 4.00 P.M. even during the month of May and June.

56. UNAUTHORIZED PERSONS WORKING IN THE OFFICES OF SUBORDINATE COURTS AND HANDLING THE GOVERNMENT WORK AND RECORDS.

C.L.No. 27/ dated: 15th September, 2004

In C.M. writ Petition No. 32455 of 2004-Vimal Kishore Nigam Vs. state of U.P. & others , the Hon'ble court (Hon'ble Mr. Justice Sunil Ambwani) has observed with serious concern that there is an alarming situation of gross indiscipline prevalent in

the subordinate courts allowing unauthorized persons to work in the offices, handling the government work and records. The Hon'ble court has further observed that the matter is quite serious and calls for immediate and urgent action and where-ever unauthorized persons are working, disciplinary action be initiated and criminal prosecution be taken against such persons. Also, stern action be taken against that employee who permits unauthorized persons to work in the office and compliance report be sent to the court.

I am, therefore, directed to send herewith a copy of order dated 13.8.2004 passed in C.M. Writ petition No.32455 of 2004-Vimal Kishore Nigam Vs. State of U.P. and others and to request you that identity cards be issued to each and every employee of the Judgeship and to ensure that unauthorized persons are not allowed to enter into the offices of Judgeship and that a pass system be introduced to check such unauthorized entry in courts and offices.

I am also to add that the contents of the circular letter be brought to the notice of all the Judicial officers as well as all concerned in your Judgeship for strict compliance.

57. MEASURES REGARDING SUPERINTENDENCE OVER THE JUDICIAL OFFICERS WORKING IN FAMILY COURTS.

C.L.No.11/ 2005 Dated: 24- March, 2005

I am directed to say that a upon a careful consideration of matter regarding superintendence over the judicial Officers working in family Courts the Hon'ble court has been pleased to provide following measures:-

1. Every Principal Judge Additional Judge or other Judge of a Family Court shall send his daily sitting register to the District Judge so that as to reach him latest by 10.30 a.m. each day for his information and initials, else he will be treated and marked absent for the day.

2. Every principal Judge Additional Judge or other Judge of a family Court shall attend the meetings/monthly meetings of all the presiding officers of civil and Criminal court that are called by the District judge in compliance with Court's Circular letter nos. 129/Admin (b) dated 8th October 1975, 4 dated 3rd February, 1976and 86 dated 31st may 1976.

3. The District Judge having administrative control shall record annual/special remarks in the confidential record if the Principal Judge, additional Judge or other judge of a family court.

I am, therefore, to request that the measures so provided be brought to the notice of every Principal Judge, Additional Judge or other Judge of a family court under you administrative control for compliance faithfully and punctually.

58. CIRCULATION OF COPY OF THE JUDGMENT AND ORDER PASSED BY THE HON'BLE COURT IN FIRST APPEAL NO.271 OF 2005 –MOTI LAL VS. BHAGWAN DAS.

C.L.No.24/ 2005 dated 8th August,2005.

I am directed to send herewith a copy of Judgment and order dated 4.3.2005 passed by Hon'ble Court (Hon'ble Sushil Harkauli , J. and Hon'ble G.P.Srivastava, J.) in

First appeal No271 of 2005-Motilal Vs. Bhagwan das for information and strict compliance. I am further add that the direction given by the Hon'ble court in aforesaid Judgment and order may kindly be brought to the notice of all the Judicial officers in the Judgeship under your administrative control for their information and guidance faithfully and punctually.

(See for Judgment 2005 (60) A.L.R.7)

59. Compliance of the directions as contained in the order dated 21.4.2005 in writ petition No.3879 (M/S) of 2004-Pawan vs. Addl. District Judge Court No.1District Lucknow and others.

C.L.No.25/ 2005: dated: 9th August, 2005

While enclosing herewith a copy of order dated 21.4.2005 in Writ Petition No. 3879 (M/S) of 2004- Pawan Vs. Additional District Judge, Court No. 1 Lucknow and others, I am directed to say that Hon'ble Court (Hon'ble Mr. Justice Devi Prasad Singh) has been pleased to observe that "the Government authorities have got no right to send letters to the district Judge or Presiding Officer of the Subordinate Court for appropriate action, behind the back of the plaintiff or defendant as the case may be. In case they have got any grievance, then appropriate application should be moved through government counsel in accordance to the procedure provided under the Rules of the Court, Code of Criminal Procedure, Code of Civil Procedure or any other law time being enforced. There is separation of power between the executive and judiciary. Executive authorities do not have have right to send a letter straightway to the District Judge for appropriate action relating to the controversy which is subjudice before the subordinate court. Similarly, the District Judges should not forward a letter of the executive authorities to his subordinate Presiding Officer of a court relating to the dispute which is pending before him/her on Judicial side."

The Hon'ble court has also been pleased to direct to circulate the following portion of the aforedetailed order dated 21.4.2005 for compliance and appropriate action:-

"Relating to the property in question, petitioner has filed a regular suit No. 98/2002 against opposite party No.7, which was decreed on 26th of April, 2002. The copy of Judgment and decree have been filed as Annexure Nos. 4&5 to the writ petition. Feeling aggrieved with the conduct of opposite party No.6, petitioner has filed another suit registered as Regular Suit No. 59/2003 along with the application for temporary injunction moved under Order 39 Rule 1&2 of the Code of Civil Procedure. The application for temporary injunction was rejected vides order dated 20th of April 2004. Feeling aggrieved, petitioner has preferred an appeal under Order 43 Rule 1 of the Code of Civil Procedure which has been dismissed by the impugned judgment and order dated 13th of August, 2004. While assailing the impugned order learned counsel for the petitioner has pleaded in Para 29 of the writ petition that several judgments cited by learned counsel for the petitioner were not considered by the learned. Appellate Court. It has been further submitted by the learned Counsel for the petitioner that appeal has been dismissed on account of persuasion of the district authorities. Necessary facts have been pleaded in Para 30 of the writ petition. Copy of a letter sent by Civil Judge (Jr. Division) South, Lucknow dated 21st of July, 2004 bearing the endorsement of the District Judge

Lucknow dated 9th August, 2004 has been filed as Annexure No. 33 to the writ petition, After hearing the learned counsel for the petitioner and keeping in view the seriousness of the allegations on record, Lower Court Record was summoned which has been produced before this court today . The record shows that the Chief Medical Officer, Lucknow has written a letter to the Superintendent of police, Trans Gomti, Lucknow for appropriate action against the petitioner relating to the property in question. It appears that the district authorities had sent a letter to the District Judge, Lucknow, which was forwarded by him to the Civil Judge (Jr, Division) South, Lucknow. The Civil Judge (Jr.Division) South, Lucknow has submitted a report to the District Judge, Lucknow indicating therein that she had already decided petitioner's application for temporary injunction on merit against which an appeal has been preferred and is pending before the 1st Additional District Judge, Lucknow. By his endorsement dated 9th of August, 2004, The District Judge, Lucknow has forwarded the letter of the district authorities for appropriate action to the 1st Addl. District Judge, Lucknow. Thereafter the 1st Addl. District Judge, Lucknow has dismissed the appeal by the impugned order dated 13th of August, 2004. Accordingly, learned counsel for the petitioner submits that petitioner submits that petitioner's application for temporary injunction as well appeal have been dismissed by the court below under the influence of the district authorities. Learned Counsel for the petitioner further submits that the district authorities have got no right to send the letter relating to a controversy which is pending on judicial side before a subordinate court. Accordingly, the further submission of the learned Counsel for the petitioner is that neither the District Judge, Lucknow, nor the 1st Additional District Judge, Lucknow, was competent to take notice of the letter sent by the district authorities, behind the back of the petitioner. The arguments advanced by the learned Counsel for the petitioner has got force.

It is a settled law that justice should not only be done but seems to be done. Independence, honestly, integrity and fairness in the procedure, in the administration of justice keeps the people's faith in our system intact. The Government authorities have got no right to send letter to the District Judge or Presiding Officer of the subordinate court for appropriate action behind the back of the plaintiff or defendant as the case may be. In case, they have not any grievance, then appropriate application should be moved through government counsel in accordance to the procedure provided under the rule of the court , Code of Criminal Procedure. Code of Civil Procedure or any other law time being enforced. There is separation of power between the executive and judiciary. Executive authorities do to have got right to send a letter straightway to the district Judge for appropriate action relating to the controversy which is subjudice before the subordinate court. Similarity the district Judges should not forward a letter of the executive authorities to his subordinate presiding Officer of a court relating to the dispute which is pending before him/her on judicial side. Although, administration of Justice draws its legal sanction through constitution, its creditability rest in the faith of the people. Indispensable to that faith is independence of the Judiciary. Any interference by the executive to a dispute which is subjudice before a court without following the procedure provided by law shall amount to interference with the administration of justice. That is why consistently, Hon'ble Supreme Court had ruled that independence of our judicial system should be preserved on all costs. A formal reference may be given to the law laid down by the Hon'ble Supreme court in the case reported in 1981 supp SCC 87- S.P.Gupta Vs. Union of India 1993 (4) SCC- Advocates on Record Association vs. Union of India 1993

SCC-288- All India Judges Association Vs. Union of India 1973 (4) SCC 225- Keshawananda Bharati Vs. State of Kerala, (2004) 4 Supreme court cases 640- State of Bihar and another Vs. Bal Mukund Sah and Others, 2000 (3)SCC 171- Om Prakash Jaiswal Vs. D.K. Mittal, 2004 (7) SCC 729-R.V.A. Judicial Officers, (2002) 4 Supreme court cases 524- Gauhati High Court and another Vs. Kuladhar Phbukan and Another and other cases.

To preserve the independence of Judiciary the constitution does not confer upon the executive to exercise its disciplinary power and jurisdiction in respect of judicial services. The control over the district courts and its subordinate courts thereof rests only in the High Court In the case of State of Bihar and Another Vs. Bal Mukund Sah and Others (Supra), Hon'ble Supreme Court had held as under:-

1. "The Constitution-makers had given a special status and treatment to the Judicial Service.
2. That the independence of Judiciary is ensured which cannot be interfered with either by an executive action or by an act of the Legislature."

Keeping in view the law settled by Hon'ble Supreme Court and to check recurrence of such incidence an ad-interim Mandamus is issued for compliance by the subordinate courts in the following manners:-

1. Any application or representation submitted by the district authorities or other government authorities to the District Judges or to the Presiding Officer of a Subordinate court on administrative side which covers a dispute pending in the subordinate. court on judicial side shall not be entertained. All such applications shall be forwarded to Hon'ble The Chief Justice and the Administrative Judge of the District for appropriate order/action.
2. The district authorities or government officers have got no right to move an application behind the back of the plaintiff or defendant as the case may be for appropriate action to the District Judge or to the Presiding Officer to the subordinate court except in accordance to the procedure provided by law i.e. under rules of the court, Code of Criminal procedure, Code of Civil Procedure or any other statutory law time being enforced.
3. In case, administrative authorities approach for any favour or action to the District Judge or other Presiding Officer of a subordinate court by making oral request, such request shall be converted in to writing and shall be forwarded by the said District Judge or the Presiding Officer of the court to Hon'ble the Chief Justice/Administrative Judge for information and appropriate orders"

I am, therefore, directed to communicate to you the aforesaid directions of the Hon'ble Court with the request that the contents of and directions in the order dated 21.4.2005 be kindly brought to the notice of all Judicial Officers in the judiciary under your administrative control, for information and strict compliance.

To ensure strict compliance of the directions passed in Writ Petition (Criminal) No. 312 of 1994 – Supreme Court Legal Services Committee Vs. Union of India & Ors. regarding supply of free copy of Judgment of the Session Court to the prisoner/convict within 30 days of the pronouncement of judgment.

C.L. No. 20/2009 Admin. (G-II): Dated: 30.04.2009

While sending herewith a copy of letter No. F-8267/SCLSC/94 dated 07.08.2008 of Supreme Court Legal Services Committee, New Delhi. I am directed to say that, the Hon'ble Apex Court in its Order dated 18.08.1998 passed in Writ Petition (Criminal) No. 312 of 1994 Supreme Court Legal Services Committee Vs. Union of India and Others, has been pleased to issue following directions:-

> "(i) that they will, by issuing administrative orders/instructions ensure that every prisoner/convict is provided with free copy of the judgment of the Sessions Judge or the High Court in her/his case or matter within 30 days of the pronouncement of such judgment and that the Registry of the Court concerned will personally endorse such copy to the Superintendent of the Jail for forwarding the same to the petitioner."

I am, therefore, to request you to kindly issue an Administrative order/instruction to all the judicial officers under your administrative control to ensure that every prisoner/convict shall be provided with a free copy of judgment of Sessions Judge in his/her case within 30 days of the pronouncement of such judgment and the Court concerned shall personally endorse a copy of such judgment to the superintendent of the jail for forwarding the same to the petitioner.

I am further to request you to kindly bring the contents of this Circular Letter to all concerned in your Judgeship for strict compliance in letter and spirit.

Reg. All the Public Information Officers nominated in the public authority and their units be directed to brief about the complete details of the Right to Information Act to their successors at the time of handing over charge and work pertaining to Right to Information Act be handed over separately on account of their transfer.

C.L. No. 42/2009/Admin. 'G-II' Dated: Allahabad 2.9.2009

The Government of Uttar Pradesh has brought to the notice of Hon'ble Court vide letter no. 546/43-2-2009 dated 25.05.2009 that the Right to Information Act, 2005 has been enforced for smooth flow of information and to ensure the reach of citizen to information under the control of public authorities & to bring transparency in the functioning of public authorities. Public Information Officer/Assistant Public Information Officer/Appellate Authority play important role in the effective implementation of the provision of Right to Information Act, 2005.

Therefore, I am directed to say that, the Hon'ble Court has resolved that, all the Public Information Officers nominated in the public authority and their units be directed to brief about the complete details of the Right to Information Act to their successors at the time of handing over charge and work pertaining to Right to Information Act be handed over separately on account of their transfer.

I am to request you to kindly ensure that the above directions are complied with by all the concerned under your administrative control, in letter and spirit.

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CHAPTER - X

CIVIL CASES

1. JURISDICTION

C.L. No. 18/IV-g-27 Admn. (A) dated 29th January, 1977

It invites attention to section 27 of the Uttar Pradesh Civil Laws (Reforms and Amendment) Act, 1976 (U.P Act No. 57 of 1976), which has come into force from January 1, 1977 and says that all Munsif shall have the jurisdiction to hear suits of the valuation of up to five thousand rupees.

C.L. No. 8/IVF-80 Admn. (A) dated 18th February, 1981

A full powered Munsif, according to the seniority at a particular station, should be posted in the institution court so that he may try suits of valuation between Rs. 5,000/- and Rs. 10000/-. If there are not enough civil suits of such valuation to keep the officer fully engaged, he may be assigned criminal cases also.

New Munsifs, who have no criminal powers, should be assigned civil suits of the valuation up to Rs. 5,000/- only.

C.L. No. 57/IV-g-241/Admin. (A) dated 28th June, 1977

It encloses H.C. Notification No. 572/IVg-24/Admn.(A) Dated 28th June, 1977 conferring on each Munsif specified in the list jurisdiction of a Judge of Court of Small causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts up to the value not exceeding one thousand Rupees, within the local limits of the jurisdiction of the Court where he is posted.

C.L. No. 108/IVg-24 dated 28th June, 1977

It informs that the High Court has conferred on all the Civil Judges, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act 1887 (Act IX of 1887), for the trial of suits up to the value not exceeding two thousand rupees, by notification no. 571/IVg-24 dated 28thJune, 1977.

(i) Transfer of pending cases of valuation between Rs. 10,001/-to Rs. 25,000/- from the Courts of Civil Judges.

C.L.No. 9/IVg-24/ Admn.(G). dated : January 21, 1991

I am directed to invite your attention to Court's Notification No. 64/IVg-27, dated 8.2.1991 raising the pecuniary jurisdiction of Munsif to Rs. 25,000/- in view of Amendment of Section 19(2) of the Bengal, Agra and Assam Civil Courts Act, 1887 by U.P .Act No.17 of 1991 and to say that it has come in the notice of the Court that some District Judges are not transferring the cases of the valuation up to Rs. 25,000/- from the Courts of Civil Judges to the Courts of Munsifs having the enhanced pecuniary jurisdiction of Rs. 25,001/-. The matter has been again examined by the court and the Court has decided that all pending cases up to the valuation of Rs. 25,000/- in the Court of Civil Judges be immediately transferred to Courts of Munsifs who are competent to

try the cases of said value either at the Headquarters or at outlying Courts as the case may be.

I am, therefore, to request you kindly to proceed in accordance with the above directions and ensure compliance of the same by all concerned.

(ii) Implementation of directions of Hon'ble Supreme Court dated 11.10.1991 in Civil Appeal No.2058-59 of 1988 M/s Oil and Natural Gas Commission and another v. Collector of Central Excise.

C.L.No. 7/IXF-69/Admn.(G). dated 9 January,1992.

I am directed to enclose herewith a copy of order• dated 11.10.1991 of the Hon'ble Supreme Court in the above noted matter, for information and necessary compliance by the concerned.

2. PLEADINGS

(i) Receipts

C.L. No. 35/VIIIb-6 dated 4th April, 1978

All the presiding officers are directed to ensure that receipts for cases of suits filed by the petitioners in civil courts are granted as required by rule 34 of the General Rules (Civil), 1957.

The provisions of this rule should be complied with strictly.

(ii) Amendment

C.L. No. 6/VII-d-148 dated 11th January, 1952

Under rule 18 of order VI of the Code of Civil Procedure 1908, parties are themselves responsible for making the necessary amendments in the pleadings within the time allowed by the court. It is no part of the duty of the office of the court to make the necessary amendments in the pleadings. The parties should themselves make the amendments in terms of the court's order or get them made by their counsel, under their signature. After the amendments have been made they should be checked by the official concerned who should thereafter record a note on the pleading including the name of the person by whom the amendments were made and the fact that they were made under the orders of the court, giving a reference to the application on which such orders were passed and the date of such orders.

(iii) Plaints rejected or returned after admission

C.L. No. 831/441-2(2) dated 25th March, 1918

In case of plaints, which have been rejected or returned after admission a note, should be made in the register (Form no. 3) in the column of remarks (No.26). The entries in Form no. 3 would be entered up to the stage when the plaint is rejected or returned. As such a case would not count, as a civil suit for statistical purposes an entry will have to be made in Form no. 74. The record should never go to the miscellaneous Muharrir, nor should any entry relating to it appear in Form No. 70. Form No. 70 should

• For perusal of Judgement See 1992 Supp(2) SCC 432

not contain an entry of any case, which arises out of or flows from a plaint that has been admitted (See note given at foot of Form no. 70)

(iv) Minor defendants

C.L. No. 2885/44-2(12) dated 17th May,1921

A plaint in a suit where a minor is impleaded, as a defendant shall at once be registered as a suit in Form no. 3 if it is found to be in order. After the plaint has been so registered steps should at once be taken for the appointment of a guardian ad litem of the minor defendant, but the proceedings taken for this purpose need not delay the issue of summonses to adult defendants requiring them to file their written statements. It is to be understood, however, that the suit cannot proceed to trial until the guardian ad litem has been duly appointed and has filed a written statement on behalf of the minor.

Proceedings for the appointment of a guardian ad litem should be treated as proceedings in the suit and not as separate miscellaneous judicial proceedings.

G.L. No. 12 Dated 22nd June,1909

The general procedure which should ordinarily be adopted under the Code of Civil Procedure, 1908, in respect of the appointment of guardians in suits against minor defendants is as follows:

Under order XXXII, rule 3 an order for the appointment of a guardian may be made on an application either-

(a) by the plaintiff, or
(b) on behalf of the minor.

The plaint, therefore, should ordinarily be accompanied by an application supported by an affidavit. This application should set forth the name (1) of the guardian appointed or declared by competent authority, if any, (2) if there is no such guardian, of the natural guardian, (3) if there is neither a guardian appointed or declared by competent authority, nor natural guardian, of the person in whose custody the minor is, and (4) of the person proposed to be appointed guardian, if the application and affidavit as described above be filed, the court will then proceed under rule 3(4) to issue notice in form 11 (H) to the minor and the person referred to in (1) or (2) or (3) above. This notice in its present form may be regarded as precluding the appointment as guardian of the person notified, unless he makes an application to that effect. This appears likely to lead to inconvenience. It would, therefore, be well to substitute for the words "proceed to appoint some other person, etc" the words "proceed to appoint you…… or some other person, etc"

If an application is filed on behalf of the minor before the issue of notice in Form 11(H), the issue of such notice to the guardian may or may not be necessary. In the latter case, and when such notice has been issued whether an application has been filed on behalf of the minor in response there to or not, the court shall at once proceed to appoint a guardian. The guardian appointed or declared by competent authority shall be appointed, if there is one, unless there be reasons to the contrary which the court must record.

But as no person can be appointed as guardian without his consent, the court before actually appointing a person as guardian should issue a notice to him in the ordinary form to show cause (Form no.4, Appendix H), unless the person selected has already, by application or otherwise, signified his willingness to act. To the form of the notice when issued in these cases should be added the words "and it will be presumed that you consent to be appointed guardian for the suit".

Form 11 (H), as it stands, is addressed both to the minor and to the guardian. If issued jointly to both it is likely to lead to confusion. It would be better to issue a separate notice to each, the necessary alterations being made in manuscript.

G.L. No. 1745/3 to 1(c) dated 4th May, 1915

The attention of District Judges is drawn to Order XXXII, rule 4 of the Code of Civil Procedure, 1908 under the provisions of which they may insist in any case when the Nazir is appointed guardian ad litem that a legal practitioner be employed by him, his fees being deposited by the plaintiff and recovered by him as part of his costs in the suit or appeal in the event of his being successful. No doubt in some cases the real guardian of a minor, if he believes that the plaintiff will have to pay the fees of counsel for the defence, may refuse to act. Accordingly the Court considers that, while keeping in mind the provisions of order XXXII, rule 4, District Judges should pass such order as appears to them to be right and proper in each particular case.

G.L. No. 3/VII-d-34 dated 12th September,1956

Rules 1 and 4 of Order III of the Code of Civil Procedure provide that a recognized agent of Mukhtar-i-am can appear, make an application and act in court on behalf of the party duly authorising him but that pleading can be made only by a pleader engaged on behalf of the party. Railway Inspectors who are paid servant of Railway Administration and hold special power-of-attorney executed in their favour by the General Manager should, therefore, not be allowed to plead in civil cases in which the Railway Administration is a party.

Circular Latter No-32/2007 : Admin 'G' Dated :29 August, 2007.

On the above subject I am directed to inform you that to bring improvement in the administration of Civil Justice System in the Chief Justices Conference-2007, it has been resolved that the provisions relation to (a) examination of parties (Order X Rule 2 of C.P.C.), (b) discovery of the inspection (order XI of C.P.C., (c) issues (Order XIV Rule 2 of C.P.C.) and the ex-parte injunction (Order XXXIX, Rule 3 and 3 A) be strictly followed in letter and spirit by the subordinate Courts.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under you for strict compliance of the directions of the Hon'ble Court.

(v) Statement under Order X, Rule 2

G.L. No. 1359/67-73 dated 18th April, 1923 and

G.L. No. 61/VIII-h-13 dated 29th May, 1972

The examination of the parties or their pleaders at the time of issues under Order X, rule 1, is not purely discretionary with the presiding officers. Whenever there are any allegations of fact in the plaint or written statement which have not been expressly or by necessary implication admitted or denied by opposite party the court is bound to clear up the pleadings by an examination of the opposite party or his pleader. The omission to do so often prolongs the trial and gives opportunity for these admissions of false evidence at later stage.

It is generally the case that the additional pleadings in the written statement contain fresh allegations of fact and some officers seem to be unaware that it is their duty before framing issues to find out how for these additional pleas are admitted by the plaintiff. A simple instance is a suit for redemption of mortgage in which the defendant sets up two deeds for further charge and alleges that the plaintiff cannot redeem the mortgage in suit without redeeming these also. The defence my be either-

(1) a denial of the genuineness of the deeds; or
(2) an admission of execution of the deeds coupled with the plea that they have been paid off, or
(3) an admission that the deeds are genuine and outstanding coupled with the plea that the mortgage in suit is separately redeemable.

It is obviously important to pin the plaintiff down to a definite case before the suit goes to trial. In another case the plaintiff sued for the rent of a house. The defendant alleged that he was the owner of the house and had himself acquired it by purchase, and adduced a considerable body of evidence to prove this defence. During the course of the trial the plaintiff was examined as a witness and at once admitted the defendant's title to the house and stated that what he was claiming was ground rent for the site. If the plaintiff had been examined at the first hearing under O.X, Rule I, much unnecessary expense and time would have been saved. [See Order 10 rule 2, amended in 1976].

Order X, rules 1 to 3, Order XIV, rules 1 and 4,

Civil Procedure Code

C.L. No. 22/VIII h dated 18th March,1949

Order X, rule 1, Civil Procedure Code makes it obligatory upon the court to ascertain from each party or his pleader whether he admits or denies such allegations of facts as are made in the plaint or written statement, if any, of the opposite party and are not expressly or by necessary implication admitted or denied by the party against whom they are made, and to record such admissions and denials. Similarly Order XIV, rule 1(5) lays down that the court shall after reading the plaint and the written statement, if any, and after such examination of the parties as may appear necessary ascertain upon what material propositions of fact or law the parties are variance and shall thereupon proceed to frame and record the issues.

The subordinate courts would, therefore, be well advised to read the plaint immediately after its presentation to point out the defects found therein, and to fix a reasonable date for the remedying of such defects. Therefore, a date should be fixed for filing of written statement and another date, say a week later for framing of issues. Wherever necessary, there should be replication by the plaintiff to admit, deny or to

explain the counter allegations, if any, contained in the written statement. The replication should generally be filed a few days before the date fixed for issues. Before the settlement of issues in contested cases, except where the plaint if brief and clear the parties must be examined to clarify the pleadings and to determine the matters under contest.

The Judge's notes may also indicate the step taken if any in the light of the above direction.

Cases for settlement of issues should, as far as possible, be taken up first and the issues framed in the presence of the parties or their counsel, after obtaining the admissions and denials of documents filed by the opposite-party. The counsel should come fully prepared with the facts of the case or should see that the parties are present to answer any question put by the court suo motu or on the suggestion of the opposite-party. Issues when framed should be read over to the parties, and if no further issue is pressed, a note to that effect should be made in the Judge's notes.

Immediately after the issues have been struck the presiding officer should consider, may be on an application by a party, if the preparation of a site plan or enquiry after local inspection at the spot is necessary for the proper decision of the case. The commission should, as far as possible be issued on that very day with clear and detailed direction to be recorded in the Judge's notes, as to what the Commissioner is required to show in the plan and on what points he is required to make specific report. If any witness is to be examined on commission the court may consider the issue of a commission then and not postpone it till after the recording of the entire oral evidence.

Wherever necessary there should be a replication by the plaintiff to admit, deny or to explain the counter allegations, if any, contained in the written statement. The replication should generally be filed a few days before the date fixed for issues. Before settlement of issues in contested cases, except where the plaint is brief and clear, the parties must be examined to clarify the pleadings and to determine the matters under contest.

C.L. No. 66/VII d-148-Admn. (D) dated 24th October,1983

The Courts should make proper use of the powers vested in them under Order X, Rule 2 C.P.C. not only at the times of framing of the issues, but also at the stage of evidence to clarify the ambiguity and vagueness in the pleadings and pinpoints dispute between the parties.

(vi) Deciding question of limitation

G.L. No. 277/67-1 dated 31st January, 1918

Whenever an objection is raised that any proceeding is beyond time, the question of limitation should be determined so far as the court can determine it, after due notice to all parties.

(vii) Powers of the court to filling the written Statement vis-à-vis the provisions of order VIII rule 1 of the Code of Civil Procedure

C.L.No. 26/ Admin. `G`/2005:dated: 9th August, 2005

Upon a careful consideration of the scope of power of the court regarding extension of time for filling the Written statement in view of the provisions of Order VII rule 1 as also the object and purpose behind enacting same in the present form, the Hon`ble Court (Hon`ble Mr. Justice Anjani Kumar) has observed and held that the provision has to be construed as directory and not mandatory. Ordinarily, the time schedule prescribed by Order VII rule I has to be honoured but in exceptional situations occasioned by reasons beyond the control of the defendant, the court may extend time for filling the written statement though the period of 30 days or 90 days, referred to in the provisions, has expired .The extension can be only by way of an exception and for reasons assigned by the defendant and also recorded in writing by the court to its satisfaction.

While enclosing herewith a copy of judgment and order dated 19.5.2005 in CMWP No.25816 of 2005-Manasoor Ali versus Court of In-charge District Judge/Additional District Judge, Court No.1 Kanpur Nagar & ors. I am directed to request you to kindly circulate the copy of the judgment to all the judicial officers under your administrative control for guidance and following the law laid down by the Hon`ble Supreme Court and this Hon`ble Court.

C. L. *NO.34/* 2007 : Admin 'G' Dated 29th August, 2007.

On the above subject I am directed to inform you that to bring improvement in the administration of Civil Justice System in the Chief Justices Conference -2007, it has been resolved that the time frame relating to filing of written statements under Order VIII Rule 1 of C.P.C. be adhered to and only in exceptional cases the courts should permit filing of written statement beyond the upper time limit of 90 days.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under you for strict compliance of the directions of the Hon'ble Court.

C. L. No.70/2007Admin(G) : Dated :13.12.2007.

The Hon'ble Court has noticed that the Presiding officers of Subordinate Court are not adhering to the provisions as laid down in Order VIII Rule 1 and are liberally granting opportunities to the defendants to file written statements even beyond the prescribed time limit which is resulting in procrastination of the trials in civil cases. Viewing this with extreme seriousness the Hon'ble Court has desired that the Subordinate Courts be impressed to strictly abide by the provisions as laid down in the above quoted order VIII Rule 1 of C.P.C.

Therefore, I am directed to request you to kindly instruct all the Judicial Officers working under your administrative control to make strict compliance of the provisions as given in Order VIII Rule 1 C.P.C.

3. **SUMMONSES AND PROCESSES**

(i) **Procedure for issue**

C.L. No. 29/Xc-5 dated 27th March, 1968

Notices and summonses should be issued in the forms in Hindi in Devanagari script as specified in the "Civil Prakriya Samhita (Hindi version of the Civil Procedure Code) for the facility of the litigant public.

G.L. No. 51/46/120/92 dated 13th December, 1939 modified by

G.L. No.14 of 1940

Summonses should be sent to the Nazarat without delay after they have been received duly filled up from the party concerned.

C.L. No. 53 dated 10th May, 1968

Under Order V, Rule 5 of the C.P.C. summonses are to be issued for settlement of issue or for final hearing as the case may be. It is, however, permissible to fix a date for filing written statement also while issuing summonses for settlement of issues. To issue a summons for filing written statement only is violative of the aforesaid rule.

C.L. No. 7/VIII h-28 dated 18th January,1954

It is the duty of the Munsarim before issuing any notice or summons against the Government or an officer of the Government in his official capacity, to scrutinize carefully the rules and orders governing the issue of such summonses and notices and to obtain the order of the court before actually issuing it.

On members of Parliament

G.L. No. 4/VIII-b-28 dated 12th September, 1953

Attention of all judicial officers and Magistrates in the State is invited to the provisions of article 105(3) of the Constitution which provides the same privileges for members of Parliament in India as are enjoyed by members of the British Parliament. One of the privileges is that no service of summons can be affected upon the members when they are within the precincts of the Parliament. It is not desirable that courts should attempt to serve such summonses through the Presiding Officer or through the Parliament secretariat. The appropriate procedure would be for the summons to be served direct upon the member concerned outside the precincts of the Parliament, i.e., at their residence on at some other place.

Same procedure should be followed for effecting service of summons upon members of the State Legislatures who enjoy the same privilege under article 194(3) and article 238 of the Constitution and section 19 (3) of the Government of part C States Act, 1951.

C.L. No. 16/VIII-b-28 dated 20th February, 1968

Procedure for service of summons on member of the State Legislature as indicated in Court's G.L. No. 4/VIII-h-28, dated September 2, 1953, be strictly followed.

C.L. No. 32/VIIIb-28(G) dated 7th May, 1984

The procedure for service of summons on the member of the Parliament or the State Legislature, as indicated in the aforesaid Court's G.L. and also in the provisions of

rule 121 of the G.R. (Civil) and rule 15 of the G.R. (Criminal) 1957[*] *([*] Now 1977 vide notification no. 504/vb-13 dated 5.11.83.)*, should be strictly complied with, and in future no summons should be served upon any member of Parliament or State Legislature while he is within the precincts of the House of Parliament or Legislature nor it should be served through the Presiding Officers or the Secretariat concerned. The summons should be served direct upon the members out-side the precincts of the House of Parliament or Legislature, as the case may be, i.e. at their residence or at some other place, as required by the aforesaid provisions.

On a member of staff of a diplomatic mission in India

C.L. No. 33/VIII-b-31-50 dated 16th May, 1950 read with

G.O. No. 1967 (1)/VII 372-50 dated 6th May, 1950

In cases in which it may be necessary and permissible to serve a summons, notice, etc. on any member or staff of a diplomatic mission in India, it is desirable that such summonses, notices, etc. should be routed through the Ministry of External Affairs, Government of India.

(ii) Summoning Lekhpals

C.L. No. 77/VIIb-48 Admn. (G) dated 11th July, 1979

The Presiding Officers are directed to refrain from summoning Lekhpals on Thursday unless there is some urgency in the matter:

(iii) Service of summonses

C.L. No. 1581 dated 19th May, 1904

All summonses intended for service on an officer serving under the Government of India shall be forwarded through the head of his department so as to admit of suitable arrangements being made for the conduct of public business during the absence of the officer concerned.

C.E. No. 38/VII-d-132 dated 31st May, 1963 and

C.L. No. 47/VIII-b-16 dated 7th May, 1968

In all judicial proceedings concerning the Railways, courts should send processes, accompanied with a copy of plaint/petition, direct to the General Manager, Deputy General Manager or the Administrative Officer of the Railway concerned instead of serving on the Secretary, Railway Board, or any other official of the Board.

C.L. No. 47/VIII b-16 dated 7th May, 1968

Under rule 104 of General Rules (Civil), 1957 in cases in which Railway is a party processes should be sent for service to the General Manager of the railway concerned who is authorised to act on behalf of the Central Government under rule 2 of the Order XXVII, C.P.C., and not to the Secretary to the Railway Board.

G.L. No. 2737/44-16(2) dated 13th August, 1917

In the cases of a Railway, in addition to service in the usual way, a copy of the summons should be sent by post under Order XXIX, rule 2(b) of the Code of Civil Procedure, 1908. If, however, the summons is sent by registered post, service in the usual way may be dispensed with.

C.L. No. 50/VIIb 68 dated 3rd May, 1972

District Judges to ensure prompt and quick service of summonses sent to them by the administrative Tribunal and Vigilance Commission and to see that the summonses are returned to the tribunal or the commission, before date fixed.

C.L. No. 72/VIII b-16 dated 20th December, 1954

Section 29 of the Jammu and Kashmir Code of Civil Procedure as inserted be Jammu and Kashmir Code of Civil Procedure (Amendment) Act, 2011 (copy forwarded to all District Judges with C.L. noted in the bloc) enables the service within that State of summonses and other processes issued by any civil or revenue court established in the other parts of India. Section 29 of the Code of Civil Procedure, 1908 (Act V of 1908), already contains reciprocal provisions requiring service by courts in the territories of India to which the code extends, of summonses and other processes issued by any civil or revenue court of Jammu and Kashmir.

C.L. No. 68/VIII b-14 dated 26th November, 1966

In the processes issued for service in Jammu and Kashmir the addresses of the parties and witnesses on whom service is to be effected as also the date fixed should be written in English, besides, Hindi to facilitate easy and quick service.

C.L. No. 2 dated 1st August.1907

Presiding Officers of subordinate courts shall make every possible effort in the first instance to secure the personal service of summonses on parties and witnesses. When this method of services proves ineffectual and the court is satisfied, as required by Order V, rules 19 and 20 (1) of the Civil Procedure Code, that the defendant is keeping out of the way for the purpose of avoiding service, substituted service by affixing a copy of the summonses in the court house and on the house of the defendant should be attempted. It is only when no other recourse remains that recourse should be had to service by means of notification in the press or the Gazette. The notification should appear in such publication as is most likely to come into the hands of the person sought to be served. It is, therefore, obvious that, except in a very few cases, notification published a careful discretion should be exercised in selecting the paper in which the publication is to be made. Such papers only should be chosen as are likely to be read by the person to be served, or by his friends.

When courts are inspected the inspecting officer should examine cases in which substituted service has been affected and note how for these instructions have not been followed.

G.L. No. 5021/3019(3) dated 18th November, 1927

It is the duty of the presiding officer to decide on the sufficiency of service under rule 17. There appear to be some officers who invariably treat service by affixation as insufficient. This is wrong. Such service is good and sufficient service under the law provided the conditions required by the rule are fulfilled, namely (a) the defendant or his agent or relative refuses to accept the summons and sign the acknowledgement, or (b) the service officer with due diligence cannot find the defendant, and there is no other person on whom service can legally be made. It is also necessary that the house to which the summons is affixed is that in which the defendant ordinarily resides or carries on business.

C.L. No. 4 dated 29th July, 1902

The declaration under order V, rule 19 of the Code of Civil Procedure, is judicial act to be made after and upon consideration of the report of the serving officer. It is not a declaration, which can in any sense of under any circumstance be made by the Munsarim. The order or return is an order to be made by the court. Before returning a summons to another court, especially in another State, the court which received the summons for service should always be at pains to examine carefully, and critically the return made by the serving officer, to see how far the serving officer has made any real effort to affect service, record a proper declaration, and to see that no summons is returned except under an order of court.

G.L. No. 8/67-5dated 30th April, 1941

In this connection the decision of the High Court in Dwarika Prasad vs. Brij Mohan Lal (I.L.R. XXXIII, Allahabad, page 649) may be seen.

G.L. No. 3851/6715 dated 20th December, 1917 read with

G.L. No. 28/67-2(1) dated 13 May, 1935

The attention of all subordinate courts is drawn to the judgment of the High Court in the case referred to in the letter (Champat Singh Vs. Lala Mahabir Prasad and others, decided on the 30th November , 1917) in regard to rules 17 and 19 and the need for passing orders under the latter rule of Order V of the Code of Civil Procedure, 1908.

The important points in the above judgment are –

(1) What is "due service" of process.

(2) The emphasis laid on the fact that as soon as a process has been returned to a court, the court ought to take up the question of service and after such enquiry as it deems proper and expedient pass an order that the process has not been duly served.

It is necessary for the Nazir to issue process as soon as possible after the necessary fee has been deposited and to direct that the processes be returned by an early date to be fixed by him and not delayed until the date fixed by the court for the hearing of the case.

C.L. No. 52/IV h-36 dated 10th March, 1977

Summons should be served by ordinary process unless the party interested applies for simultaneous service by registered post as well.

C.E. No. 43/IV -h-36 dated 8th March, 1977

If acknowledgement due receipts are not received after one month from the date of dispatch of summons by registered post, the concerned Presiding Officer should take up the matter in writing with the local post master.

C.L. No. 40/VIII-B-9 (Admn.) dated 4th June, 1981

The summons issued by courts should be complete in all respects and should contain a copy of the plaint and bear full and correct endorsements so that the authority required to take action thereon is not put to any inconvenience due to the aforesaid defects.

C.L. No. 136/VIII b-13 dated 4th December, 1978

Strict compliance of the provisions of Order-V rule 23d C.P.C should be done by all officers concerned with regard to return of summons etc. received from the courts of the other districts for service, and such summons etc. should invariably be returned to the issuing courts after service.

(iv) Processes

(a) Issuance of

G.L. No. 1902/35 (a)-1(7) dated 9th March, 1921 read with

C.L. No. 25d dated 19 March ,1959

Ordinarily every process shall be written in the court language. But where a process is sent for execution to a court where the court language is different it shall be written in English and shall be accompanied by a letter in English requesting its execution.

In cases where the return of service is in a language different from that of the district from which it is issued it shall be accompanied by an authorized English translation.

C.L. No. 100/VIII b-16 dated 6th October, 1951

When notices, summonses, etc. are to be issued to the Reserve Bank of India they should be issued in English.

G.L. No. 2645 dated 10th July, 1924

The address for service shall in no case be destroyed so long as an appeal in a case is pending.

C.L. No. 39/Xa-14 dated 1st June, 1955

Under rule 2, order V of the Code of Civil Procedure every summons or notice has to be accompanied by a copy of the plaint or application. The Munsarims in various courts should see that the necessary copies are sent for service along with summonses and

notices. Any official found responsible for neglect in this respect should be seriously dealt with.

G.L. No. 51/46/92-120 92 dated 13th December, 1939

Emergent processes, if received by 2 p.m. should be sent out for service by the next day and other processes as soon as possible.

Process servers should, as a rule, go to the person seeking service or to his agent if so mentioned in the summons, in case the person seeking service or his agent lives in the same village or quarter in which the person sought to be served resides.

(b) Court's responsibility

C.L. No. 1405/67-2 dated 1st March, 1927

The attention of all civil courts is drawn to the following matters:

(1) Order XXI, rule 107, should be studied and decision as to the character of property to be sold whether ancestral or not, should not be arrived at without notice to the judgment-debtor.

(2) Presiding Officers of courts should pay personal attention to the service of notice by publication, and should themselves choose a suitable newspaper and not leave the choice to the execution clerk.

(3) It is advisable that all notices to the judgment- debtor under rules 22,66 and 107 of Order XXI should be issued at the same time.

(4) Proceedings under Order XXXI subsequent to the passing of the preliminary decree are proceedings in suit and should not be treated as a miscellaneous case and should not be entered in the register in form 70 or 74 of General Rules (Civil), 1957.

(c) Service of processes

Against Railways and income Tax Department

G.L. No. 48/72 dated 27 August, 1934 read with

G.O. No. 3901/F-1649 dated 26th July, 1934

Processes issued from the civil courts of Uttar Pradesh under rule 4 of Order XXVII of the Code of Civil Procedure against Railways or the Income Tax Department, should not be served on the Government Advocate but on the Agent of the Railway concerned or the legal Adviser to the Income Tax Department, U.P.

G.L. No. 5/VIId-132 dated 23rd January 1947

The notice of a suit under section 80 of the Code of Civil Procedure, 1908, against the Government involving a claim against the Railway Administration should be addressed to the Secretary to the Government of India, Railway Department (Railway Board)

C.L. No. 49 dated 23 May, 1969

District Judges should impress upon all the presiding officers working under them that except when under any statute or rule of the Court the notice is required to be served

on Attorney General himself, no other notices or summonses for effecting service on Central Government officers or an officer serving in any Railway be sent to him.

Against State Government

C.L. No. 6/VIII-h-28 dated 13 January, 1953 and

C.L. No. 124 dated 6th December, 1969

Rule 4, Order XXVII of the Code of Civil Procedure and notification No. 721/VII-312, dated the 27th August, 1941, reproduced in Appendix C to the Legal Remembrancer's Manual, Fourth Edition, require that the processes against State Government be served on the authorized representatives of the Government and not on the Chief Secretary or any other Secretary to the State Government. As laid down in rule 4, Order XXVII, Civil Procedure Code, Government Pleaders (Now designated in this State as District Government Counsels) are the agents of the Government for the purposes of receiving processes against the Government.

All the processes issued against the State Government should be served on the District Government counsel instead of the Chief Secretary or any other Secretary to the state Government.

Effective control

C.L. No. 78/Admn. (D) dated 1st August, 1978

The Court has accepted the following recommendation of the committee for investigation of causes of corruption in subordinate courts U.P., regarding process servers:-

(a) Presiding Officers and the officer-in-charge of the Nazarat should exercise strict supervision and control over the process-serving staff.

(b) The efficiency and integrity of the process servers should be judged on the basis of the amount of personal service affected by them.

(c) Process-servers giving less than 75 per cent personal service without any satisfactory explanation for the fall in their outturn should be suitably punished by fine or even by reduction of their salary.

(d) The percentage of successful service made by the process-servers should be taken into consideration at the time of their confirmation and promotion.

(e) For a false or fictitious report the process-server should be severely punished.

(f) All the presiding officers and the officer-in-charge, Nazarat should implement these instructions forthwith so that they may be able to keep strict supervision and control over the working of the process-serving staff. It is also impressed upon them that those process severs whose personal service report is less than 75 per cent or who make false or fictitious reports, should be suitable dealt with as contemplated in the said recommendations.

(g) The percentage of successful service made by the process-servers should also be given due weightage at the time of their confirmation and promotion.

C.L. No. 105/Admn. (D) dated 23 September, 1978

The reports of the process- servers are often not complete and notices etc. are not affixed on the doors of the parties and witnesses according to the directions contained in rules 138 and 139 of the General rules (Civil).

The District Judges should impress upon all concerned that the directions contained in the aforesaid rules regarding mode of service of processes and notices to the parties are complied with strictly.

C.L. No. 104/IV h-36 dated 16th June,1976

Departmental action against process-servers, found grossly delinquent in their performance in the sense of having knowingly submitted incorrect reports, should be taken. District Judges should take steps to educate the process-servers, regarding proper service of processes and submission for reports.

(d) Process issued for service in the foreign countries.

No. 33/ VIII-C-6/ Dated: July 11, 1996

It has been brought to the notice of the court that processes for service in foreign countries are being issued by the various court in the State directly and in complete disregard of the specific provisions contained in Rules 16 chapter III of General Rules (Criminal). The court takes serious view of the matter.

I am, therefore, to ask you to please ensure strictly compliance of the aforesaid provision by all concerned.

(v) Service or Summonses upon the members of the House

C.L. No. 3/VIlle-24/Admn.(G-2) dated 13 January, 1993

I am directed to invite your attention to Rule 121 of General Rules(Civil) and Rule 15 of General Rules (Criminal) and marginally noted circular letters on the above subject, and to say that it had repeatedly been emphasised in the marginally noted Circular letters that it is not desirable that Courts should attempt to serve summonses upon any member of the House through the Presiding Officers or through Parliament Secretariat. It had also been envisaged that summonses should be served direct upon the members out-side the precincts of the House of Parliament or State Legislature, as the case may be i.e. at their residence at some other place as required by the provisions of General Rules (Civil) and General Rules (Criminal).

1. G.L.No.4/V111b-28, dated 12.9.53
2. C.L. No.16/VI11-28 dated 20.3.68
3. C.L. No.32/VII1-26G, dated 7.5.84

I am to add that it has come to the notice of the Court that inspite of instructions contained in General Rules (Civil) and General Rules, (Criminal) and aforementioned Circular letters issued by the Court in this respect, subordinate courts send summonses to

serve upon the members of the House or State Legislature for Service through the Presiding Officer of the House or State Legislature.

I am, therefore, to request you kindly to ensure that in future service of summonses upon any member of the House or State Legislature be not served through the Presiding Officers of the House or State Legislature, as the case may be. The Officers posted in your Judgeship be apprised of the instructions issued by the Court from time to time in this respect and it may be ensured that such situation may not arise again otherwise the Court will take serious view to the non-compliance of the instructions issued by the Court in this regard.

C. L. No. 20/2007 : Admin. 'G' Dated : 11.5.2007

While inviting you attention to Rule 121 of General Rules (Civil) and Rule 15 of General Rules (Criminal) as also marginally noted Court's circular letters regarding service of summons upon the member of Parliament/State Legislature, I am directed to say that clear directions/instructions were issued earlier that in pursuance of the aforesaid rules, courts should not attempt to serve summonses upon any member of parliament or state Legislature through the Presiding Officers or through secretariat concerned while the summonses should be served direct upon the members outside the precincts of the House of Parliament of Legislature, a the case may be i.e. at their residence or at some other place, as required by the rules.

1. G.L. No. 4/VIIIb-28, Dt.12-09-1953
2. C.L. No. 16/VIII-28, Dt. 20-03-1968
3. C.L. No. 32/VIII-26G, Dt. 07-05-1984
4. C.L. No. 3/VIIIe 24/Admin. (G-2)-28, Dt. January 13.1.1993

I am, therefore, to request you to kindly ensure strict compliance of the directions/instructions above and all the Judicial Officers posted in your Judgeship be apprised of the same with the directions that the provisions of Rule 121 of General Rule (Civil) and Rule 15 of General Rules (Criminal) be complied with unerringly and honestly.

(vi) Service or notices and summons on the parties residing in the city of Ahmedabad.

C.L. No. 31/Admn.(F) dated 21 March, 1994

I am directed to send a copy of letter dated 3rd June, 1993 sent by the Officer on special duty of Hon'ble High Court of Gujarat and to request you to address the correspondence as mentioned in the letter whenever required.

(vii) H.H. Mehtra, officer on special Duty High Court of Gujarat, Ahmedabad-9 Service or processes by bailiff of Small Cause Court, Ahmedabad.

No. C. 1819/62 High Court of Gujarat dated 3 June, 1993

I am directed by the Hon'ble the Chief Justice and Judges of this High Court to state that all notices/summons for service on parties residing within the Municipal limits of the city of Ahmedabad should hereafter be addressed to the Chief Judge, Small Cause Court, Ahmedabad. I am, therefore, to request you to communicate the decision of this High Court to all the Subordinate Courts in Your State directing them to address their correspondence on this behalf as stated in this letter.

(viii) Language used to endorse the manner of service in notices summons etc. sent to Court's in Tamil Nadu for service and Return-Regarding.

C.L. No. 53/VIII-b-16/Admn. (F) dated 25 May, 1994

I am directed to send herewith a copy of the Circular Letter No. 2636/93/F1, dated 4-1-1994 of the Registrar, High Court, Madras and to request you to kindly strictly comply the instructions given in the aforesaid circular letter forthwith.

Thiru A. Ramamurthy, Registrar, High Court, Madras

Language used to endorse the manner of service in notices summons etc.

Sent to courts in Tamil Nadu for service and Return- Regarding.

R.O.C. No. 2636/93/F1 dated January 4, 1994

I am to state that Rule 55 of Civil Rules of Practice and Circular Orders applicable to the Civil Courts in the State of Tamil Nadu says that when a process is written in a language different from that of the area in which it is to be served, the court transmitting it for service shall also send a translation thereof in English and in cases in which process has to be returned to any court outside the State of Tamil Nadu and the return is not in English or in the language of that court, the proceedings Form 10, Appendix B, Schedule I of the Code with which it is sent back to that Court shall be accompanied by a translation of the return in English.

It has now been brought to the notice of this Registry, by the Subordinate Judicial Officers that summons and notices received from other States for service and return by the courts in Tamil Nadu are in the vernacular language of that State. English translation of the same are not accompanied as per the rule mentioned above and that none furnishing of English translation causes much inconvenience to the subordinate Courts in this State.

Similarly, the process sent by the Civil Courts in Tamil Nadu to outside the State for service and return are received back after service with the endorsement of the Nazirs of that court only in the vernacular language of that courts which could not be deciphered.

In this connection, I am also to add that as per Rule 55 of the Civil Rules of Practice and circular orders applicable to the Subordinate civil courts in this State, the summons and notices for service in this State should be accompanied by English translation if they are in any other language. Likewise, the endorsement with regard to the manner of service or non-service of the summons or notices received from the civil courts in Tamil Nadu should be accompanied by a true translation in English.

I am, therefore, directed to request you to look into the matter and issue suitable instructions to the Subordinate Civil Courts under your control to give a true translation of the (1) summons/notices intended to be served in the courts in Tamil Nadu in English and (2) endorsement regarding the manner of service, in English, as regards processes issued from the courts in this State, so that the endorsements may be correctly understood.

I am also to state that this Registry has also issued necessary circular instructions to the Subordinate Civil Courts in this State to adhere strictly Rule 55 of the Civil Rules of practice and circular orders mentioned above.

(ix) Service of notices

(a) Registered addresses for service

G.L. No. 421 dated 11th February, 1924

The rules made by this court under orders VII and VIII of the Code of Civil Procedure require every party in the trial court to file an address for service. Order VII, rule 22 provides that affixation to the outer door at such address may be sufficient and that if the party be not present on the date fixed, service by registered post shall suffice. By rule 12, Order VIII, this rule applies to appeals as well. Yet the courts below continue to report from time to time that service by affixation is insufficient, which often results in a waste of time and labour in the High Court.

The attention of all subordinate courts is drawn to the provisions of Order VII rules 19-25 and Order VIII, rules 11 and 12.

District Judges should make it a point to see, when inspecting their own and the subordinate courts that these rules are being complied with.

G.L. No. 35/VIII-18 dated 13th May, 1964

Notices for service on parties residing within the municipal limits of the city of Ahmedabad should be address to the Principal Judge, City Civil Court- Ahmedabad.

G.L. No. 2590/6713 dated 5th July, 1924

Subordinate courts appear to experience some difficulty in deciding whether service is sufficient, because there is nothing to show whether the addresses of parties to which notices from this Court have been issued are or are not the addresses furnished by them for service under Order VII, rule 19, or Order VIII, rule 11.

To obviate this difficulty it is directed:

(1) that whenever an address has been filed for service under either of the above rules, such address shall be entered in the final decree or formal order instead of the address given in the plaint;

(2) that the decree or formal order shall indicate that the address is that filed for service under the above rules, either by the insertion in brackets immediately after such address of the number of the rule under which it was filed or in some other way. Whenever no such indication appears it will be understood that no address for service was filed by the party in question.

Notices then issuing from the High Court will contain an endorsement to the effect that the address given is the address furnished by the party for service, by the insertion in red ink in brackets immediately after the address of the letter "F.S." (i.e. filed for service under one of the above rules).

G.L. No. 49/67-4 dated 14th September, 1935

The above rules and rule 19, Order VII, and rule 11, Order VIII of the Code of Civil Procedure are framed more for the facility of appellate courts than for that of the courts of first instance, and so the non-observance of these rules causes great inconvenience to the appellate courts including the High Court and defeats the purpose for which they were framed.

Order VII, rule 20, Civil Procedure Code

Order VIII, rule 12, Civil Procedure Code

A reference to the rules noted in the bloc will indicate that addresses for service of the parties must be within the limits of the State of Uttar Pradesh. They should be filed in Form 17 or 18. Appendix H of the Code of Civil Procedure and subordinate courts should always insist that full and accurate Particulars are furnished in the addresses for service filed by the parties, so that processes can easily be served at those addresses through process- servers and also through post. A registered address like the following is useless for the purpose as a process cannot be served on the person either through a process-server or by post.

Name Parentage and caste	Residence	Pargana or Tahsil	Post office	District
Ram Swarup son of Har Prasad Kurmi	Allahabad	Allahabad	Allahabad	Allahabad

An applicant residing in a town or city must be asked to give the number of his house, the name of the road or the Mohalla but an applicant residing in a village may give the name of his village, post office and other particulars of his residence so that there may not be any difficulty in finding him out.

G.L. No. 15/67-h 3 dated 25th March, 1938 and

C.L. No. 61/VIII-h dated 29th May, 1972

The rules below require the particular attention of subordinate courts:

(1) Every plaint or original petition should be accompanied by an address for service which is called the "registered address" and if any plaintiffs or petitioners are subsequently added, they should immediately file their registered addresses. These addresses must be written in English in block letters (Order VII, rule 19).

(2) Registered addresses must be within the limits of the State of Uttar Pradesh (Order VII, rule 20). It is thus important to remember that registered addresses at places beyond the State of Uttar Pradesh should not be accepted.

(3) Every party, whether original, added or substituted, who enters appearance in any suit or proceeding must similarly file an address for service written in English and in block letters, and the address for service must be within the limits of the State of Uttar Pradesh (Order VIII, rule 11); if this address is not filed, the defence is liable to be struck off.

The importance of these rules is that the address for service holds good during all appellate proceedings arising out of the original suit or petition and notices in appeal are to be issued from the appellate court to such addresses [Order XLI, rule 38(2)]. If the party to be served is not found at the registered address, service of notices by affixation at the registered address and by registered post is deemed as effective as personal service (Order VII, rule 22)

A party who omits to file an address for service incurs a very grave risk as service of notice on any respondent of any proceeding incidental to an appeal is not necessary unless he has appeared and filed an address for service [Order XLI, rule 14(3)] and service of notice in such cases is dispensed with by the High Court with the result that and appeal against such respondents, usually proceeds *ex parte*. The notice of the members of the Bar should be drawn by all presiding officers of civil courts to the provision of Order XLI, rules 14(3) and 38 (2) and the necessity of complying with the rules regarding registered addresses in the interest of their clients emphasized.

Presiding Officers must satisfy themselves before signing decrees or formal orders that there has been no neglect in regard to the following matters:

(1) The record must contain the registered addresses plaintiffs and all parties who have entered appearance (Order VII, rules 19 and 20 and Order VIII rule 11). They must be in English block letters, must be within the limits of the State of Uttar Pradesh and must contain full and accurate particulars as laid down in General Letter no. 49, dated the 14th September, 1935.

(2) These registered addresses must be entered in the decree and formal order as required in General Letter no. 2590, dated 6th July, 1924 and General Letter no. 2365, dated 24 April, 1926. the defendants who have not appeared must be clearly indicated in the note printed in the decree. Decree writers must be warned that any omissions on their part may have serious consequences for the parties in appeal and will be severely punished.

(3) Registered addresses have to be filed in appeals only where no addresses for service have been filed in the trial court (Order XLI, rule 38).

As notices are issued by the court for service at registered addresses, the attention of Nazirs and process-servers must be drawn to the necessity of making every effort to affect personal service on the parties. Where that is not possible notices must be affixed at the registered address or if that can for some reason not be done at the chaupal or some other public place. In no case should notices be returned unaffixed. Where personal service has not been affected or where it has not been possible to affix notices at registered addresses the process-server's report must always contain a full explanation.

G.L. No. 17/673(1) dated 12th April, 1939 and

C.L. No. 61/VIII h-13 dated 29th May, 1972

When the official entrusted with affecting service has once located the party's registered address it is his clear duty to carry out implicitly the instruction which have been issued in no ambiguous language.

Officials concerned are warned that serious notice will be taken of any failure on their part to comply with these instructions.

(b) Service of notices on pleaders

G.L. No. 4754-67-10 dated 4th November, 1925

The attention of District Judges is invited to the provisions of Order III, rule 5 of the Code of Civil Procedure, which provides that a process served on a pleader of any party or left at his office or residence shall be presumed to have reached the party whom the pleader represents.

C.L. No. 61/VII-d-161 dated 7th October, 1966

Intimation of the dates of hearing of the Employee's State Insurance Act cases to the counsel appointed by the Employee's State Insurance Corporation should be given in time irrespective of the fact whether they are Government Counsel or private counsel.

(c) in execution cases

C.L. No. 39/VII-d-140 dated 9th April, 1953

Notices under section 82 of the Code of Civil Procedure for execution of decrees passed against any department of Government should invariably be sent to Government in duplicate.

C.L. No. 29/VII-d-140 dated 20th March, 1961

A copy of the notice should be endorsed to the Government of India in the ministry concerned or to the department of the State Government concerned, as the case may be. In case of difficulty the name of the ministry or department should be ascertained from the counsel appearing for the Government before the case is decided and the information should be kept on the record.

C.L. No. 94 dated 18th December, 1957

In Order to avoid any dilatory tactics being adopted by judgment-debtors, the court has decided that three notices prescribed under rules 16, 22 and 37 of Order XXI of the Code of Civil Procedure should, as far as possible, be issued simultaneously so that execution proceedings are expedited.

(d) Service of contempt notice on the addressee.

C.L. No. 13 Dated: March 21,2001

Under the Contempt of Court Rules (as provided in Ch.XXXV-E Rule 6 of Rules of the Court), affecting of personal service on the alleged condemner is an essential requirement. It has been observed by Hon'ble court with concern that while affecting service of notice care to the rules are not taken. Instances have also come into the notice of the Hon'ble court that service on the condemner is preferred to have been affected on his Orderly or official attached with him. This is in clear violation of the rules and cannot in any way be presumed personal service . Hon'ble courts directions given in the Civil Misc. Contempt Application No. 3311 of 2000 Narendra Bahadur Mishra Vs. Ravindra Nath Tripathi and others are also enclosed here with for circulating amongst the judicial officers for ensuring compliance in such matters.

I am therefore desired to request you to bring into the notice of all the judicial officers the directions given in the aforesaid case and they be asked to remain careful while sending the report about service of notice on the alleged condemner.

(e) Service of summons/ notices in United Arab Emirates.

C.L. NO. 17 VIIC-6/ Admin. (F), dated: 7 May, 2005

I am directed to send herewith a copy of Government Letter No. 12 (16)/2005-Judl. Government of India, Ministry of Law & Justice, Department of Legal Affairs, Judicial section, New Delhi, dated 24.2.2005, on the above subject and to inform you that Joint Secretary & Legal Advisor to the Government of India has intimated that the Government of India has signed an agreement with the Government of U.A.E. in connection with service of Summons, Judicial Documents, Judicial commission, Execution of Judgment and Arbitral Awards vide Notification GSR 894 (E), dated 23rd November, 2000. As per the terms of the agreement, requests for legal assistance have to be made through the central Authorities of the respective countries. In the Republic of India, the central Authority is the Ministry of Low of Justices. The agreement further stipulates that all the document in connection with the legal assistance have to be officially signed by the court under its seal. All request and supporting documents have to be furnished in duplicate along with translation into one of the official language of the requested party. The official Language of the United Arab Emirates is Arabic.

It has been further intimated that the Government of U.A.E has requested for receiving of summons three months in advance of the hearing date set by the concerned courts in India and that too with complete address of the parties concerned to enable them to take appropriate action.

I am, therefore, to request you kindly to act upon accordingly and to kindly bring the contents of Circular Letter to the notice of all the Judicial Officers in your Judgeship for their guidance and strict compliance.

(f) Service of summons/Judicial Process etc. outside India in Civil matters

C.L .No. 44/VIIC-6/Admn.(F) : Dated 19.10.2006

In continuation of the earlier C.E. No. 74/VIIIb-16, dated August 22, 1959 and Circular Letter No. 21/VIIC-6/Admin.(F), dated 13.08.2004, dealing with service of judicial processes in criminal matters outside India, I am directed to say on the above subject that Government of India, vide Letter No. T-4410/24/2006 dated 23.03.2006 has intimated that the service of judicial processes outside Indian including summons/show cause notices etc., in cases pertaining to civil and commercial matters are required to be taken up with the Ministry of Law and Justice being the nodal ministry and central Authority for seeking and providing the mutual legal assistance in civil matters (copy enclosed).

It has been further informed that the Ministry of Law and Justice receives all kind of such request, examines them and takes appropriate action with regard to civil laws matters as per Allocation of Business Rules of the Government of India. It finalizes and notifies treaties and arrangements with other countries as per relevant statutory provisions in the Code of Civil Procedure. Therefore, all requests for seeking assistance from the foreign country including the service of all kinds of judicial processes or other

documents be directly submitted to the Ministry of Law and Justice in the Civil and Commercial Matters.

I am therefore to send herewith a copy of above letter of the Government of India, Ministry of External Affairs for your information and necessary action with the request to kindly bring to contents of the circular letter to the notice of all the Judicial Officers in your judgeship for their guidance and necessary and strict compliance.

T 4410/24/2006, Dated New Delhi, the 23rd March, 2006

The Ministry of External Affairs has been receiving summons, notices and other judicial processes etc. in criminal and civil or commercial matters from the various courts in India for servicing the same on the persons residing outside the geographical limits of the Republic of India.

2. It is reiterated here that service of judicial processes outside India, including summons/show cause notices etc. is regulated by reciprocal arrangement with foreign countries, finalized and notified by the Ministry of Home Affairs, as per statutory provisions in the Criminal Procedure Code (Section 105). In the absence of such notified arrangements, the question of service of judicial processes outside India is required to be examined and decided by the Ministry of Home affairs, in view of the relevant Indian Municipal Laws.

3. As per Allocation of Business Rules of the Government of India, the Ministry of Home Affairs is the nodal Ministry and Central authority for seeking and providing the mutual legal assistance in criminal law matters. The Ministry of Home Affairs receives all kind of such requests, examines and takes appropriate action.

4. Similarly, the case pertaining to civil and commercial matters are required to be taken up with the Ministry of Law & Justice, as that ministry performs all the above mentioned functions, with regard to civil laws matters as per Allocation of Business Rules of the Government of India. The Ministry of Law & Justice finalizes and notifies treaties and arrangements with others countries as per the relevant statutory provisions in the Code of Civil Procedure.

5. It is therefore requested that all requests for seeking assistance from a foreign country including the service of all kinds of judicial processes or other documents be directly submitted to the Ministry of Home. Affairs in criminal law matters and to the Ministry of Law and Justice in the civil and commercial matters.

6. It is requested that the information contained in the above paras may also kindly be suitably brought to the notice of the judicial authorities under your jurisdiction.

(g) To ensure strict compliance of the provisions as contained under Order 5 Rule 2 of the CPC read with para 102 and 103 of the General Rules (Civil), 1957

C.L. No. 56/2006, Dated December, 21, 2006

In Civil Misc. Writ Petition No. 59282 of 2006 – Shri Thakurdin Kesharwani Trust, Allahabad and others v. Prakash Chandra Sharma & others, the Hon'ble Court has observed with concern that in Subordinate Courts the summons being issued to the defendants are not accompanying with a copy of plaint or copy of the injunction application or other documents violating the provisions of Order 5 Rule 2 of the Code of

Civil Procedure as also sections 102 and 103 of Chapter IV of General Rules (Civil), 1957.

Therefore, while enclosing herewith a copy of order dated 3.11.2006 passed in C.M. Writ Petition No. 59282 of 2006 aforesaid, I am directed to request you to kindly ensure strict compliance of the provisions contained under Order 5 Rule 2 of the Code of Civil Procedure and Sections 102 and 103 of General Rules (Civil) 1957, failing which the responsibility should be fixed on the erring officer.

I am, also to add that the order referred to herein above as well as the contents of the circular letter be communicated to the Judicial Officers posted in your Judgeship for their guidance and strict compliance**.**

C. L. No.30/2007: Admin 'G' Dated :.29 August, 2007

On the above subject, I am directed to say that in the Chief Justices Conference-2007 upon consideration of matter of service of summons it has been resolved that the courts should resort to the amended provisions of Code of Civil Procedure providing service of summons through courier, fax, e-mail, etc.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control for strict compliance of the directions of the Hon'ble Court.

(x) Publication of notices

Guidelines for issuing summons/Judicial processes in the matters of diplomats of foreign embassies situated in India.

C.L. No. 17/2009 Admin. (G-II): Dated: 28.04.2009

In continuation of Hon'ble Court's earlier Circular Letter No. 33/VIII-B-31-50, dated 16th May 1950 read with G.O. No. 1967 (1)/VII 372-50 dated 6th May, 1950, I am directed to say that upon consideration of Letter No. F.No. 12(30)/2008-Judl. Dated 17th September 2008, having been received from the Ministry of Law and Justice, Government of India registering protest against practice by courts issuing summons to diplomats working in embassies of foreign states in India despite immunities and privileges being available to them under Diplomatic Relations (Vienna Convention) Act, 1972 and Vienna Convention on Diplomatic Relations, the Hon'ble Court has desired that all the Courts of the state be directed to observe the provisions made under Article 31 of the Diplomatic Relations (Vienna Convention) Act, 1972 which provides immunities & privileges available to diplomats in judicial matters and also the procedure to be adopted in service of judicial processes to diplomats, in case deemed necessary. In matters other than those covered under the diplomatic immunity, the judicial process can be served through the Ministry of External Affairs and not directly by the courts.

While enclosing a copy of the above letter dated: 17.09.2008 of the Ministry of Law & Justice alongwith its enclosures, I am, therefore, to request you to kindly ensure strict compliance of the above directions of the Hon'ble Court by all the courts under your administrative control.

(a) Changes for publication of insolvency notices in Government Gazette

C.L. No. 64/1-Xf-36 dated 11th November, 1935

The changes for the publication of a notice under the Provincial Insolvency Act (V of 1920) in the Uttar Pradesh Gazette is Rs. 8. The Cost of one copy of Part VIII of the Gazette in its English and Hindi versions is Re.1, and Re. 0.75, respectively while sending the insolvency notices to the Press for publication in the Gazette a deposit of Rs. 9 for the notices in English version and Rs. 8.75 for the notices in Hindi version should be made in the local treasury in favour of the Superintendent, Printing and Stationery, U.P.[*] under the head 'XLV[**]-Stationery and Printing-Advertisements and sales of Gazettes'.

G.L. No. 76/94-2(52) dated 27th November, 1937

Insolvency courts should while sending notices to the office of the superintendent, Printing and Stationery, *U.P., for publication in the Gazette, certify that the publication charges including the cost of Gazette, have been deposited in the treasury in favour of the Superintendent, Printing and stationery,**U.P. Allahabad.

(b) Publication of court notices in newspaper

G.L. No. 61-46/25-913 dated 28th September, 1937 modified by

G.L. No. 12/46/25-992 dated 21st March, 1938 and

C.L. No. 12/Xf-12 dated 15th February, 1949

Courts should select newspapers through which information is most likely to reach the party to be served. Notices should thus ordinarily be published in daily newspaper with extensive circulation or in weekly newspapers with the largest circulation in the district where the parties to be served reside. Mere economy irrespective of the extent of circulation of the paper will not serve the purpose of publication of a notice in a newspaper:

Every court should maintain a register containing the following information:

(1) Name of office,
(2) Number of suit or proceeding,
(3) Name of district in which parties to be served with notices reside,
(4) Paper to which notice was sent for publication,
(5) Place of publication of paper,

Explanation of any departure from the directions in G.L. no. 1246/25-1992, dated the 21st March, 1938.

(6) The register maintained by each court should be put up before the District Judge for perusal on the 1st each month.

[*] Note: Now Director, Printing and Stationery.
[**] Now '0058'

C.L. No. 85/Xf-12 dated August, 1951

In sending notices for publication to newspaper published from any particular place, the presiding officer should see that notices are, as far as possible, equally distributed among newspaper with a wide circulation.

The District Judge should ask for the rates for the publication of notices from newspapers in which such notices are ordinarily likely to be published and satisfy himself that the charges are reasonable and not exorbitant. The rates should be circulated to all subordinate courts for information.

C.L. No. 54/X-12 dated 16th April, 1952

The above directions apply to the publication of court summons, notices and other judicial processes, while the directions contained in G.O. No. 2501(i)/XIX-34-1946, dated the 4th September, 1951, apply only to the publication of Government advertisement, tender notices etc.

C.L. No. 5/Xc-5 dated 1st December, 1948

Extract from General Administration Department, G.O. no.2821/I/170(5)-1948, dated the 18th June, 1948 is reproduced below for the information and guidance of all District Judges:

(1) Under G.O. no. 4686/III-170-47, dated the 8th October, 1947, it is incumbent on the courts and other authorities concerned to issue their notices, summonses, etc. in Hindi in the Devanagri script. But a question was raised whether these instructions made it incumbent on the issuing authorities also to require the publication of notices, etc. in Devanagri script even when due to the circumstances of a particular case it might be required that they may be published in non-Hindi newspapers.

(2) The mere fact that a summons or notice has to be published in a non-Hindi newspaper is by itself not sufficient to justify the publication of the document in a language and script other than Hindi in Devanagri script. Even prior to the declaration of Hindi as the language of the State, non-Hindi newspapers on occasions used to publish court notices, etc. in Hindi in Devanagri script. There is no objection to the publication of court notices or summonses in Hindi in Devanagri script in non-Hindi papers.

(3) It is, however, necessary to bear in mind the interest of the litigant public and it is for this reason that court notices, summonses, etc. are under standing orders, to be issued to those papers which command an adequate local circulation and are expected to reach the persons for whom the notices are intended.

(4) Court notices, summonses etc. should of course continue to be issued in the Devanagri script. But if, in any case, the authority considers that it is essential to publish them in a language other than Hindi written in Devanagri script then the issuing authority will have discretion to order the actual publication of the notices or summons otherwise than in Devanagri script though the original is in that script. In exercising this

discretion the issuing authority will consider the special circumstances of a case to see whether it is necessary that the summons or notice, though issued originally in Devanagri script, should be translated or transliterated and published in a language or script other than Hindi. If the issuing authority is so satisfied it shall, after recording the reason, make an order to the effect that though the document has originally been issued in Hindi in the Devanagri script its translation or transliteration may be published in a language or script other than Hindi. The question of the publication of a summons or notice otherwise than in Hindi in Devanagri script is not to be left merely to the wishes of the party or parties concerned, but has to be decided by issuing authority itself after considering all the aspect of the case.

C.L. No. 61/Xf-12 dated 28th September, 1983

In view of the provisions of C.P.C. the publication of court summonses, notices and other judicial processes in the newspapers, henceforth, shall be governed by the provisions of sub-rule (1A) of rule 20 of order V of Civil Procedure Code. The other instructions contained in Court's C.L. No. 54/Xf-12 dated 16.4.1952 and C.L. No. 85/Xf –12 dated 18.8.1951, regarding publication of Government Advertisements etc. in the newspapers and regarding distribution of notices and rates for publication of notices in the newspapers, shall continue to remain in force as before.

C.L. No. 29/Xe-5(SC) dated 29th April, 1983 and

C.L. No. 1/Xe –5(SC) dated 7th January, 1985

All notices, summonses etc. shall invariably be issued or sent for publication in newspaper in the forms as given in Hindi edition of Civil Procedure Code, Criminal Procedure Code etc. published by the Government and no lapse should recur in this regard otherwise serious view will be taken by the Court in the matter.

(4) STAY AND INJUNCTION ORDERS

C.L. No. 68 dated 25th July, 1957

An order staying proceeding under section 10 of the Civil Procedure Code is a judicial order and should be passed only after the court has been satisfied that the matter in issue is directly and substantially in issue in the previously instituted suit and that the previously instituted suit is still pending. If the previously instituted suit has been disposed of and only an appeal or revision is pending the court must hold that it is still pending within the meaning of section 10 before it can stay the proceedings. The finding that the matter in issue is directly and substantially in issue in a previously instituted suit should not be given without legal evidence, and certainly not on vague or sweeping information. If the suit itself is pending, copies of the pleadings should be require to be filed, and if an appeal or revision is pending, copies of the judgment of the trial court and of the memorandum of appeal or of the application for revision should be required. The court should be in possession of all the necessary information about the previously instituted suit, e.g., its number and year and names of the parties and the court where it is said to be pending. After the proceedings have been stayed, periodical enquiries should

make whether the previously instituted suit is still pending. They should be made from the court itself where it is said to be pending.

The provisions of section 10 are mandatory and proceedings in the subsequent suit must be stayed if the matter in issue is directly and substantially in issue in a previously instituted suit. The two suits cannot, and should not be amalgamated or tried together.

Proceeding should be stayed in exercise of inherent powers only on the court being satisfied that it is necessary to stay them in the interest of justice or to prevent the abuse of process of court.

G.L. No. 3323/267 dated 25th July, 1925 and

C.L. No. 69/VIII-d-95 dated 11th May, 1971

The attention of District Judges is drawn to the remarks of the Civil Justices Committee regarding the issue of interlocutory injunctions. The committee point out that much delay in justice is occasioned by interlocutory orders for stay of proceedings and stay of execution, by interlocutory injunctions and by the holding up of proceeding pending application in revision. They add that interlocutory injunctions are throughout India, granted much too freely and without sufficient care to impose terms, and that this particularly applies to the granting of such injunctions *ex parte.* Order XXXIX, rule 3 of the Code of Civil Procedure makes it compulsory in all cases to issue notice to the opposite-party before granting a temporary injunction except where the object of granting the injunction would be defeated by the delay caused by issuing notice. The Committee fined that *ex parte* injunction are frequently issued where the dispute between the parties has been pending for months. Such cases clearly do not come within the exception. The issue of an *ex parte* injunction against a defendant in possession of property operates to give the plaintiff an unfair advantage. Where an injunction is granted without notice, it should be granted only for the minimum period necessary to enable the opposite party to come before the court and put forward his case. A week, or at most a fortnight, should ordinarily be sufficient for this purpose. If the defendant evades service of the notice knowing that the temporary injunction has expired, it will always be possible for the court to extend it. The court, however, agrees with the Committee that the issue of an interlocutory injunction without notice is to be regarded as an exception and should only be allowed where the plaintiff establishes in a convincing manner that by reasonable diligence on his part he could have avoided the necessity of applying behind the back of the defendant. Where there has been unnecessary delay on the part of the plaintiff in making his application, an injunction should never be granted ex part e.

Attention is also invited to the following remarks of the Committee:

> "Again we understand that in recent times the ordinary operations of local bodies are being constantly interfered with by ex parte injunctions at the suits of plaintiffs whose grievance is in no way commensurable with the damage which an interlocutory injunction is bound to do. There can be no greater encouragement to blackmailing and malicious suits. The serious interruption of public business in the interest of a protagonist in a local quarrel is by no means unknown."

G.L. No. 33 dated 12 May, 1955

The granting of an interim injunction, whether ex parte or not is a judicial matter. But where the Government or a local body have appointed a standing counsel, the courts may consider the desirability of disposing of the application the same day or within, say a couple of days after giving notice to the standing counsel.

C.L. No. 51/VIId-95 dated 5th May, 1972

Instruction issued by the Court in its C.L. No. 69 dated 11th May, 1971 and G.L. No. 3323/27, dated 25th July, 1925, regarding grant of injunction should be strictly followed and it should specially be borne in mind that injunction should not be granted in defective cases or in cases in which no notice under section 80 C.P.C. has been given.

C.L. No. 154/VII d-95 dated 10th October, 1977 and

C.L. No. 184/VII d-95 dated 9th December, 1977

While dealing with appeals from orders granting or refusing temporary injunctions, if it is found that the trial judges have exercised their discretion arbitrarily or frivolously in granting or refusing temporary injunctions, the same may be brought to the notice of the respective Administrative Judge within a month from the disposal of such appeals.

C.L. No. 144/VIII g-38 Admn. 'G' dated 19 December, 1979

The Presiding Officers should arrange cases in their diary in such a way that priority may be given to those cases in which stay orders or injunctions have been issued by their own courts.

C.L. 86/VIId-98-Admn. (G) dated 24th November, 1984

All the Presiding Officers should strictly comply with the provisions of Rule 1(3) and Rule 5(3)(c) of the Order XLI and Rule 8(h) of the Order XXVII C.P.C. while deciding suits relating to money matters, and while granting stay of execution of an appealable decree and depositing of security etc., in such suits.

C.L. No. 104/IVh-36 dated 16th June, 1976

Making of vague orders on temporary injunction such as saying that the status quo be maintained, should be avoided. Temporary injunction orders should be express and specific to the utmost possible extent. The order for interim injunction even where ex-parte, should ordinarily contain brief indication of the rationale for the order, so as to ensure that there has been an application of mind. Speaking order should not normally be passed where the injunction is refused. Security should invariably be taken even while giving an ex-parte order.

Ex- parte interim injunction should be made time bound. Final order should be passed within a month and extension, if necessary should not be for more than a fortnight with the consent of the opposite party.

(i) Grant or interim injunction both ex-parte as well as final by the Subordinate Courts.

C.L. No. 50/VIId-10/Admn.(G-2), dated September 6, 1993

I am directed to say that in the following decisions important guidelines have been laid down by their Lordships of the Supreme Court of India and this court regarding grant of interim injunctions, both ex-parte as well as final. At the ex-parte stage the assistance of a learned Advocate is not available. Some interim orders are capable of causing incalculable harm. It is, therefore, of utmost importance that the members of the subordinate judiciary should be aware of the law on the subject.

You are, therefore, requested to bring the following decisions to the notice of the officers posted under you:-

1. *Assistant Collector of Central Excise v. Dunlop India Ltd*., AIR 1985 SC 330 (particularly paras 1, 5 & 7)
2. *The National Textile Corporation v. Swadeshi Cotton Mills Co Ltd.,* 1987 ALJ 1266 (DB)
3. *Road Flying Carrier v.* The *General Electric Company of India,* AIR 1990 All 134.

Revision against the interlocutory orders or against the issuance of notice of an application filed under Order XXXIX rule 1 and 2 of Code of Civil Procedure.

C.L. No. 22- 12006: Admin 'G': Dated: 29.05.2006

While deciding Writ Petition No.1609 (M/S) of 2006-Cantonment Board and another Vs. District Judge, Lucknow (Incharge) and others, the Hon'ble Court (Hon'ble Mr. Justice Devi Prasad Singh) has noticed that the District Judges are entraining revisions filed against interlocutory orders issuing notices for affording opportunity of hearing to the other side before passing an injunction order under Order XXXIX rule 1 and 2 of the Code of Civil Procedure.

The Hon'ble Court has further noticed that "sometime after issuing notice on an application filed by the plaintiff under Order XXXIV Rule 1 and 2 of the Code of Civil Procedure matters are being kept pending by the trial Courts for sufficiently long period resulting in serious miscarriage of justice".

Therefore, while enclosing herewith a copy of judgment dated 27.4.2006 passed in above mentioned writ petition, I am directed to request you to communicate the judgment to all the Judicial Officers posted in the judgeship under your administrative control for their guidance and compliance.

Granting of interim as well as final injunctions

C.L. No. 71/2007Admn.(G). Allahabad Dated: 13.12..2007.

The Hon'ble Court has noticed that the subordinate Courts are not making compliance of directions issued through the Circular Letter no. 50/VII-d-10/Admin.(G-2)dated September 6th 1993 wherein certain guide lines were given for the Presiding Officers to be kept in mind while dealing with granting interim injunctions and final injunctions ,

Therefore, While enclosing a copy of the above mentioned Circular Letter , I am directed to request you to kindly impress upon all the judicial Officers working under your administrative control to make compliance of the above directions in letter and spirit .

Issuing summons/notices to the Department concerned against the accused persons involved in Petty Offences.

C. L. No. 61/2007Admin(G): Dated :13.12.2007.

The Hon'ble Court has noticed that a long delay in disposal of Petty Criminal Cases pertaining to Municipal Challans, Police Challans, Traffic Challans, Challans under Weights and Measurements Act and Forest Act etc. is taking place due to the Challaning Authorities not providing correct address of the accused in the Challans submitted before the Courts which results in services of notices/summons on them not being affected.

Therefore, I am directed to say that the Court concerned shall send summons/notices of all such accused persons to the Department concerned to be served upon them.

I am further to add that to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit .

(ii) Grant of stay in cases where merely Appeal, Revision or writ petition preferred.

C.L. No. 6/Admn.'G' dated 8 February, 1995

The Hon'ble Chief Justice and Judges have been pleased to direct that all Judicial Officers may be advised that mere filing of an appeal, revision or even a writ petition against an order or judgment does not, by itself, constitute any valid or justifiable ground to stay the operation thereof. In other words, unless the implementation of the impugned order or judgment is stayed by the competent court, it must be given effect to and carried out.

Disregard of these directions cannot but invite serious adverse note.

Stay of proceedings in the cases pending before the trial court

C.L. No. 40/2006, dated 19.9.2006

With reference to the above subject, I am directed to request you that bemoaning the interminable stay in proceedings to be prominent causes of docket explosion it have been resolved in the Chief Justices' Conference, 2006 that a mechanism needs to be evolved to contain this menace.

Therefore, I am directed to request you to kindly impress upon all the Judicial Officers in your Judgeship to take necessary steps for vacation of stay in proceedings pending before the Trial Court at the end of six months. However the stay in proceedings could be extended on the basis of adequate and special reasons in writing and the same is to be recorded in the concerned file of the case,

I am further directed to request you to kindly bring the contents of the circular letter to the notice of all the Judicial Offi8cers is the judgeship for their guidance and strict compliance.

(iii) Proforma regarding continuance of Stay Orders granted by the Hon'ble High Court.

C.L. No. 47/IVf-5/Admn.(Inspection) Section, dated 13 December, 1995

I am desired to enclose a proforma approved by the Hon'ble court for making enquiries regarding continuance of stay orders granted by the Hon'ble High Court.

In future, all the enquiries in this respect be made on the enclosed proforma only.

PROFORMA REGARDING CONTINUANCE OF STAY ORDERS GRANTED BY THE HON'BLE HIGH COURT

Sl. No.	Particulars of cases of Lower Court,				Particulars of cases of high Court			
	Civil/ Criminal Case Number	Year	Name of parties	District	Crl/Civil/ Revision/Appeal/ Writ Number	Year	Date of Stay Order Granted by the Hon'ble High Court	Stay continuing Stay vacated on….
1	2	3	4	5	6	7	8	9

Date Prepared by:- Checked by:

SIGNATURE OF THE OFFICER

(iv) Circulation of the copy of Judgment and order dated 21.05.2004 in C.M. W.P. No. 19123 of 2004-Bhagwati Prasad Lohar & Other Vs. State of U. P. and others; 2005 (99) RD 333

C.L.No.15/ Admin:'G' 2006 dated: 3 may 2006

The Hon'ble Court (Hon'ble Mr. Justice Anjani Kumar) while dealing with the order issuing notices for affording opportunity of hearing to the other side before passing any injunction order under Order XXXIX Rule 1&2 of the Code of civil Procedure, has observed and held that the order issuing notice for affording opportunity of hearing to the other side before passing any injunction order by the trial court is an interlocutory order against which no revision lies. Therefore, while enclosing herewith a copy of Judgment and order dated 21.05.2004 in C.W.M.P. No.19123 of 2004-Bhagwati Prasad Lohar & Other Vs. State of U. P. and others, 2005 (99) RD 333, I am directed to request you that the judgment and order referred to herein above be circulated amongst all the judicial officers posted in your judgeship for their guidance and compliance.

(For Judgment See – 2005(99) R.D. 333)

(V) Interim Injunction applications not to bar the progress of the trial.

C.L. No. 62/2007 Admin (G): Dated: 13.12.2007

It has come to the notice of Hon'ble Court that the Subordinate Courts usually defer final hearing of the cases in which the parties move Interim Injunction applications despite their being no stay order by the Appellate/Revisional Court. The said reason has been identified to be one of the most prominent reasons for delay in disposal of civil cases. Therefore the Hon'ble Court has desired that the Subordinate Court be clearly instructed not to halt the trial proceedings unless there is a stay granted in the matter by superior court.

Therefore, I am directed to request you to kindly impress upon all the Judicial officers posted under your administrative control not to defer final hearing in matters

wherein no stay order has been passed by any Superior Court staying further proceedings of the case and take up such matters as per routine of the Court.

5. COMMISSIONS

(i) Inland

C.L. No. 22/VIII h-13 dated 18th March, 1949

Immediately after the issues have been struck the presiding officer should consider, may be on an application by a party, if the preparation of a site plan or enquiry after local inspection at the spot is necessary for the proper decision of the case. The commission should as far as possible, be issued on that very day with clear and detailed directions to be recorded in the Judge's notes, as to what the commissioner is required to show in the plan and on what points he is required to make a specific report. If any witness is to be examined on commission the court may consider the issue of a commission then and not postpone it till after the recording of the entire oral evidence.

C.L. No. 35/VIII-b-23 dated 15 March, 1971

Presiding Officers should mention the name of the commissioner at the time of passing order of issuing commission.

Second commission

G.L. No. 19/67 dated 1st May, 1929

A second commission should not be issued until good reasons are given why the first commission should not be accepted. When once a second commission is issued the first commission goes out of evidence entirely. No reference can afterwards be made to that first commission. If second commission is also found to be unsatisfactory reasons should be given and that commission should also be taken out of the evidence. The attention of judicial officers is drawn to the relevant passages from I.L.R. XLV Mad. 79 (Judgment in S.A. no 671 of 1919 between K.K.M., Thottama and C.S. Subramanian).

Distribution of commissions

G.L. No. 4386/89 dated 4th December, 1922

The attention of District Judges is drawn to the necessity of ascertaining periodically the number of commissions issued to legal practitioners in each court subordinate to them and sees that there is a fair distribution of such work. The court regards this supervision as most important.

C.L. No. 102/411-h-3 dated 2nd December, 1968

Strict compliance of Rule 65(4), General Rules (Civil) may be impressed upon the presiding officers so that commissions for preparation of a map or for making partition are ordinarily issued to Amins only in the first instance.

Timely execution of commissions

C.L. No. 110/VIII b-28 dated 24th October 1952

Presiding officers should be strict in demanding execution of commissions in time and in case a commissioner is found to be dilatory or his work is generally found to be

unsatisfactory the question of omitting his name from the next year's list should be considered.

Complete directions should always be given to the commissioner at the time of issuing the commission.

C.L. No. 52 dated 5th May, 1972

Names of only those persons should be entered in the list of survey commissioners under rule 66(1) General Rules (Civil) who possess a good knowledge of survey work and can make measurements properly. There should be no hesitation on the part of the presiding officers in recommending the removal of the name of a survey commission satisfactorily. In case survey cannot be done by the advocates or the Amins, there should be no hesitation in issuing the commission to a qualified person even though his name is not on the list.

Examination of transferred Medical Officers

G.L. No. 19/48-75 (a) dated 20th June 1931 read with

G.O. No. 2470/VI dated 20th June, 1931

A medical officer who has been transferred to another district should not as a matter of course be re-called to give evidence in his old district, but should be examined on commission unless his personal appearance is considered absolutely necessary.

Examination of Finger-Print expert

C.L. No. 121/VIII-f-8 dated 8th December, 1951 read with

C.L. No. 9 dated 24th May, 1909

Delay in the execution of commission for the examination of finger- print expert is generally caused by-

(a) the treasury chalan showing that the party concerned has deposited the fee of the expert, not reaching the Lucknow Court in time:
(b) The amount deposited being less than that prescribed under paragraph 82(b) (8) of the U.P. Finger and Foot Print Manual.
(c) The Commissioner's fee not reaching the Lucknow Court in time: or
(d) The interrogatories not being sent along with other papers for the execution of the commission

In order to obviate such delays while issuing such commission the presiding officer should see that the Commissioner's fee and the treasury challan relating to the deposit of the expert's fee reach the court to which the commission is issued for execution in good time. In a case in which an open commission is not issued the court issuing the commission should also take care to forward the interrogatories and the cross-interrogatories if any, along with the other papers.

An additional sum of Rs. 3 should also be sent along with the commission to meet the conveyance charges of the commissioner in addition to his fee as prescribed under rule 66 (4) Chapter III of General Rules (Civil), 1957. An extract from Government notification no. I/III-B-79-49, dated the 23rd May, 1949 prescribing fees for the

examination of an expert of the Finger Print Bureau is reproduced below for ready reference.

All applications should be addressed to the Deputy Superintendent of Police, Finger Print Bureau, Criminal Investigation, Uttar Pradesh, Lucknow.

Fees shall be charged by the Finger Print Bureau at the following scale of furnishing expert opinion in all cases in which an opinion is applied for at the request of a party (including the Central and the other State Government). The amount realised shall be credited to the State Government under the head, "XXIII-A-Police Fees-Fines and forfeitures-Other fees, fines, etc," and the treasury challan sent to the Deputy Superintendent of Police, Finger Print Bureau, Uttar Pradesh.

Consultation fee- Rupees fifteen per Case if the number of impressions to be compared is five or less. For every additional impression Rs.3.

Photographic fee-Rupees three per impression photographed subject to a minimum of Rs. 10 per case.

Rupees 20, Rs. 30 and Rs. 40 per case per call according as the expert concerned is of the rank of a Sub-Inspector, Inspector and a Deputy Superintendent of Police.

Traveling allowance, where admissible, shall also be charged from the party concerned at prescribed rates.

[Home Department (Police-A) no. 451/VIII-36-50, dated the11th May, 1950.]

Appointment of Lawyer as Arbitrators

G.L. No. 29/VIII-16 dated 11th October, 1947

Judicial officers should avoid appointing lawyers as arbitrators in civil cases on payment of fees.

(ii) Foreign

For procedure to be followed in regard to letters of request, commissions, and summons for foreign countries reference is invited to the letters given below:-

C.L. No.147/VIII-b-32, dated 20th September, 1971
G.L. No.44/83-4(6), dated 2nd November, 1939 as supplemented by
G.L. No.1/83-5, dated 11th January, 1940.Enclosures amended and supplemented by
G.O. No.478/VII-225-38, dated 15th March 1940
G.L. No.28/83-6(4), dated 5th September, 1940 modified by
G.L. No.39/83-6(6) dated 5th December.1940.
G.L. No.16/83-7(2), dated 27th May 1941 and
G.L. No.1/83-5, dated 11th January, 1940.
C.L. No.14/VIII-b-31 dated 23rd February, 1950,
G.L. No.18/83-7(5) dated 4th July, 1941 and,
G.L. No.272/191, dated 23rd January, 1924.
C.L. No. 14/VIII-b-31 dated 23rd February, 1950, read with Government of India Letter No. F-120-13/48 (O.S.III) U.K. dated 24 December 1949.
G.L. No. 81/VIII-b-31 dated 2nd August, 1951, read with Government of India Letter No. F-12(16)/51- U.K. dated 29th May, 1951 and Ministry of External

Affairs Letter No f-120-13/48-(O.S.III) dated 6th August, 1948.
(C.L. No. 6/VIII-b-31 dated 9th February, 1949).
C.L. Nos. 88/VIII-b-31 dated 14th August, 1952,
127 /IX-g-12 dated 11th December, 1952:
1/VIII-b-31 dated 6th January 1953:
85/VIII-b-16 dated 26th August, 1953 and
100/VIII-b-31 dated 5th October, 1953.
C.L. No. 12 dated 16th February, 1954
C.L. No.13/VIII-b-31 dated 23rd February, 1954
C.L. No.26/VIII-b-16 dated 3rd April, 1954
C.L. No.39/VIII-b-31 dated 16th July, 1954
C.L. No.51/VIII-b-31 dated 23rd September, 1954
C.L. No.67/VIII-b-16 dated 25th November, 1954
C.L. No.22/VIII-b-31 dated 14th April, 1955
C.L. No.45/VIII-b-16 dated 28th July, 1955
C.L. No.57/VIII-b-16 dated 29th September, 1955
C.L. No.65/VIII-b-31 dated 11th November, 1955
C.L. No.72/VIII-b-31 dated 20th December, 1955
C.L. No.6/VIII-b-16 dated 7th January, 1956
C.L. No.7/VIII-b-31 dated 9th January, 1956
C.L. No. 27/VIII-b-16 dated 30th March, 1956
C.L. No.66/VIII-b-31 dated 9th August, 1956
C.L. No.67/VIII-b-31 dated 9th August, 1956
G.O. No.104 dated 29th November, 1956
C.L. No.38/VIII-b-31 dated 22nd April, 1957
C.L. No.40/VIII-b-31/75 dated 3rd May, 1957 and
C.L. No.49/VIII-b-31 dated 21st May, 1957
C.L. No. 61 dated 24th June, 1957
C.L. No. 26 dated 4th March, 1958
C.L. No.52 dated 16th May, 1958 and
C.L. No.1/11 dated 4th December, 1958
C.E. No.36/VIII-b-31 dated 14 May 1962 and
C.E. No.147/VIII-b-32 dated 20th September, 1974

C.L. No. 111/VIII-b-32/F/79 dated 26th September, 1979

While sending the letter of request to foreign countries for execution, the presiding officers should comply with the following directions contained in Government of India letter no. T-441/8/79 dated 12th March, 1979 issued by Ministry of External Affairs. The letters of request should be got typed neatly, preferably on a bond paper, stitched in a folder and the folder affixed with the seal of the court. The letters of request are required to be submitted to this Ministry, through the respective State Government, in duplicate.

It should also be specifically mentioned in the forwarding letter, which should also be in duplicate, whether the fees for execution of letters of request have been deposited by the party concerned in advance. The information regarding latest rates of

commission fees, charged by courts of various countries abroad for execution of letters of request, is being collected from abroad and the same will be communicated shortly.

Fee for execution of letters of request

C.E. No. 85/VIII-b 31 dated 7th December, 1966

Statement showing approximate cost for the execution of letters of request, Commission, etc. in foreign countries:-

Mission	**Deposit required Rs.**
Ethiopia	320
New York	1,100
Dacca	470
London	550
Canada	1,180
Cap Town	160
Singapore	160
Washington	1,100
Suva	390
Buenos Aires	320
Port Louis	240
Aden	90
Indo-China	630
Canberra (Tasmania)	160
Canberra (South Australia)	790
Canberra (Victoria)	160
Canberra (Queens land)	320

In regard to countries which are not included in the statement a sum of Rs. 320 is considered as adequate deposit subject to the amount being adjusted when the actual charges are know.

[Vide Government of India, Ministry of External Affairs letter no. T.441(16)/66, dated July 20, 1966]

C.E. No. 42/VIII-b-32 dated 26th May, 1965

The authority for the purpose of ordering refund of deposits for service of legal documents in other countries is the court at whose instance the deposit was made and refund should be made in form T.R 61 as provided in the Central Treasury Rules, Volume I (627 and 628) after the actual cost etc. for deduction for the Commission/Letter of Request etc. is known.

Service of Writs or commission

G.L. No. 60/83-6(5) dated 13 November, 1935

Reference is invited to the General Letters noted in the bloc.

Issue of warrants, summonses, etc. to foreign countries like Afghanistan, etc.

G.L. No. 95/191-1(3) dated 21st November, 1936 read with

G.O. No. 1951/VII-1892-1936 dated 26th October, 1936 and

C.L. No. 70/VII-b-32-8-59 dated 3rd August, 1959

Reference is invited to the General Letters noted in the Bloc.

C.E. No. 22/VIII-b-16 dated 25 February, 1970

Indian courts can send their summons for service on defendant residing in Pakistan, to Pakistani court having jurisdiction in the place where the defendants reside. The summons should be in English.

C.L. No. 80/VII-b-16-2 dated 18th August, 1961

In regard to the colony of Singapore and the Federation of Malaya, all judicial documents and processes should be addressed direct from a High Court in India to a High Court in Singapore and the Federation of Malaya.

(iii) Legalization of documents

By officers appointed in this behalf

C.L. No. 30/X-f-23 dated 7th May, 1955

Reference is invited to the Circular Endorsement noted in the bloc.

For use in Iran

G.L. No. 38/83 dated 17th October, 1930

Reference is invited to the General letter noted in the bloc.

For use in Iraq

G.L. No. 33/34 dated 7th August, 1930

Reference is invited to the General Letter noted in the bloc.

For use in the Union of Africa

G.L. No. 35/83 –5 dated 12th September, 1931, read with

G.O. No. F-310/30-Judicial dated 25th March, 1930

Reference is invited to the General Letter noted in the bloc.

Note: All presiding officers should have copies of these letters prepared from their files of G.Ls. and C.Ls. and keep the same under a separate cover for facility of reference. Copies of General and Circular Order issued by the Court in future on the above subjects should also be placed in the same cover for guidance.

C. L. No.58/2007Admin (D): Dated: 13.12.2007

Rule 66(1) of the General Rules (Civil) provides that every District Judge shall maintain a list of legal practitioners for each revenue District and outlying Munsifi, authorized to execute commission and such list shall be prepared by him in consultation with Judicial Officers of each revenue district and outlying Munsifi as the case may be.

Such List may be Sub divided in 5 parts including that of Survey matter. An earlier issued C.L.no.52 dated 5th May 1972 provides that names of only such persons should be entered in the list of Survey Commissioners Under Rule 66(1) G.R.(Civil) who possess a good knowledge of Survey work and can make measurements properly. A need is felt by the Hon'ble Court that in more complicated cases involving Survey work. The same should be performed by Qualified Engineers who can be engaged by the party concerned if an adequate fee is provided for the same.

Therefore, in continuation of the above noted Circular letter, I am directed to request you to kindly impress upon all judicial officers that in complicated cases, they may appoint in their discretion qualified engineers for conducting survey work, with cost (here the fees of the Surveyor) to be borne by the party seeking relief of appointment of such surveyor .

I am to add further that kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control to make strict compliance of the directions given.

6. SMALL CAUSE CASES

Procedure on sudden abolition of Small Cause court

G.L. No. 36 dated 30th September, 1931, read with

G.L. No. 9/IV-g-24 dated 9th March, 1949

Small Cause Court cases pending in a court, which has been abolished or has ceased to exist on the transfer of the Presiding Officer, become triable as regular suits and not as Small Cause Court cases by the court of inferior jurisdiction in which they would be filed if freshly instituted and the decrees would be appealable. The District Judges has no power to transfer such pending Small Cause Court cases under section 24 of the Code of Civil Procedure after the court has ceased to exist or the officer has left the district so that the decrees may be non-appealable. *(Bhagwati Pande vs. Badri Pandey and another*, (1932) ILR. LIV., Allahabad, page 171 (F.B.) Civil revision no. 162 of 1930).

District Judges are advised to pass orders of transfer in regard to such cases shortly before the court ceases to exist or the officer is transferred. Some cases may be transferred to Civil Judges and some to Munsifs as the District Judge may think fit. In that case the cases would continue to remain Small Cause Court cases and can be tried summarily and the decree would not be appealable.

If a successor to a Civil Judge invested with Small Cause Court power finds a number of Small Cause Court cases pending on his file, which had not been of his predecessor, it is irregular for him to try them on the regular side under section 35 of the Small Cause Court Act when the suits are within the pecuniary jurisdiction of a Munsif. Such cases should go to the Munsif's courts to be tried as regular suits.

When a Court of Small Causes created under section 5 of the Provincial Small Cause Courts Act, ceases to exist or an officer invested with such powers is transferred, cases pending on his file on the Small cause Court side can, by virtue of the provisions contained in section 35 of the Provincial Small Cause Courts Act and section 24 of the

Code of Civil Procedure, be decided as Small Cause Court cases only under the following conditions:-

(i) if the successor of the officer possesses similar small cause court power of that valuation and actually takes over charge from the outgoing officer; or

(ii) if there is in the district any other officer, Civil Judge or Munsif, invested with powers to try Small Cause Court suits of that valuation in that area; or

(iii) If before the Small Cause Court ceases to exist or the officer invested with such powers makes over charge the District Judge, in exercise of the powers conferred by section 24 of the Code of Civil Procedure, transfers such suits to any other court or officer, even though not invested with Small Cause Court powers.

In other cases, the pending Small Cause Court suits will have to be tried as regular suits by the court which would be competent to entertain them if those suits were instituted afresh.

When the successor of the officer is not invested with Small Cause Court powers or being invested with such powers does not actually take over charge from the outgoing officer, the pending Small Cause Court suits in that officer's court ought to be dealt with as follows:

1. In case the outgoing officer is a Munsif-

(a) if there is a Civil Judge or an Additional Civil Judge exercising Small Cause Court powers in that area, and there is no additional Munsif invested with such powers and having territorial jurisdiction over that area, the Civil Judge or Additional Civil Judge, as the case may be, will have the jurisdiction to try the pending suits as Small Cause Court suits without any order by the District Judge and they should be sent to the court concerned automatically;

(b) if there is a Civil Judge or Additional Civil Judge and also an Additional Munsif, both exercising or competent to exercise Small Cause Court powers in that area, the two officers can try the pending Small Cause Court suits as such without any order by the District Judge depending upon their pecuniary and territorial jurisdiction as judges invested with Small Cause Court powers; and the cases should be sent to the proper court automatically;

(c) if there is an Additional Munsif invested with Small Cause Court powers but there is no Civil Judge or Additional Civil Judge for that area invested with such powers, the pending suits of valuation within the pecuniary Small Cause Court jurisdiction of the Additional Munsif would stand transferred to his file to be heard as Small Cause Court suits while those above that valuation will be tried as regular suits unless transferred by the District Judge under section 24 of the Code of Civil Procedure; or

(d) If there is no officer invested with Small Cause Court powers, all the pending cases will be tried as regular suits unless transferred under section

24 of the Code of Civil Procedure before the outgoing officer actually makes over charge.

2. In case the outgoing officer is a Civil Judge-

(a) If there is another Civil Judge, whether designated as second or Additional Civil Judge, invested with Small Cause Court powers exercisable in that area, all the pending Small Cause Court suits and proceedings can be tried by him as Small Cause Court Judge;

(b) If there is no Civil Judge invested with Small Cause Court powers, but there is a Munsif or an Additional Munsif invested with or exercising Small Cause Court powers in that area or part thereof, pending Small Cause Court suits within the pecuniary and territorial jurisdiction of the Munsif under the Small Cause Court Act can be taken cognizance of by him under section 35 of the provincial Small Cause Court Act, without any fresh order of transfer by the District Judge while the other suits beyond his pecuniary and territorial jurisdiction can be tried as Small Cause Court suits only if they are transferred under section 24 of the Code of Civil Procedure prior to making over by the Civil Judge; or

(c) If there is no officer invested with Small Cause Court powers, instruction no. 1 (1) (d) will apply.

3. When the successor of the officer is invested with similar Small Cause Court powers and actually takes over charge from the outgoing officer, no orders of transfer by the District Judge are necessary as the Court invested with Small Cause Court powers continues to exist.

4. When successor of the Munsif is invested with Small Cause Court powers in respect of suits of a lower, valuation the pending Small Cause Court suits of higher valuation can be tried by a Civil Judge or Additional Civil Judge invested with and exercising such powers as Small Cause Court suits; but if there is no such Civil Judge, suits of a higher valuation can be tried as Small Cause Court suits only where orders of transfer are passed by the District Judge before the outgoing officer hands over charge.

It shall be the duty of each Munsarim to bring this letter to the notice of the District Judge and also the officer who is being transferred, if any, on every occasion when a Small Cause Court is to cease to exist or when an officer receives an order of transfer.

7. GENERAL DIRECTION FOR DISPOSAL OF CASES

C.L. No. 69/X-a-14 dated 13th July, 1953

Presiding officers should bear the following observations and instruction in mind in their day-to-day work:

"The main essential of the proper working of a court is that the Presiding Officer should be vigilant and should take an intelligent interest in the work all rounds. He should know his duties and should possess necessary zeal to perform them. No amount of improvement or change in the law or rules of procedure can bring

about expeditious and smooth disposal of work if the Presiding Officer cannot maintain proper control over his diary, staff and proceedings in court. He should understand a case thoroughly before he proceeds to try it so that he may be in a position to appreciate evidence as it proceeds. Avoidable adjournments, recording of evidence piecemeal, long dates for arguments or for delivery of judgment and signing of order sheets as a matter of course, should be avoided as far as possible. There should be strictness in granting adjournments and time for making up deficiency in court fees, deposit of process-fees and taking of other steps. Greater use should also be made by courts of the provisions of order X of the Code of Civil Procedure".

Orders should be passed on miscellaneous applications in open court either on the day on which they are filed or on the following day before taking up regular casework. The court also expects Presiding Officers to pay greater attention to execution cases and to devote adequate time for the same.

C.L. No. 61/VIII h-13 dated 29th May, 1972

In the interests of proper administration of justice it should be ensure that no harassment is caused to the litigants on account of any mistake or error on the part of the court staff or the process- servers. Notices should be issued in all cases and an attempt should be made to affect service promptly. The cases should be undated only after the issues have been framed. In cases where dates are fixed for appearance or for filing written statement, personal interest should be taken. Proper use of rules 1 and 2 of order X, C.P.C. should be made and pleadings must be cleared up at the first hearing. There should be no frequent adjournments. In cases which are to be adjourned, orders should be passed in the early part of the day. There should be effective control over process serving staff. Dates should be given by the Presiding Officers themselves and be not left to the readers. Provisions of rule 82 read with rule 401 of General Rules (Civil) should be strictly followed and no case the readers should be allowed to handle files for fixing dates.

C.L. No. 4 dated 3rd February, 1976

The court is trying to improve the service and living conditions of judicial officers in many and far-reaching ways. At the same time it has become imperative that the judicial officers should also galvanise themselves, adopt a more positive attitude to their work and be efficient to acquire real grip and command over their work.

The nation honours judicial officers through the convention of calling them learned-learned Munsif, learned Magistrate, learned Judge. The High Court now requires each officer to justify the appellation and in fact be learned and capable. To this end, the following suggestions are made for compliance:-

(1) Every officer must be punctual. He should be in his chair in the court room at the stroke of 10.30 a.m. and 2 p.m. That will go a long way in sustaining the good image of the judiciary among the litigants. It will induce lawyers also to be punctual. Every officer is hereby directed to send his daily sitting register to the District Judge so that as to reach him latest by 10.35 a.m. each day for his information and initials, else he will be treated and marked absent for the

day. The District Judge is the head of the District judiciary. He is the boss. There should be no sense of embarrassment in sending the register daily to him instead of once a month.

(2) The officers should read Order XI Civil Procedure Code and realise the difference between a party trying to know the nature of his opponent's case and a party trying to know the facts which constitute the evidence of his opponent's case. The parties should be encouraged to utilise the provisions of Order XI. These provisions immensely cut short the oral evidence, thus saving the time taken in disposal of a case. The disposal of the officers will improve.

(3) There is a growing tendency to remand civil appeals at the slightest pretext. The High Court takes a serious view of unnecessary remand of suits. The officers should study the provisions in Order 41, Civil Procedure Code for taking additional evidence and remitting an issue. They should be aware that remand is not a substitute for these two. A remand increases the life of litigation by several years, which is a serious matter. The Circular Letters No. 63, dated August 31, 1965, may again be circulated amongst the officers.

(4) Issuance of injunctions indiscriminately has "virtually brought the judiciary into disrepute. The High Court issued General Letter No. 3323/267, dated 25th July, 1925. It made strong observation in A.I.R. 1926 Allahabad 406(408). You may get a copy of the aforesaid General Letter and the observations beginning with the paragraph-

"I regret to say that I am compelled to draw the attention of the learned Judge…" at page 408 typed out and a copy given to each officer in your judgeship for guidance.

An injunction should not be granted ex parte so as to last for a period of more than 15 days, in the first instance. It should be liable to be extended by a fresh order. This way the plaintiff will remain under the control of the court, rather than employ delaying tactics.

(5) Every officer must maintain a digest of decided cases. A loose-leaf register should be taken. The digest should be subject-wise and contain short notes of all cases on civil, criminal and constitutional law, decided by the Supreme Court and the Allahabad High Court. It should also include full Bench decisions of other High Courts. The law point decided in a case can be noted from the head note. The judgment should however, be read in extensor not for the law it contains but for the sound of law it makes. Each jurisdiction, like civil, criminal, Constitutional or industrial, has its own vocabulary. The officer should familiarise himself with the language of the law. Phrases peculiar to such jurisdictions of which appeal, should be noted in the digest so that they can be used to embellish the judgment of the officer. This way the officer will not only acquire ability but by displaying it even in court, will get greater respect from the Bar. He will be able to write better judgments, by which his ability is evaluated by the High Court.

C.L. No. 13 dated 22nd January, 1977

To expedite information about the decision of cases in the Court it has now been decided that an intimation about the disposal of a case be sent as soon after disposal of a case as possible. If the record along with the copy of judgment is not received by the District Judge within a month of the receipt of information about the disposal of the case, he may write to the Registrar demi- officially in the matter.

Shunning frequent adjournments

C. L. No-35/2007: Admin 'G' Dated: 29 August, 2007.

With exalted aim of bringing perceptible improvement in administration of Civil Justice System the Hon'ble court has viewed with serious concern the practice of granting frequent adjournments on insignificant grounds by subordinate courts and has desired suitable instructions to be issued urging them to avoid frequent adjournments.

1- C.L. No. 22/VIII-b-13 dated 28th March, 1949 and C.L. No. 61/VIII-h-13 dated 29th May, 1972

2- Letter No. 2586/ 2004 dated Feb. 19th, 2004

Therefore, In continuation of the marginally quoted Circular Letters and General letter, I am directed to say that in a bid to ameliorate the Civil Justice System adjournments be avoided to be given on baseless flimsy grounds by the court.

I am therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control with an instruction to make strict compliance to the same in letter and spirit.

8. EXPEDITIOUS DISPOSAL OF CASES

C.L. No. 65 dated 31st October, 1962

In order to avoid accumulation of old cases, the tendency of leaving such cases as are of complicated nature involving lengthy arguments, recalcitrant witnesses, voluminous documents and intricate law points and taking up only such cases as are short and convenient for heavy disposal should be deprecated. The Court would like to impress upon the officers that while passing remarks on their outturn these facts are also taken into account and consideration is given to disposal of old and complicated cases.

The Court has, after due consideration of all aspects of the question, decided that the following procedure should be followed by all concerned:

(1) Presiding Officers should make concentrated efforts to reduce the arrears in all categories of cases as soon as possible.

(2) Officers should be instructed by the District Judge to do their proper share of work and follow the instructions given by him.

(3) Cases should be taken to be 'old' according to the following time schedule:-

  (a) Regular suits in Munsifs and Civil Judges Courts- More than a year old.
  (b) Small Cause Suits-More than three months old.
  (c) Regular Civil and Revenue Appeals-More than six months old.

(d) Miscellaneous Civil Appeals- More than three months old.

(4) At the beginning of each quarter all officers should draw up a plan for disposal of old suits and cases chronologically and send a copy thereof to the District Judge to enable him to suggest modifications, if any, and to see, when inspecting the diaries and when scrutinizing the returns whether the programme was adhered to and, if not, whether reasons for departure were sufficient

(5) Out of the pending cases the District Judge, at the beginning of each quarter, should be in a position to decide tentatively as to how many and which classes of cases are to be transferred to different courts. The transfer should, as far as possible, be made then to subordinate courts to formulate their plan. The current institution should continue to be transferred in the normal course to the junior officers. Where there is more than two officers of the same class at least one of them usually, the junior most should be entrusted with the disposal of current cases so that new institution may not in their turn become old.

(6) The District Judge should call for and examine the diaries of subordinate courts from time to time. At the headquarters this should be possible at short intervals. He should furnish necessary guidance in the matter of arrangement and point out shortcomings where they exist.

(7) Adjournment in old and explanatory cases should not be granted as a matter of routine and should be an exception rather than the rule. In an old case ready for hearing, if an adjournment becomes unavoidable, it should not be unduly long and should be granted in consultation with the lawyers with a specific understanding that no further adjournment will be granted on the next date fixed and in case of illness of lawyer already engaged, arrangement for another lawyer appearing in his place will be made.

(8) Interlocutory matters should be disposed of expeditiously and proper attention should be given to final decree proceedings.

(9) A list of old cases which are not ready for hearing on account of proceedings for service of substitution etc., being in progress should be prepared and brought up to date and placed every fortnight before the Presiding Officer who must scrutinize it and pass necessary orders to expedite the proceedings. Such lists should be examined by the District Judge also at the time of inspection of the court.

(10) In disposing of cases the subordinate courts should give top priority to the cases categorised above. New cases should not be taken up unless the old cases are disposed of or there are reasons to be recorded in writing on the order sheet for doing so. Along with the monthly returns, a certificate should be submitted to District Judge that no preference was given by subordinate courts to the new cases over the old cases.

In achieving the above target resort should not, however, be taken to methods involving rash or sketchy orders being passed in undue haste and quality not be sacrificed at the altar of quantity.

C.L. No. 104/IVh-36 dated 16th June, 1976

To ensure expeditious disposal of civil cases, following instructions are issued for guidance of and compliance by, the presiding officers.

(1) Parties shall have the responsibility of bringing any witness required to give evidence or to produce documents.

(2) (a) Hearing of a suit should be continued from day to day until all the witnesses in attendance have been examined. It should not be adjourned unless necessary for exceptional reasons to be recorded.

(b) The court may record statements of witnesses who are present, even if the party or his pleader is not present.

(3) Costs imposed in connection with adjournment should be deposited in the court. It should, however, be paid after the disposal of the cases.

(4) The judgment recorded by the Presiding Officers in civil cases should be precise and not prolix. It should deal with essentials and be argumentative.

C.L. No. 8/IV-f-80 Admn. (A) dated 18th February, 1981

(1) The District Judge should keep a close watch on the Diaries of the Munsifs directing them not to grant adjournments for more than a week after the case is ripe for hearing.

The cases adjourned for one week should be carried over and fixed in the next week, except, of course, in genuine cases in which a longer adjournment is needed. While granting longer adjournments, the officer should record in brief the reasons thereof.

(2) Too many cases should not be fixed in a day's cause list to avoid harassment to the litigants coming from distant places. The Presiding Officers should adopt such means as may lead to minimize the duration of disposal of cases.

(3) Special attention should be paid to the disposal of older cases.

C.L. No. 185/VII f-50 dated 20th November, 1976

District Judges should impress upon all judicial officers, the necessity of deciding cases in general and rent control matters in particular, involving the serving armed forces personnel on priority basis. And, adjournments must not be granted indiscretely.

C.L. No. 157/VII -d-180 dated 21st December, 1971

Cases requiring early hearing may be disposed of expeditiously. Pauper applications should ordinarily be decided within one year and miscellaneous matter like tenants's applications for repairs etc; under U.P. Rent Control Act even in lesser time.

C.L. No. 96/IV h-36 dated 27th May, 1977

"Proceedings arising out of matters such as succession, guardianship, matrimony, rent control, ceiling, payment of wages, Forest Act & Motor Vehicles Act, should not be treated miscellaneous proceedings, but at par with regular suits or appeals, as the case may be, and given priority."

C.L. No. 9/VII f-125 dated 16th January, 1986

The District Judges are required to see personally that the cases filed under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, are dealt with and disposed of as expeditiously as possible.

C.L. No. 83/VII f-99/ Admn. 'G' dated 23rd July, 1979

Particular days or dates in a week or a fortnight depending upon the work load of such cases should be earmarked by the Presiding Officers for disposing of Matrimonial, Eviction, Accidents and Successions cases. It is left to the discretion of the Presiding Officers to fix other nature of such cases fixed on a particular day or date may not be sufficient to keep them busy for the whole day.

C.L. No. 84/Admn. (A) dated 23rd July, 1979

All cases under the Employees Provident fund Act, 1952 should as far as possible be entrusted to one court in each district for disposal.

C.L. No. 69/IV h-36 dated 1st April, 1977

The Presiding Officers are required to pass orders on interlocutory applications on the order sheet except in cases of appealable orders. Finding on issues or judgments should be written separately.

C.L. No. 42/VIId-60 dated 5th July, 1984

Henceforth, the English Proceedings (Judges Notes) shall be maintained by the Presiding Officers in their own handwriting as required by rule 85 of the General Rules (Civil), 1957, Volume 1, and rule 19 of order XVIII C.P.C. as amended by Allahabad High Court.

C.L. No. 68/VII C-227 dated 15th October, 1982

The District Judge should attempt to transfer all cases covered by order 32-A, Rule 5, C.P.C. to one Additional District & Session Judge with the instructions to the Presiding Officer concerned to deal with such cases with expedition and priority.

Half-yearly reports of the effect and consequence of implementation of this scheme should be submitted to the Court

C.L. No. 48/VIID-94 Admn. 'G' dated 9th August, 1984

All the Presiding Officers should strictly follow the provisions of Order XXXVII C.P.C while dealing with the trial of specified classes of suits, to which they said provisions apply. Care must also be taken to see that the object of the rule is not defeated by imposition of harsh conditions.

Taking up immediate steps for early disposal of more than 7 years old cases pending in the subordinate courts.

C.L. No. 47/ 2000: Dated: October 20, 2000

In continuation of court's previous circular Letter No30 dated December 23, 1999 regarding expeditious disposal of old cases, I am further directed to say that Hon'ble the chief Justice of India has expressed concern over the pendency position of cases in

Subordinate courts. And statistics in regard to the disposal and pendency of old cases reflect that the pendency of more than 7 years old cases in the State is quite high and calls for remedial measures on war footing so that wait of consumers of justice is curtailed to the extent possible.

The Hon'ble Chief Justice of India also desired that immediate steps be taken for early disposal of more than 7 years old cases pending in the Subordinate courts. Such cases be fixed on a day to day basis so that it is conveyed to the parties that old matters cannot be allowed to remain pending indefinitely.

I am, therefore, to request you to kindly take remedial measures on war footing for early disposal of more than 7 years old cases and action taken by you in the matter may kindly be informed to the court.

Priority to the cases in which person with 40% or more disability is or the main Petitioner(s) defendant(s)

C. L. No. 7/2005 Dated; 10.2.2005

The Hon`ble Minister Law and justice, Government of India, new Delhi while observing that the Fast Track court thought conceived to specifically dispose of sessions cases pending for over two years have also been requested to accord priority for disposal of cases relating to senior citizens and abuse of women, has suggested that priority be also given to the cases in which person with 40 or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant (s). Upon consideration of the matter the Hon`ble Court has been pleased to direct that cases regardless of the period of the pendency in detailed the which person with 40% or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant(s)be heard and decided on regular and priority basis . Therefore, I am to request you to be so good as to bring the contents of this circular to the notice of all Judicial Officers in your Judgeship for strict compliance.

Implementation of resolution of the Chief Justices Conference 1996

C.L. No. 72/ /Admin (G): Dated: Dec, 1996

I am directed to intimate you that in the Chief Justices Conference 1996 held at New Delhi, item No,6 was in respect of procedural changes which can be brought about to expedite trial and disposal of cases.

It was resolved that –

> 'Each High Court shall amend the Rules framed under section 122 of C.P.C. for ensuring expeditious trail and disposal of cases.

It is proposed that proposals for amending the rules framed by the High court under section 122 C.P.C be obtained from District Judges by 20.12. 96 So that necessary amendments in the C.P.C. be made for ensuring expeditious trial and disposal of the cases.

You are therefore, directed to send the proposals for the abovementioned purpose latest by 20. 12. 96.

9. DISPOSAL OF DEPOSITS

(i) Under section 83 of the Transfer of Property Act, 1882

G.L. No. 2 dated 24th June, 1908

With regard to the disposal of deposits made under section 83 of the Transfer of Property Act, 1882, the following rules have been laid down for the guidance of subordinate courts:

(1) When a deposit has been made by the mortgagor, a date should be fixed, as a matter of convenience for the withdrawal by the mortgagee, of the deposit so made

(2) If the mortgagee fails to appear on the date fixed, or refuses to accept the sum deposited, the mortgagor's application should, by order, be consigned and the money so deposited be held at the disposal of the mortgagor. If the mortgagee, however, applies and the mortgagor consents the money deposited may be applies to the mortgagee.

(ii) Under section 2 of the Administration of Evacuee Property Act, 1950

G.L. No. 17/VIIIc-6 dated 6th July, 1950 read with Government of India letter No. XXXI (pol-49)/50 G.C. dated 26th June, 1950

Under the provisions of the Administration of Evacuee Property Act, 1950 , court deposits lying in the civil courts to the credit of evacuees fall within the definition of the term "evacuee property" [Section 2(f)x (i)], and cannot, therefore be paid to the evacuee. They vest in the Custodian and have to be paid to him.

G.L. No. 24/VIII-e-6 dated 11th October, 1950

Deputy Custodians are permitted to inspect periodically the registers of civil courts, prepare a list of deposits belonging to evacuees and forward a copy of the list to the civil court concerned with a view to ensure that no unauthorized payment of deposits belonging to evacuees are made.

Necessary facilities should be given to Deputy Custodians by courts for this purpose.

Section 10 (f) and 45 of the Administration of Evacuee Property Act, 1950, empower the Custodian to requisition any document from the custody of a public servant, and confer upon him the same powers as are vested in a civil court under the Code of Civil Procedure. The Custodian should be deemed to be a civil court for the purposes of rule 203, Chapter VIII of General Rules (Civil), 1957 and requisitions for records made by him should be complied with without any reference to this Court.

(iii) Disposal of gold in the custody of courts

C.E. No. 25/VII -f-193 dated 29th April, 1966

For disposal of gold in possession of civil and criminal courts the following instruction as contained in Government of India, Ministry of Finance, Circular letter no 16/65, dated March 26, 1965, should be followed:

(a) A Court of law is not a person within the meaning of rule 126-I of the Defence of India Rules, 1962 and hence it is not required to make a declaration under this rule when it comes into possession of any non-ornament gold, but in order to facilitate proper enforcement of the Gold Control Rules, it is desirable that it should send an intimation of such gold to the proper officer of the Central excise having the jurisdiction over the area in which the court is located.

(b) As regards the disposal of ornaments coming into their possession, the courts cannot be treated as 'dealers' under the Rules, as they will not be selling the ornaments in the sense of carrying on any business. The courts would, therefore, stand on par with private individuals. In such cases there is no restriction regarding the purity of the gold ornaments sold. In other words, the courts will be free to sell ornaments of over 14 caret purity as well, to any purchase irrespective of whether he is a private individual or a dealer. No specific exemption under the Gold Control Rules for this purpose will, therefore, be necessary.

(c) Sale of non-ornamental gold under rule 126-H-Sale of Non-ornamental gold will automatically be restricted to licensed dealers only, because under rule 126-I (3) it is an offence for any person other than a licensed dealer, to acquire non-ornament gold, except by succession, intestate or testamentary or in accordance with a permit granted by the Administration in this behalf.

There is no objection to the return of gold ornaments (irrespective of purity) in the custody of the courts without any intimation to the Central Excise Officer unless an advice has been received by the courts from the Central Excise officer that those ornaments were required in connection with any departmental proceedings.

The position about non-ornament gold is different. Private individual are not entitled to acquire or receive non-ornament gold except by succession, intestate or testamentary or in accordance with a permit issued by the Gold Control Administrator. Only a licensed dealer in gold can receive non- ornament gold without any prior permit and he will include the quantity so received in his monthly return.

Whenever non-ornament gold is returned, the owner, if not a licensed dealer, should be required to obtain necessary authorisation or permit from the Deputy Secretary, Regional Office of Gold Control Administrator, Laxmi Building, 22-Sir P.M.Road, Bombay-1. The court concerned should send intimation to the Central Excise Officer of the area whenever non-ornament gold is returned.

As per G.O. No. 407/VII-541-1965, dated 24.2.1965 confiscated gold will be transferred to the control of the Government of India, Ministry of Finance (Department of Economic Affairs), New Delhi who will take it over at Rs. 62.50 per Tola which is based on international price of Rs. 35 per fine oz. By IMF. The money so received from Government of India will be credited to head "52-Misc."

For disposal of silver, the Reserve Bank of India, Bombay, should first be consulted before disposing it of in open market to avoid any undesirable effects on the markets.

10. PREPARATION OF FORMAL ORDERS

C.L. No. 1 dated 7th February, 1894

It is the duty of Presiding Officers of subordinate courts to draw up, sign and date formal orders, such as are referred to in the definition of "order" in section 2 (14) of the Code of Civil Procedure, 1908 and rule 43 of the U.P. Insolvency Rules contained in Appendix 17 (J).

C.L. No. 1 dated 22nd February, 1905

In all case in which a certificate or probate is issued, whether contested or non-contested, a formal order grating or refusing the certificate or probate should be prepared under rule 43 aforementioned.

G.L. No. 6366 dated 10th December, 1927

The Presiding Officers of all subordinate courts should personally see that formal orders are prepared wherever the law so enjoins.

11. DECREES

(i) Preparation

G.L. No. 394/67-2 dated 16th February, 1918

The attention of District Judges is invited to the judgment of the High Court in the case of Dambar Singh v. Kalyan Singh (Allahabad Journal, Volume XV, pages 914-919 and I.L.R. Allahabad, Volume XL at page 109) as regards the form of the decree for costs realizable form mortgaged property. The decree should be in the form prescribed by Order XXXIV of the Code of Civil Procedure, and direct what property is to be sold and the amount that is to be recovered from the property, including costs.

C.L. No. 31/VII d-166 dated 16th May, 1983 and
C.L. No. 51/VII d-166 dated 19th August, 1983

It superseded Circular Letter No. 61/IV h-36, dated 22.3.77 containing instructions to give up the practice of mentioning the grounds of appeal and cause of action in the Appellate Court's decrees, and invites attention of all Presiding Officers to Form No. 9 of Appendix 'G' of the Code of Civil Procedure which requires that the memorandum of appeal and memorandum of expenses for taxing the costs in the decree should also be incorporated in the body of the decree of the lower appellate court.

All the presiding officers of lower appellate courts should carefully scrutinize these aspects where decrees in appeals are put up for their signatures by the office. District Judges during inspection of the court under their administrative control, and to see that memorandum of appeal and memorandum of expenses for taxing the costs in the decrees are invariably incorporated in the lower appellate courts,' decrees and the rules regarding the preparation of the decrees are strictly complied with.

C.L. No. 77/VII d-166 dated 7th November, 1984 and
C.L. No. 15/VII d-166 dated 29th April, 1985

The District Judges should see that the instructions contained in the aforesaid circular letter are strictly complied with by the courts below, while preparing the lower

appellate court decrees. The Court will take a serious view of matter, if any deviation from the said instructions comes to the notice of the Court in future.

C.L. No. 19/VII d-166 dated 6th March, 1986

The Presiding Officers should carefully scrutinize the decrees when the same are put-up for their signature by the office.

The clerk, who is found to have been guilty of preparing wrong decrees, should be severely dealt with, and the Court will take serious view of the matter, if any deviation from the said instructions already issued by the court comes to its notice.

G.L. No. 111/35(a)-2 dated 11th January, 1921

A decree or a formal order must contain, in addition to the addresses given in the plaint, such addresses as the parties have filed in compliance with the provisions of Order VII, rules 19 to 25, and Order VIII, rules 11 and 12 of the Code of Civil Procedure.

The High Court looks to the District Judges to see that the rules regarding registered addresses are strictly complied with. They should pay particular attention to this point when inspecting a subordinate court.

C.L. No. 3602/44-12(3) dated 1st July, 1921

The following instructions should be carefully observed in the preparation of a final decree:

(1) When a preliminary decree in a suit for sale is passed under Order XXXIV, rule 4, and the defendant pays into court within time the amount declared due under the said decree together with subsequent costs payable under rule 10, a final decree should be prepared forthwith as required by rule 5 without waiting for any application to be made.

(2) When a preliminary decree in a suit for redemption is passed Order XXXIV, rule 7 and the plaintiff pays into court within time the amount declared due together with subsequent cost payable under rule 10, a final decree should be prepared forthwith under rule 8(1) for redemption in terms of the preliminary decree without waiting of any application to be made.

(3) It is only when the payment of decree money is not made on or before due date that an application is required to be made for preparation of final decree-

(a) by the plaintiff in a suit for sale;
(b) by the defendant-mortgagee in a suit for redemption.

G.L. No. 1437 dated 24th April, 1923 read with

G.L. No. 820/35(a) dated 14th March, 1924

In all appeals filed in the High Court the addresses of the parties are taken from copies of decrees supplied to them by subordinate courts. In order to avoid errors and possible misreading of names and addresses the Munsarim and the Head Copyist are made responsible for seeing that all "the names and description of the parties" in copies

of decrees and formal orders are clearly and legibly written. The "description" should always include addresses and registered addresses.

G.L. No. 2365/35(a) 1(2) dated 4th April, 1926

Under rule 38, Order XLI of the Code of Civil Procedure the address for service in the trial court holds good for the court of appeal also. It is only where no address for service is filed in the trial court that parties have to file the address in appeal. The address given in the decree should be the address for service filed by the parties themselves in the trial court or in the appellate court, as the case may be.

G.L. No. 3/VII-d-64 dated 9th February, 1951

In the form prescribed for the preparation of decrees in subordinate courts there are three places where dates may be entered. One of these places is at the top where the date on which the case came up before the court for final disposal is to be entered. Then there is a place at the bottom where the date on which the decree was sealed and signed is to be entered. Lastly, a date is entered below the signature of the judge at the bottom indicating the date on which the decree was signed. This is in accordance with sub-rule (5) of rule 21 of Order XX of the Code of Civil Procedure.

According to sub-rule (4) of the above rule the decree is to be dated as of the day on which the judgment was pronounced. There is, however, no uniform practice as to the place where such date is to be entered in the decree.

In order to secure uniformity the Court issues the following instruction:

(1) No date should be entered at the first of three places indicated above, that is, at the place where it is stated that the case came up before the court for final disposal. There seems to be no necessity for mentioning the date on which the case came up for final disposal before the court in the decree.

(2) The date on which the judgment was pronounced should be entered at the bottom as the date on which the decree was signed and sealed.

(3) The presiding officer while affixing his signature to the decree should give the date on which he actually signs just below his signature in compliance with sub-rule (5) of Order XX of the Code.

C.L. No. 100 dated 19th September, 1978

The decree though drawn up afterwards relates back and operates from the date of judgment. In various decrees, no dates are given and the space meant for mentioning the date of decree is left blank thus creating difficulty in computing the period of limitation, which should start from the date of decree and not from the date of signing of the decree.

The concerned officials should, therefore, be directed to invariably mention the date of decree which should correspond to the date of judgment in all the decrees and formal orders issued by the courts in future.

C.L. No. 25/VII d-64 dated 19th March, 1986

No date need be given in the first line of the proforma after the words 'coming' and before the word 'for'. The word 'up' should be substituted for the words 'on this

day'. The sentence shall then read as "This suit coming up for final disposal….". In the same form in the last line, between the words 'this' and 'day' the date on which the judgment was pronounced should be entered as the date on which the decree was signed and sealed. The Presiding Officer should give the date on which he actually signs the decree below his signature. For purposes of foot-notes, figure '(1)' should be given after the words 'this day' in the last line of the form and figure '(2)' after the word 'Judge'. The foot-notes indicate that at (1) the date on which judgment was pronounced, should be entered and at (2) the Judge should give in his own hand the date on which he signed the decree.

In case of non-compliance of these directions, action will be taken against the assistant concerned. And the presiding officers who sign incorrectly prepared decrees will also be held responsible for signing such decrees.

(ii) Preparation of Decree of Formal order

C.L. No. 62/VIIIb-104/Admn. (G) dated 29 May, 1990

I am directed to invite your attention to Rule 96 of the General Rules (Civil), 1957 Volume I, on the above subject and to say that it has been noticed by the Court that in the absence of standard form there is a wide variation in the manner in which the decree or formal order is usually prepared in the subordinate courts leaving behind scope for mentioning sometimes the particulars of the original proceedings, the nature of miscellaneous proceedings, that date of institution, the valuation of the suit which is essential for determining the forum of appeal and in most of the cases the costs incurred by the parties, are not drawn up at all depriving the parties of the above benefits to be taxed in the final decree, causing inconvenience to the Court in disposal of such type of cases.

I am to add that steps are being taken to make necessary amendments in the General Rules (Civil) in Appendix 4 list A against the entry part and number IV-49 by prescribing a printed from for the preparation of formal order which will take sometime and in the meantime it is directed that henceforth, the formal order so drawn in the subordinate courts should invariably contain the particulars of original suit, valuation and expenses in addition to other particulars as required in a formal order.

The contents of the above C.L. may kindly be brought to the notice of all concerned for information and necessary action.

(iii) Preparation of decrees in Land Acquisition References by courts below

C.L. No. 4/VIIIb-164/Admn. (G) dated January 13, 1993

I am directed to say on the subject noted above that it has come to the notice of the Court that the decrees in Land Acquisition references are drawn up in a sketchy manner leaving behind the relevant details with the result that it is not possible for the Court to correctly determine the value of the appeal and other forum in that behalf. It is, therefore, directed that henceforth the decree of the Subordinate Court must indicate the following particulars:-

1- The total area of the land involved in the reference;

2- The rate and total amount of compensation offered by the Collector in respect of the land;

3- The rate and the amount at which enhancement of compensation is sought in the reference (difference of 3 and 2 will help in determining the valuation of the reference).

4- Rate per unit and the total amount awarded by the District Judge (difference of 4 and 3 will determine the enhancement made by the court which will help in determining the costs to be awarded to the parties);

5- Compensation awarded for buildings, wells or trees etc., by the court and by the Collector;

6- Proportionate amount of success and failure of the parties to the reference;

7- The rate and amount of solatium payable to the claimants;

8- The rate and period which interest is payable to the claimants;

9- Grand total

On the basis of these particulars the decree should also indicate the cost incurred by either side in the column meant for the purpose. These particulars in a decree will be essential for the purpose of calculating the extent of the claim accepted by the Court and for fixing the valuation of the appeal in accordance therewith.

I am, therefore, to request you kindly to bring the contents of this letter in the notice of all concerned and also ensure compliance of these directions.

(iv) Mortgage suits

C.L. No. 1/VII d-120 dated 27th November, 1957

Mortgage suits should not be kept pending after the preliminary decree is passed. The suit should be treated as disposed of as soon as a preliminary decree is passed and the record consigned to the record-room. After an application for preparation of a final decree is presented the record should be sent for and proceedings continued. The plaintiff has a right to apply for the preparation of a final decree at any time within the period of three years prescribed by the Limitation Act, and it is only when such an application is made that proceedings for a final decree can be commenced. When such proceedings are resumed, the case should again be shown as pending.

(v) Small cause court decree

G.L. No. 51/46/120, 92 dated 13th December, 1939

Small cause court decrees may (notwithstanding the provisions of Order XX, rule 21, Civil Procedure Code) be shown to counsel who want to see them.

(vi) Amendment

G.L. No. 51/46/120 dated 13th December, 1939

Application for amendment of decree should be carefully scrutinized and in every case it should be noted whether the mistake is intentional or accidental. A clerk who is found to have been guilty of preparing wrong decrees, or of including a set of expenses in

the memorandum of costs in certain decrees and, without valid reasons, not including these in others of a similar nature, should be severely dealt with.

(vii) Report under section 82, C.P.C.

C.L. No. 20 dated 4th March, 1959

Reports under section 82 of the Code of Civil Procedure regarding non-satisfaction of decrees should invariable be sent to Government in duplicate.

C.L. No. 15/VII d-140 dated 2nd February, 1961

Non-compliance of the directions in the preceding paragraph is a serious matter and Munsarims of the courts concerned will be held personally responsible for any failure.

C.L. No. 99/VII-b-11 dated 3rd November, 1961

In order to avoid delay and facilitate location of the administrative department concerned the designation of the Head of Department should be mentioned in the plaint at the place where the names of the plaintiff and defendant are given in the beginning as illustrated below: the "State of Uttar Pradesh through the ……." (Designation of the Head of the Department) plaintiff.

(viii) Execution in Jammu and Kashmir

C.L. No. 51/VIIIb-16-4/55 dated 30th August, 1955

The decrees passed by a civil court in India may be executed through a court situate in the State of Jammu and Kashmir as if the decree had been passed by such a court in that State.

(ix) Execution in foreign countries

C.E. No. 73/VIII-b-245 dated 11th August, 1969

Under notification, dated June 17, 1968, Republic of Singapore has been declared a reciprocating territory for the purpose of section 44 A C.P.C. and the High Court of the Republic of Singapore to be a superior Court with reference to that territory.

C.E. No. 81 dated 22nd August, 1969

From 1st September, 1968 'Trinidad' and Tobago are declared to be reciprocating territories for the purpose of section 44- A C.P.C. and the following courts will be superior courts of that territory:

(a) High Courts;
(b) Courts of Appeal;
(c) Industrial Court; and
(d) Income Tax Appeal Board

12. ENFORCEMENT OF MAINTENACE ORDERS

C.L. No. 1 dated 11th January, 1965

The Maintenance Orders (Facilities for Enforcement) Act, 1921 extends to the countries of Basutoland, Bechunaland and Cyprus under the Maintenance Orders

(Facilities for Enforcement) Order, 1963 of the Government of Isle as amended by the Maintenance Orders (Facilities for Enforcement) Amendment (No. 2) Order, 1964.

13. COSTS

C.L. No. 64/IVh-36 dated 24th March, 1977

The costs awarded by the courts from time to time during the pendency of the case shall henceforth be taxed in the decree and not deposited in cash in the court.

C.L. No. 105/IVh-36 dated 9th June, 1977

In view of the new provisions of sub-section (2) of section 35 B, C.P.C. the aforesaid instruction stands withdrawn. The new provisions regarding drawing up an order in respect of unpaid costs as made in sub-section (2) of section 35B, C.P.C. shall henceforth be followed by all courts concerned.

C.L. No. 44/VIIIb-177/Admn.(F) dated 9th July, 1981

All the Presiding Officers should ensure that the costs awarded by the courts in cases in favour of the Government are shown in the decree in question invariably and without fail so that the Government may not be put to any loss on this count.

Non-maintainability of Revision under S. 115 of the CPC against the issuance of notice on an application moved under O. XXXIX Rule 1 of the Code of Civil Procedure, as laid down in WPNo. 802 (M/S) of 2007 – Lalit Mohan Srivastava Vs. District Judge, Ambedkar Nagar and Others

C. L. No. 18/2007 Dated: 19.5.2007

The Hon'ble Court in Writ Petition No. 802 (M/S) of 2007- Lalit Mohan Srivastava Vs. District Judge, Ambedkar Nagar and others delving deep into the plethora of rulings, to set at rest the confusion, if any, in respect of no-maintainability of Civil Revision against issuance of notice on an application moved under order XXXIX Rule 1 of the Code of Civil Procedure, has been pleased to observe on 23.2.2007 as under:

> "…..A plain reading of all the three judgments namely; Shiv Shakti (Supra), Surya Dev Rai (supra) and Gayatri Devi show that revision under section 115 of the Code of Civil Procedure shall not be maintainable at the stage of interlocutory proceeding. A close reading of provision contained in Maharashtra as well as in the State of U.P. at the face of record shows that order passed by the trial court while issuing a notice on an application under 39 rules 1 and 2 of the Code of Civil Procedure shall be interlocutory order and it cannot be termed as case decided. Needless to say that provision under Section 115 Code of civil Procedure is a procedural Law and ipso facto the provision itself cannot be termed to be declaration that revision shall be maintainable even if case is not decided…"

Therefore, while enclosing herewith a copy of the judgment and order mentioned above, I am directed to request you to kindly bring to the notice of all the Judicial Officer within your administrative control the contents of the above judgment for strict compliance.

Heavy Cost to be imposed in Cases where unnecessarily enlarged affidavits are filed

C. L. No-37/2007: Admin 'G' Dated: 29 August, 2007.

On the above subject, I am directed to say that in the Chief Justices Conference-2007 upon consideration of matter the practice of the entire pleadings of the parties being reproduced in the affidavits of the witnesses instead of coffining them to the facts required to be proved by the witnesses has been deprecated. The Hon'ble Court has been pleased to direct that the courts should carefully scrutinize the affidavit before serving copy on the opposite parties and wherever it is found that the scope of the affidavits have been unnecessarily enlarged, such affidavits should be rejected with heavy cost.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control for strict compliance of the directions of the Hon'ble Court.

14. APPEALS

(i) Admission

C.L. No. 66/Xg-1, dated 13th November, 1955

Munsif's appeals should not be admitted as a matter of course without scrutinizing the judgments under appeal and considering whether they can be disposed of summarily. A greater use of the provision of Order XLI rule 11 of the Code of Civil Procedure in the disposal of Civil Appeals should be made.

(ii) Appellate officers for debt relief cases

C.L. No. 145/IVg-102/Admn.(A) dated 14th September, 1977

It encloses Government Notification No. 18-1(4)/77 – (ii). dated August 5, 1977, which appoints following officers as appellate officers for the whole of the district in which they are for the time being posted, to hear the appeals u/s 8 and 23 of U.P. Debt Relief Act, 1977:-

1. In districts of Almora, Banda, Fatehpur, Hamirpur, Lalitpur, Pauri, Pratapgarh and Tehari, the District Judges;
2. In districts of Agra, Aligarh, Allahabad, Bareilly, Gorakhpur, Kanpur, Lucknow, Moradabad, Meerut and Varanasi, the Judges of the Small Cause Court; and
3. In other districts the Civil Judge (at the headquarters) exercising powers of the court of small causes.

(iii) Remand

C.L. No. 63 dated 31st August, 1965

Officers hearing civil appeals should avoid remanding of cases with a view to show larger disposal and should follow strictly the procedure laid down in rules 24, 25 and 27 of Order XLI of the Code of Civil Procedure.

C.L. No. 13/VIId-103 dated 22nd January, 1971

Serious view will be taken if the aforesaid instructions are not complied with strictly.

C.L. No. 31/VIId-103 dated 25th February, 1974

Appellate courts should avoid remanding of cases to the trial courts and try to dispose of the appeals finally on merits. In this connection, attention is drawn to the following observations of the Supreme Court in two cases:-

1. A first appeal is a re-hearing and if the parties have led all the evidence that they desire, it is the duty of the first appellate court to give its own conclusions upon the evidence before it. If a trial court does not decide according to the evidence led upon those pleadings it is for the appellate court to reverse the finding and give its own findings; again, if an issue has been decided by the trial court in a very perfunctory manner, it is for the first appellate court to give its decision.

2. But power to order re-trial after remand where there has already been a trial on evidence before the court of first instance connot be exercised merely because the appellate court is of the view that the parties, who could lead better evidence in the court of first instance, have failed to do so. A trial de-*novo*, after setting aside a final order passed by a court of first instance, may, therefore, be made in exceptional circumstances, where there has been no real trial of the proceeding, or where allowing the order to stand would result in abuse of the process of the court.

Compliance of provisions mentioned under O. XLI Rule 9 of CPC

C. L. No.63/2007Admin(G): Dated: 13.12.2007

The new Rule 9 of Chapter XLI of C.P.C. Provides that the Court from whose decree an appeal lies, shall entertain the memorandum of appeal and shall endorse thereon the date of presentation and shall register the appeal in a book of appeal for that purpose .It has been noticed that compliance of the above provision is not made by the subordinate Courts and the same has been taken a serious note of. Therefore, it has been desired by the Hon'ble Court that provisions of the said Rule 9 of Chapter XLI be strictly complied with by all the subordinate Courts.

Therefore, I am directed to request you to kindly impress upon all the judicial officers posted under your administrative control to adhere to the mandates given in order XVI Rule 9 of C.P.C. without fail.

(iv) Ceiling appeals

C.L. No. 17/VII f-209 dated 16th February, 1979

For the sake of uniformity in the matter in all the judgeships where the District Judges are appointed as appellate authority under section 33 of the Urban Land (Ceiling and Regulation) Act, 1976 (Act no. 33 of 1976) the following instructions should be followed:-

1. The appeals under section 33 of the Urban Land (Ceiling & regulation) Act, 1976 should be treated as Miscellaneous appeals and entered in Register in Form no. 81 of the General Rules (Civil), 1957, Volume II.
2. Quota for appeals under the Urban Land (Ceiling & Regulation) Act, 1976 (Act no. 33 of 1976) is hereby fixed at four appeals per day.

C.L. No. 32/Ceiling/Admn.(g) dated 13th May, 1986

Section 4 of the U.P Imposition of Ceiling of Land Holdings Ordinance (No. 3 of 1986) bars the jurisdiction of District Judges, Additional District Judges, Civil Judges, and Additional Civil Judges, to hear appeals under section 13, 20 and 21 of the principal Act and provides further that such appeals pending immediately before the commencement of the Ordinance no. 3 of 1986 before any District Judge, Additional District Judge, Civil Judge and Additional Civil Judge shall stand transferred to the Commissioner and shall be disposed of by him in accordance with the provisions of the U.P. Imposition of Ceiling on Land Holdings Act as provided by the U.P. Ordinance No. 3 of 1986 promulgated by Government on January 13, 1986.

The District Judge should bring this fact to the notice of all concerned officers.

(v) Compliance of provisions mentioned under Order XLI Rule 9 of CPC

C.L. No. 19/2008 Admin (G): Dated: 4.9.2008

Upon consideration of the Judgment and Order dated 25.10.2002 passed by the Hon'ble Apex Court in Salem Advocate Bar Association, Tamil Nadu v. Union of India, the Hon'ble Court has been pleased to direct that the Appeal shall be filed under Order XLI, Rule 1 in the Court in which it is maintainable and a copy of the memorandum of appeal which has been filed in the Appellate Court should also be presented before the court against whose decree the appeal has been filed and the endorsement thereof shall be made by the decreeing court in a book called the Register of Appeals.

Therefore, in supersession of earlier C.L. No./2007/Admin (G) Dated 13.12.2007. I have been directed to say that the Hon'ble Court has desired that the contents of this Circular Letter be brought to the notice of all the officers working under your administrative control for strict compliance of the directions.

15. MISCELLANEOUS CASES

(i) Adoption of abandoned or destitute children

C.L. No. 40/VII f-45-Admn. (G) dated 29th May, 1986

The directions of Hon'ble Supreme Court contained in its orders dated 6th February, 1984, and 27th September, 1985 and 13th February, 1986 passed in L.K. Pandey v. Union of India reported in AIR 1984 SC 469 and AIR 1986 SC 272 respectively, should be strictly complied with by all.

EXTRACT OF ORDER DATED 13 FEBRUARY, 1986

In respect of children who have been abandoned or brought prior to 27.9.85 in the State in which the application for guardianship sought to be made with a view to eventual adoption, the court to which the application is made will satisfy itself where such children have been abandoned or brought within the State prior to 27.9.85 and if the court is so satisfied, the requirement laid down by us in the main judgment and the supplementary judgment that the children should not be allowed to be brought from one State to another for adoption except subject to certain conditions, as also the requirement that where the children sought to be adopted are abandoned or destitute children, they should be cleared by the Juvenile Court, shall not be applicable to such children. The Court may for this purpose require the scrutinizing agency to visit the Home or Homes where such children

are kept with a view to assisting the court in determining whether such children were abandoned or brought within the State prior to 27.9.85. So also where the child sought to be adopted is claimed to be the child of an unwed mother, the court before which the application for appointment of guardian of such child is pending, will satisfy itself of the said fact and if the court is so satisfied, clearance of the Juvenile Court will be dispensed with. All the other requirements set out in the main judgment and the supplemental judgment will however continue to be applicable.

(ii) Inter-country adoption

C.L. No. 63/Admn. (F) dated 30th August, 1986

Encloses a list of recognized Indian social/child welfare agencies and one foreign social/child welfare agency, sent by Government of India, for the purpose of inter-country adoption of children for information and record.

LIST OF RECONGNISED INDIAN SOCIAL/ CHILD WELFARE AGENCY

State Home for Women, Surat	Gujarat
State Home for Women, Ahemedabad	Gujarat
State Home for Women, Baroda	Gujarat
Reception Centre and Foundling Home, Surendranagar	Gujarat
Special School for Girls, Rajkot	Gujarat
Reception Centre, Indar	Gujarat
Reception Centre, Palitana	Gujarat
Reception Centre, Bansda	Gujarat

ENLISTED FOREIGN SOCIAL/CHILD WELFARE AGENCY 'AMARNA' Aide Aux Infants du Tiers-Monde Avenue, des Ancients Combattants'37D, 1140 Bruxells, Belgium

(iii) Implementation of Hon'ble Supreme Court Judgment dated 6.2.1984 in Writ Petition (Criminal) No. 1171 of 1982 Laxmi Kant Panday v. Union of India.

C.L. No. 1/VIIf-45/Admn. (G) dated February 11, 1991

In continuation of the Court C.L. No. 97/VIIf-45/Admn.(G) dated October 23, 1990, I am directed to send herewith a copy of the list of Indian Social/Child Welfare Agencies recognized by Government of India for Inter-Country Adoption of Children prepared by the Government of India, Department of Welfare, Adoption Cell, New Delhi, for information and necessary action.

GOVERNMENT OF INDIA MINISTRY OF WELFARE
(DEPARTMENT OF WELFARE)
LIST OF INDIAN SOCIAL/CHILD WELFARE AGENCIES RECOGNISED BY GOVERNMENT OF INDIA FOR
INTER-COUNTRY ADOPTION OF CHILDREN

No.	Name and address of the Agency	Certificate No. & date	Validity of certificate
1	2	3	4

Andhra Pradesh			
1.	Guild of Service, Seva Samajam, Balika Nilayam, 10-3-561/3, Vijaya Nagar Colony, Hyderabad-500 457	7/88 14.12 88	3 Years
2.	Indian Council of Social Welfare (Red Hills.), Inside Cancer Hospital Compound) Hyderabad- 560004).	28/88 04.01.89	3 Years
Delhi			
1.	S.O.S. Children's Villages of India, 507, Vishal Bhavan, 95, Nehure Place, New-Delhi-110 19.	23/89 03.01.89	3 Years
2.	Missionaries of Charity, Nirmala Shishu Bhavan, 12, Commissioner Lane, Delhi- 110 054.	25/89 03.01.89	3 Years
3.	Delhi Council for Child Welfare, Qudsia Garden, Yamunna Marg, Civil Lines, Delhi- 110 054.	33/89 12.01.89	3 Years
4.	Church of North India, Shishu Sangopan Griha, St. Mishel's Compound, Hospital Road, Jangpura, New Delhi- 110 014.	24/89 03.01.90	1 Year
5.	Holy Cross Social Service Center 34, Dr. Mukherjee Nagar (West), Delhi-110009	37/89 30.01.90	1 Year
6.	Welfare Home for Children, 68, Raja Garden, New Delhi.	35/89 24.01.90	1 Year
Gujarat			
1.	Shri Kathiawar Nirashrit, Balashram Malviya Road, Rajkot- 360 002	5/89 15.12.88	3 Years
2.	Mahipatram Rupram Ashram, Opposite Raipur Gate, Ahmedabad- 380 022.	58/89 27.9.90	1 Year
Haryana			
1.	Haryana State Council for Child Welfare, Bal Vikas Bhawan, 650, Sector 16-D, Chandigarh- 160 016	28/89 04.01.89	3 Years
Karnataka			
1.	Canara Bank Relief & Welfare Society, 27th Cross, Banashankari, 2nd Stage, Bangalore, 560 070	43/89 28.03.89	3 Years
2.	Ashraya, Jawan's Colony B.D.A. Park, Qouble Road, Indira Nagar, 1st Stage, Bangalore-560 038.	44/89 28.03.89	3 Years
3.	St. Michael's Home, Old Madras Road, Indira Nagar, Bangalore- 560 038.	45/89 28.03.89	3 Years

4.	Society of Sisters of Charity, St. Geross Convent Belvedera Angelere, Mangalore-575 002.	56/89 1.1.90	1 Year
5.	Society of Sisters of Charity, Holy Angels Convent Stella Maris Convent, Malleshwaram, Bangalore- 560 003.	55/89 1.1.90	1 Year
6.	Society of the Sister of St. Joseph of Tarbes, 47, Promenade Road, PO Box 555 Bangalore- 560 005	69/90 13.4.90	1 Year
Kerala			
7	Dinasevenasabha (Catholic Association of the uplift of the Poor) Snehaniketan, Social Center, Pattuvam, Cannanore, Distt. Cannanore.	20/89 3.1.90	1 Year
8.	St. Joseph's Children's Home, Kummannor, Cherpunkal, PO, District Kottayam,	21/89 3.1.90	1 Year
9.	Foundling Home (Sisu Bhavan) Padupuram P.O., Via Karukutty, District Eranakulam.	22/89 3.1.90	1 Year
10.	Holy Infant Mary's Girls' Home, Vythiri, Wynad, Wynad District- 673 576	38/89 03.02.90	1 Year
11.	Kerala State Council for Child Welfare, Thycaud, Trivandrum- 685 014.	62/90 13.8.90	1 Year
Maharashtra			
1.	Balwant Kaur Anand Memorial Welfare Society, Anand Corner, 18, Dr. Coyaji Road, Pune- 411 001.	9/89 28.12.88	3 Years
2.	Indian Association for Promotion of Adoption, R.N.A. House, 1st Floor, Veer Nariman Road, Fort, Bombay- 400 034	10/89 28.12.88	3 Years
3.	Children of the World (India) Trust, 501, Arun Chamber, Tardoo, Bombay- 400 034.	11/89 28.12.88	3 Years
4.	Pushpawadi Foundling Home Nagpur House of Mary Immaculate, Providence School Compound Civil Lines; Nagpur-440 001.	12/89 28.12.88	3 Years
5.	Bharatiya Samaj Seva Kendra, 5, Korogaon Road, Pune- 411 001	13/89 28.12.88	3 Years
6.	Mahila Sewa Mandal, 25/20, Karve Road, Pune- 411 004.	14/89 27.12.88	3 Years

7.	Family Service Center, Eucharistic Congress, Building-III, No.5, Convent Street, Bombay- 400039.	15/89 28.12.88	3 Years
8.	Maharashtra State Women's Council, Rescue Home, Asha Sadan Marg, Umerkhadi, Bombay- 400 009.	16/89 04.01.89	3 Years
9.	Vivekanand Bala Sadan, Seth Daga Dharmshala, Opp. Railway Station Kampteo, Nagpur- 411 002	17/89 28.12.88	3 Years
10.	Hindu Women's Welfare Society, Sharadhanand Mahilashram Sharadhanand Road,Matunga, Bombay- 400 019	18/89 29.12.88	3 Years
11.	W.B.N. Balakashram, 431, Navi Peth, Pandharpur, District Sholapur	19/89 31.1.89	3 Years
12.	Missionaries of Charity, Nirmala Shishu Bhavan, Church Road, Ville Parle (West), Bombay- 400 056.	30/89 03.01.89	3 Years
13.	Matru Sewa Sangh, (Foundling Home) Institute of Social Work, Bajaj Nagar, Nagpur- 411 010.	34/89 10.01.89	3 Years
14.	St. Crispin's Home, FR-10, C.T.S.-12, Karve Road, Erandawana, Pune- 411 004.	27/89 1.7.90	1 Years
15.	Bal Anand World Children Welfare Trust, India, Sail Krupa, 93, Ghatla Village, Chember, Bombay- 400 071.	32/89 1.7.90	1 Years
16.	Shri Sharadhanand Anathalya, Society, Sharadhanand Peth, Nagpur- 400 039.	39/89 9.2.90	1 Year
17.	St. Catherine's Home Veera Desai Road, Andheri (West) Bombay- 400 059.	40/89 1.7.90	1 Year
18.	Holy Cross Home for Babies C/o Holy Cross Convent, Amravati (Camp) 444 602.	64/90 14.9.90	1 year
19.	Society for Child Development House, 630, Caranzalen, Goa- 403 002	42/89 21.03.89	3 Years
20.	Caristas Goa Pace Patriarcal Altinho, Anjim- 403 001.	49/89 8.5.90	1 Year
ORISSA			
1.	Manoj Manjari Sishu Bhavan At/PO. Keonjhargarh, Distt. Keenjhorgrah, Pin-738 001	1/89 8.12.89	3 Years

PONDICHERRY			
1.	Cluny Children's Home (Cluny Sisu Illam) Pourponnier St. Joseph, 8, Romain, Rolland Street, Pondicherry- 605 001	8/89 19.12.88	3 Years
TAMIL NADU			
1.	Guild of Service (Central) 28, Casa Major Road, Egmere, Madras- 600 008	3/89 12.12.88	3 Years
2.	Congregation of the Sisters of the Cross of Chavanod, P.B. No. 395, Old Goods Shed, Road Teppalulam, Triuchirapalli-620 992	4/89 13.12.88	3 Years
3.	Institute of the Franciscan Missienardea of Mary Society No. 3 Holy Appostles Convent St. Thomas Mount Babies Home, St. Thoms Mount, Madras- 600 016	6/89 13.12.88	3 Years
4.	Concerd House of Jesus (Home for Helpless Kids) 10, Venkatmma Samati Street, Pursalwelkam, Madras- 600 008	2/89 12.12.88	3 Years
5.	Grace Kennett Foundation 34, Kennett Road, District Madurai, Madurai- 625010	47/89 05.04.89	3 Years
6.	Families for Children (Kuzhanthaikal Kudumpam) 107, Vellore Road, Bodanur Coimbatore District- 641 023	36/89 24.1.1989	3 Years
7.	S.O.S. Children's Villages of India- Chatnath Homes, Karran Prayas-Reception-cum- Adoption Center, 13 Professors Colony, 1st Main Road, Tambaram East, Madras-680 059	61/90 27.7.1990	1 Year
WEST BENGAL			
1.	Missionaries of Charity, 54/A, Lower Circular Road, Calcutta- 700 016	50/89 1.7.1989	3 Years
2.	Society for Indian Children's Welfare, 22, Col. Biswas Road, Ballygunge, Calcutta.	51/89 1.7.90	Vaild up to 31.12.1990
3.	Indian Society for Sponsorship And Adoption, 1, Palace Court, 1 Kyd Street, Calcutta- 700 816	48/89 1.5.90	1 Year
4.	International Mission of Hope (India) Society 2, Nimak Mahal, Calcutta- 700 043	63/90 30.8.90	1 Year
ORISSA			
1.	Subhadra Mahtab Seva Sadan AT.PO/PS Udayagiri, District Phulbani- 762 100	65/90 26.10.90	1 Year

2.	'Basundhara' AT. Bhruba Tara Khalasi Lan, Rashtrabhasa Road, Cuttack- 753 001	65/90 16.11.90	1 Year

Compliance of direction given by Hon'ble Supreme Court in L.K. Pandey v. Union of India (Writ Petition No. 1170 of 1982) pertaining to expeditious disposal by District/Family Courts of cases involving Inter-Country adoption.

C.L. No. 28/2009 Admin. (G-II) Dated May 21, 2009

The Central Adoption and Resources Authority (CARA), an autonomous body, of Ministry of Women and Child Development, Government of India has brought to the notice of Hon'ble Court vide D.O. Letter No. 16/1/2000-CARA dated 12.12.2008 that the direction of Hon'ble Supreme Court given in L.K. Pandey v. Union of India (W.P. No. 1170 of 1982) pertaining to expeditious disposal by District/Family Courts, of cases involving inter-country adoption, are not being followed which prescribes that the entire procedure should be completed by the Court expeditiously as far as possible within a period of two months from the date of filing of applications for the guardianship of child. The proceedings on the application for guardianship should be held in Court in camera and should be recorded confidentially. As soon as order is made on the application for guardianship, the entire proceedings including the papers and documents should be sealed.

Upon consideration of the above matter, the Hon'ble Court has desired that the Family Courts or the Court assigned to deal with such nature of cases under your administrative control should be thoroughly impressed to adhere to the directions given by the Hon'ble Apex Court in Lakshmi Kant Pandey v. Union of India; (1984) 2 SCC 244 by making sincere efforts to decide such cases within the time stipulated i.e. two months from the date of filing of the application.

While enclosing a copy of the judgment of Hon'ble Apex Court delivered in the above noted case alongwith copy of letter dated 12.12.2008 of Central Adoption Resource Authority, I am directed to request you to kindly impress upon the Judicial Officers presiding over the Family Courts or dealing with such matters working under your administrative control to ensure compliance of the above directions in right earnest.

(iv) 1. Reimbursement or maintenance and other expenses to recognised Indian Social or child welfare agency in case of inter-country adoption from foreign adoptive parents.

C.L. No. 51VIIf-45/Admn. (G) dated September 25, 1992

I am directed to enclose herewith a copy of letter F.No.4-4-91- CARA, dated May 11,1992 from the Secretary, Central Adoption Resource Agency, New Delhi, on .the above subject, and to say that the Concerned courts in your judgeship may kindly be apprised of the contents of this letter enclosure for information and necessary compliance.

Ministry of Welfare, Central Adoption Resource Agency West-Block-8, Wing No.2. R.K. Puram, New Delhi-66

Reimbursement or maintenance and other expenses to a recognised Indian social or child welfare agency in case of inter-country adoption from foreign adoptive parents.

L. F. No. 4-4-91-CARA dated May 11, 1992

The Supreme Court vide its series of Judgments dated 27th September, 1985, 3.12.1986 and 14.8.1991 have among other aspects, laid down detailed guidelines with regard to the recovery of maintenance and other incidental expenses incurred by a social welfare agency for rearing the orphan/destitute child till the date of guardianship from prospective foreign adoptive parents in case of inter-country adoption. For ready reference, the relevant portions of the judgments are reproduced here below-

EXTRACTS OF THE SUPREME COURT JUDGMENT DATED 27.9.1985

" …we have no doubt that the recognised social or child welfare agency through whom the application for guardianship as processed would take care to see that no exorbitant amount is sought to be charged by the social or child welfare agency looking after the child by way of maintenance expenses. But we would by way of greater safeguard direct that when the court makes an order appointing a foreigner as guardian, the court should look into this question and sanction the amount to be paid by the foreigner to the social or child welfare agency by the court shall be recoverable by the social or child welfare agency by way of maintenance expenses from the foreigner who is appointed guardian of the child……"

"... The recognised social or child welfare agency processing the application must also be entitled to recover from the foreigner who is sought to be appointed guardian of the child, costs incurred in preparing and filing the application and prosecuting it in court. Such expenses may include legal expenses, administrative expenses, preparation of child study report, preparation of medical and I.O. reports, passport and visa expenses and conveyance and they may be fixed by the court at such figure not exceeding Rs. 4;000/-, as may be thought fit by the court……"

EXTRACT OF THE SUPREME COURT JUDGMENT DATED 3.12.1986

" ……..We, therefore, agree that the recognised placement agency processing the application of a foreigner for being appointed guardian of a child with a view to its eventual adoption, should be entitled to recover from the foreigner, cost incurred in preparing and filing the application and prosecuting it in court including legal expenses, administrative expenses, preparation of child study report, preparation of medical and I.Q. reports, passport and visa expenses and conveyance expenses and that such expenses may be fixed by the court at a figure not exceeding Rs. 6,000/ ".

EXTRACTS OF THE SUPREME COURT JUDGMENT DATED 14.8.1991

"... The Judgment laid down a scale of expenses to be recovered by the Agency offering placement for maintaining the child from the Adoptive parents. There was some modification in 1986, keeping in view the general rise in cost of living we are prepared to allow escalation by 30% we do not, however agree to an escalation of 10% every year. The matter may be reviewed once in three years so for as escalation of expenses is concerned ".

From the above extracts of judgments it is amply clear that Supreme Court has entrusted an important duty of fixing the cost of expenses to the competent courts while awarding order of guardianship so as to avert the possibilities of excess or exorbitant charges from the foreign adoptive parents. But it has been observed from the copies of orders of guardianship which are being received by us that competent Courts are not following the above directives of the Supreme Court while disposing inter-country guardianship applications. They do not stipulate the total amount towards maintenance and other expenses to be recovered by the Indian recognised social or child welfare agency from the prospective foreign adoptive parents through foreign enlisted social or child welfare agency. In the absence of specific orders of the competent courts regarding fees to be charged by the local agencies, there is every likelihood that those voluntary agencies may indulge in over charging from the foreign adoptive parents in contravention of the guidelines of Supreme Court.

In view of the above position, it is requested that all competent courts in your State/U.T. may kindly be suitably advised that while awarding the guardianship of a orphan/destitute/abandoned child in favour of a foreign adoptive parent, they should invariably fix the amount to be recovered from the foreign adoptive parent through the concerned enlisted foreign agency according to the direction of the Supreme Court so as to avoid any chances of overcharging by the concerned local child/social welfare agency.

(v) Renewal of Recognition Certificate for inter-country adoption.

C.L. NO. 63VIIf-45/Admn.'G' dated 22 July, 1994

While enclosing herewith copies of letter No. 4-4/91 CARA dated 16.9.93 followed by letter dated 3.11.93 and another letter no. 16-5/88-CH (AC)/CARA dated 25. 10. 93 received from Central Adoption Resource Agency, Ministry of Welfare, Government of India, New Delhi for information and necessary action, I am directed to request that all the Presiding Officers and concerned competent courts functioning under you be directed that they should not entertain any application from a foreign citizen for award of guardianship of any Child on his/her favour under the Guardian and Wards Act, 1890, or for its adoption under the Hindu Adoption and Maintenance Act, 1956 unless the Court concerned has satisfied itself that the original application of the foreign Citizen has been routed through the proper channel as referred in above mentioned letter dated 16.9.1993 and to follow strictly the provisions of General Rules (Civil) Amendment Rules, 1991 published in U.P. Gazette on 4.1.1992.

No. 4-4/91- CARA Central Adoption Resource Agency (Ministry of Welfare) West-Block 8, Wing 2, 2nd Floor R.K. Puram New Delhi.

To, The Registrar Supreme Court of India, New Delhi dated November 3, 1993

2. Routing of inter-country adoption application of foreigners through Central Adoption Resource Agency.

1. I am forwarding herewith a copy of this office letter of even number dated 16th September, 1993 (copy enclosed) vide which your kind attention was invited to the judgment dated 6th February, 1984 awarded by the Supreme Court of India in the Writ Petition No. (CRL) 1171/1982 in the matter *of Shri L.K. Pandey v. Union of India* with a view to regulate inter-country adoption of Indian children.

You were also requested to transmit the letter with instructions to all the High Courts of India for onward transmission to the District Courts which are actually processing the cases of inter-country adoption of Indian children.

2. It is presumed that the necessary instructions in this regard have been circulated to all the High Courts and District Courts in India accordingly. In fact such applications of the foreign adoptive parents who intend to adopt a child from India are required to be routed through the Central Adoption Resource Agency. But while going through the record it has been observed that most of the District Courts in the country particularly in Orissa, Maharashtra and Delhi are still not following the norms and procedure laid down by the Supreme Court of India for the purpose of regulating inter-country adoption of Indian Children. Therefore, this amounts to violate the ruling of the Supreme Court of India.

3. It is also further observed that the direction of the Supreme Court in regard to the processing of the applications of the prospective adoptive parents by the District Courts within a stipulated time within two months from the date of submission of the original application along with the original documents by the agency is not adhered to. For instance, the District Courts in Haryana are taking almost one year.

4. In view of this you are again requested to kindly take up the matter with the High Courts and District Courts in India to ensure that the judgment of the Supreme Court of India is followed strictly till the new guidelines on Adoption are implemented.

(vi) Disposal of adoption cases by the District Courts within the time frame fixed by the Supreme Court of India.

C.L. No. 5/VII f-45/Admn.'G' Section dated February 2, 1995

Hon'ble the Chief Justice has been pleased to direct to enclose herewith a copy of letter No. 4-4/91-CARA dated 25.10.94 received from the Secretary, Ministry of Welfare, Government of India, Central Adoption Resource Agency, New Delhi with its enclosure on the above subject and to say that it has been noticed by the Ministry of Welfare, Government of India, CARA, New Delhi that the district courts are taking a lot of time to decide the guardianship of child in favour of foreign adoption parents, even the district courts are going beyond the prescribed time limit of two months stipulated by the Hon'ble Supreme Court of India vide their judgment dated 3.12.1986 in a Writ Petition (CRL) No. 1171/82 in the matter of *Shri Laxmi Kant Pandey v. Union of India and others.*

It is, therefore, requested that all the Presiding Officers and concerned Competent Courts functioning under you be directed to take care to decide the adoption cases expeditiously within the time-frame of two months fixed by the Hon'ble Supreme Court of India and to follow strictly the directions given by the Hon'ble Supreme Court in aforesaid Writ Petition (CRL) No.1171182.

No. 4-4/91-CARA Central Adoption Resource Agency, (Ministry of Welfare) West Block 8, Wing 2, 2nd Floor, R.K. Puram, New Delhi. dated October 25, 1994

To, The Registrar High Court of Uttar Pradesh, Allahabad.

Disposal of adoption cases by the District Courts within the time-frame fixed by the Supreme Court of India.

L. No. 4-4/91-CARA dated October 25, 1994

I am to refer to this office letter of even number dated,1.7.92 (copy with enclosures enclosed) vide which your kind attention was invited to the directions of the Supreme Court to High Courts in their judgments dated 9.12.1986 in a Writ petition (CRL No. 1171/1982) in the matter of *Shri Lami Kant Pandey v. Union of India* & *Others.*

It is assumed that there are periodic instructions from the High Courts to district courts for the disposal of adoption cases within the time frame fixed by the Supreme Court. Secondly, the High Courts must be receiving the details of the proceedings relating to award of guardianship of the child in favour of foreign adoptive parents from the district courts regularly in the prescribed proforma. This practice must continue in the best interest of the child.

For some time, we have been receiving complaints from the Social Child welfare agencies recognised for the purpose of inter-country adoption work that the district courts are taking lot of time to decide the guardianship of the child in favour of foreign adoptive parents, even the district courts are going beyond the prescribed time limit of two months stipulated by the Supreme Court in India. As a result of this delay our children are suffering in the homes and deprived of their legitimate family surroundings.

In view of this, you are requested to kindly take up the matter again with the district courts and ensure that the district courts should dispose of the adoption cases expeditiously within the time- frame of two months fixed by the Supreme Court of India.

This may be treated as Most Urgent.

Priority To the cases under Indian Succession Act, Guardian & Wards Act and U.P. urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972

C. L. No. 59/2007Admin(G): Dated: 13.12.2007.

It has come to the notice of Hon'ble Court that Miscellaneous cases registered under Indian Succession Act, Guardian & Wards Act and U.P. Urban Buildings (Regulation of Letting, Rent and Eviction)Act,1972 are often neglected by the Subordinate Courts which results in their remaining pending for a very long time .The Hon'ble Court has desired that the cases related to the above Acts are of considerable importance and should be taken up by the Courts on priority basis so that the interest of the parties does not suffer adversely .

Therefore, I am directed to request you to kindly impress upon the Judicial officers posted under your administrative control to take up all cases pertaining to Indian Succession Act, Guardian & Wards Act and U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, on priority.

Central Adoption Resource Agency (Ministry of Welfare) Government of India West Block No 8, Wing No.2, R.K. Puram, New Delhi

(vii) Quarterly Report about children whose guardianship has been awarded in favour of foreign parents.

L. No.4-4 /91-CARA-1337 dated l July, 1992

1. In continuation of this Agency's letter No. 4-4/91-CARA dated 5.10.91 regarding quarterly report about children whose Guardianship has been awarded in favour of foreign parents, I am to invite your kind attention to the following portion of the directions of the Supreme Court to High Courts is in judgment dated 3rd December, 1986 in Writ Petition (CRL) No.1171/82 in the matter of *Shri Laxmi Kant Pandey v. Union of India:-*

   "Some Social and Child Welfare Agencies made a complaint before us that the proceedings for appointment of a prospective adoptive parent as guardian of child drag on for months and months in some district courts and almost invariably they take not less than five to six months. We do not know whether this is true, but if it is, we must express our strong disapproval of such delay in disposal of the proceedings for appointment of guardian. We wish to impress upon the district courts that proceedings for appointment of guardian of the child with a view to its eventual adoption, must be disposed of at the earliest and in any event not later than two months from the date of filing of the application. We would request the High Court to call for returns from the district courts within their respective jurisdiction showing every two months as to how many applications for appointment of guardian are pending, when they were filed and if more than two months have passed since the date of their filing, why they have not been disposed of up to the date of the return. If any application for guardianship is not disposed of by the district courts within a period of two months and there is no satisfactory explanation, the High Courts must take a serious view of the matter. We were also informed that some district courts are treating applications for guardianship in a lackadaisical manner and are not scrupulously carrying out the directions given by us in our judgement. This defiance by the district court of the direction given by us should not be tolerated by the High Courts and we would request the High Courts to exercise proper vigilance in this behalf'.

2. In accordance with the above directions of the Supreme Court, Part II has been further provided in the existing proforma of the quarterly report so as to collect the requisite additional information regarding pendency of cases from the District Courts. Accordingly, you are requested to circulate the revised proforma of the Quarterly Report to all District Courts within your jurisdiction for their guidance and compliance. It is also requested that specific action taken by the High Courts against the District Courts for undue delay may kindly be communicated to us from time to time.

3. This may kindly be considered most important. Receipt of this letter may kindly be acknowledged.

PROFORMA
QUARTERLY REPORTS FROM DISTRICT COURTS TO BE SENT TROUGH HIGH COURTS
PART I

SL. No.	Name, age & sex of the child	Name & address of the foreign adoptive parents	Name & address of the recognised Indian/Social/Child Welfare agency which processed the case in India	Name & address of the foreign agency which sponsored the application of foreigners	Name of the Court	No. and date of the Court Order
1	2	3	4	5	6	7

No. of cases of adoption/ guardianship on the last date of previous quarter	No. of cases filed in Distt. Courts during the quarter under report	Total No. of the cases available for disposal (1+2)	No. of cases disposed by the Distt. Courts during the quarter under report	No. of pending cases, as on the last date of the quarter under report	No. of cases pending for more than 60 days	Period of pendency and reasons for the delay in each such case
1	2	3	4	5	6	7

Signature of Distt. Judge
Name of District
State

Guardianship Certificate meant for the mentally disabled persons.

C.L. No. 7/2009 Admin G-II Dated: 07.04.2009

While enclosing herewith the copy of the Government Letter No. 826/65-1-2007-93/2000 dated 09.07.2007, from Chief Secretary, Government of U.P. on the above subject, I am directed to circulate the same for your information.

संख्या:826/65-1-2009-93/2000

प्रेषक,

रोहित नंदन
प्रमुख सचिव,
उत्तर प्रदेश शासन।

सेवा में,

समस्त प्रमुख सचिव/सचिव,
उत्तर प्रदेश शासन,

विकलॉक कल्याण अनुभाग-1 *लखनऊः दिनॉकः 09 जुलाई, 2007*
विषयः- मानसिक मन्दित व्यक्तियों के लिये गार्जियनशिप पमाण-पत्र।

महोदय,

जैसाकि आप अवगत हैं, कि सामान्य स्थिति में 18 वर्ष की आयु के पश्चात् व्यक्ति वयस्क (बालिग) हो जाने पर अपने बारे में विधिक रूप से स्वंय निर्णय लेने के लिये अधिकृत हो जाता है। अभिभावक/संरक्षक को आवश्यकता केवल 18 वर्ष की आयु तक होती है। जब तक व्यक्ति अवयस्क (माइनर) रहता है। लेकिन मानसिक मन्दित व्यक्ति 18 वर्ष की

आयु प्राप्त करने के पश्चात् भी निर्णय लेने के लिये सक्षम नहीं हो पाता है। मानसिक मन्दित व्यक्ति शारीरिक तौर पर वयस्क होते हुए भी मानसिक रूप से वयस्क नहीं हो पाता है। ऐसे व्यक्तियों को देखभाल एवं उनकी ओर से उनकी सम्पत्ति एवं अन्य मामलों में निर्णय लेने के लिऐ भारत सरकार के सामाजिक न्याय एवं अधिकारिता मंत्रालय द्वारा स्पेशल ट्रस्ट फार वेलफेयर ऑफ परसन्स विद आटिज्म, सरेब्रलपल्सी, मेन्टल रिटार्डेशन एण्ड मल्टीपिल डिसएबिलिटीज एक्ट, 1999 (नं0 44 आफ 1999) बनाया गया है।

2- इस अधिनियम के अन्तर्गत प्रत्येक जिले में जिलाधिकारी की अध्यक्षता में लोकल लेबल कमेटी गठित करने की व्यवस्था है। इस कमेटी को मानसिक मन्दिल आटिज्म सरेब्रलपल्सी व मल्टीपिल डिसएबिलिटीज व्यक्तियों के लिये कतिपय कार्य किये जाने हेतु अधिकृत किया गया है। इसमें से एक महत्वपूर्ण कार्य मानसिक मन्दिल व्यक्तियों की देखभाल के लिये अभिभावक (गार्जियन) संरक्षक नियुक्त करने से संबंधित है। मानसिक मन्दिता से प्रभावित ऐसे वयस्क व्यक्तियों के लिये भी अभिभावक/संरक्षक के रूप में किसी व्यक्ति को 'लोकल लेवल कमेटी' द्वारा नियुक्त किया जा सकता है और ऐसे नियुक्त अभिभावक/संरक्षक को ऐसे मानसिक मन्दित व्यक्तियों की ओर से निर्णय लेने का अधिकार प्राप्त हो जाता है।

उक्त अधिनियम की धारा-14 में मानसिक मन्दित व्यक्तियों के लिये गार्जियन नियुक्त करने की व्यवस्था है। धारा-14 निम्नवत् है:-

Appointment for guardianship:

14(1) A parent of a person with disability or his relative may make an application to the local level committee for appointment of any person of his choice to act as a guardian of the persons with disability.

(2) Any registered organization may make an application in the prescribed form to the local level committee for appointment of a guardian for a person with disability:

Provided that no such application shall be entertained by the local level committee, unless the consent of the guardian of the disabled person is also obtained.

(3) While considering the application for appointment of a guardian the local level committee shall consider.

(a) Whether the person with disability needs a guardian;

(b) The purposes for which the guardianship is required for person with disability.

(4) The local level committee shall receive process and decide applications received under sub-sections (1) and (2) in such manner as may be determined by regulations.

Provided that while making recommendation for appointment of a guardian, the local level committee shall provide for the obligations, which are to be fulfilled by the guardian.

(5) The local level committee shall send to the Board the particulars of the applications received by it and orders passed thereon at such interval as may be determined by regulations.

3- यह संज्ञान में आया है कि उक्त अधिनियम में मानसिक मन्दित व्यक्तियों के लिये अभिभावक नियुक्त करने की उक्त व्यवस्था की जानकारी न होने के कारण मानसिक मन्दित व्यक्तियों को देय सुविधाओं का लाभ नहीं प्राप्त हो पा रहा है। सक्षम अधिकारी द्वारा ऐसे व्यक्तियों के लिये माननीय न्यायालय से गार्जियनशिप प्रमाण-पत्र लाने की अपेक्षा की जाती है। अधिनियम में की गई उक्त व्यवस्था को दृष्टिगत इसकी आवश्यकता नहीं रह जाती है। अधिनियम की धारा-14 के प्राविधान के अन्तर्गत जारी गार्जियनशिप प्रमाण-पत्र मानसिक मन्दित व्यक्तियों के लिये विधिक रूप से मान्य किया जाना चाहिए ताकि ऐसे व्यक्तियों को प्रदत्त विभिन्न सुविधाएँ/योजनाओं का लाभ प्राप्त होने में तथा क्लेम्स, पेंशन, लोन आदि

प्राप्त करने में कठिनाई न हो। परन्तु उक्त सुविधाएँ प्रदान करने से पूर्व यह अवश्य सुनिश्चित कर लिया जाए कि अधिनियम की धारा-14 के अन्तर्गत जारी गार्जियनशिप प्रमाण-पत्र से आच्छादित है।

4- इस सन्दर्भ में मुझे यह कहने का निदेश हुआ है कि अधिनियम की धारा-14 के अन्तर्गत लोकल लेबल कमेटी द्वारा मानसिक मन्दित व्यक्तियों के लिये अभिभावक/संरक्षक नियुक्त करने के संबंध में जारी ''गार्जियनशिप प्रमाण-पत्र'' को मान्यता प्रदान की जाय तथा ऐसे प्रमाण पत्रों से आच्छादित होने की दशा में उक्त श्रेणी के व्यक्तियों के लिए नियमानुसार देय सुविधाएँ, क्लेम्स, पेंशन, लोन आदि अनुमन्य की जाय। यह भी सनिश्चित किया जाय कि जिस उद्देश्य के लिये प्रमाण पत्र जारी किये गये हैं, उनके अनुरूप ऐसे व्यक्तियों को देय लाभ/सुविधाएँ मिलने में कठिनाई न हो।

5- यह आदेश वित्त विभाग के अशासकीय पत्र संख्या-ई-3-1405/x-2007 दिनॉक 04 जुलाई, 2007 में प्राप्त उनकी सहमति से निर्गत किये जा रहे हैं।

(viii) Audit of minor's accounts by civil court official

C.L. No. 9/VIII-b-173 dated 23rd January, 1954

Audit of minor's accounts in guardianship cases in which the total annual receipt does not exceed Rs.1, 000 may be entrusted to a civil court official provided that the work is done out of office hours and does not interfere in any way with official duty.

Such an official may be paid the usual audit fee at the rate of 2 per cent of the total annual receipts.

(viii-a): Grant of Child Care leave and Child Adoption leave

C.L. No. 26/82-A/Admin. 'D' Section: Dated 27.08.2010

I am directed to inform you that after careful consideration of the case the Court has been pleased to adopt the G.O. (O.M.) No. G-2-2017/DAS-2008-216/79/Lucknow: dated 08.12.2008 (Copy enclosed) and related G.O. (O.M.) No. G-2-573/Ten-2009-216-79 Lucknow: dated 24.3.2009 (Copy enclosed), issued on the above subject, in respect of employees of Courts subordinate to the High Court of Judicature at Allahabad.

उत्तर प्रदेश शासन
वित्त (सामान्य) अनुभाग-2

संख्याःजी-2-573/दस-2009-216-79
लखनऊःदिनॉक 24 मार्च, 2009
कार्यालय ज्ञाप

विषयः बाल्य देखभाल अवकाश तथा दत्तक ग्रहण अवकाश की अनुमन्यता के सम्बन्ध में शर्तों का निर्धारण।

उपर्युक्त विषय पर अधोहस्ताक्षरी को यह कहने का निदेश हुआ है कि शासनादेश संख्याःजी-2-2017/दस-2003-216-79, दिनॉक 8 दिसम्बर, 2008 के अनुसार महिला सरकारी सेवक को चाहे वह स्थायी हो अथवा अस्थायी, बाल्य देखभाल अवकाश तथा दत्तक ग्रहण अवकाश अनुमन्य कराया गया है। संदर्भगत अवकाश की स्वीकृति के सम्बन्ध में शर्तं निम्नवत् हैंः-

बाल्य देखभाल अवकाशः

(1) बाल्य देखभाल अवकाश अधिकार के रूप में नहीं मॉगा जा सकेगा। कोई कर्मचारी बिना पूर्व स्वीकृति के बाल्य देखभाल अवकाश पर नहीं जा सकेगा।

(2) बाल्य देखभाल अवकाश उपार्जित अवकाश की भॉति माना जायेगा और उसी तरह स्वीकृत किया जायेगा।

(3) उपार्जित अवकाश की भाँति बाल्य देखभाल अवकाश के मध्य पड़ने वाले सार्वजनिक अवकाशों को बाल्य देखभाल अवकाश में सम्मिलित माना जायेगा।

(4) बाल्य देखभाल अवकाश तभी अनुमन्य होगा जब सम्बन्धित महिला कर्मचारी के लेखे में उपार्जित अवकाश अवशेष न हो।

दत्तक ग्रहण अवकाशः

(1) ऐसे महिला राजकीय सेवक जिनके दो से कम बच्चे जीवित हों एवं जिनके द्वारा एक वर्ष की आयु तक का बच्चा गोद लिया गया हो को सामान्य माताओं को प्रदत्त प्रसूति अवकाश की भाँति 180 दिन के दत्तक ग्रहण अवकाश (Child Adoption Leave) की सुविधा प्रदान की जायेगी। प्रसूति सअवकाश एवं दत्तक ग्रहण अवकाश की बढ़ी हुयी अवधि का लाभ उन महिला कर्मचारियों को भी देय होगा जो दिनॉक 1 दिसम्बर, 2008 को प्रसूति अवकाश का उपभोग कर रही थी।

(2) महिला सरकारी सेवक को उक्त अवकाश अवधि के दौरान वह पूर्ण वेतन देय होगा जो वह अवकाश पर जाने के दिनॉक को आहरित कर रही हो।

(3) दत्तक ग्रहण अवकाशकिसी अन्य प्रकार के अवकाश के साथ मिलाया जा सकता है।

(4) दत्तक ग्रहण अवकाश के निरन्तरता में महिला सेवकों को यदि आवेदन किया जाता है तो कानूनी तौर पर गोद लिये जाने के दिनॉक को बच्चे की आयु घटाते हुये अधिकतम एक वर्ष की अवधि तक का उसे देय एवं अनुमन्य अन्य अवकाश, बिना दत्तक ग्रहण अवकाश की अवधि को जोड़े निम्न प्रतिबंधों के साथ स्वीकृत किया जा सकेगा-

(क) यदि किसी महिला सेवक को गोद लेने के समय दो या अधिक जीवित बच्चे हों तो यह अवकाश उसे स्वीकृत नहीं किया जायेगा।

(ख) उपरोक्त एक वर्ष तक की अवधि के अवकाश की गणना निम्न उदाहरण के अनुसार होगाः-

(च) दत्तक ग्रहण अवकाश पर बच्चे की आयु एक माह से कम होने पर एक वर्ष तक का अवकाश स्वीकृत कियाजा सकता है।

(छ) बच्चे की आयु छः माह या अधिक परन्तु सात माह से कम होने पर छः माह तक का अवकाश स्वीकृत किया जा सकता है।

(ज) बच्चे की आयु नौ माह या अधिक परन्तु दस माह से कम होने पर तीन माह तक का अवकाश स्वीकृत किया जा सकता है।

(5) दत्तक ग्रहण अवकाश को छुट्टी के लेखे के नाम नहीं लिखा जायेगा।

2- जिन महिला कर्मचारियों को शर्तों के अभाव में शासनादेश दिनॉक 8 दिसम्बर, 2008 के अनुपालन में बाल्य देखभाल अवकाश तथादत्तक ग्रहण अवकाश स्वीकृत कर दिया गया है उनके बाल्य देखभाल अवकाश तथा दत्तक ग्रहण अवकाश को उन्हें देय उपार्जित अवकाश में परिवर्तित माना जायेगा।

3- शासनादेश संख्या- जी-2-2017/दस-2003-217-79, दिनॉक 8 दिसम्बर, 2008 इस सीमा तक संशोधित समझा जाये।

4- उपर्युक्त आदेश तात्कालिक प्रभाव से प्रभावी होंगें।

5- संगत अवकाश नियमों में आवश्यक संशोधन यथासमय किया जायेगा।

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अनूप मिश्र
प्रमुख सचिव, वित्त।

उत्तर प्रदेश शासन
वित्त (सामान्य) अनुभाग-2
संख्या-जी-2-2017/दस-2008-216/79
लखनऊःदिनॉक 08 दिसम्बर, 2008

कार्यालय ज्ञाप

विषयः- प्रसूति अवकाश की सीमा में वृद्धि तथा बाल्य देखभाल अवकाश की स्वीकृति।

कार्यालय ज्ञाप संख्याःसा-4-394/दस-99-216/79, दिनॉक 04-06-1999 द्वारा स्थायी एवं अस्थायी महिला सरकारी सेवकों को 135 दिन का प्रसूति अवकाश स्वीकृत किया गया था। वेतन समिति 2008 की संस्तुतियों पर प्रसूति अवकाश की अवधि 135 दिन से बढ़ाकर 180 दिन किए जाने का निर्णय लिया गया है। इसी प्रकार विशिष्ट परिस्थितियों यथा बीमारी तथा परीक्षा आदि में देखभाल हेतु संतान की उम्र 18 वर्ष होने की अवधि तक महिला सरकारी सेवक को सम्पूर्ण सेवाकाल में अधिकतम दो वर्ष (730 दिन) का बाल्य देखभाल अवकाश (Child Care Leave) *अनुमन्य कराने की व्यवस्था प्रसूति अवकाश के संबंध में लागू अन्य शर्तों एवं प्रतिबन्धों के अधीन रहते हुए की गयी है। यह दोनों व्यवस्थायें गोद ली गयी संतान के मामले में भी उसी प्रकार लागू करने का निर्णय लिया गया है।*

2- अतः श्री राज्यपाल महोदय संदर्भगत कार्यालय ज्ञाप दिनॉक 04-06-1999 को अतिक्रमित करते हुए प्रसूति अवकाश के संबंध में वित्तीय हस्तपुस्तिका खण्ड-2, भाग-2 से 4 के सहायक नियम-153(1) के अधीन सम्पूर्ण सेवाकाल में दो बार तक लागू अन्य शर्तों एवं प्रतिबन्धों के अधीन प्रसूति अवकाश प्रारम्भ होने की तिथि से 435 दिन से बढ़ाकर अधिकतम 180 दिन करने तथा विशिष्ट परिस्थितियों यथा संतान की बीमारी अथवा परीक्षा आदि में 18 वर्ष की आयु तक देखभाल हेतु महिला सरकारी सेवक को सम्पूर्ण सेवाकाल में अधिकतम दो वर्ष (370 दिन) का बाल्य देखभाल अवकाश अनुमन्य कराये जाने की सहर्ष स्वीकृति प्रदान करते हैं। यह दोनों व्यवस्थायें (प्रसूति अवकाश एवं बाल्य देखभाल अवकाश) गोद ली गयी संतानों के मामलों में भी लागू होंगी।

3- उक्त व्यवस्था विभिन्न विभागों के राजकीय एवं सहायता प्राप्त शिक्षण/प्राविधिक शिक्षण संस्थाओं के महिला शिक्षकों (यू0जी0सी0, ए0आई0सी0टी0ई0, आई0सी0ए0आर0 वेतनमानों से आच्छादित पदों को छोड़कर) एवं सहायता प्राप्त शिक्षण एवं प्राविधिक शिक्षण संस्थाओं की शिक्षणेत्तर महिला कर्मचारियों के लिए भी लागू होंगी।

4- उक्त नियम की अन्य शर्ते यथावत् प्रभावी रहेंगी।
5- उपयुक्त आदेश दिनॉक 01 दिसम्बर, 2008 से प्रभावी होंगे।
6- संगत अवकाश नियमों में आवश्यक संशोधन यथासमय किया जायेगा।

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(ix) Intestate, probate and succession

i. Registration of intestate cases received from District Magistrates

G.L. No. 2697/44-89 dated 17th June, 1914

As soon as a report is received from the Magistrate under rule 1 of the rules contained in appendix 17(A) of the General Rules (Civil), 1957, that a person has died intestate leaving movable property an entry should be made in Form no.7 Register of Miscellaneous Non-Judicial cases. In the event, however, of the appearance of a claimant an entry should be made in Form no. 70, Register of Miscellaneous Judicial cases not relating to suits. When a claimant does not appear at the time the report is received, but at a later stage, the case should, on his appearance be transferred from Form no.7 to Form no. 70. The entry relating to the property in these cases should be made in Form no. 40, Register on Intestate Property.

ii. Administration of estate of persons dying intestate

G.L. No. 23/M-1 dated 14th March, 1936 (see G.O. No. 2079/VII-235-1935 dated 22nd February, 1936)

There are no provisions in the General Rules (Civil) for expenses connected with the administration of the immovable property (i.e., pay, etc. of sajawals and peons appointed for collection work) of person dying intestate. The provision for such expenses would be found in the concluding portion of section 5 of the Bengal Regulation V of 1799 requiring the expenses to be met from the income of estate.

A District Judge may charge the expenditure incurred on account of payment to Superintendent of Police for armed police, etc. and traveling allowance of Nazir to his contingent allotment and make an application for additional grant, if necessary.

As in the case of expenses on immovable property these items of expenditure though initially met from the contingent grant, should be recovered from the property of the deceased in case a claim arises and the property has to be restored to him by Government.

Sale of properties left by persons dying intestate

G.L. No. 2112 dated 23rd July, 1896

Civil courts have no power to direct a sale under section 5 of Bengal Regulation V of 1799 of immovable property left by a person who has died intestate and without heirs and held under attachment by the Collector of the district in accordance with the previous orders of the Judge, as such order is not authorized under the law as contained in Regulation V of 1799 and Regulation V of 1827. They are bound to hold the estate under attachment until the legal heir to the estate or other person entitled to receive charge thereof as executor, administrator or otherwise shall attend and claim the same. Circumstances may exist under which the only person entitled may be the collector as representing the State. In such cases the collector ought to make appearance before the Judge and satisfy him of his claim.

Deposit of security by persons granted letter of administration

C.L. No. 3 dated 31st August, 1906

Some District Judges omit, when granting letters of administration, to cause the person to whom such grant has been given to furnish proper and adequate security and to give him the bond required by the imperative provisions of section 291 of the Indian Succession Act, 1925.

Procedure for obtaining properly stamped succession certificate

G.L. No. 15/47-17(2) dated 26th June, 1944 read with Finance (M) Department

Letter No. M-260/X-508-1942 dated 2nd November, 1943

The letter contains certain executive instructions, framed by the Government, laying down the procedure in cases where a person voluntarily desires to obtain a properly stamped succession, certificate under section 382 of the Indian Succession Act,

1925, even though they said certificate may not be meant for presentation in a court or public office.

(x) Proceedings under U.P. Sales Tax Act 1948

C.L. No. 8/VIIIf-144/Admn. (G) dated 22nd February, 1989

Section 9 of the U.P. Sales Tax Act, 1948 provides that any dealer or other person aggrieved by an order made by the assessing authority, other than an order mentioned in section 10-A, may within thirty days from the date of service of the copy of the order, appeal to such authority as may be prescribed. Likewise, section 17 of the said Act makes it clear that save as is provided in section 11, no assessment made and no order passed under this Act or the Rules made there under by the assessing authority shall be called into question in any court, and save as is provide in sections 9 and 10, no appeal or application of revision or review shall lie against any such assessment or order. Such power is only vested in the courts specially constituted under section 9 of the U.P. Sales Tax Act, 1948.

District Judges should impress upon all the presiding officers that any failure in complying with the aforesaid provisions shall amount to dereliction of duty on their part.

(xi) Family pension cases

C.L. No. 16/Admn. (A) dated 28th January, 1977

The cases filed under section 14-A of the Employees' Provident Fund (and Family Pension Fund) Act, 1952 should be decided expeditiously.

(xii) Election petitions

C.L. No. 23/IV-g-4 dated 29th March, 1950

Delay in the disposal of election petitions against presidents and members of District Board causes administrative difficulties and is in the interest of administration as well as of the local bodies that election petitions are decided expeditiously.

(xiii) Cases relating to dissolution of marriage

G.L. No. 198/67-1 dated 11th July, 1922

Suits for divorce and separation are comparatively rare in this State. It is not to be expected that either on the Bench, or at the Bar, there should be much familiarity with divorce practice. But this fact should induce a special degree of care and circumspection in the disposal of such suits on the part of the judge.

The duty of dissolving marriages is one involving serious responsibility. The decision affects not merely the character, reputation and the future of the alleged guilty party, but also the welfare of the children, the validity of remarriages, the legitimacy of children who may be subsequently born and the interests of public morality.

In undefended cases the court should invariably satisfy itself by unimpeachable testimony that the absence of the alleged guilty respondent is due entirely to a consciousness of guilt, and of the futility of denying the charge, and to no other cause.

The following recommendations, which from the nature of things cannot be more than superficial, and do not profess to be comprehensive should in all cases be rigorously

followed. They represent points which, recent experience has proved to the High Court, are often overlooked-

I. Marital offences (adultery, cruelty and the like) must be proved, whether they are denied or not, with the same particularity and certainty as courts are accustomed to require in criminal trials.

II. It is the established rule that in a husband's petition the wife has an absolute right to be provided if necessary by an order of the court, with funds in advance to enable her to obtain legal advice and to defend herself with legal aid if she intends to deny the charges. Every notice of a petition served upon a wife should include a clear intimation to the respondent of this right. It is so well established that a lawyer employed by the wife, on her own responsibility, can sue the husband for the cost which he reasonably incurs, such costs, being held to be "necessaries" for which a wife may pledge her husband's credit if there is reasonable ground for resisting the petition.

III. The petition should contain a precise statement of the dates, and places, at which each marital offence, of whatever kind, is alleged to have taken place.

IV. A petition containing mere vague and general allegation should be summarily rejected as disclosing no ground for a decree. All general allegations should be in any case struck out from the petition before notice is issued. The proper form of order is- "paragraph…… to be struck out unless within…… days the petitioner furnishes to the respondent in writing particulars of the date when, the place where and the person with whom, each and every of the alleged acts of misconduct took place."

V. Any variation between the precise particulars of marital offences alleged in the petition, and the evidence called to support them, should be regarded with suspicion unless satisfactorily explained especially in undefended suits.

VI. Whenever adultery is sought to be proved by the evidence of one witness, the judge should ask himself if there are any circumstances in the nature of corroboration, e.g., evidence of familiarities less than adultery, e.g., constant association, a closer degree of friendship than is usually permissible etc.

VII. The evidence of servants has always been regarded as untrustworthy, unless corroborated by independent testimony, or unless they have without delay reported the matters to which they speak.

VIII. The identity of the person alleged to have committed the offence, with the identity of the respondent, or party to the marriage against whom the allegation is made, should be established by the sworn testimony of someone able to speak to both from first-hand knowledge.

IX. Evidence in divorce suits being largely circumstantial, care should be taken to investigate the history of the married life and the continued relations of the contending parties so as to enable a judgment to be formed from the recorded evidence as to the probability or otherwise, of the main allegations.

X. A confession by a wife, contained as it usually is in a letter addressed to the husband, requires to be considered with care. Proof of handwriting must, of course, be given and, if misconduct is ought to be proved on the basis of the letter alone, great caution should be exercised in accepting it, especially if it was written in the presence of the husband or under his roof. In a case of this kind the letter may have been procured by threats or may be wholly untrue and collusive. Prudence suggests that, just as in number VI, surrounding circumstances should carefully be considered.

XI. The allegation that an Englishman has abandoned his domicile of origin and has definitely and finally elected to adopt an Indian domicile is one which should be strictly proved. The questions which will suggest themselves are, what relatives has he in England, what property, what "prospects and, on the other hand, what are the inducement which have led him to spend the rest of his life in India and when he formed that resolution. The real truth may be that this resolution was formed when first he learnt about the domicile difficulty at the institution of the suit and will be abandoned immediately on the termination of the suit.

It may be added that the presiding judge will find it of great service in his efforts to probe the allegation made to adopt a skeptical attitude towards the evidence of either side, and to follow it up with questions of his own until he is convinced of the truth of one or the other.

G.L. No. 28/VIII h-6-1 dated 4th October, 1947

An extract from the High Court judgment in matrimonial reference no. 4 of 1949 is reproduced below for the guidance of subordinate courts:

> "We have read the judgment of the learned District Judge and we are satisfied upon the evidence that the finding at which he has arrived is correct. In these circumstances we shall be prepared to confirm his decree were there in fact a decree which did dissolve the marriage of the petitioner and the respondent. The operative part of the decree in this case is in the following terms:

'It is ordered that a decree *nisi* dissolving the petitioner's marriage with the respondent be passed.'

> "Apart from the fact that the decree made by a District Judge under section 14 of the Act is not a decree *nisi* which can only be passed by the High Court under section 16- that part of the decree to which we have referred does not purport to dissolve the marriage at all, for instead of declaring the marriage dissolved it merely say that a decree having that effect will, presumably at some future date, be passed. This Court has on a number of occasions pointed out the necessity of the decree being prepared strictly in accordance with the provisions of section 14, for it is the decree of the District Court, and not the judgment of the learned District Judge, which comes before this Court for confirmation."

In the circumstance we amend the decree of the lower court by substituting for the sentence, which is quoted above the following:

> "It is ordered and declared that the marriage between the petitioner and the respondent is dissolved this decree being subject to confirmation by the High Court of Judicature at Allahabad."

(xiv) Insolvency proceedings and company matters

G.L. No. 713/67-7 dated 21st March, 1917

The attention of District Judges is called to the importance, in insolvency proceedings, of settling the schedule of creditors at as early a stage as possible.

C.L. No. 67/R dated 27th September, 1949

1. No hard and fast definition of the term "gross assets" occurring in Judicial (Civil) Department notification no. 6240/VII-540-46, dated 23 November, 1950, reproduced as Appendix 17(ii) of General Rules (Civil), 1957 can be given, as the presiding officers will always be in the best position to adjudge the amount of gross assets according to the circumstances of each case. Generally speaking "gross assets realized by the Official Receiver" will be the total realization made by him from sale of the property- movable and immovable-belonging to the insolvent. If any property has been wrongly attached and has to be released or having been sold the money has to be refunded, it would not be a realization of the assets of the insolvent and should not be considered to form part of the gross assets realised by the Official Receiver. Where at the instance of the creditors or informants, the Official Receiver attaches any property, which is adjudged not to belong to the insolvent, he cannot be allowed any remuneration on the value of that property either out of the insolvent's estate or from the property itself. The Official receiver may, however, make an arrangement with the creditors or informants, with the sanction of the Insolvency Judge, for reimbursement of the expenses incurred by him and for meeting his fees in such cases, the term "gross assets" does not also include monies not belonging to the insolvent, e.g., moneys deposited with the Official Receiver as security or in payment of costs of litigation, or amounts of dividends returned undelivered and re-deposited in the insolvents funds.

2. Clause (2) of the Government notification mentioned above is general and gives full discretion to the Insolvency Court in allowing additional remuneration to the Official Receiver where the order of adjudication is annulled or the insolvent makes a settlement with his creditors out of court. But the discretion so exercised should not be arbitrary. The presiding officer will have in such cases, before awarding remuneration, to form an approximate idea of the time spent and the labour put in by the Official Receiver over the case and the amount of gross assets which could have been realized by him had the proceeding not come to an end by the annulment of the order of adjudication or by a settlement out of court. The amount of gross assets which could have been realized by the Official Receiver will depend upon the facts of each case and will have to be determined by the court on consideration of all the factors including the debts shown in the application, the debts claimed by the creditors, the amount of scheduled debts and the assets, alleged or established, of the insolvent.

In case where the order of adjudication is annulled or settlement is made with creditors out of court at an early stage there may not be enough material before the court to enable it to arrive at a clear decision. In such cases, scheduled debts can generally be taken the maximum limit of the "gross assets" while the actual work done by the Official Receiver should be taken as the primary factor in determining the amount of commission within the limits prescribed in the notification mentioned above.

3. The salary of a Karinda appointed with the approval of the court for the proper administration of the insolvent's property is a proper charge on the insolvent's estate. Thus, where the Karinda employed by the Official Receiver supervises the property of more insolvents than one, his salary can be proportionately borne by all the insolvent estates concerned. But no portion of the Karinda's salary should be charged to an estate, which has no movable or immovable property requiring supervision.

G.L. No. 971/11H-1(14) dated 21st February, 1928

The provisions of rule 16 of the rules contained in Appendix 17 (J) of the General Rules (Civil), 1957, should always be observed by Insolvency Courts. Even where the estates are small, a head clerk or vakil should be appointed to audit the accounts of those estates for the joint fees to be paid out of all the estates. Whenever there is a receiver, an auditor should be appointed. When estates are large the Examiner of Local Fund Accounts should be requested to depute an auditor to audit the accounts.

G.L. No. 30/47-17(4) dated 28th April, 1937 read with Government of India

Letter No. F.224/37/Judl. dated 23rd March, 1937 and

G.L. No. 37-47-17(18) dated 11th December, 1937

Presiding officers of subordinate courts should appoint or recommend for appointment only registered accountants to audit the accounts of public companies.

A copy of the register of accountants entitled to practice as auditors of companies can be obtained from the Manager of Publications, Central Publication Branch, Civil Lines, Delhi on payment. The charges should be met from the departmental budget.

C.L. No. 65/VIIIb-165 dated 23rd July, 1959

The Government of India has under notification No.C.S.R. 663, dated the 29th May, 1959, published on page 803 of Part II, section 3, sub-section (i) of the Gazette of India, dated the 6th June, 1959, empowered all district courts in U.P. to exercise jurisdiction conferred upon the High Court under the following sections of Indian Companies Act, 1956:

Section 75	-	Return as to allotments.
Section 89	-	Termination of disproportionately excessive voting rights in existing companies.
Section 113	-	Limitation of time for issue of certificates.
Section 118	-	Right to obtain copies of and inspect trust deed.
Section 141	-	Rectification by Court of register of charges.
Section 144	-	Right to inspect copies of instruments creating charges and companies register of charges.

Section 163	-	Place of keeping, and inspection of, registers and returns.
Section 196	-	Inspection of minute books of general meetings.
Section 219	-	Right of member to copies of balance sheet and auditors' report.
Section 234	-	Power of Registrar to call for information of explanation.
Section 240	-	Production of documents and evidence.
Section 304	-	Inspection of the register of Directors Managing Agents, Secretaries and treasures, etc.
Section 307	-	Register of Director's share holdings, etc.
Section 375	-	Managing Agent not to engage in business competing with business of managed company.
Section 614	-	Enforcement of duty of company to make returns, etc. to Registrar.

Notifications issued under the proviso to sub-section (1) of section 3 of the Indian Companies Act, 1913, are superseded by this notification only in respect of their application to proceedings instituted on the day next following the date of its publication in the Gazette.

(xv) Official Receivers

G.L. No. 21/R dated 7th August, 1950

Recommendations for appointment or extension of the term of an Official Receiver should be sent three months before the expiry of the term of such appointment.

C.E. No. 95/R dated 25th August, 1972

This should be sent by the District Judges to the Government direct instead of routing them through the Court.

C.L. No. 48/R dated 26th August, 1950

The recommendation should invariably mention the date of birth of the person recommended.

C.L. No. 8 dated 19th January, 1959

Appointments of Official Receiver shall, at the first instance, be made for a term of one year.

In case the work of an Official Receiver appointed as above is found satisfactory his term may be extended for three years.

G.L. No. 29/47-31 dated 26th July, 1932

District Judges shall take full security from Official Receivers before they are allowed to work as such.

C.L. No. 59/R dated 9th June, 1953 read with

G.O. No. 3746(i)/VII-540, 46 dated 9th April, 1953

Verification of securities furnished by Official Receivers should, as far as possible, be done through the agency of the Collector or the court Amin so that Official Receiver may not have to pay much for the annual verification of his securities.

C.L. No. 19/R dated 21st March, 1964

The District Judges should ensure that a written undertaking is invariably taken before hand from all the applicants for the post of Official Receiver that on being selected they will readily be able to furnish the necessary securities according to dictions.

C.L. No. 6/3R dated 13th January, 1951

Road mileage is always much higher than the fare by rail or motor bus and in the interest of the insolvents as well as the creditors Official Receivers should charge traveling allowance accordance to the provisions of rule 14-A (2), Financial Handbook, Volume II.

Preparation and checking of Official Receiver's accounts

G.L. No. 14/47-7(2) dated 8th March, 1935

The date on which possession is taken of the property should be shown in the "Remark" column of Form nos. 136 and 137 [registers of movable property and immovable property which are maintained by Official Receivers under rules (xi) and (xii), of Appendix 17(J) of the General Rules (Civil), 1957].

G.L. No. 21/18 dated 2nd April, 1948

The Insolvency Judge should properly check the accounts and registers of the Official Receiver at the end of each quarter, when accounts are submitted to him under rules 16 and 18, Appendix 17(J) of the General Rules (Civil), 1957. Accounts should be kept ready for audit at a week's notice.

G.L. No. 68/167-3(12) dated 7th July, 1936

The annual audit of the accounts of Official Receivers is carried out by the staff or the Examiner, Local Fund Accounts, U.P. It is not generally possible to give audit intimation more than a week before its commencement and all Receivers including Official Receivers should keep all the records of accounts ready for audit and to produce them before the auditors when required by them for the purpose of audit.

Appointment as Receiver or Guardian ad litem

G.L. No. 10/R dated 2nd May, 1950

Official Receivers, like other members of the Bar, are eligible for appointment as receiver, guardian *ad-litem* or curator, and there is no objection to their holding the office of Official Receiver while acting as such.

C.L. No. 13 dated 22nd January, 1958 and

C.L. No. 66 dated 3rd May, 1974

The Official Receiver has the experience of management of estates and property. He has also furnished security for the proper discharge of his duties and seems to be well qualified for such appointment.

Subordinate courts should, therefore, consider the claims of an Official Receiver appointed in the district under the Provincial Insolvency Act to appointment as a Receiver under Order XL of Civil Procedure Code.

C.L. No. 111/R dated 14th November, 1951

Official Receivers are not exempt from personal appearance before the District Registrar or the Sub-Registrar.

(xvi) Award of compensation on reference U/S 18 of the Land Acquisition Act on the basis of square foot, square yard or square meter in respect of large tracts of Agricultural land.

C.L No.20 dated 26 April, 1996

It has come to the notice of the Hon'ble court that the subordinate court while deciding the references under section 18 of the Land Acquisition Act awards compensation on the basis of square foot, square yard or square meter even in cases in which large tracts of agricultural land in Acres or Bighas has been acquired. Such orders are wrong in principle of law particularly when large extent of land are sought to be acquired for public purposes.

The attention of the Judicial Officers is drawn to the decision of the Hon'ble Apex Court reported in A 1 R 1996 SC 531 and JT 1996 (2) SC 37.

I am, therefore, to request you to draw the attention of all the Judicial Officers posted in Judgeship to follow the principle laid down by the Apex Court in the aforesaid two cases as referred above while disposing the cases relating to reference under section 18 of the Land Acquisition Act.

(xvii) राजस्व न्यायालय के क्षेत्राधिकार में हस्तक्षेप

परिपत्र संख्याः 47/सात एफ-189/प्रशासकीय (जी-2) दिनॉक 18 अगस्त, 1993

उपर्युक्त विषयक अध्यक्ष, राजस्व परिषद लखनऊ के अर्द्धशासकीय पत्र संख्याः 667/पी.सा./92 दिनॉक 30 मार्च, 1992 की प्रति भेजते हुए मुझसे यह कहने का निदेश हुआ है कि इस परिपत्र को संलग्न सहित अपने अधीन समस्त न्यायिक अधिकारियों के मध्य सूचनार्थ एवं आवश्यक कार्यवाही हेतु परिचालित करें।

राजस्व परिषद, लखनऊ।

अ.शा.पत्र सं.- 667/पी.एस./92 राजस्व परिषद, लखनऊ दिनॉक 30 मार्च, 1992

मैं आपको श्री मुनीश्वर दयाल कुलश्रेष्ठ ए.डी.जी.सी. (रजि.) आगरा पत्र दिनॉक 21.5.1992 मूल रूप में भेजा जा रहा है। उन्होंने कहा है कि उ.प्र. जमीन्दारी उन्मूलन एवं भूमि सुधार अधिनियम की धारा 330 (सी) के अंतर्गत यह स्पष्ट प्राविधान है कि जो शासकीय वसूली भू-राजस्व के रूप में की जायेगी उसके विषय में दीवानी न्यायालय कोई विचार नहीं कर सकते। परन्तु हाल में ऐसा देखा गया है कि बकायेदार राजस्व विभाग से सुविधा न पाने पर दीवानी न्यायालयों में चले जाते है और कुछ दीवानी अदालतें स्थगन आदेश भी पारित कर देती है। जब उनको यह बताया जाता है कि उनको क्षेत्राधिकार प्राप्त नहीं है और उनको यह बिन्दु प्रारम्भिक बिन्दु के रूप में निस्तारित करना चाहिए। बजाए उसको निस्तारित करने के कहते हैं कि गुणदोष के आधार पर लिखित बयान उपलब्ध कराये जायें। उनका ऐसा आदेश अवैधानिक है व राजस्व न्यायालय के क्षेत्राधिकार में हस्तक्षेप है।

2- *शासन के ज्ञान में यह लाया जावे कि माननीय उच्च न्यायालय से ऐसे स्पष्ट आदेश जारी कराये जावें कि ऐसे वादों में क्षेत्राधिकार के विषय में प्रारम्भिक बिन्दु बनाकर पहले निर्णय लिये जाया करें। इस पर की गई कार्यवाही व शासन द्वारा माननीय उच्च न्यायालय द्वारा जारी कराये गये आदेशों की प्रति परिषद को भी उपलब्ध कराने का कष्ट करें।*

(xviii) Disposal of applications for Succession certificates, grant of probate, grant of Letters of Administration.

C.L. No. 17/VIIIb-37/Admn. G-2, dated 29th March, 1993

It has been brought to the notice of the Court that even uncontested applications for succession certificate, grant of probate, grant of Letters of Administration remain pending for months together and in some cases for years together. Sometimes they are adjourned on account of the fact that there is boycott of of courts by the lawyers. This is not a happy state of affair.

I am, therefore, directed to say that all the Presiding Officers under you be informed that on such applications, if the petitioner is present, his statement should be recorded by the Presiding Officer and the petition be disposed. He should also ensure that uncontested cases do not remain pending for a long period.

(xix) Disposal of Election Petitions

C.L. No.21/ dated 26th April, 1996

I am directed to draw your attention to the fact that large numbers of Election Petitions filed in the District Courts are pending and the Courts are not deciding these petitions expeditiously. Delay in disposal of these Election Petitions is a matter of grave concern.

The Court has desired that these petitions may be disposed of as early as possible.

I am, therefore, to request you kindly to direct the Court concerned in the Judgeship to decide the Election Petitions expeditiously and report the compliance to the Hon'ble Court.

(xx) Disposal of Matrimonial Cases

C.L. No. 23/VIIh-44/Admn.(E) dated 1st March, 1994

I am directed to say that it was pointed out by the Chairman of U.P. Legal Aid and Advice Board that institution of matrimonial cases is on increasing trend. Hence speedy disposal of such cases is necessary whether these cases are decided on merit or by making efforts for reconciliation. On his suggestion the matter was considered by the Court and the Court has arrived at the conclusion that matrimonial cases are required to be disposed of with more speed.

I am, therefore, to request you kindly to issue necessary instructions to all the courts subordinate to you dealing with matrimonial cases, to make efforts to dispose of these cases expeditiously.

(xxi) To observe caution while accepting insanity certificates in divorce proceedings

C.L. No. 6/2005 Dated 5th February, 2005

I am directed to send herewith a copy of D.O. Letter No.CP/VIP/NCW3229, dated September 16, 2004 of Dr. Poornima Advani, chairperson, National Commission for Women, New Delhi along with a copy of the Investigation Report dated July 10,2004 for your information.

(**xxii**) S**upply of copy of Judgment dated 5.3.2004 of the Hon`ble Court passed in first Appeal No.247of 1997 Moradabad Development Authority vs. Shami Ahmad and another**.

C.L. No. 9 / 2004: Dated 29th March, 2004

I am directed to send herewith a copy of Judgment passed by Hon`ble Court (Hon`ble M. Katju, J. and Hon`ble K.N. Ojha, J.) in first Appeal No. 247 of 1997 – Moradabad Development Authority vs. Shami Ahmad and another for strict compliance of the directions as contained therein.

It is further requested that the contents of the aforesaid judgment be communicated to the judges hearing the Land acquisition references in your Judgeship.

(See for Judgment: 2004 A.L.J. 2197)

(xxiii) To ensure strict compliance of the directions passed in first Appeal no. 981 of 2002-Agra Development Authority Vs. State of U.P. connected with First appeal No.979 of 2002, First Appeal no. 983 of 2002, first appeal No. 980 of 2002 and First Appeal No. 982 of 2002 by the Hon`ble Court.

C.L. No.10 / Admin. `G`/Dated: 29th march, 2004

I am directed to send here with a copy of judgment passed in First Appeal no. 981 of 2002- Agra Development Authority vs. State of U.P. connected with first Appeal no. 979 of 2002, First Appeal no. 983 of 2002,First Appeal No. 980 of 2002, and First Appeal No. 982of 2002 with the request to kindly bring the contents of the judgment to the notice of all the Judicial Officers hearing Land Acquisition References for strict compliance and that collusive orders may lead to disciplinary action against the concerned person and Judicial Officers.

(See for Judgment: 2004 A.L.J. 1853)

(xxiv) Circulation of the copy of judgment delivered by the Hon`ble Court in Civil Revision No. 78 of 2004. Dr. Nanda Agarwal vs. Matri Mandir Varanasi and another

C.L. No. 32/ 2004, Dated 24 September, 2004.

The Hon'ble Court (Hon`ble Anjani Kumar, J.) while deciding Civil Revision No. 78 of 2004. Dr. Nanda Agarwal vs. Matri Mandir Varanasi and another has observed with concern that a Court trying a civil suit does not have any power to extend time for filing the written statement beyond what is stipulated in Order VIII Rule 1 of the Code of Civil Procedure.

It has further been observed by the Hon'ble Court that a failure to file written statement as contemplated under Order VIII Rule 1, of C.P.C. entails the penalty on the defendant that defendant cannot file written statement and the suit has to be decided even in absence of written statement filed on behalf of defendant.

In this regard, I am directed to send herewith a copy of the Judgment dated 26.8.2004 delivered by Hon'ble Court in Civil Revision No. 78 of 2004. Dr. Nanda Agarwal v. Matri Mandir Varanasi and another for your information and compliance of

the directions as contained therein with the request to kindly bring the contents of the Judgment to all the concerned Judicial Officers working in your Judgeship.

(See for Judgment: 2005 A. L. J. 98)

C.L. No.225 P.S. (R.G.) /2002 : Dated: November 18th February, 2002.

Hon'ble the supreme court of India, while disposing of the petition challenging the recent amendments made in Civil Procedure code has held that there is no constitutional infirmity in the same, but at the same time has decided to constitute a committee to ensure that the amendments made become effective and result in quicker dispension of justice. That committee is headed by Hon'ble Mr. Justice N. Jagannadha Rao, Chairman, Law Commission of India who has solicited the views of Members of the Sub-ordinate judiciary. A letter in this regard, addressed to Hon'ble the chief Justice was received and I have been directed to circulate the same.

Accordingly, a copy of the letter sent by Hon'ble Mr. Justice M.Jagannadha Rao along with copy of the judgment given by Hon'ble the Supreme Court of India in **Salem Advocates Bar Association Tamilnadu Vs. Union of India decided on October 25,2002** is being enclosed herewith for perusal with request to send your views as desired in the aforesaid letter.

(xxv) Compliance of directions laid down in the judgment dated 7.5.1996 of Hon'ble the Supreme Court of India in civil appeal no. 7760-7761 of 1996 U.P. State Road Corporation and others vs. Trilok Chandra and others

C.L.No.35 Admin (G), Dated 19 July,1996

Hon'ble the Supreme Court while deciding the matter of U.P.State Road Corporation vs.Trilok Chandra and others has issued directions that the said judgment may be circulated to all the court/Tribunals subordinate to Hon'ble High Court of judicature at Allahabad.

In compliance of the directions contained in the judgment a copy of order of Hon'ble the Supreme Court is being enclose for strict compliance.

I am, therefore to request you to communicate the directions of the Hon'ble Supreme Court to all the courts subordinate to Hon'ble the High court by circulating the copy of the judgment for strict compliance.

(xxvi) The guidelines with regard to the representation of the parties litigating before the family court through their counsel

C.L.No./20 Dated: 9th June, 1998

Hon'ble court (Hon'ble Sri M.Katju and Hon'ble Sri.S.L. Saraf.JJ) in civil Misc. Writ Petition No.48736 of 1997, Prabhat Narain Tickoo Vs.Smt. Mamta Tickoo and others, has formulated, the guide lines with regard to the representation of the parties litigating before the family Court through their counsel.

I am desired to send the copy of the aforesaid judgment for information.

Enforcement of the provisions of Section 13 of Family Courts Act, 1984 and Rule 27 of the U.P. Family Courts (Court) Rules, 2006 providing for seeking permission to engage Advocate in appropriate cases.

C.L. No. 18/2009/ Admin. (G-I): Dated: April 29, 2009

The Hon'ble Court has noticed that the provisions as laid down in Section-13 of the Family Courts Act providing for a bar to engage a Legal Practitioner to appear before a Family Court in a suit or proceedings and has left it to the discretion of the Court to seek assistance of Legal Expert as Amicus Curiae if so required in the interest of Justice, are not being adhered to by the Courts and hence has desired that strict compliance be made of the provisions as provided in Section 13 of the Family Courts Act, 1984 and also in Rule-27 of the U.P. Family Courts (Court) Rules, 2006 which provides that the Court may permit the parties to be represented by a Lawyer if the case involves complicated questions of Law or considers that the party seeking the permission will not be in a position to conduct his/her case adequately or for any other reason and the reasons for granting such permission shall be recorded by the Court in its order. The permission so granted may also be revoked by the Court at any stage of the proceedings if the same is considered just and necessary.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding officers of the Family Courts working under your administrative control for strict compliance of the directions.

Help Desk to be provided in Family Court.

C.L. No. 19/2009 Admin. (G-I): Dated: 29.04.2009

In order to give effect to the U.P. Family Courts (Court) Rules, 2006, which have provided simplified procedure for making application in summery proceedings on just one form, upon consideration of the matter the Hon'ble Court has desired that a help desk be set up in each Judgeship to be manned by a senior clerk preferably a lady where there exists a family court to assist the parties approaching the court for providing necessary guidance in filling up the form and enlightening them to provide detailed information with regard to filing of cases, the manner and method of recording of evidence and the recovery of maintenance.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding officers of the Family Courts working under your administrative control for strict compliance of the directions.

Enforcement of provisions of Section 11 of Family Courts Act, 1984

C.L. No. 22/2009/Admin. 'G-I': Dated: May 2, 2009

The Hon'ble Court has noticed that the provisions as laid down in Section 11 of the Family Courts Act providing for holding in camera proceedings in every suit or proceedings to which the Act of 1984 applies if the family court so desires or either of the parties so desires, are not being observed by the Courts strictly. Now the Hon'ble Court upon consideration of the matter has desired that the Courts dealing with matters falling under Family Court Act must strictly follow the provisions as contained in section 11 of the Act.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding Officers of the Family Courts working under your administrative control for strict compliance of the same.

(xxvii) Judgment of court rendered in civil Misc. Writ Petition No.174 16 of Ram Chandra Shukla Vs. State of U.P. and others.

C.L.No.23/Alld: Dated 17th September, 1999

The direction of Hon'ble court contained in judgment rendered in civil Misc. Writ Petition No.17416 of 1997 Ram Chandra Shukla Vs. State of U. P. and others is being communicated for circulation to all the judicial officers posted in this district for information and necessary action.

(See for Judgment)

(xxviii)Priority to the cases in which persons with 40% or more disability is or are the main petitioner(s)/defendants(s).

C.L. No. 7 /2005 Dated: 10th February, 2005

The Hon'ble Minister Law and Justice, Government of India, New Delhi while observing that the Fast Track Courts though conceived to specifically dispose of Sessions cases pending for over two years have also been requested to accord priority for disposal of cases relating to senior citizen and abuse of women, has suggested that priority be also given to the cases in which persons with 40% or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant(s). Upon consideration of the matter the Hon'ble Court has been pleased to direct that cases regardless of the period of the pendency in which persons with 40% or more disability as per the Disability Act is or are the main petitioner(s) or the main defendant(s) be heard and decided on regular and priority basis.

Therefore, I am to request you to be so good as to bring the contents of this circular to the notice of all Judicial Officers in your Judgeship for strict compliance.

(xxix) Declaration regarding 'marriage' & dowry'

C.L. No. 31 /2005 Dated: 29 October, 2005

Upon consideration of Government Order Nos. 3760/60-3-04(16AQ)/2000 dated 30.12.2004 1107/60-3(16AQ) dated 02 .05.2005 and 1284/60-3-2005-3(65) dated 26.05.2005 dealing with declaration regarding marriage and dowry, by the Government Servants who have been appointed after 31.03.2004 the court has been pleased to direct that all such judicial officers and supporting staff in the ministerial and inferior establishment of the district judiciay who have been appointed after 31.3.2004, shall in performances of direction in rule 5(5) (a) of the Uttar Pradesh Dowry Prohibition(first Amendment) Rules, 2004, which come into force with effect from the date of their publication in the Gazette vide notification No. 2457/60-3-3-(65)-97 dated 31st March, 2004, make a declaration under their signature stating that they have not taken and dowry.

Therefore, I am directed to send out here with a copy each of the Government Order Nos. 3760/60-3-04(16AQ)/2000 dated 30.12.2004 1107/60-3-05 (16AQ) dated 02

.05.2005 and 1284/60-3-2005-3(65) dated 26.05.2005 with the request that the contents of and directions in the rules and Government orders aforestated, be unerringly gone through all the way for ensuring strict compliance and declaration meant for well again standards of public life, be furnished by all concerned immediately.

(xxx) Expeditious disposal of cases relating to intellectual Property Rights and Commercial Arbitration.

C.L. No. 2/ Admin 'G' /2006: Dated: 5th February, 2006

I am desired to inform that Hon'ble the Chief Justice of India expressing concern over failure of the District Judiciary to deliver justice with the reasonable time frame, has desired that for keeping the confidence of the people arrears be reduced and postponement in disposal of case be done away with.

On a thoughtful consideration of the matter, the Hon'ble Court has been pleased to order that cases relating to Intellectual Property Rights and Commercial Arbitration in the judiciary in your organizational control be identified and taken up for hearing on precedence. Further, Monthly progress of deposal of such cases be monitored effectively and reports be submitted to the Court faithfully and punctually so as to reach by 10th of next following month.

Therefore, I am to request you to take all such steps as might be indispensable in achievement.

(xxxi) Caution to turn away from back up in filing of frivolous suits.

C.L. No. 3/ Admin 'G' /2006: Dated: 15th February, 2006

Hon'ble Supreme Court of India in Writ Petition (Civil) No. 496 of 2002-Salem Advocate Bar Association, Tamil Naddu Vs. Union of India (2005)6 SCC 344 has observed and held as below:

Judicial notice can be taken of the fact that many unscrupulous parties take advantage of the fact that either the costs are not awarded or nominal costs are awarded on the unsuccessful party. Unfortunately, it has become a practice to direct parties to bear their own costs. In large number of cases, such an order is passed despite Section 35(2) of the Code. Such a practice also encouraged filing of frivolous suits. It also leads to taking up of frivolous defences. Further wherever costs are awarded, ordinarily the same are not realistic and are nominal. When Section 35(2) provides for cost to follow the event, it is implicit that the costs have to be those, which are reasonable incurred by a successful party except in those cases where the court in its discretion may direct otherwise by recording reasons thereof . the costs have to be actual reasonable costs including the cost of the time spent by the successful party, the transportation and lodging, if any, or any other incidental cost besides the payment of the court fee, lawyer's fee, typing and other cost in relation to the litigation.

The District Judiciary puts the edifice of the administration of justice together. The district Judiciary is thus under an obligation to turn away from back up in filing of frivolous suits. Therefore, I am directed to request you and all the judicial Officers working in Judiciary under you administrative control, to go all the way through the

directions in the judgment referred to herein above and make sure obedience in epistle and force.

(xxxii) Judgment and order dated 24.9.2005 in Civil Misc. Writ Petition No. 63114 of 2005- Ganga Prasad Vs. M/s Hanif Opticians & others.

C.L. No. 6/ Admin 'G' /2006: Dated: 15th February, 2006

While enclosing herewith a copy of judgment and order dated 24.9.2005 in Civil Misc Wit Petition No. 63114 of 2005 Ganga Prasad Vs. M/s Hanif Opticians & others. I am desired to say that the Hon'ble Court (Hon'ble Mr. Justice S.U. Khan) has been pleased to observe that the tenants enjoying the tenanted property on highly inadequate rent tend to prolong the disposal of the appeal or revision for continuing their possession without payment or proper rent/damages for use and occupation. If the stay against eviction is granted on the condition of monthly payment of reasonable amount this practice can sufficiently be checked. The Hon'ble Court has therefore directed that in revisions under section 25 Provincial Small Caused Court Act or appeal under Section 22 of U.P. Act No. 13 of 1972 District Judge or Addl. District Judge while granting stay order shall impose conditions of payment of reasonable among which may be about 50% of the Current rent (i.e. rent on which building in dispute may be let out at the time of grant of stay order. In this regard no detailed inquiry need be made. Mere guesswork based on common sense may do).

Therefore. You are requested to kindly circulate the said judgment to all the additional District & Sessions Judge in the Judgeship under your administrative control for their guidance.

Improvement in administration of Civil Justice System

C. L. No. 41/2006, dated 19-9-2006

With reference to the above subject I am directed to inform you that to shore up the administration of Civil Justice System in the Chief Justices' Conference, 2006, it has been resolved that a holistic approach a required to be adopted with stringent enforcement of the provisions of the Civil Procedure Code in the matter of service of process, filing of written statement, use of Alternative Dispute Resolution (ADR) methods, imposing of costs, admission/denial of documents, examination of parties, discovery and inspection of documents, framing of issues, granting of adjournments, production of witnesses and granting of ex parte injunction/stay orders by all the Judicial Officers.

Therefore, I am further directed to request you to impress upon all the Judicial officers working under your supervision and control in the Judgeship to follow the above directions meticulously.

16. EXECUTION CASES

G.L. No. 3020/19-O-20 dated 4th September, 1920

Complaint are frequently made of the difficulties encountered by decree-holders and these complaints are to a large extent justified owing to constant neglect in properly complying with the directions laid down in Chapter VI of the General Rules (Civil), 1957. The execution clerk appears to be allowed a very free-hand and is commonly

reputed to make considerable illicit income out of his post. Whatever his motive, it is intolerable that the clerk of a court should be in a position to intimidate parties and pleaders into taking action for which not the remotest necessity exists, and the manifest object of which is to defeat rules made for the guidance of courts, to say nothing of the needless vexation and hardship caused both to the decree-holder and the judgment-debtor.

District Judges should devote special attention to execution cases pending in the courts directly subordinate to them and take steps to ensure rigid compliance with the rules. Execution cases should be placed before the presiding judge in open court daily in the same manner as suits and other causes as they are the most important part of civil proceedings.

G.L. No. 10/VIII-h-19 dated 12th September, 1951

The file arising out of an execution application should be kept separate and district from the file arising out of an objection under section 47 or Order XXI, rule 58, of the Code of Civil Procedure. A separate index and order sheet should be prepared for every file arising out of an objection as soon as an objection is filed. These files should be kept separate until the objections are disposed of and should thereafter be stitched to the main execution file as required by the rules.

If may be said that if the files arising out of such objections are kept separate from the execution file there is an apprehension of the attached property being sold or the judgment-debtor being arrested notwithstanding the fact that an objection to such sale or arrest may not have been disposed of. But there would be no such apprehension if the files arising out of such objections are kept in charge or the same clerk who deals with execution files. As further safeguard care must always be taken whenever the execution is stayed on the filing of an objection to make an entry thereof on the execution file giving reference to the appropriate file in which such objection is being dealt with.

G.L. No. 1823/35(a)-k(a) dated 7th May, 1915

No application for an order for sale under Order XXI, rule 66(3), of the Code of Civil Procedure should be entertained unless it is accompanied by a verified statement.

Such statement must be examined to see that the encumbrances are set down so for as they are known to or can be ascertained by the person making the verification.

In this connection reference is made to rule 165, chapter VI of the General Rules (Civil), 1957 which lays down that in every case the decree-holder must submit registration receipt, showing that search has been made at the registration office.

In every case, the decree-holder must make this search at the registration office and the court should not fall back on the report from the same offices which it calls for under Order XXI, rule 106 of the Code of Civil Procedure.

If a comparison of the statement submitted by the decree- holder and of the report received from the registration office reveals any discrepancies, the decree-holder should be called to account. If he states that he did not see an entry or made a wrong note by accident, the cost of his inspection at the registration office should be disallowed.

G.L. No. 47/167-1 dated 5th January, 1927

The attention of all District Judges and that of all civil courts subordinate to them is drawn to the provision of Order XXI, rule 69 of the Code of Civil Procedure, under which it is incumbent on the court to specify the hour as well as the day to which a sale is adjourned. An omission to do so may amount to a material irregularity, which would result in the setting aside of the sale.

G.L. No. 6428-167-7(12) dated 13th December, 1927

Delay statements reveal that there is often a great deal of waste of time in the procedure of sale officers. It is realized that the proceedings must of necessity be lengthy. But the procedure of sale officers can be improved so as to save trouble both to the officers themselves and to their clerks. In many cases the proceedings are conducted piecemeal. For instance, at one time, the decree-holder is called upon to pay process-fees to summon the judgment-debtor; then he is called to verify something, and then again to make a deposit. All these preliminary matters could be settled once and for all when the decree-holder first appears.

G.L. No. 9/167-3(1) dated 20th January, 1929

Parties to civil suits are required to file registered addresses (vide Order VII, rule 19 to 25 of the Code of Civil Procedure) and service at such addresses is considered sufficient (see rule 22). This rule may also be observed in execution proceedings in revenue courts.

G.L. No. 7/67-4 dated 11th April, 1931

The attention of all presiding officers of civil courts is invited to the provisions of Order XLI rule 6(2), of the Code of Civil Procedure, which makes it obligatory for the executing court to stay the sale on the application of the judgment-debtor "on such term as to security or otherwise as the court thinks fit until the appeal is disposed of". It has been observed, however, that when an application is made by judgment-debtor to executing court, the presiding officer almost invariably refuses to pass orders staying sale, on the ground that an appeal is pending and that the order must be passed by the High Court. When the application is made to the High Court after an appeal has been filed, stay of execution proceedings can only be ordered under Order XLI, rule 5, when it is necessary for the judgment-debtor to prove that substantial loss may result to him unless an order of stay is made, i.e.; special circumstances have to be proved by the judgment-debtor, and the sale is not stayed as a matter of routine even if the security offered by the judgment-debtor is sufficient. The appellate court is not bound by the provisions of rule 6(2) like the court which made the order for the sale of immovable property in execution of a decree.

The result of the executing courts failing to understand the rule or to apply it properly is that numerous applications are made in the High Court, which is unnecessary, and judgment-debtors are thereby placed in a much less favourable position than the law intended that they should be. Therefore, courts executing decree by sale of immovable property should follow the provisions of Order XLI, rule 6(2), implicitly.

C.E. No. 73/VII-d-71 dated 6th December, 1967

In case any property is taken into custody while delivering possession of a premises in execution of any order or decree or any property attached in any execution case or otherwise remains unclaimed or is not taken back by the owner despite a notice to him, the property shall be disposed of in accordance with the provisions of section 25, 26 and 27 of the Police Act, 1861 and paragraph 344(b) and notes appended thereto of F.H.B. Volume V.

G.L. No. 17/VI-c-S dated 21st September, 1951

Warrants of arrest or attachment are sometimes executed on Sundays or other holidays deliberately or maliciously with a view to cause harassment to a party. District Judges should take suitable action against the official concerned whenever instances of this kind come to their notice.

Resistance offered to civil court officials

G.L. No. 12 dated 7th June, 1928

(1) The Amin or peon must be made to understand that whenever he is resisted, he is not to make a "complaint" without the permission of the court.

(2) When resistance is offered he must report to the Police immediately and ask, if necessary, for medical examination.

(3) He should then report to the court concerned.

(4) The court will make such enquiry as may be necessary and possible in the circumstances, and then;

  (a) either itself make a complaint under section 195(1)(a) of the Code of Criminal Procedure; section 186 of the Indian Penal Code will cover the great majority of such cases;

  (b) or where the procedure indicated under (a) is not possible, direct the peon or any other officer under it to make a complaint giving him a letter addressed to the magistrate informing him that the complaint is being made by the direction of the court, and that the court has prima facie, satisfied itself as to the correctness of the complaint.

G.L. No. 17/67-1(3) dated 12th March, 1935

In a case in which a judgment-debtor escaped from the custody of process-servers the latter were directed by the court concerned to file a complaint in the criminal court. The Magistrate, however, refused to treat the case as a challan case and the decree-holder ceased to take any interest in the prosecution after the complaint had been filed.

The Government have decided that Para 2 of G.O.no. 2918/VI_2152-1933, dated the 11the may, 1934 (reproduced in the letter) covers cases of this kind also and that the District Magistrate can in all such cases ask for the Legal Remembrancer's permission to depute the Government counsel to conduct the prosecution if he thinks that the case is of some importance or is of an intricate nature.

Attachment of moneys deposited in treasury

G.L. No. 1/86 dated 2nd January, 1915

The rule governing the attachment of moneys held in deposit in Government treasuries under the orders of a court of departmental officer, relates to "property in the custody of a court or public officer"(rule 52, Order XXI, Code of Civil Procedure). The treasury officer is, qua the deposit, merely the agent of the depositing court or officer, and therefore, the deposit held by the treasury officer is in the "custody" of the court or officer by whose order it was made. District Judges should, therefore, ensure that civil courts do not issue warrants of attachment to treasury officers, but to the court or public officer by whose orders the money is held in deposit by the treasury officer.

Attachment of pay

C.L. No. 10 dated 20th January, 1958

The directions contained in notification no. SRO-F. 19(1)-E-57, dated the 24th September, 1957, of the Government of India, forwarded to all District Judges with the C.L. noted in the bloc should be complied with in issuing notices attaching salaries and allowances of government servants employed in the aforesaid Ministry.

C.E. No. 18/VII-d-13 dated 21st February, 1961

As clarified in Government of India letter no. 22/56-60 Judl., date December 7, 1960 sent with the marginally noted C.E. pay and allowances of all personnel subject to Army/Navy/Air Force Acts are immune from attachment under section 28/20/28, thereof. Section 60(I) C.P.C. also makes similar provision. While passing decrees against Army/Navy/Air force personnel, these provisions must be kept in view.

C.E. No. 12/ VII-d-13, dated 22nd January, 1964

Under Government of India, Home Department (Judicial notification no. 186/37-July, dated the 2nd October, 1946 as amended up to July, 1963 the following allowances payable to any public officer in the service of the Central Government or any servant of a Federal Railway or a cantonment authority or of the port authority or major port shall be exempt from attachment in pursuance of clause (1), sub-section (1) of section 60, C.P.C.:-

(1) All kinds of traveling allowance.
(2) All kinds of conveyance allowances.
(3) All allowances granted for meeting the cost of
    (a) uniform, and
    (b) rations
(4) All allowances granted as compensation for higher cost of living in localities considered by Government to be expensive localities including hill stations.
(5) All house rent allowances.
(6) All allowances granted to provide relief against the increased cost of living.
(7) A foreign allowance or, in the case of head of Diplomatic Missions, frais de representation assigned to officer serving in post abroad.
(8) Children's Education allowance allowed under the Office Memorandum no. 10(I)-Est. (spl.) 60 of the Government of India in the Ministry of Finance, dated 30th June, 1962 as amendment from time to time.

This is beside the exemption of the first two hundred rupees and one half of the remainder of the salary granted under C.P.C. Amendment Act (no.26) of 1963.

C.E. No. 51 dated 7th September, 1964

District Judges and additional District Judges have been asked to impress upon the court functioning under them to give effect to the amended provision of section 60 C.P.C.

C.L. No. 48 dated 22nd September, 1967

Presiding Officers should follow the instructions contained in Court's C.L. No. 9/VII-f-181, dated January 23, 1959, and not attach the Provident Fund amounts standing to the credit of the employees as it is in contravention of the provision of section 10 of the Employee's Provident Fund Act, 1952.

Execution proceedings against government servants

C.L. No. 38/VIII-b-10 dated 9th June, 1950 read with

G.L. No. 44/180-33(3) dated 5th September, 1935

The correct procedure to be followed by the executing court in cases in which a decree against a government servant is sought to be executed by his arrest is that a notice of the intended arrest of the judgment- debtor, should be addressed and sent to the Head of the Office where the judgment –debtor may be employed, mentioning the probable date when a warrant for his arrest is likely to be issued. The Head of the Office should in no case be asked to suspend the government servant concerned.

Awarding of costs

G.L. No. 2031, dated 30th June, 1897

In many cases it happens that an application for execution fails owing to the fault of the decree-holder, and in all such cases he should himself be made to bear all the charges to which the judgment-debtor may have been put owing to the decree-holder's fault or neglect. Among others, the following may be mentioned as cases in which the decree-holder should not be allowed to recover his costs from the judgment-debtor :

(1) When the decree-holder allows an application to be struck off for want of prosecution.
(2) When the decree-holder puts in an application which the court considers to be unnecessary.
(3) When the application is defective and is consequently disallowed.
(4) When two separate applications are put in, but the subject-matter of the second application might reasonably have been included in the first application.
(5) When the application is made for execution against property with which the judgment-debtor has no concern.

Persistent neglect to exercise proper discretion in the awarding of costs in cases of this kind on the part of a presiding officer will be taken notice of by the High Court.

Effect of stay order

G.L. No. 18/67015 dated 1st August, 1928

An order of stay is passed by this court on the supposition that execution of a particular decree has not taken place. If execution has already taken place, it is not the intention of this Court that there should be restitution in pursuance of the order of this Court.

Expeditious disposal of Execution Cases.

C.L.No 39/98 : Dated 20th August, 1998

It has come to the notice of the Court that interest in the disposal of execution cases is not being taken by the judicial officers. Pendency of execution cases for a very long time not only results in hardship to the decree-holders but also creates unnecessary litigation. The Court has taken a decision that by giving due regards to the existing laws and the provisions efforts should be made for early disposal of execution cases.

I am, therefore, directed to communicate you the direction to the Hon`ble for Court for strict compliance.

Execution in Jammu and Kashmir

C.L. No. 51/VIIIb-16-4-55 dated 30th August, 1955

The decrees passed by a civil court in India may be executed through a court situate in the State of Jammu and Kashmir as if the decree had been passed by such a court in that State.

Execution in foreign countries

C.E. No. 73/VIII-b-245 dated 11th August, 1969

Under notification, dated June 17, 1968, Republic of Singapore has been declared a reciprocating territory for the purpose of section 44 A C.P.C. and the High Court of the Republic of Singapore to be a superior Court with reference to that territory.

C.E. No. 81 dated 22nd August, 1969

From 1st September, 1968 'Trinidad' and Tobago are declared to be reciprocating territories for the purpose of section 44- A C.P.C. and the following courts will be superior courts of that territory:

(e) High Courts;
(f) Courts of Appeal;
(g) Industrial Court; and
(h) Income Tax Appeal Board

17. COMPLIANCE OF RULE 351* GENERAL RULES (CIVIL) 1957, VOL. I.

C.L. No. 83/VIIIv-112/Admn.(G), dated 30th November, 1989

I am directed to invite your attention to Rule 351 of the General Rules (Civil), 1957 (As amended) and to request you kindly to submit your report to the Court at an early date, as to how your are handling the problem of your judgeship in compliance of the provisions of Rules of the provisions of Rule 351 ibid.

Compliance of Rule 351 General Rules (Civil) 1957, Vol. 1.

No. 11007/VIIIb-112/Admn. (G) dated 25th October, 1991

With reference to Court's letter No. 7522/VIIIb-112/Admn. (G) dated July 31, 1991 on the above subject I am directed to say that due to inadvertence in the letter dated 31.7.1991 "Rule357" was mentioned where as it should have been "Rule 351'.

I am, therefore, while enclosing herewith a copy of Courts Circular Letter No. 83/VIIIb-112/Admn. (G) dated November 31, 1989, to request you kindly to send the desired information to the court as asked therein at an early date.

18. CONSUMER FORUM MATTERS

(i) Settlement of Consumers' disputes as per Consumers Protection rules, 1987

C.L. No. 104/VIIf-252/Admn. (G) dated 17th November, 1990

I am directed to say that certain District Judges, have approached the Court that they are facing problems in their normal working by virtue of their appointment to Head of the District Forum under the subject and sought clarification from the Court. The Court on a consideration of the matter is of the opinion that in view of the orders of the Supreme Court, no further instructions are possible at this stage and has directed that the present arrangement may continue subject to clarification that, as far as possible, the District Judges may hold the Session of the Consumers Protection Council after the court working hours or on holidays as the case may be.

The Court has further decided to request the Government to move the Supreme Court for clarification, namely, that an Additional District Judge can also be appointed to preside over the Consumers Protection Council with the concurrence of the High Court.

I am to add that the Government is being requested as mentioned and necessary directions shall follow after decision as taken in the matter.

I am, therefore, to request you kindly to act in accordance with the Consumers Protection Act, 1986 and Consumers Protection Rules, 1987 with the directions contained in this circular letter.

(ii) Place of sitting of the District Forum under the Consumer Protection Rules, 1987.

C.L. No. 27 VIIf-252/Admin (G) Dated 15th April 1991

In continuation of Court's Circular letter No. 104/VIIf-252/Admn.(G), dated November 17, 1990, on the above subject, I am directed to say that certain District Judges have approached this Court to know as to what would be the place of sitting of

* This rule deals with the custody of cash and articles of value in Subordinate Courts.

the District court Consumers Forum under the said Rules. The Court has considered the matter and has decided that the place of sitting of the District Court Consumers Forum shall be the Chamber of the District Judge.

I am, therefore, to request you kindly to hold the sitting of the District Consumers Forum in your Chamber and inform about the same too concerned persons.

(iii) Compliance of directions of Hon'ble Supreme Court in Consumers Forum Matter.

C.L. No. 12/VIIf-252/Admn.(G) dated 12th February, 1992

I am directed to enclose herewith a copy of Hon'ble Supreme Court's orders dated 5.8.1991 and 20.12.1991 passed in Writ Petition No. 1141 of 1988 with Writ Petition No. 742 of 1990 * Common cause, A Registered Society v. Union of India and other and to request you kindly to furnish the following information to the Court immediately :-

(1) Number of disputes relating to Consumers Forum Pending in your judgeship on 31 December, 1991?

(2) Enlighten the Court as to the functioning of the Forum with grievances, if any, being faced in the matter?

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* For perusal of Judgement see (1992) 1 SCC 707 : 1992 SCC(Cri.) 278

CHAPTER - XI

CRIMINAL CASES

1. REMAND

C.L. No. 58/VIIb-16 dated 17th April, 1974

In order to avoid harassment to persons arrested by the Police to be produced before a Judicial Magistrate, a time schedule should be fixed by the Judicial Magistrate with Superintendent of Police so that persons detained shall be produced within that schedule and if any Police Officer does not adhere to the time schedule without a reasonable cause, action should be taken against him. The duty of Magistrates extends even beyond the office hours and they should be available for purposes of remand without showing any reluctance in this regard.

C.L. No. 102/VIIb-47 dated 5th August, 1975

District Judges should impress upon all the Judicial Magistrates detained on duty for granting bails and remands and for the disposal of other urgent matters during holidays or on Sundays to do this work in court at a fixed time duly notified and intimated to all concerned, including the Public Prosecutors.

C.L. No. 123/VIIh-16 dated 25th September, 1975

The Court has noticed that generally the Judicial Magistrates do not take proper care in issuing warrants, while remanding a person to jail custody, with the result that sometimes persons are ordered to be released because of defective warrants, which either do not bear the seal of the court or are not on proper form or do not even contain full particulars. With a view to avoid such occasions, it is necessary that the Judicial magistrates should take proper care in issuing warrants while remanding a person to jail custody. It is also impressed upon them that all provisions of law in this respect should also be observed strictly.

C.L. No. 14/III-a-63(F) dated 19th January, 1978

It invites attention to the following observations made by Hon'ble Mr. Justice J.M.L. Sinha in his order (extract enclosed) in Criminal Miscellaneous Bail Application No. 6239 of 1977: Syed Ahmad Vs. State District Muzaffarnagar:

> "Before, however, taking leave of this case, I would like to observe that the courts are expected to be more vigilant while signing the remand papers. It is true that normally it is the court moharrir who puts up remand orders for the signatures of the court concerned and it is the duty of the court moharrir to make proper entries in the warrant before putting up the same for signatures. It is, however, as much the duty of the Presiding officer of the courts to look into the papers before affixing their signatures thereon. They cannot be expected to sign the papers without satisfying themselves whether they meet the requirement of law or not. If this was done in the instant case, the accused applicant, who stands charged with the offence of murder and whose application for bail has been twice rejected, could not be granted bail."

The Presiding Officers of the criminal courts should carefully examine and scrutinize warrants and remand papers before putting their signatures on them, so that the chances of bail applications being allowed solely on the ground of technical flaw, are eliminated.

C.L. No. 97/VIIb-16 dated 16th August, 1979

The Court has noticed that the Magistrates have authorized detention of the accused persons in jail custody without the accused being produced before them. Under paragraph (b) of proviso to sub-section (2) of Section 167 of Code of Criminal Procedure, 1973 no such detention order can be passed by a Magistrate unless the accused is produced before him. All the Judicial Magistrates should act strictly in accordance with the said provision of law.

C.L. No. 51/VIIb-47 dated 17th August, 1984

The court has noticed that when an accused is produced before the court for remand, normally the police papers are not available with the court, either because they are sent late or they are withheld by court-moharrir. In the absence of these papers the bail application cannot be entertained. At times this delay in receipt of papers and presence of accused brought for remand, results in non-consideration of application for bail, and not unoften leads to confrontation between the lawyers and the officers.

Attention of all the Presiding Officers is invited towards the provisions of section 167 and 172 of the Code of Criminal Procedure, 1973, and they are directed to see that in future no such violation of the law is permitted. The Presiding Officers should act in accordance with the provisions contained in section 167 of the Code, while remanding the accused in custody brought before them for remand.

C.L. No. 114/VIIb-47 Admn.(G) dated 7th October, 1978

The Court has noticed that very often warrants of intermediate custody and release orders sent by the subordinate, courts do not contain all the necessary details. They generally do not contain case number, name of Police Station, father's name, age and residential address of the prisoner. They also do not contain description of offences, crime number and section of Indian penal Code and other Acts and the date of conviction.

All the Presiding Officers are directed to clearly fill in all the aforesaid details in the warrants of intermediate custody and release orders issued by them.

C.L. No. 54/VIIIa-63 dated 30th April, 1980

As soon as the charge-sheet is filed, the Presiding Officers of criminal courts under your control should invariably draw a red line below the last remand entry in the warrant of custody (Form No. 47, Part VIII, of Appendix 'B' of the General Rules (Criminal) 1957 and mention the date of submission of charge-sheet below the red line on the left side.

C.L. No. 9/VIIb-16 dated 22nd February, 1989

The Court has noticed that warrants for intermediate custody on remand, prescribed as Form No. 47 under Rule 157 of the General Rules (Criminal), 1957 for the subordinate criminal courts, are not being used properly.

All concerned Presiding Officers are directed to comply strictly with the contents of the Prescribed Form No. 47. The Form should be used in its entirety, and it should not be split into two for use in respect of different prisoners.

To observe the mandate in Section 309(2) Code of Criminal Procedure, 1973.

C.L. No. 58/VIIIa-50/Admn. 'G' dated November 23, 1992

I am directed to enclose herewith a copy of the Order dated 28.9.1992 of this High Court passed in Habeas Corpus Writ Petition No.24268 of 1991 inviting the attention preferably to paragraph nos. 67 and 68 of the order* dated 28.8.1992 and to request you kindly to circulate the court's order to the concerned courts and they shall be specifically told to scrupulously observe the mandate provided in Section 309(2) Cr.P.C. and to ensure that remand is granted for a specific period coinciding with the adjourned date of hearing, and either a printed form of warrant be used or in case it is not available, the typed or cyclostyled copy be used in the exact reproduction of the same in both sides.

I am, therefore, to request you kindly to bring the contents of the letter in the notice of all the concerned judicial officers for their information and strict compliance. Mohd. Daud @ Mohd. Saleem v. Superintendent of District Jail Moradabad, 1993 All. LJ 430 (All) (DB).

Extracts of the Judgment

1. A production warrant issued under S.267 does not constitute a detention order authorising detention in prison of a person. The head note as well as the phraseology of the said section indicates that the order envisaged therein is an order to produce a person confined or detained in a prison before a criminal court for answering to a charge or for the purpose of any proceedings against him. An order under this section does not partake the character of a detention order by the Court seeking production qua the charge of the proceedings pending before it.

2. Section 309 of the Cr. P .C. does not envisage or permit remand to custody for an indefinite period. The remand there under has to coincide with the duration of adjournment and not beyond it.

3. The Court is required to record its reasons for postponement or adjournment of the trial, and not for remanding the accused. It is because a remand under Section 309, Cr .P .C. stands on a quite different footing than one under S.167 of the Cr.P.C. where remand is sought pending investigation and the Magistrate or Judge is required to apply its judicial mind to consider whether on the materials collected, remand is necessary and justified.

4. An invalid initial order of remand of custody can be rectified by subsequent orders. The word "custody" in S.309 embraces both legal as well as illegal custody.

5. Sections 267 and 270 of the Cr .P .C. read together thus contain a clear legislative mandate that when a prisoner already confined in a prison is produced before another criminal court for answering to a charge of an offence and is detained in or near such court for the purpose, on the court dispensing with his further

attendance, has to be conveyed back to the prison from where he has been brought for such attendance.

6. What S.354 (1) (d) of the Cr. P .C. means by the requirement of the judgment containing a direction that the accused be set at liberty, is liberty with reference to the case in which acquittal is recorded and not with reference to any other confinement or custody.

(i) Order sheet of the cases to reflect the dates of the remand of the accused on jail custody (under section 309 Cr.P.C.)

C.L.No. 53/2000 Dated, December 6, 2000

Hon'ble court in Habeas Corpus writ petition No. 236 of 1992, connected with Habeas Corpus writ petition Nos.237, 238 239 of 1992, 33 of 1993 and 8711 of 1989 (copy enclosed) deprecated about the non-maintenance of the order sheet as well as the record of the case as per the instructions issued by the court time to time in this regard. From the record at occasions it was noticed that there was no reference as to how long the under trial had suffered incarceration and continued to be remanded in judicial custody.

I am, therefore, to request you to kindly ensure the compliance of Hon'ble court's directions contained in the aforesaid writ petition

2. BAIL

(i) Entertainment and disposal of bail application etc.

C.L. No. 24/VII-b-47 dated 25th February, 1976

All miscellaneous application both civil and criminal shall ordinarily be taken up by the courts and disposed of between 10.30 and 11.30 a.m. and copies of the orders passed be delivered to the parties latest within 24 hours. Bail applications in pending cases, whether pending in courts or under investigation, shall also be taken up by Sessions Judges ordinarily between 10.30 and 11.30 a.m. The copies of the bail orders must invariably be dispatched to the courts of Magistrates latest by 2 p.m., and no bail application should ordinarily be entertained by them beyond 11.30 a.m. In appellate jurisdiction and in cases of bailable offences bail applications may be entertained even after the lunch break or at any time convenient to the court and copies delivered with greatest possible dispatch. The Chief Judicial Magistrates and Magistrates shall continue to abide by the directions contained in C.L. No. 78, dated 21st may, 1971.

C.L. No. 93/VIIb-47 dated 22nd July, 1975

Regarding entertainment and disposal of bail applications and verification of surety bonds in connection with such applications, the following instructions are prescribed:-

1. Bail applications may be disposed of after giving an opportunity to the parties for arguments in case they are present.
2. In case any Public Prosecutor does not submit his report or appear personally to oppose the bail application, the Magistrates, unless for reasons to be recorded he grants time, shall dispose of the applications.

C.L. No. 134/VIIb-15 dated 29th November, 1978

The Presiding Officers should invariably return the case diaries to the Police after being made use of by the courts, and the case diaries should not be made part of the judicial record.

C.L. No. 54/VIIC-25 dated 31st August, 1984

It invites attention of all the Sessions Judges to Sections 6, 7 and 8 of the U.P. Dacoity Affected Areas Act, 1983, and directs that henceforth, no bail should be granted by the Sessions Judges in cases covered by the said Act, except when the office of Special Judge is vacant or the Special Judge is absent or is unable to act.

C.L. No. 78/VIIb/47 dated 21st May, 1971 and

C.L. No. 91/VII-b-47 dated 10th June, 1974

In order to bring uniformity in the matter of grant of bail, the following instruction read with the instruction contained in C.L. NO. 14/VII b-47, dated September 15, 1951 should be followed:-

Bailable offences

As far as possible, bail applications should be entertained after notice to District Government Counsel (Criminal)/Public Prosecutor, but in special circumstances, notice can be dispensed with. While passing bail order, only the specific offence with sections and the Act must be given.

Non-bailable offences

Magistrates

Applications required to be disposed of the same day, should be moved by 11 a.m., or 12 noon. Such applications should be handed over to the Public Prosecutor to enable him to oppose, if necessary, and taken up the same day at 2 p.m. Adjournment of the hearing should be refused if found to be on insufficient grounds. Twenty-four hours' time can be granted when the Public Prosecutor genuinely requires the same for obtaining instructions from the Police Station.

Sessions Judges

Sessions Judges should give a reasonable notice to the District government Counsel (Criminal) before passing orders on bail applications, keeping in mind the number of days required for obtaining instructions from the Police Station. Where it becomes necessary for the State to file affidavit during the course of hearing, further time can be given.

C.L. No. 194/VIIb-47 dated 8th December, 1976

All the District & Sessions Judges should henceforth ensure that a party applying for bail in the sessions court, shall annex to his application for bail a copy of the order, if any, passed by the Magistrate in the same matter.

C.L. No. 42/VIIb-47 dated 8th March, 1977

In order to enable a party applying for bail in the sessions court to annex to his application for bail a copy of the order passed by the Magistrate in the same matter, the Magistrates shall, while recording their order refusing bail, prepare a copy of such order by placing a carbon and paper below the paper on which they write the order in their own hand and deliver the same free of cost to the counsel for the accused immediately. Similarly a carbon copy of the order refusing bail shall also be prepared by the Sessions Judges and delivered free of cost to the counsel for the accused immediately so that the same may be annexed to the application for bail made to the High Court.

C.L. No. 10/VIIb-47 dated 20th January, 1976

The District and Sessions Judges are authorized to transfer bail applications to the Additional District and Sessions Judges as and when they consider expedient or necessary.

C.L. No. 145/VIIb-47 dated 19th December, 1979

The Sessions Judges and the Magistrates should insist that in applications for bail the fact whether the accused has obtained bail or has moved an application for bail in any other case or otherwise should be clearly stated.

C.L. No. 37/VIIb-47-Admn.(G) dated 25th August, 1988

All the District & Sessions Judges should henceforth ensure that the second bail application must state whether or not bail of the applicant has been rejected by the High Court or the Court of Sessions.

C.L. No. 95/IVf-69 dated 14th September, 1978

Attention of all the Presiding Officers is invited to the decision of Supreme Court concerning bail matter in case of Moti Ram and others Vs. State of Madhya Pradesh reported in 1978 Cr.L.J. 1703

C.L. No. 84/IXf-69 Admn. (G) dated 29th October, 1980

It brings to the notice of all Presiding Officers that in Writ Petition No. 57 of 1979 : Hussainara Khatoon and others vs. Home Secretary, State of Bihar, Patna Dated 12.2.1979, (reported in AIR 1979 Supreme Court 1360) in the context of pretrial release of accused persons, Hon'ble the Supreme Court has observed that if the court is satisfied after taking into account, on the basis of information placed before it, that the accused has his roots in the community and is not likely to abscond it can safely release the accused on his personal bond. To determine whether the accused has his roots in the community which would deter him from fleeing, the court should take into account the following factors concerning the accused:-

1. the length of his residence in the community,
2. his employment status, history and his financial condition,
3. his family ties and relationships,
4. his reputation, character and monetary condition,
5. his prior criminal record including any record of prior release on recognizance or on bail,

6. the identity of responsible members of the community who would vouch for his reliability,
7. the nature of the offence charged and the apparent probability of conviction and the likely sentence in so far as these factors are relevant to the risk of non appearance and ,
8. any other factors indicating the ties of the accused to the community or bearing on the risk of willful failure to appear.

C.L. No. 64/VIIIh-23 dated 13th June, 1979

Whenever the courts pass orders for bail, the readers should mention the name of Public Prosecutor, Assistant Public Prosecutor or D.G.C. or A.D.G.C. (Criminal) or Panel lawyer who do not oppose petitions for bail or admit any material fact pleaded in the bail petitions benefiting the accused.

C.L. No. 53/VIIb-47/Admn.(G) dated 25th August, 1989

The Court has noticed that the orders passed on a bail application by the Sessions Court are not tagged with the record of Sessions Trial depriving the Prosecution to take the benefit of statements given at the time of grant of bail by the defence and at the time of trial of criminal cases. According to rule 24 of General Rules (Criminal) 1977, every paper in the case from the information on which cognizance was first taken, up to and including the warrant received back under section 430 of the Cr.P.C., are the contents of the record.

Therefore, all the presiding officers are directed to keep on record copies of the orders passed on bail applications.

(ii) Refusal of bail by the police

C.L. No. 14/VII-b-47, dated 17th February, 1968

In order to check deliberate refusal of acceptance of bail in a bailable offence by the investigating Police Officers, though offered by the accused persons, it is necessary that in cases where the Magistrate finds that there has been an unjustifiable refusal the matter should be brought to the notice of the Government for necessary action.

(iii) Bail or parole refused by superior court

C.L. No. 148/VIIIb-47, dated 21st September, 1974

Subordinate courts should grant bail or parole sparingly and only in exceptional circumstances after the same has been refused by the superior court in cases where;

(1) a different stage in the proceedings has been reached at which different considerations arise for the grant or refusal of bail, or
(2) new grounds appear subsequently which were not available at the time of the refusal of bail by the superior court and such new grounds make out a case for the grant of bail.

Requirements of Section 437, Cr.P.C., in such cases, should be fulfilled and reasons for granting bail or parole should be recorded. Orders of bail in cases beyond the territorial jurisdiction of the court should not be passed.

C.L. No. 125/VIIb-47, dated 22nd July, 1977

The directions contained in paragraph 2 of the aforesaid C.L. were meant for observance only by the Judicial Magistrates and not by, the Sessions Judges or the Chief Judicial Magistrates who have been given special power and jurisdiction under the second proviso to sub-section (1) of Section 81 of the Code of Criminal Procedure, 1973, in the matter of grant of bail even in cases relating to areas beyond their territorial jurisdiction. Para 2 of above-mentioned circular stands modified to this extent.

C.L. No. 28/VIIb-47, dated 27th April, 1983

Once bail has been refused to an accused person by a superior court, the inferior court, even if it technically has the jurisdiction to do so, should grant bail or parole sparingly and only in exceptional circumstance. Normally, it should be left to the Superior Court to reconsider the matter. Bail or parole applications may, however, be entertained by the inferior court even after refusal of bail by the superior court where:-

(i) a different stage in the proceedings has been reached at which different considerations arise for the grant or refusal of bail, (for instance, if the High Court has refused bail at the investigation stage the Sessions Judge may grant bail at the trial stage, if a case for bail is made out.) or

(ii) new grounds appear subsequently, which were not available at the time of the refusal of bail by the superior court, and such new grounds make out a case for the grant of bail.

The inferior court must in all such cases see that the case fulfils the requirements of Section 437, Criminal Procedure Code, 1973 and should record its reasons for granting bail or parole.

It has also come to the notice of the Court that in several cases officers, especially Chief Judicial Magistrates have granted bail in cases arising in territory beyond their territorial jurisdiction.

In future if any officer is found to have acted without jurisdiction or in contravention of the provisions of this circular letter, serious notice will be taken by the Court of such action.

C.L. No. 2934, dated 1st April, 1988

It invites attention of all the Sessions Judges to the case of Kamla Shanker Singh and another v. State of U.P., 1988 A.Cr.C. 133 decided by Allahabad High Court on 14.12.87. The relevant observation is given below.

"A Session Judge has no doubt a concurrent jurisdiction in the matter of bail u/s 439 Cr.P.C. and is competent to entertain the bail application of accused on fresh grounds even after the rejection of his bail application by the High Court but the power has to be exercised by the Sessions Judge in exceptional circumstances. Normally, the Session Judges should keep their hands off in bail applications, which stand rejected by the High Court."

(iv) Acceptance and verification of surety bonds

C.L. No. 78/VIIb-47, dated 21st May, 1971 and

C.L. NO. 91/VIIb-47 dated 10th June, 1974

The litigant public should have sufficient time before hand for taking necessary steps to produce sureties. Magistrates can fix an amount up to which surety bonds may be accepted provisionally without verification or when the status of sureties are verified by the lawyer based on his personal knowledge. Non-acceptance of verification should be specified in the order of the Magistrate. Magistrates, however, will be justified not to accept even provisionally the verification by such legal practitioners, who have in spite of 2 or 3 warnings by the Magistrates been verifying surety bonds of persons, whose addresses contained in the bonds were found to be either fictitious or they were of dead persons.

Magistrates can accept surety bonds provisionally considering only the status with reference to the immovable properties possessed by the sureties.

C.L. No. 93/VII-b-47 , dated 22nd July, 1975

1. As far as possible the status of sureties should be verified by presiding officers themselves on the basis of documentary evidence produced in this behalf and supported by affidavits of sureties.

2. Receipts of income-tax, sales-tax, and house tax etc. and a certificate, receipt or any other document from Municipal Board or Notified area showing the financial status of a surety may be accepted in proof of status.

3. Receipts for payment of land revenue and extracts of Khataunis etc., proving the title of a surety to the land supported by his affidavits that the land in respect of which the land revenue has been paid by him or to which the extracts of Khatauni relate continues to be in his possession unencumbered, may be admitted as good proof of status.

4. The surety should disclose in his affidavit whether he has stood surety for any other accused in the same case or other case or cases and, if so, whether the surety bonds in question are still in force.

C.L. No. 3/VIIb-47 , dated 17th January, 1972

With regard to the acceptance of surety bonds, the Presiding Officers should exercise their discretion judicially, i.e., when the surety files a detailed affidavit as to his assets, movable and immovable, and it is found that the surety is reliable, the bond can be accepted without reference to the Tahsil. Where a reference to Tahsil is considered necessary steps should be taken that there is no corruption and the reports of the Tahsil should be judged on merit and the Magistrates should not be unduly moved by the report. Where a false affidavit has been filed or an incorrect report is received from the Tahsil, severe action should be taken.

C.L. No. 24/VIIb-47 , dated 25th February, 1976

For verification of surety bonds the following directions are issued in continuation of C.L. No. 3, dated 17th January, 1972:

(i) The surety may be required to file an affidavit showing details of his property, movable and immovable, and its value indicating clearly whether he has stood surety in any other case or for any other accused in the same case and if so in what amount.

(ii) When a lawyer appearing for the accused in the case verifies the status of the surety in any amount, further verification may not be insisted upon.

(iii) The practice of sending surety bonds to Tahsil for verification is to be discontinued forthwith.

C.L. No. 82/VIIb-47, dated 8th August, 1972

Directions regarding verification of surety bonds should be complied with strictly. It is the personal responsibility of District Judges to see that the directions are carried out in true spirit

C.L. No.145/VIIb-47 , dated 19th December, 1978

Likewise, before releasing an accused on bail a declaration should be obtained from the surety to the effect that, apart from the case in which he is standing as a surety, he has not stood as a surety in any other case or otherwise he should indicate in which and in how many other cases and for which accused person or persons he has stood surety.

C.L. No. 12/VIIb-47 , dated 17th January, 1978

It encloses a copy of confidential Circular Letter No. 25022/99/77-F, I, dated 27th September, 1977, from Government of India, Ministry of Home Affairs, New Delhi. This letter says that it would not be desirable to accept the passport of a foreigner as surety for any purpose even when a foreigner offers himself to stand guarantee for any other foreigner for any purpose.

(v) Young criminals

C.L. No. 77/IVh-36 , dated 28th May, 1976

Young criminals in the age group of 16 to 21 who are unable to furnish bail after passing of bail order may be entrusted to the Probation Officer (Government have been moved to post a Probation Officer in each district and also to amend suitably the First Offenders Probation Act and Section 360, Cr.P.C., 1973).

(vi) Bail in cases under Defence of India Rules, 1971

C.L. No. 19 , dated 31st January, 1975

Bail in cases under the Defence of India Rules should be granted only within the frame-work of the limitations imposed by clause (b) of rule 184 of the Defence of India Rules, 1971.

(vii) Compliance of Court's order dated 8.2.90 passed in Crl. Misc. Bail Application Nor. 1704 of 1990 Guddu v. State of U.P. arising out of Case Crime No.492 of 1989, U/Ss. 379/411 I.P.C., P.S., Mutthiganj, District Allahabad.

G.L.No. 2296 dated February 28,1990.

I am directed to enclose herewith a copy of the Court's order• dated 8.2.90 for guidance and also to see that the provision of Juvenile Justice Act are followed strictly and according to the spirit and mandate of the Act.

(viii) Grant of bail in the cases triable by the Special Chief Judicial Magistrates, Allahabad and Kanpur

C.L.No. 81/Admn. (A) dated August 17,1990

I am directed to say that the two Special Courts of Chief Judicial Magistrate, one at Allahabad and the other at Kanpur were established for the trial of 'economic offences' under the specified 12 Central Acts including Customs Act, 1962. The territorial jurisdiction of these two special courts was defined by the U .P .Government Notification No. 1764/VII-A.M. 707/87, dated 7th August, 1987. It has been brought to the notice of the Court that the Chief Judicial Magistrates/Judicial Magistrates of other districts not empowered to try the case while granting first remand to the accused under the aforesaid Central Acts grant interim bail to the accused and order their release without ensuring/verifying their correct identity and reliability of the sureties. In a number of cases the bail bonds are not even sent to the said courts of Special Chief Judicial Magistrates empowered to try the accused with the result the accused of such offences never turn up for trial. In the absence of bail bonds these Special Courts can also not take any step for their arrest.

It has also come to the notice of the Court that one Chief Judicial Magistrate granted bail to an accused under Customs Act when the accused had already been produced before the Special Chief Judicial Magistrate, Allahabad and the remand had also been granted by him. Grant of bail by such Magistrate after first remand was highly improper. The Court after considering the matter is of the view that Judicial Magistrates, First Class/Chief Judicial Magistrates not empowered to try the accused can exercise their discretionary powers under Section 187 of the Code of Criminal Procedure or any other law for the time being in force in a judicial manner for cogent reasons but they cannot grant bail to an accused after he has been produced before the Special Chief Judicial Magistrate having jurisdiction to try the case.

With regard to the acceptance of the surety bonds, the attention is drawn towards circular Letter No. 24/VII -B-47 dated 25.2.76 and it is directed that in such 'Economic Offences' under the aforesaid 12 Central Acts, Judicial Magistrates should ascertain correct identity of the accused and the sureties before issuing the release order and whenever an accused is granted bail a copy of such order along with bail bonds and other necessary papers invariably be sent to the Special Chief Judicial Magistrate having jurisdiction to try the case. I am, therefore, to request you kindly to bring the contents of this circular letter to the notice of all the Judicial Migistrates/Chief Judicial Magistrates working under your administrative control and ensure its compliance. I am to add that it will be your personal responsibility to see that the directions given herein are carried out in true spirit.

• For perusal of order see, Guddu v. State of U.P., 1991 All LJ 457.

(ix) Bail applications and verification of surety bonds in connection with bail applications

C.L.No. 24/VII b-47, dated February 25, 1976

In partial modification of the Court's Circular letter No. 73VII b-47, dated May 21, 1971 and Circular Letter No. 3VII b-47, dated January 17,1972, on the above subject, I am directed to say that henceforth all miscellaneous applications, both civil and criminal, shall ordinarily be taken up by the courts and. disposed of between 10.30 and 11.30 a.m. and copies of the orders passed be delivered to the parties concerned latest within 24 hours.

So far as bail applications in pending cases, whether pending in courts or under investigation, are concerned they too shall be taken up by the Sessions Judges ordinarily between 10.30 and 11.30 a.m., the copies of the bail orders must invariably be dispatched to the courts of the Magistrates latest by 2 p.m. and no bail application should ordinarily be entertained by them beyond 11.30 a.m. In the matter of exercise of appellate jurisdiction, however and in cases of bailable offences, bail applications may be entertained even after the lunch break or at any time convenient to the Court and care be taken that copies delivered with the greatest possible dispatch. The Chief Judicial Magistrates and Magistrates shall continue to abide by the orders of the Court contained in Circular Letter No. 78/VIIb-47, dated May 21,1971.

In regard to verification of surety bonds the following directions may be followed:-

(i) The surety may be required to file an affidavit showing details of his property, moveable and immoveable, and its value indicating clearly whether he has stood surety in any other case or for any other accused in the same case and if so, in what amount. If the Court finds that the surety is reliable the bond furnished by him may be accepted.

(ii) When a lawyer appearing for the accused in the case verifies the status of the surety in any amount further verification may not be insisted upon.

(iii) The practice of sending surety bonds to the Tahsil for verification may be discontinued forthwith.

I am further to say that as already directed in Court's Circular Letter No.3/VIIb-47, dated January 17, 1972 if the affidavit sworn by a surety is ultimately found to be false he should be severely dealt with according to law.

These directions may kindly be brought to the notice of all concerned for further guidance and strict compliance.

(ix-a) Guidelines for verification of address and status of sureties.

C.L. No. 3/Admin. (G)/Dated: Allahabad: 16.2.2009

Upon consideration of the direction of Hon'ble Court in Criminal Misc. Case No. 4356/08 Shiv Shyam Pandey versus State of U.P. and others and in the wake of receipt of representation of the Bar complaining against considerable delay taking place in respect of verification of the address and status of the sureties filed before the Subordinate Courts, the Hon'ble Court has been pleased to direct that in supersession of earlier

Circular Letter No. 44/98 dated 20.8.1998 and Circular Letter No. 58/98 dated 5.11.1998, the following guidelines shall be followed by the Judicial Officers of Subordinate Courts:-

1. In serious cases such as murder, dacoity rape and cases falling under NDPS Act, two sureties should normally be directed to be filed and the amount of the surety bonds should be fixed commensurate with the gravity of the offence.
2. The address and status verification of the sureties shall be obtained within reasonable time, say seven days in case of local sureties, 15 days in case of sureties being of other district and one month in case of sureties being of other State, positively from the concerned Police and revenue authorities and in case of non receipt of the report within given time, the concerned Court may call for explanation for the delay from the concerned authorities and take suitable action against them and at the same time may consider granting provisional release of the accused person in appropriate cases subject to the condition that in case of any discrepancies being reported by the verifying authorities, the accused shall surrender forthwith.
3. The Courts must insist on filing of black and white photographs of the sureties which must have been prepared from the negative.
4. The copies of the title deeds filed in support of solvency of status should be verified.
5. In cases where the Court feels that there are chances of plantation of drugs to implicate a person in a case covered under the NDPS Act, the amount of surety bonds may be suitably reduced.

I am, therefore, to request you to kindly bring the contents of the Circular Letter to all the Judicial Officers working under your administrative control for strict compliance of the directions.

Guidelines for verification of address and status of sureties

C.L. No. 28/2010/Admin.'G-II' Dated 18.9.2010

In continuation of the Court's earlier Circular Letter No. 44/98, dated 20.08.1998, Circular Letter No. 58/98, dated 05.11.1998 and Circular Letter No. 3/Admin.(G), dated 16.02.2009 which propounded certain guidelines in respect of verification of the address and status of the sureties filed before the Subordinate Courts, upon consideration, the Hon'ble Court has been pleased to direct that it is imperative for the Sessions Judges and Addl. Sessions Judges to be circumspect enough in directing release of the accused in appropriate cases, in which specific direction had been issued by the High Court for releasing the accused on interim bail pending hearing of regular bail consistent with the mandate of the circulars of this Court which has basis in the decision of this Court in **Shiv Shyam Pandey; 2009 (5) ALJ 70,** by accepting the bonds provisionally and no person who has been on interim bail should be relegated to jail custody simply for purpose of verification of sureties failing which they would make themselves liable to be hauled up for showing insensitivity to the interest of litigant public besides being liable to be hauled up for showing disobedience to the mandate as contained in the decision. The

Sessions Judges/Addl. Sessions Judges must invariably mention in their orders in such cases that the accused persons must be released without the least delay and they should not be detained just for verification of sureties.

The above instructions may kindly be brought to the notice of all the Magistrates and Sessions Judges under your administrative control for guidance and strict compliance in future.

(x) Disposal of old cases and bail application

C.L. No. 64/VIIIg-48/Admn. (G), dated November 11, 1991

Disposal of cases & old cases :

1. C.L.No. 69/X-a-14 dated 13.7.1953
2. C.L.No. 65, dated 31.10.1962
3. C.L.No. 61/VIIIh-13, dated 29.5.1972,
4. C.L.No. 4, dated 3.2.1976
5. C.L.No. 104/IVh-36, dated 16.6.1976
6. C.L.No. 13, dated 22.1.1977, and
7. C.L.No. 8/IVf-80, dated 18.2.1981.

Disposal of Criminal cases:

1. C.L.No. 23/VIIIb-249, dated 3.2.1975,
2. C.L.No. 17/VIB-13, dated 27.2.1979,
3. C.L.No. 114/VIIb-3, dated 5.9.1975,
4. C.L.No. 28/VIIIh-18, dated 7.3.1979
5. C.L.No. 90/VIIIg-38, dated 1.12.1980
6. C.L.No. 59/VIIIg-38, dated 16.9.1981
7. C.L.No. 85/VIIIg-38, dated 24.12.1982,
8. C.L.No. 66/VIIb-2, dated 24.9.1984.

Bail Application:

1. C.L.No.55/VIIIh-37, dated 2.11.1988,
2. C.L.No.44/VIIIa-14, dated 23.3.1971,
3. C.L.No. 22/VIIIa-14, dated 8.2.1971,
4. C.L.No. 10/VIIb-47,dated 20.1.1976, and
5. C.L. No. 75/VIIb-47, dated 3.11.1989

I am directed to invite your attention to Court's Circular Letter noted on the margin and printed at pages 380 to 383 and 472 to 478 of the Book of Circular Orders of the High Court, 1990 Edition, published by JTRI, Lucknow on the above subject and to say that instructions already issued in the matter be adhered to and the judicial officers are directed to pay more attention in the disposal of old cases and bail applications.

I am, therefore, to request you kindly to bring in the notice of all Concerned, the contents of this letter for their information and strict compliance in future.

(xi) Return of Case Diary to the Police

C.L. No. 43/VIIb-15/Admn.(G) dated May 31, 1991

I am directed to refer to Court's Circular letter No. 134/VII b- 15, dated November 27, 1978, on the above subject, and to say that the Court reiterates its earlier view for return of Case Diary to the Police and directs that the Case Diaries should invariably be returned to the Police after being made use of it by the courts and should not be made part of the Judicial record.

Kindly bring the contents of this letter to the notice of all Criminal Courts working under your supervision, for compliance.

(xii) Criminal Misc. Writ Petition No. 16259 of 1992 Dr. Hidayat Husain Khan v. State of U.P.•

C.L. No. 38/VIIIa-50/Admn.(G), dated June 17, 1992

I am directed to enclose herewith a copy of judgment dated 14.5.1992 passed by a Division Bench of this Court in the above noted case in the matter of disposal of bail applications by the Subordinate Courts on the day the accused surrendered before the court, and to say that a copy of this Judgment be circulated to the Chief Judicial Magistrate and other concerned Magistrate under your supervision for their information and necessary compliance.

(xiii) Information in regard to filing of the fake bail orders of Hon'ble High Court.

C.L. No.13/ dated March 13, 1996

Recently the Hon'ble High Court while disposing the Bail Application No.9973 of 1984 Kashmir Singh v. State relating to Bareilly District and Bail Application No. 6630 of 1995 Om Pal v. State relating to District Meerut noticed that fictitious bail orders, which have not been passed by Hon'ble High Court, have been issued by some agency not connected with the High Court. The Court has taken a serious view of this matter and an enquiry has been ordered into the whole matter to be conducted by C.B., C.I.D.

The Court has desired that all such cases, if come to the notice of any court situated in your District they be brought to the knowledge of the Hon'ble High Court for comprehensive enquiry and action.

I am, therefore, to request you to bring this fact to the knowledge to each Presiding Officer of your Judgeship so that any such case may not escape from the notice of the Hon'ble Court.

(xiv) Practice of granting pre-emptive bails

C.L. No. 36/dated September 8, 1995

Hon'ble Court in Criminal Revision No.181 of 1995 *Prem Narain v. State of U.P.*, have been pleased to observe that pre-emptive bails are not permissible as has been held by Hon'ble Supreme Court in the case of *Dasharath Pandey v. State of Bihar,* JIC l995 page 353. The copy of the said order is annexed with this letter.

Kindly bring it to the notice of all the officers of your Judgeship for their future guidance.

Dasharath Pandey v. State of Bihar, 1995 JIC 353 (SC)

Criminal Procedure Code, 1973, Section 439, Power of High Court to grant bail-Bail granted by the order of High Court- Release made effective on a future date ranging between 6 months to one year-Validity of the order.

If the accused is due for bail, then he should get it then and there. In case he is not due for bail instantly then the petition should be dismissed that the prayer of bail be

• Overruled by F.B. in Vinod Narain vs. State of U.P., 1995(32) A.C.C. 375

reiterated at a future date. The orders impugned herein are somewhat pre- emptive of the duties of the Court. In this view of the matter all such orders of High Court are set aside and orders are passed to remit these matters back to it for individual consideration on merits of each case.

(Paras 2 and 3) JUDGMENT

M.M. Punchhi, J.-Leave granted.

2. Similarity of the order passed by the learned Single Judge strikes us. The learned Judge has ordered release on bail of the respective appellants on furnishing a bond, but the effective release has been ordered on a future date ranging between 6 months to one year. We have noticed identical orders earlier also. This seems to have become a pattern with the High Court in the manner of dealing with such matters. We regret to record that we are not appreciative thereof. If the accused is due for bail, then he should get it then and there. In case he is not due for bail instantly then the petition should be dismissed suggesting that the prayer of bail be reiterated at a future date. The orders impugned (herein) are somewhat pre-emptive of the duties of the Court.

3. In this view of the matter, we set aside all these orders of the High Court and remit matters back to it for individual consideration on merits of such case. The appeals stand allowed accordingly.

4. Copies of the order be supplied to learned counsel within a day and also be dispatched to the High Court within the same duration for appropriate orders.

(xv) Disposal of bail application

C.L.No.50/Allahabad, Dated: 11.6.1998

As directed by the Hon'ble Court, copy of the Judgment given in Criminal Misc. Bail Application No.12985 of 1998, Amit Vs. state of U.P., is being enclosed for information and the same be also circulated amongst all the judicial Officers.

(See for Judgment.)

Circulation of the order dated 23.3.2006 passed in Criminal Misc. Application No. 8810 of 1989 – Babu Lal and others v. Smt. Momina Begum and Criminal Misc. Application No. 8811 of 1989 – Parasnath Dubey and others v. State of U.P. and others

C.L. No. 33 /2006: Dated: 7-8-2006

In supersession of the Court's earlier Circular Letter No.45/ Admn. (A), dated July 28, 1989, I am directed to say that in Criminal Misc. Application No.8810 of 1989 -Babu Lal and others Vs. Smt. Momina Begum and Criminal. Misc. Application No.8811 of 1989 -Parasnath Dubey and others. Vs. State of U.P., and others the Hon'ble Court has been pleased to observe as under:-

> " ……that the cases, where Sections 436 and 437 Cr .P .C. under the provisions of Chapter XXXIII would be applicable would not be dealt with by the procedure under Section 88, inasmuch as, the considerations for granting bail are different and includes several other aspects, which are not to be considered while applying Section 88. For example, where a person is accused of a bailable offence and

processes are issued, as and when he appears before the Court either after his arrest or after detention or otherwise, if he shows his readiness to give bail to the Court, he shall be released on bail. Therefore, a person accused of a bailable offence needs to be personally present before the Court and has to be ready to give bail before he has to be released on bail. But where a person is accused of non-bailable offence, as and when he appears before the Court whether by arrest or detention or otherwise, he may be released on bail by a Court other then High Court and the Court of Sessions under Section 437, Cr.P.C subject to satisfaction of certain conditions, namely that he does not reasonably appear to have been guilty of an offence punishable with death or imprisonment for life. The condition of not releasing the person on bail with respect to offence punishable with death or imprisonment for life is not applicable where such person is under 16 years of age or is a woman or is sick or infirm subject to the conditions, as the Court may deem fit, may be imposed: Therefore, the power to release on bail under Section 437, Cr.P.C. is restricted and subject to certain conditions which cannot be made redundant by taking recourse to Section 88 Cr.P.C. where process has been issued taking cognizance of a complaint, where the allegations of commission of non cognizable offence has . been made against a person. These are illustrative and not exhaustive but are necessary to demonstrate that Section 88, in all such matters will have no application. This also shows that by necessary implication Section 88 in such general way, cannot be applied and has no scope for such application. Where there is overlapping power or provision, but one provision is specific while other is general, the law is well settled that specific and special provision shall prevail over the general provision in the matter of accused. Since the procedure with respect to bail and bonds, is provided under Chapter 33 of Cr.P.C. in our view, section 88 would not be attracted .

The Hon'ble Court has also been pleased to observe that:

"…… as to whether the cognizance is taken on a police report or on a complaint or otherwise, the process has to be issued as per the procedure prescribed under Section 204 Cr. P .C. The provisions with respect to bail and bonds have been made under Chapter XXXIII of Cr.P.C., 1973 i.e., Sections 436 to 450. Section 436 deals with cases where the bail is to be taken by an accused other than a person accused of a non-bailable offence and Section 437 Cr.P.C. applies to non- bailable offence cases."

The Hon'ble Court further observed:-

"……. the power under Section 88 is much wider. When the accused approaches the Court for bail, the Magistrate in its discretion may require him to execute bail bonds, since the language of statutes under Section 88 Cr.P.C. is wider and the objective and purpose is to ensure the presence of the person concerned. Therefore, speaking generally, it may be said that where an accused is entitled to approach the Court for bail under Sections 436 and 437 Cr.P.C., he may also be governed by Section 88 Cr.P.C., which is not qualified and encompass within its ambit an accused, a witness or any other person. However, Sections 436 and 437 Cr.P.C. deal only with the "accused person". Although the word 'person' has also been used il1 Sections 436 and 437 of Cr. P.C. but it is qualified with the word

"accused' and therefore, the aforesaid provisions are applicable only to such category of persons, who are accused of bailable or non-bailable offence. It may thus be said, referring to Section 88, in respect of accused, that, it may have applicable where the Court has issued process to an accused but it has not actually been served upon him and yet if he appears before the Court, in such cases the Court is empowered to ask for bail bonds from such accused person to ensure his presence before the Court in future. This is one aspect and demonstrates that the scope of Sections 88 and 89 Cr .P .C. is much wider qua Section 436 and 437 Cr .P .C."

The Hon'ble Court has further observed:-

"….However, to read Sections 88 and 89 Cr.P.C. in such a manner so as to confine it to the matters, which are to be dealt with by Sections 346 and 437 Cr.P.C would amount to give a narrow construction to the objective and scope enunciated under Section 88 and 89 of Cr .P .C. Such a construction, in our view is neither desirable nor permissible. Whenever proceedings are initiated by the Magistrate, the accused has a right to approach the Court; for bail. Whether the summon or warrant is actually served upon the accused, may itself be not relevant but as soon as the same are issued by the Court, the accused has a right to approach the Court and request for bail."

"Thus, we are of the view that the case which will be governed by the Sections 436 & 437 Cr.P.C. it is not necessary to apply the provisions of Section 88 of Cr.P.C. for the reason that Sections 436 & 437 Cr.P.C1. are specific provisions and deal with particular kind of cases, whereas the scope of Sections 88 and 89 Cr.P.C. is much wider as discussed above. The case in which Section 436 Cr.P.C. is applicable, an accused person has to appear before the Court and thereafter only the question of granting bail would arise. Anyone, who is an accused, has been conferred a right to appear before the Court and if the Court is prepared to give bail, he shall be released on bail. The same equally applies with respect to Section 437 Cr. P.C also. Therefore1 where a summon or warrant is issued by a. Court in respect of an accused, the procedure under Section 436 and 437 Cr. P .C. has to be followed and summons or warrant, which have been issued by the Court, have to be executed and honoured. The necessary corollary would be that Sections 88 and 89 Cr. P .C. as such, would not be attracted in such cases. However, we make it further clear that considering the language of aforesaid provisions, whether the bail bond is required to be executed under section 88 Cr. P.C. or the Court gives bail under Section 436 and 437 Cr. P.C., the appearance of the person before the Court is must and cannot be dispensed with at all."

I am, therefore, directed to send herewith a copy of the judgment and order dated 23.03.2006 passed in the Criminal Misc. Applications aforesaid by the Hon'ble Court for your information and strict compliance of the directions as contained therein. The directions of the Court may kindly be brought to the notice of all the Judicial Officers in the Judgeship for their guidance and strict compliance.

(xvi) Verification of bail orders at the cost of State.

C.L. No. 13/2005 Dated 1st April, 2005

I am directed to say that upon a careful consideration of matter pertaining to a complaint that for getting the genuineness of bail orders seemingly passed by the Hon'ble High Court a sum of Rs. 100/- is required to be deposited in the District Judgeship of Azmagarh, the Hon'ble Court has been pleased to provide that the genuineness of bail orders seemingly passed by the Hon'ble Court shall be verified at the cost of the State.

I am, therefore, to request that the measure so provided, be brought to the notice of every Judicial Officer under your administrative control, for compliance faithfully and punctually.

3. RELEASE ORDER

C.L. No. 124/VIIb-47, dated 24th October, 1979

In order to rule out the possibility of a prisoner securing his release from jail on the basis of a forged release order, the Court has issued following instruction, which should be strictly and faithfully followed by the presiding officers and the officials concerned in issuing and scrutinizing release orders.

(a) The release orders must contain the full name of the Presiding officer of the issuing court below his signature and bear the seal of the court invariably in a distinct manner;

(b) When an order for the release of a prisoner, who has already been transferred to another jail outside the district, is received and returned by the Superintendent of Jail to the issuing court, with a report indicating the date of transfer and the name of the jail to which the prisoner was transferred, the court shall then send the release order by post to the jail concerned and at the same time follow the procedure laid down in para (c) below;

(c) When a release order is issued by post to a jail outside the district, the Presiding Officer of the court shall immediately give an intimation about its dispatch by radiogram to the Superintendent of that jail.

(d) In addition to supplying a list containing the names and specimen signatures of all Presiding Officers of courts to the Superintendent of local district jail (and also to any other jail or similar institution that functions in the district), changes in the post of Presiding Officer should also be intimated from time to time as they occur.

C.L. No. 73/VIII-47 , dated 18th November, 1982

To avoid release of convicts on forged bail orders more than ordinary care should henceforth be taken before convicts are released on the basis of orders which purport to have been passed by the Supreme Court of India. The concerned authority should also satisfy himself carefully whether the bail orders in fact have been passed by the Supreme Court and the convicts should be released upon such satisfaction. Convicts ought not to

be released mechanically without a close scrutiny of the bail orders and satisfaction in regard to the authenticity thereof.

C.L. No. 53/VIIIa-18-Admn. 'G', dated 7th August, 1986

All the presiding officers should ensure that henceforth release orders are prepared by the court clerks only and not by the court moharrirs (police constables); and all the papers concerning any case, viz., F.I.R., remand papers, final reports, bail bonds, etc., are kept by the court clerk in his custody and not by the court moharrirs (police constables).

C.L. No. 42/VIIb-47 , dated 28th April, 1978

All the presiding officers should put their signatures on the release or remand orders quite legibly as required under rules 9 and 66 of the G.R.(Criminal). A rubber seal indicating the name and designation of the presiding officer and also the name of the district should invariably be affixed to such orders below their signatures and they should ensure that the remand or release orders are dispatched punctually so as to reach the jail authority latest by 4.00 P.M. in winter and 5.00 P.M. in summer.

C. L. No. 12 Dated March 31, 2007

In continuation of C.L. No. 4 dated February 3, 2004, now Sri S. Farid Raza, Joint Registrar, Sri S.K. Srivastava, Sri Rajiv Kumar Tandon and Sri Zia Ullah Khan, Deputy Registrars whose signature at gibe below are authorized to countersign on the bail orders.

Specimen signature of Sri S. Farid Raza		Specimen signature of Sri S.K. Srivastava		Specimen signature of Sri Rajiv Kumar Tandon		Specimen signature of Sri Zia Ullah Khan	
1		1		1		1	
2		2		2		2	
3		2		2		2	

4. BAIL ORDERS OF HIGH COURT

C.L. No. 7 , dated 15th January, 1978

Accused or appellant should not be released on bail by a Magistrate only on production of a copy of the order of bail passed by High Court. It is necessary for a Magistrate to know the nature of an offence with which the person to be released has been charged. For this purpose he should consult his own records, or insist on the applicant's supplying him with a copy of the grounds of appeal or of the application for bail whenever a copy of the bail order alone is produced.

Guidelines for transfer of bail applications in important matters and revision in matters at admission stage by the District Judges

C. L. No.60/2007Admin(G) : Dated :13.12.2007.

The practice developing of transferring important bail applications in serious matters and revisions at the admission stage in routine by the District and sessions Judges has been deprecated by the Hon'ble Court and it has been desired that all the sensitive matters should invariably be tried by the District Judge himself or by the Senior Additional. District Judge for exercising effective control on the administrative of justice.

Transfer of such work to additional Courts would be permissible only in the unavoidable circumstances.

Therefore, I am directed to request you to kindly to ensure compliance of the above directions of Hon'ble Court in letter and spirit .

5. RELEASE OF MOTOR VEHICLES

C.L. No. 24/VIII-108 Admn.(G), dated 30th April, 1988

The District Judge should ensure that in Motor Accident claim cases, the courts, as far as possible make Photostat copies of driving licence, registration certificate and the insurance certificate before releasing the vehicle involved in the accident and place them on the record of the case.

Embossing Seal of the Court

C. L. No. 3/2007 : Dated : 20th February , 2007

While enclosing herewith a copy of order and judgement dated 29.1.2007 passed by the Hon'ble Court in Criminal Misc. Bail Application NO.1031 of 2007 - Bechan Prasad S/o Late Pati Ram Vs. State of U.P., I am directed to say that the High Court of Judicature at Allahabad vide Circular Letter No. 41/IX e-7 (Admin. 'F'/Allahabad dated August 18, 2000 had introduced embossing seal placed at the blue sticker affixed on certified copy of the order/judgment prepared by the Copying Department of the Court with the directions to the District Judges that the certified copy/judgement issued on or after 01.09.2000 bearing the eT1bossing seal at the blue colour sticker be given recognition. But me Hon'ble Court has noticed with concern that the directions in this respect are not being followed in letter and spirit that no notice of such orders without having embossing seal of the High Court be taken.

I am, therefore, directed to request you to kindly ensure strict compliance of the direction as contained in the circular letter and bring its contents to the notice of all the Judicial Officers under your supervision and control in Judgeship for their guidance and strict compliance.

C. L. No. 33/2007 : Dated 29th August, 2007

While deciding the First Appeal From Order No.2087 of 2007 United India Insurance Company Ltd. Vs. Krishna Kumar and Others, Hon'ble Court has been pleased to record that experience has shown that in most of the cases one line order is being passed by the learned Judges of the Motor Accident Claims Tribunal accepting or rejecting the application under Section 170 of the Act without giving any reason. It has been observed by the Hon'ble Supreme Court in 2003 {7) SCC 212 (United India Insurance Co. Ltd. Vs. Jyotsnaben Sudhirbhai Patel) that there is mandate in such section to give minimum possible reason's to accept or reject such application. Therefore an specific direction is required to be issued to all the District courts to comply with the requirement or Section 170 of the Motor Vehicle Act, 1988

Therefore, enclosing herewith a copy of the above judgement and order of the Hon'ble Court, I am to request you to kindly bring to the notice of all the Presiding Officer of the Motor Accident Claims Tribunal under your administrative control the above mandate of the Hon'ble Court for strict compliance.

Auction of the old condemned Government vehicles

C.L. No. 8/Admin. (B-11) Section: Dated 18.03.2010

I am directed to invite your kind attention to the G.O. No. 1914/30-4-2002-38/90, dated 5th August, 2002, on the above subject and to say that the Government order provides for a 3-Member Committee to be appointed at the District level which is to make arrangement for Auction of the old condemned Government vehicles.

I am further to say that since there is already a Government Order for disposal of such vehicles, the procedure provided in the Government order dated 5th August, 2002 and other relevant Government Orders be adopted for disposal of old condemned vehicles of the respective Judgeships. Intimation in this regard may be sent by the District Judges to the High Court and in case if no objection is raised by the High Court with regard to the auction proposed by the District Judge within one month, the District Judge shall proceed to auction the old condemned vehicle (s) in accordance with the Government Order dated 5th August, 2002 and other relevant Government orders. This procedure may be adopted by the District Judges of all the districts of the State and they need not wait for disposal of such vehicle(s) beyond a period of one month after having sent the intimation to the High Court.

6. MOTOR ACCIDENT CLAIMS

(i) Payment of compensation amount to the party in Motor Vehicles Act cases.

C.L. No. 101/VIIf-69/Admn.(G) dated: November 16, 1990

I am directed to say that instances have come to the notice of the Court that the amount of compensation in Motor Vehicles Act cases has been taken away by false persons depriving the claimants of the said compensation to whom the actual amount is to be paid. The Court has considered the matter and after consideration of the matter it has decided that henceforth the amount of compensation awarded under the Motor Vehicles Act should be paid by Crossed Cheque 'Account Payee only' in the name of party.

Kindly bring in the notice of all concerned the contents of this Circular letter for information and strict necessary compliance.

Deprecation of practice by Accident claims Tribunals directing the Petitioners to pay certain percentage out of the awarded amount to the counsels who represented the petitioners in the form of payment of fee

C. L. No. 8/2006 : Dated : 21st February, 2007

In continuation of the Court's earlier Circular Letter No. 48/2006 dated, 01.11.2006 which propounded certain guidelines In respect of Motor Accident Claims cases, I am directed to say that while passing order dated 22.11.2006 in Civil miscellaneous Petition No.63537 of 2006 Smt. Niranjana Tiwari Vs. Rajiv Upadhyay and Another, the Hon'ble Court has been pleased to communicate it's displeasure on practice by presiding officers of the Motor Accident Claims Tribunals, of directing petitioners to part away with certain percentage of the awarded amount in favour of the counsels who pleaded the Petitioners case, in the form of payment of fee.

Therefore, I am to send herewith a copy of the order passed by the Hon'ble Court in the above mentioned writ Petition with direction that the same be circulated among all the Judges presiding over the Motor Accident claims Tribunals under your supervisory control for their guidance and necessary action.

(ii) Expeditious disposal of cases.

C.L No. 4/Admn. (A), dated January, 1990

It is a matter of common knowledge that a large number of cases for payment of compensation under the Motor Vehicles Act are pending in each District. These cases from their very nature require expeditious decision.

You can realise the agony of the parties by long delay in disposal of these cases. It is only in the fitness of things that compensation to the injured should be provided without undue delay. It is also in the interest of the Insurance Companies that such disputes are settled quickly. These cases do not take long in disposal. The difficulty is that in the absence of dates being fixed for hearing, they pile up and go on accumulating.

You may consider the desirability of distributing such cases amongst Additional District Judges and at least ten cases per court should be got ready. Counsel for Insurance Companies should also be requested for co-operation. It is true that private owners of vehicles are also entitled to be heard, but the aforesaid suggestions are worth attempting and will go a long way in quicker disposal of cases.

(iii) Instructions of Hon'ble Mr. Justice B.L. Loomba, Executive Chairman, U.P., Legal Aid & Advice Board relating to achieve commandable results in disposal of Motor Accident Compensation Claims (MAC. Claims) through Lok Adalat in U.P. in his letter No. D.O. No. 152/PS/LAAB/ 177-A/91 dated 3.8.1995.

C.L. No. 35/VIId-108/Admn. 'G', dated September 5,1995

I am directed to send herewith a copy of D.O. No. 152/PS/LAAB/177-A/91 dated 3.8.95 of Hon'ble Mr. Justice B.L.Loomba, Executive Chairman, U.P. Legal Aid & Advice Board on the above subject for compliance.

I am, further to request you kindly to bring the instructions contained in the aforesaid letter to the notice of all concerned.

D.O. No. 152/PS/L.AAB/177-A/91 of Justice B.L. Loomba (Retd), Executive Chairman, U.P. LEGAL AID & ADVICE BOARD, Jawaher Bhawan Lucknow, dated August 3, 1995.

A copy of the statement received from the 'CILAS' which gives comparable figures of disposal of Motor Accident Compensation Claims (MAC Claims) through Lok Adalats in the various States of the country is enclosed. As would appear there from, such disposal in this State is far below of what it is in the states like Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh & Tamil Nadu. No doubt, total disposal of cases of all these categories put together through Lok Adalats in this State is highest in the country, nevertheless a lot more needs to be done in regard to MAC Claims and this is what is occasionally pointed out to us by the 'CILAS' a1so.

A copy of the report received from the Karnataka Legal Aid Board about the performance and achievement of a Lok Adalat organised in District Tharwad in the year 1993 is also enclosed. As would appear from this report, Tharwad is one of the forefront Districts where Lok Adalat had endeared itself to the litigant public. In this district, at one Lok Adalat and its preliminary sittings held between 25/9/93 and 24/12/93, 1564 MAC Claims were disposed of with a total compensation of Rs. 3,15,29,786/-. The valedictory function of this Lok Adalat was graced by the presence of high dignitaries, including Hon'ble Mr. Justice A.M.Ahmadi, the then Executive Chairman of the 'CILAS' (Now Hon'ble Chief Justice of India).

Our State is comprised of 66 districts and during the year 1994-95 only 4049 MAC Claims (highest in any year) could be disposed of through Lok Adalats (copy of statement enclosed). The performance at the said Lok Adalat in district Tharwad (Karnataka) carries a valuable message of inspiration for us. I feel we can also do a substantially high work in this area of litigation if efforts are made with enthusiasm, commitment and in a concentrated way as was done in district Tharwad. But if, our efforts are confined to only 15 districts of the State where pendency of MAC Claims is very high, the disposal figures can easily go up by 100% more.

How we can go about this work is like this:

This work may be initiated in chosen 15 districts (as per the list enclosed) where pendency of MAC Claims is very high. District Judges (who are also Chairman of the District Legal Aid Committees) need to be especially motivated for this work. They may have freedom to select two or at the most three Additional District Judges for this work keeping in view their interest and commitment for this work and all the pending MAC Claims may be transferred to their docket. The selected ADJs may be required to do this work almost exclusively so that they may be able to concentrate on and effectively monitor this work in a committed and organised fashion. Unlike the normal way of taking up the matter on the date fixed they should do/ensure all the necessary spade work, and do the monitoring until the cases are ready to be taken up for settlement/disposal. As a first step, the records will require to be closely examined of all the cases in which pleadings of the parties have been completed. The next step may be to ensure that copies of the documents, which are inevitably necessary for settlement, being FIR, Insurance Cover/Policy, and Driving Licence of the driver at the time of the accident, registration and worthiness certificates of the vehicle become available on record. For obvious reasons the claimants are not in a position to get at these documents. The work of MAC Claims generally speaking, is in the hands of a limited number of Advocates in a district and with requisite interest taken; these documents can be obtained through the police, the owners of the vehicles and with the help of the Advocate who represent the owners of the vehicles. In good number of cases, copies of these documents are available in the criminal record, obtained at the time of release of the vehicle. Once these documents come to be placed on record, the rest of the work becomes much easier and with the co-operation of the Insurance Companies/Roadways Corporation, settlement can be achieved at the Lok Adalats/its preliminary sittings without much difficulty.

Periodical meetings are held by us in this Board with the Officers of the Insurance Company/Roadways Corporation and it can be ensured that meaningful co-operation is extended in this work by them at the Lok Adalats/its preliminary sittings.

The advantages underlying the settlements at the Lok Adalats are obvious, not only for the victim families but also for the Insurance Companies/Roadways Corporation and infact for the system. If 10,000 MAC Claims are settled through compromise, nearly half, about 5,000 appeals are prevented from coming to the High Court.

A letter about this matter was written by me to the Hon'ble Chief Justice, a copy thereof is enclosed for reference. I had the privilege of meeting the Hon'ble Chief Justice when he was at Lucknow on July 24, 1995. Amongst other matters, I mentioned about this proposal and he was pleased to agree that as an experiment this work can be taken up in some districts.

It is requested that this matter may be placed before the Hon'ble Chief Justice and he may very kindly give 'green signal' in this respect. The District Judges of the specified districts may then be advised and directed to do the needful and co - ordinate with us. Once the 'green signal' is given, we will take up the work in these districts and organise Lok Adalats in the coming months of the current financial year. We should be able to ensure requisite co-operation of the Insurance Companies/Roadways Corporation in this work and I feel reasonably confident that we should be able to achieve commendable results.

Guidelines for proper utilization of interest amount earned on the deposit made by the parties in Motor Accident Claim Petition Account being maintained in the Bank by the District Judges of different Judgeships

C.L. No. 22/Admin. (B-VI): Dated 10.08.2010

I am directed to inform you that while considering the above matter the Hon'ble Court has been pleased to direct you to ensure that henceforth the interest accruing on the amounts deposited by the Insurance Companies should also paid alongwith deposited amount to the party concerned.

I am therefore, to request you kindly to take further necessary actions in this regard in accordance with the above guidelines.

(iv) Re: Amount of interest accrued upon the amount of compensation in Motor Accident Claims Cases

C.L.No. 3/ VIIf-69/Admin.(G) dated 22nd January, 1997

I am directed to refer to court's Letter NO.9527/VIIf-69, dated 22.7.1994 on the above subject and to inform you that the Hon'ble Court by his decision has instructed the Motor Accidents Claims Tribunal to open separate accounts casewise in any nationalized bank for disposed of advances in Motor Accidents Claims Cases.

It is, therefore, requested that the instructions of the court be communicated to courts of Judgment dealing with the matter of Motor Accident Claims Cases for strict compliance.

Guidelines in respect of Motor Accident Claims Cases

C.L. No. 48/2006 Dated 1st November, 2006

It has been noticed by the Hon'ble Court that the Judicial Officers exercising power of Motor Accident Claims Tribunal are passing non-speaking orders without

following the legal norms. Hon'ble Court has given the following directions for compliance:-

1- All the District Judges While assessing the work of all the Additional District Judges (Motor Accident Claims Tribunals), for recording their annual confidential remarks, they should minutely scrutinize some of the records of the Motor Accident Claims cases decided by them during the relevant year related to death/injury to make sure that orders regarding the deposit of part of the awarded compensation in nationalized banks for certain length of time are passed for valid and sustainable reasons, and not whimsically simply to harass the claims(s).

2- All the District Judges Additional District Judges working as Motor Accident Claims Tribunals Shall adhere to the settled legal norms while awarding compensation. Further, award should be well reasoned, instead of being non-speaking, sketchy or perfunctory.

3- All the District Judges should also monitor this matter in the monthly meetings of the Judicial Officers for strict compliance as mentioned at serial no.1&2.

4- All the District Judges are further directed to record the performance of the officer with regard to decision of Motor Accident Claims related to death/injury in Annual Confidential Remarks as amended in column no. (e)(vii) (copy enclosed).

You are, therefore, requested to kindly instruct all the concerned Judicial Officers under your administrative control to abide by the above directions of the Hon'ble Court in right earnest.

7. PRIVILEGES OF LEGISLATURES

(i) Arrest, detention etc. of members

C.L.No.114/VIII-c-24-1-51,dated 16th November, 1951 read with

C.L. No.91/51 read with C.L. No. 70/VIII-e-24 dated 29th November, 1954 and

C.L. NO.103/VIII-e-24 dated 13th October, 1953,

C.L. No. 22 dated 19th March, 1960,

C.L.No.79/VIII-e-24 dated 14th August, 1961

C.L. No.8/VIII-e-24 dated 23rd January, 1965,

C.L.No.127/VIII-e-24 dated 6th December, 1969 and

C.L. No.104/VIII-e-24 dated 15th July, 1974

Immediately after the arrest on a criminal charge or imprisonment consequent upon a sentence passed by a Court or in the case of detention under executive order or transfer from one jail to another of a member of parliament, the House concerned is entitled to be informed of the event. Such a communication regarding arrest, imprisonment, detention or transfer of a member should be made by a letter addressed to the Hon'ble the Speaker/the Chairman by the committing judge or Magistrate or other executive authority and in the case of conviction, the offence and sentence should also be communicated. It is also necessary, in case the judgment is reversed by a superior court

and the member concerned is consequently released, that further intimation is immediately sent to the Hon'ble the Speaker/the Chairman by the same committing judge, Magistrate or executive authority, and in the same manner, Non-compliance with the requirement of the law of privilege results in a breach of the privilege of Parliament.

Besides the information that should be communicated to the Hon'ble the Speaker/the Chairman by the authorities concerned after the arrest, imprisonment, detention or transfer of a member, it is necessary that the form in which the communication should be sent also observed very strictly. In case the form of the communication from the authority concerned is not strictly complied with, the Hon'ble the Speaker/the Chairman may hold that a breach of privilege has occurred notwithstanding the fact that a communication has been sent to him. The specimens of such communications addressed to the Hon'ble the Speaker/the Chairman are reproduced below. The communications invariably disclosed the reasons and place of arrest, detention or imprisonment and the sentence passed by the court.

In Civil case, the privilege of freedom from arrest extends during the continuance of the session of Parliament and forty days before its commencement and after its conclusion.

It is also pointed out that the privileges of the State Legislatures and their members are also the same as those of members of the parliament. Similar action should be taken mutatis mutandis in cases where a member of State legislature is arrested or detained.

The extreme importance and necessity of strictly observing the above procedure is impressed upon the authorities concerned.

FORM OF COMMUNICATION

(See Rules 229 and 230 OF RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN LOK SABHA)

Place ----------
Date ----------

To,

THE CHAIRMAN,
THE SPEAKER
COUNCIL OF STATES,
HOUSE OF THE PEOPLE,
NEW DELHI.

FORM 'A'

DEAR MR SPEAKER,

I have the honour to inform you that I have found it my duty in the exercise of my powers under section ---------- of the ---------- (Act), to direct that Sri ---------- Member of the Council of States/House of the People be arrested/detained for ---------- (reasons for the arrest or detention as the case may be).

Sri ---------- M.P., was accordingly arrested/taken into custody at ---------- (time) on -------- (date) and is at present lodged in the ----------(Jail) ---------- (Place).

FORM 'B'

I have the honour to inform you that Sri ---------- Member of the Council of States/House of the People was tried at the --------Court, before me on a charge (or charge of) --------- (reasons for the conviction).

On ---------- (date) after a trial lasting for -------- days, I found him guilty of ---------- and sentenced him to imprisonment for --------(period).

His application for leave to appeal to ---------- (Name of the Court) is pending consideration.

FORM 'C'

I have the honour to inform you that Sri ---------- Member of the Council of States/House of the People who was arrested/detained/convicted on ---------- for ----------(reasons for arrest/detention/conviction) was released on ----------(date) on ---------- (grounds for release).

Yours faithfully,
(Judge, Magistrate or Executive Authority).

Where intimation of arrest or detention is sent by telegram, it is necessary that information on all the points mentioned in the appropriate forms should be given succinctly but clearly. The Speaker and Members of Parliament always desire to know whether an arrested member has been released on bail pending prosecution or trial. The authority giving intimation of the arrest of a Member of Parliament should, therefore, invariably furnish this information also.

C.L. No. 37/VIII-e-24, dated 30th May, 1963 and

G.Os. (1) B-955XXV/CX-55-B-55 dated 24th July, 1958,

(2) B-1679-XXV-CX-55-B-55 dated 13th October, 1958, and

(3) B-712-XXV/CX-A-55-B-55 dated 9th July, 1961

Drawing their attention to the G.Os. noted in the block, it is brought to the notice of all the subordinate courts by way of general clarification that according to the Government of India when a bail is cancelled and the person surrenders to custody, he is arrested "in the legal sense of the term" and, therefore, rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha are attracted, in case the person is a Member of Parliament. This view is supported by the Third Schedule to the Rules, as the Form of Communication regarding arrest, etc. of a Member given in it refers to "arrested/taken into custody".

C.L. No. 95/VIII-e-24, dated 15th November, 1958

Intimation of arrest, detention, conviction, release, etc. of a Member of Parliament should be sent in two stages:

1. By telegram giving in case of arrest, the information of -

(a) Place of arrest,
(b) Law and section under which arrest was made,
(c) Name and designation of the sender of the intimation,
(d) Authority, which ordered the arrest.
(e) Formal communication giving brief reasons for arrest, conviction or detention to the Speaker/Chairman Lok Sabha/Rajya Sabha.

C.L. No. 156/VIII-c-24, dated 16th October, 1974

Information regarding arrest, detention, etc. of a Member of Parliament or State legislature should be sent in typed letters so that it may be legible.

C.L. No. 29/VIII-c-24, dated 9th June, 1967

As envisaged in G.O. no. 65(1)/1-66-CX, dated January 16, 1957, intimation about the arrest, detention and release of Members of Parliament should be sent to the Speaker, Lok Sabha in prescribed form. In this connection, attention is invited to rule 229 and 230 of Rule of Procedure and Conduct of Business in the Lok Sabha for scrupulous compliance. A similar procedure is to be adopted in respect of Members of Rajya Sabha and State Legislature. Information about the arrest, detention, release, etc. of members of the Lok Sabha/Rajya Sabha, Members of State Legislature, should invariably be sent either by telegram or wireless to Speaker/Chairman immediately followed by a formal written communication in the prescribed form in terms of G.O. no. 65/1-66-CX, dated November 18, 1966.

C.L. No. 41/Eight-E-24, dated 2nd March, 1977

The instruction contained in G.O. No. 65/1/66-CX-(2) dated 25th April, 1968, 4th Oct., 1975, 16th July 1976 and 24th Dec., 1976 of confidential Section-2 regarding arrest, detention and handcuffing of M.Ps./M.L.As. should be strictly complied with.

C.L. No. 85/VIII-E-24, dated 25th August, 1970

As Hindi is the language of the U.P. Legislative Assembly, information about arrest and detention of members should be given in Hindi only.

C.E. No. 99/VIII-e-24, dated 21st December, 1973

Information regarding arrest, detention and release of the Member of Parliament should be communicated to the Chairman/Speaker in Hindi language.

(ii) Arrest detention etc. of members within precincts of the house.

C.L. No. 64/VIII-e-24, dated 23rd July, 1959

The correct procedure regarding execution of warrants of arrest against Members of Parliament and State legislature within the precincts of the House is as follows:

Rule 232 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition) provides that "No arrest shall be made within the precincts of the House without obtaining the permission of the Speaker". Rule 233 lays down that "A legal process, civil or criminal, shall not be served within the precincts of the House without obtaining the permission of the Speaker".

The term ‘precincts of the House’ has been defined as follows in rule 2 of the Rules of Procedure of Lok Sabha (Fifth Edition) and Direction 124 of the Directions by the Speaker (Second Edition):

“Rule 2(1) – In these rules, unless the context otherwise requires – ‘Precincts of the House’ means and includes the Chamber, the Lobbies, the Galleries and such other places as the Speaker may from time to time specify.”

“Direction 224 – The term ‘Precincts of the House/Parliament House’ used in the Rules of Procedure shall, except for the purposes of rule 374, include in addition to places specified in rule 2, the following:

(i) the Central Hall and its Lobbies;
(ii) Members’ Waiting Rooms;
(iii) Committee Rooms;
(iv) Parliament Library;
(v) Members’ Refreshment Rooms;
(vi) Lok Sabha offices located in Parliament House and the hutments adjoining the Parliament House;
(vii) Corridors and passages connecting or leading to the various rooms referred to in (i) to (vi) above; and
(viii) Parliament House Estate and approaches to the Parliament House."

To enable the Speaker/Chairman to decide whether he should grant or withhold permission for arrest within the precincts of the House, it is necessary that in making a request for such an arrest, the warrant should be accompanied by a brief and concise statement containing a well reasoned request setting out the grounds therefore and explaining why it is desired that the arrest be made within the precincts of the House and why the matter cannot wait till the House adjourns for the day. In absence of such a statement, it is often not possible for the Speaker/Chairman to come to a decision whether permission should be granted or withheld.

Since provisions similar to the aforesaid rules 232 and 233 of the Rules of Procedure and Conduct of Business in the Lok Sabha exist in rules 87 and 88 of the Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Assembly, a similar procedure may be followed in respect of the members of the State Legislature also. The term 'precincts of the House' as defined in rule 3 of the said Rules of the Uttar Pradesh Legislative Assembly as also under the directions of the Speakers is as follows:

"Precincts of the House" means and includes the Chamber, the Lobbies, the Galleries and approaches leading thereto and all other accommodation in possession of the Speaker or the officers of the Assembly Secretariat in the Vidhan Bhawan and such other places as the Speaker may from time to time specify.

DIRECTION

"The Precincts of the House" means clearly the Assembly Hall, Lobbies, the rooms in occupation of the Legislature Secretariat, Speaker's room, Deputy Speaker's room. Committee room, Library, Party rooms and approaches thereto.

"Precincts of the House" means and includes the Chamber, the Lobbies, the Galleries, Reading room and Legislature Library and approaches leading thereto, and all accommodation in possession of the Chairman or officers of the Council Secretariat in the Vidhan Bhawan and such other places as the Chairman may from time to time specify.

(iii) Mode of addressing non-officials

C.E. No. 19/VIII-h-23 dated 27th March, 1962

Replies sent to non-officials including Members of Parliament and the State Legislature as well as representatives of foreign countries in India should be in form of an official letter or semi-official letterform, as the circumstances of the case may be. A communication in the form of an office memorandum cannot as a rule be regarded as a proper communication when addressee belongs to the categories of persons mentioned above. Such communications besides, being polite, should be in proper style and form.

(iv) Communication addressed to Speaker, etc., by a member under judicial custody

C.L. No. 70/VIII-f-9 dated 12th November, 1963

All communications addressed by a member of Parliament/ State Legislature who is in judicial custody to Speaker or Chairman of the House shall immediately be forwarded by the Presiding Officer under whose orders he is under arrest or detention in judicial custody, to Government in Judicial Department, so as to be dealt with, with regard to his rights and privileges as a member of the House to which he belongs.

(v) Interrogation of a Member of Parliament by the Police

C.L. No. 120/VIII-c-24 dated 30th November, 1969

When it is found from disclosure made by a Member of the Rajya Sabha that he is in possession of a vital information in a criminal case which is under investigation the matter should be referred by the concerned Superintendent of Police to the State Government/Union Territory Administration and if he is also of the opinion that the information in possession of a member is of such vital importance that his assistance should be sought, a detailed report may be sent to the Ministry of Home Affairs enclosing a list of points on which the information is sought from the member. The matter will then be taken up by the Minister of Home Affairs with the Member concerned through the Chairman of the Rajya Sabha. The information that might be made available by the member will be* communicated to the State Government/Union Territory Administration and the extent to which it might be used in the investigation of case will also be indicated."

(vi) Sending of timely information of arrest, detention, conviction and release of the Members of Parliament and Members or Legislative Assembly to the Parliament and Assembly.

C.L. No. 62/VIIIe-24, Admn.'G' dated July 22, 1994

I am directed to send herewith a copy of Government letter No. 76/1/93-c-x-2, dated 30.3.1994 along with two proformas and to request you kindly to bring the contents

of the aforesaid letter to the notice of all concerned with the direction that information with regard to arrest, detention, conviction and release of Members of Parliament and Members of Legislative Assembly may be sent on prescribed proforma provided with the Government letter dated 30.3.1994 to the Speaker/Chairman immediately.

I am further to say that a copy of aforesaid letter along with proforma may be given to each Presiding Officer working under you for strict compliance in future.

संसद सदस्यों एवं विधायकों के बन्दीकरण, निरूद्धि, दोष सिद्धि एवं रिहाई आदि के सम्बन्ध में सूचना प्रेषित किया जाना।

शासनादेश संख्या -76/1/93-सी0एक्स0-2/ (गोपन अनुभाग)-2 दिनांकित 30 मार्च 1994

कृपया शासनादेश संख्या 76/1/93-सी0एक्स0-2/ -2 दिनांकित 31 मार्च 1993 का सन्दर्भ ग्रहण करें जिसमें कि माननीय सांसदों एवं विधयकों के बन्दीकरण, निरूद्धि, दोष सिद्धि एवं रिहाई आदि के सम्बन्ध में तत्काल सूचना प्रेषित किये जाने का अनुरोध किया गया था किन्तु शासन द्वारा निर्गत निर्देशों के बावजूद शासन के संज्ञान में ऐसे प्रकरण आये हैं जिनमें माननीय सांसदों/विधायकों की गिरफतारी/रिहाई की सूचना विलम्ब से प्रेषित की गयी है। यह स्थिति अत्यन्त खेदजनक है और इससे शासन की छवि भी धूमिल होती है।

2- उपरोक्त के अतिरिक्त विशेषाधिकार समिति ने विशेषाधिकार के बारे में अपनी दूसरी रिर्पोट में माननीय संसद सदस्यों की गिरफतारी तथा रिहाई के बारे में सूचना न दिये जाने के प्रकरणों पर चिन्ता व्यक्त की है। इस सम्बन्ध में भारत सरकार, गृह मंत्रालय के पत्रांक- 1/16012/13/93- आईएस (डी):- 111 दिनांक 18.1.1994 की प्रतिलिपि संलग्न करते हुए मुझसे यह कहने का निदेश हुआ है कि माननीय सांसदों-विधायकों की गिरफतारी एवं रिहाई आदि के बारे में शासन द्वारा समय-समय पर जारी किये गये समस्त निर्देशों का अक्षरशः व कड़ाई से पालन सुनिश्चित किया जाय। माननीय सांसदों की गिरफतारी एवं रिहाई की सूचना संलग्न प्रारूप पर माननीय अध्यक्ष, लोक सभा / माननीय सभापति, राज्यसभा नई दिल्ली को ताकि इसी प्रकार माननीय विधायकों / माननीय सदस्य, विधान परिषद के सम्बन्ध में निर्धारित प्रारूप पर सूचना माननीय अध्यक्ष, विधान सभा / माननीय सभापति, विधान परिषद को त्वरित साधन से प्रेषित की जाय।

3- कृपया उपरोक्तानुसार प्रेषित की जाने वाली सूचना की प्रतिलिपि गोपन अनुभाग-2 उ0प्र0शासन को भी अवश्य पृष्ठांकित की जाय।

4- कृपया इस पत्र की प्राप्ति स्वीकार करें।

<u>अनुसूची</u>

(नियम 80 तथा 81)

किसी सदस्य के, यथास्थिति, बन्दीकरण, निरोध, दोष सिद्धि या रिहाई के बारे में

<u>सूचना का प्रपत्र</u>

<u>स्थान.....तिथि.....</u>

सेवा में,

अध्यक्ष विधान सभा / सभापति, विधान परिषद, लखनऊ।

<u>'क'</u>

प्रिय महोदय,

मुझे आपको यह सूचना देनी है कि .....(अधिनियम) की धारा.....के अन्तर्गत अपनी शक्तियों के प्रयोग में मैंने यह निदेश देना अपना कर्तव्य समझा है कि विधान सभा /परिषद के सदस्य, श्री..... को ..... (यथास्थिति बन्दीकरण या निरोध के कारण) के लिये / बन्दी / निरूद्ध कर लिया जाय।

तदनुसार श्री ..... विधान सभा / परिषद सदस्य को ..... (तिथि) को पर (समय) बन्दी कर लिया गया है। हवालात में रख दिया गया है। ..... और उन्हें इस समय ..... जेल ..... (स्थान) में रखा गया है।

'ख'

मुझे आपको सूचना देनी है कि विधान सभा / परिषद सदस्य, श्री ..... पर .... (दोष सिद्धि) के कारण दोषारोप (या दोषारोपों) के लिए ..... न्यायालय में मेरे सामने मुकदमा चलाया गया है।

..... दिन तक मुकदमा चलने के बाद ..... (तिथि) को मैंनें उन्हें ..... का अपराधी पाया और उन्हें ..... . (कालावधि) के कारावास का दंडादेश दिया।

..... को अपील करने की अनुमति के लिये उनका प्रार्थना पत्र विचारार्थ लम्बित है।

'ग'

मुझे आपको सूचना देनी है कि विधान सभा / परिषद सदस्य, श्री ..... को, जिन्हें .....(तिथि) को सिद्धदोष ठहराया गया था और ..... के लिये दोषसिद्धि (के कारण) .....(कालावधि) का कारावास दिया गया था, ...(तिथि की अपील लम्बित होने तक जमानत पर रिहा कर दिया गया था) या, यथास्थिति अपील पर दंडादेश रदद होने पर रिहा कर दिया गया।

आपका विश्वासपात्र न्यायाधीश,
दंडाधिकारी या कार्यपालिका,
प्राधिकारी

प्रतिलिपि सचिव, उ0प्र0शासन, गोपन अनुभाग-2, लखनऊ को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रषित।

आपका विश्वासपात्र न्यायाधीश,
दंडाधिकारी या कार्यपालिका,
प्राधिकारी

तृतीय अनुसूची

(नियम 229 तथा 230)

किसी सदस्य के, यथास्थिति, बन्दीकरण, निरोध, दोष सिद्धि या रिहाई के बारे में

सूचना का प्रपत्र

स्थान.....

दिनांक.....

अध्यक्ष लोकसभा / सभापति, राज्य सभा,
नई दिल्ली।

'क'

प्रिय महोदय,

मुझे आपको सूचना देनी है कि .....(अधिनियम) की धारा.....के अन्तर्गत अपनी शक्तियों के प्रयोग में मैंने यह निदेश देना अपना कर्तव्य समझा है कि लोकसभा /राज्य सभा के सदस्य, श्री..... को ..... के लिये / बन्दी / निरूद्ध कर लिया जाय।

निरूद्ध

(यथास्थिति बन्दीकरण या निरोध के कारण)

तदनुसार श्री ..... सांसद सदस्य को ..... (तिथि) को पर (समय) बन्दी कर लिया गया है और उसे इस समय हवालात में रख दिया गया है। ..... जेल ..... (स्थान) में रखा गया है।

'ख'

मुझे आपको सूचना देनी है कि लोकसभा /राज्य सभा के सदस्य श्री ..... पर .... (दोष सिद्धि के कारण) दोषारोप (या दोषारोपों के लिए) ..... न्यायालय में मेरे सामने मुकदमा चलाया गया।

{..... दिन तक मुकदमा चलने के बाद ..... (तिथि को मैंनें उसे)..... का अपराधी पाया और उनसे ..... (कालावधि) के कारावास का दंडादेश दिया .....को अपील करने की अनुमति के लिये उनका प्रार्थना पत्र विचारार्थ लम्बित है।}

'ग'

मुझे आपको सूचना देनी है कि लोकसभा /राज्य सभा के सदस्य श्री ..... को, जिसे ....(तिथि) को ....(बन्दीकरण / निरोध /दोषसिद्धि के कारण) बन्दी बनाया गया निरूद्ध किया गया है / सिद्धि दोष ठहराया गया था, ...(तिथि) को .....(रिहाई के कारण) रिहा कर दिया गया था।

भवदीय
(न्यायाधीश दंडाधिकारी) या कार्यपालिका
प्राधिकारी

न्यायालय का नाम

प्रतिलिपि सचिव, उत्तर प्रदेश शासन, गोपन अनुभाग-2, लखनऊ को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

न्यायाधीश दण्डाधिकारी या
कार्यपालिका प्राधिकारी

8. INTENDED ARREST OF A PUBLIC SERVANT

C.L. No. 83/VIII-b-10 dated 7th September, 1953

Whenever there is an occasion to give notice of the intended arrest of a Government servant under rule 13*. Chapter III, General Rules Criminal, 1957,** to the Head of his Office or Department, an informal letter should be sent on the lines indicated below ;-

Dated date of 19

Case No.....
Of.....
V.....
In the Court of

In the course of the hearing of the case noted on the margin, it has been decided to issue a warrant of arrest against Sri..... (Name) .....(Designation) who is serving under you. He is an accused/ witness in the said case. Before issuing the warrant I consider it necessary to inform you so that you may be able to make proper arrangement for the discharge of government work and relieve him before the warrant of arrest is issue.

You may kindly arrange to relieve Sri..... with as little delay as possible and inform me when I may expect him to be so relieved.

Yours sincerely,
(Signature of the Presiding Officer of the Court)

9. DYING DECLARATIONS AND IDENTIFICATION PROCEEDINGS

C.L. No C. L.61/Admn. (B) dated 24th April, 1974 and

C.L. No. 70/Admn. (B) dated 7th May, 1974 (modified)

Recording of dying declarations and identification proceedings should continue to be done by the Executive Magistrates as was done by them prior to April 1, 1974, and that the Judicial Magistrates need not do this work.

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* Now rule 14.

** Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

10. PRESERVATION OF IDENTIFICATION MEMOS

C.L. No. 45 dated 19th August, 1960

All Magistrates, Sessions Judges, Additional District and Sessions Judges and Assistant Sessions Judges should note that the identification memos particularly in dacoity cases are important documents.

By constant and careless use in subordinate courts, those memos are sometimes reduced to tatters by the time they reach the High Court in appeal or revision. The result is that the most important information required by the Court is not available on the record.

They should, therefore, take proper care to see that the identification memos are properly preserved.

11. CHEMICAL EXAMINER'S REPORT

C.E. No. 44/VIIb-53 dated 11th August, 1964

Para 14 of Annexure V of the Hand Book for Criminal and Revenue Courts enjoins upon the Police to send all articles suspected to be stained with human blood in a case under investigation, to the Magistrate within 2 4 hours of recovery and the latter should send the same to the Chemical Examiner within 24 hours of their receipt from the Police.

It is also added that no case should be committed to the court of Sessions, until the entire prosecution case is completely ready and includes the reports of the Chemical Examiner and the Serologist where it is necessary to rely on these for deciding the case. If a case is committed without these reports the Sessions Judge would proceed with the case on the assumption that these reports are not needed for deciding the case.

C.L. No. 168/Vllb-53 dated 28th October, 1976

The Magistrate should dispatch authority letter to the Chemical Examiner and Serologist, expeditiously.

12. Medico Legal Report

C.L. No. 62 dated 18th July, 1968

The procedure decided upon with regard to disposal of reports of medico-legal analysis with a view to lessen the time taken to reach the reports to the courts is that the original copy of the report will be sent to the original sender (S.Ps., Chief Judicial Magistrates, Munsif Magistrates, etc., as the case may be) while a copy will be sent to the Chemical Examiner concerned. In case of non-receipt of or mislaying of the reports, the courts concerned should contact the original sender and the Chemical Examiner concerned and the Chemical Examiner will correspond with the Department of Serologist and Chemical Examiner to the Government of India, 3, Kyd Street, Calcutta-16. If the report has been mislaid, the Chemical Examiner will supply the copy lying with him to meet the emergency and will ask the Serologist to replenish the report. In case the report has been received by the court concerned through a channel other than the original sender an intimation to that effect should be sent to the Serologist. All correspondence to the Serologist should be routed through the Chemical Examiner concerned.

(i) Medical aid to injured

C.L. No. 68/IX f-69/Admn.(G) dated 9th September, 1989

It encloses copy of judgment dated 28.8.89 of the Supreme Court in the case of Parmanand Katara Vs. Union of India, (reported in A.I.R. 1989 SC 2039) and says that the District Judges should give wider publicity to the contents of judgment and also ensure action as directed by the Hon'ble Supreme Court in the above noted judgment.

(ii) Central Food Laboratory

Compliance of the Provisions of Prevention of Food Adulteration Rules, 1955 while forwarding legal samples by the Courts to Central Food Laboratories for analysis.

C.L. No. 24/VIIf-227/Admn.(G-2), dated April 26. 1993.

I am directed to send herewith a copy of letter No. P.15025/131/92-P.H. (F&N) P.F.A. dated 3.12.92 from the Directorate, General of Health Services, New Delhi for necessary guidance and compliance by the Presiding Officers working under your supervision.

Directorate General of Health Services, Government of India Nirman Bhawan New Delhi. Compliance of the Provisions of the Prevention of Food Adulteration Rules, 1955 while forwarding legal samples by the courts to Central Food Laboratories for analysis.

L. No.P.15025/131/92-PH (F&N) PFA Directorate General of Health,

Services, Government of India, dated 3rd December, 1992

It has been brought to the notice of this Directorate by the Central Food Laboratory, Mysore that there are certain shortcomings in receiving legal samples from the Subordinate Courts under your jurisdiction for analysis under the provisions of section 13(2) of the Prevention of Food Adulteration Act, 1954.

2. A few of the shortcomings as observed by Central Food Laboratory, Mysore is as follows:-

(i) Receipt of memorandum from the courts with incomplete address as a result of which the test certificates sent by Central Food Laboratory by Registered post with A/D are sometimes returned to Central Food Laboratory indicating that the addressee is not available.

(iii) Some of the Hon'ble courts are not sending the specimen seal of the Hon'ble court used to seal the container and the parcel along with the memorandum while forwarding the sample parcels. The Central Food Laboratories are not in a position to open such registered parcels unless the specimen seal impression from the Hon'ble court are received by them. This had led to the prolonged correspondence with the Hon'ble courts and by the time the specimen seal impression is received, the sample is spoiled and Central Food Laboratories are forced to give the test certificate to the effect that the samples are unfit for analysis.

1. In this connection, your kind attention is invited to Rule 4 of PF a Rules, 1955 an extract of which is reproduced below for ready reference:-

l. (a) Samples of food for analysis under sub-section (2) of Section 13 of the Act shall be sent either through a Messenger or by registered post in a sealed packet, enclosed together with a memorandum in Form I in an outer cover addressed to the Director.

1.(b)Samples of food for analysis under sub-section (2) of Section 6 of the Act or under clause (a) of Rule 3 shall be sent either through a Messenger or by registered post in a sealed packet enclosed together with a memorandum in Form l-A in an outer cover addressed to the Director.

(2) The container as well as the outer covering of the packet shall be marked with a distinguishing number.

(3) A copy of the memorandum and a specimen impression of the seal used to seal the container and the cover shall be sent separately by registered post to the Director.

(4) On receipt of a package containing a sample for analysis the Director or an officer authorised by him, shall compare the seals on the container and the outer cover with specimen impression received separately and shall note the condition of the seals thereon.

(5) After text or analysis the certificate thereof shall be supplied forthwith to the sender in Form II.

(6) The fees payable in respect of such a certificate shall be Rs. 40 per sample of food analysed.

(7) Certificates issued under these rules by the Laboratory shall be signed by the Director.

3. According to the provisions of Section 13 (2-B), the Director of the Central Food Laboratory has to send a certificate of analysis to the court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis. To adhere to the statutory period for sending the certificate of analysis, it will be appropriate, if the subordinate courts dealing in food cases under your jurisdiction are requested to strictly follow the rules prescribed for sending legal samples for analysis by the Central Food Laboratories. They may also be requested to mention complete address with the names of the Magistrates in Block letters together with their signature and seal of the court. This will help us to perform our duties in proper implementation of the PF A Act, 1954.

Action taken may please be intimated to this Directorate.

(iii) Forensic Science Laboratory

Prescribing an Amount as Fee for Examination of the Documents in Civil/Departmental Cases by Forensic Science Laboratory, Andhra Pradesh, and Hyderabad.

G.L. No. C-50/1994, dated January 19, 1994

I am directed to send herewith a copy of letter No. CAMP/FSL/93/938, dated 16.11.1993 along with a copy of G.O. Ms. No.335, Home (Police-C) Department, dated 5.8.1993 of Govt. of Andhra Pradesh, Hyderabad, received from Dr. K.P.C. Gandhi, Director. Forensic Science Laboratory, Red Hills, Hyderabad and to request you kindly to circulate the same to all the Judicial Officers working under you for their kind information.

G.O. Ms. No.335 Home (Police-C) Department. Government of Andhra Pradesh, dated August 5, 1993

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

POLICE DEPARTMENT- State Forensic Science Laboratory- Examination of documents in Civil cases by Forensic Science Laboratory collection of fees - Revised Order -Issued.

HOME (POLICE C) DEPARTMENT, G.O. Ms. No.335, dated 5th August, 1993.

1. G.O. Ms. No.2033, Home (Police B) Deptt. dated 30-3-1958
2. G.O. Ms. No.682, Home (Police B) Deptt. dated 27-3-1959
3. G.O. Ms. No.1248, Home (Police B) Deptt. dated 30-5-1959
4. From the Director General and Inspector General of Police, Letter No. 446/A2/92, dated 6-11-1992

Government, after examination of the proposal of the Director General and Inspector General of Police in the letter fourth read above and in super session of the orders issued prescribing the fees for examination of documents in civil cases by the State Forensic Laboratory in the G.Os. First to third read above, hereby order that the following shall be the rates of fees to be levied for examination of the documents by the Forensic Science Laboratory in civil cases as noted against each:

(1) Examination of documents received from the Courts in Civil Suits, Departments (other than Police Department) irrespective of the number of documents which includes cost of photographs, slide transparencies, charts etc., for each case. In cases where the costs of photographs are, exceptionally high actual cost of photographs shall be charged. As decided by the Director, Forensic Science Laboratory... Rs. 750/- (Rupees seven hundred and fifty only)

(2) If the workload is high, complicated, and time taken is more, the exact additional amount to be decided by Director, Forensic Science Laboratory not exceeding Rs. 2,000/- in a case in all. In case, the amount exceeds Rs. 2,000/-, the Director, FSL, shall obtain approval of the Director General & Inspector General of Police by giving sufficient reasons.

(3) Evidence Fee for attendance of Expert before the Court per day. In addition to this, T.A. and D.A. shall be paid as per T .A. Rules. The evidence fees, T.A. and D.A.

should be deposited in Court in advance before the day of evidence and should be paid in cash by the Court to the expert after the evidence is completed.

Rs.250/- per day to each case. (Rupees Two hundred and fifty only)

(4)

(i) Where the experts are unable to attend courts for some reason and in case where the Court decides, evidence shall be taken up on Commission at Forensic Science Laboratory, Hyderabad, the usual evidence fees of Rs. 250/- (Rupees two hundred and fifty only) per day shall be paid by the Commission to the expert after the evidence is completed. The decision whether the evidence be taken on Commission or not will be decided by the Director, Forensic Science Laboratory.

(ii) The fees of Rs. 750/- per case shall be payable in advance and remitted under the Head of Account "M.H. 0055- Police- (103) Fees- Fines and Forfeitures".

(iii) The experts shall attend the Courts to give evidence in civil cases without detriment to their other official work. They will be considered as on duty while doing so and need not apply any kind of leave.

(iv) In deserving cases in which the parties are economically poor, the fees may be waived by the Director, Forensic Science Laboratory on the recommendation of Government authorities of the rank of Superintendent of Police, District Collector or District Judge.

(v) The Director General and Inspector General of Police shall take necessary action for the proper maintenance of accounts and records on the above and arrange production before audit.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

(iv) Transmission of criminal exhibits to Forensic Science Laboratory for examination.

C.L. No. 9/2009 Admin. G-II Dated: 7.4.2009

While enclosing here with a copy of D.O. Letter No. DG-Seven-S-4(FSL)-2003, dated September 23, 2003 of Sri Abhai Shanker, the then Inspector General of Police, Technical Services, Uttar Pradesh, Lucknow on the above subject, I am directed to say that all the criminal exhibits sent to be examined by the Forensic Science Lab. Uttar Pradesh, Lucknow relating to one and the same matter ought to be sealed first in various smaller bundles/packets and thereafter they will be put in a larger sealed bundle which shall contain all the specimen of so used seals because that would facilitate the identification of exhibits sent for examination.

I am, therefore, to request you to kindly bring to the notice of all the judicial Officers working under your supervisory control and all concerned the contents of the above-referred letter and to impress upon them to strictly adhere the instructions in right earnest.

Evidence of experts of Forensic Science Laboratories in civil matters, to be recorded by commissioners appointed by the court.

C.L. No. 25/2009/Admin. 'G-II': Dated: May 16, 2009

While enclosing a copy of the Circular Letter No. ROC No. 5924/OPCELL-E/2003 DT. 22.12.2003 issued by the Hon'ble High Court of Andhra Pradesh on the above subject, the Government of India, Ministry of Home Affairs, Directorate of Forensic Science vides Letter No. CFI/19(2)/2004 dated 27.09.2004 has brought to the notice of the Hon'ble Court that the time of the experts working in the Forensic Science Laboratory is very precious and the same can be conserved by requesting for appointing commission in civil cases for recording their evidence in laboratory itself and has requested for issuance of a Circular Letter similar to the one issued by the Andhra Pradesh High Court.

Upon consideration of the above request, the Hon'ble Court has desired that a direction be issued to all the Judicial Officers of the State to take recourse to issuance of the commissions for recording the evidence of the Scientific Experts in Civil Cases wherever it is necessary, instead of summoning them to courts, by following the provisions of Order XXVI Rule 10-A and newly introduced provision of Order XXVI Rule 4-A under Act 22 of 2002, Civil Procedure Code in particular.

While enclosing a copy of the above Government Letter dated 27.9.2004, I am directed to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control for strict compliance.

13. CHARGE-SHEETS AND FINAL REPORTS

As modified by C.L. No. 51/IV h 36 dated 10th March, 1977

Charge sheets should be accepted even though they have been filed without copies of documents, but they should invariably be accompanied by the original documents. The receipt of every charge sheet shall be acknowledged by the ahalmads.

C.L. No. 88/Vll-b-107 dated 8th July, 1975

Summonses should not be issued to the accused until the charge sheets are received in the courts from the police.

C.L. No. 96/Vll-b-21 dated 19th July, 1971

Magistrates should pass orders on final reports submitted to them by the Police within one month of their submission.

C.L. No. 10/VII-c-/25/Admn. (G) dated 24th January, 1986

Attention of all the Presiding Officers is invited to the judgment of Supreme Court in the case of Bhagwant Singh v. Commissioner of Police, reported in A.I.R. 1985 S.C. 1285 regarding issue of notice to the informant in cases where the Magistrate to whom a report is forwarded under Sub-Sectioned) of Section 173, decides not to take cognizance of the offence and to drop the proceedings or takes the view that there is no sufficient ground for proceeding against some of the persons named in the F.I.R.

C.L. No.45/VI-h-36 dated 8th March, 1977

On each charge sheet filed in the courts, a rubber seal indicating the following should be impressed:-

(a) Charge-sheet received on.....
(b) Paper sent for copying on.....
(c) Papers and copies received back on …….

Numbering of criminal cases

C.L. N0.75/VIII-8-108 Admn.(G)(B) dated 29th October, 1984

All the criminal courts should strictly comply with rule 21 and rule 91 of the General Rules (Criminal),* with regard to numbering of criminal cases.

14. COMMITTAL OF CASES

C.L.No. 60/VII-d-21 dated 16th September, 1948**

On the commitment of a case by the Magistrate, a date should be fixed for its hearing without waiting for the evidence under section 219 of the Code of Criminal Procedure. If such evidence is not recorded by the Magistrate by the date of hearing Sessions Judges may use their discretion and either proceed with the trial or adjourn it for the remaining evidence only. The entire hearing is to be adjourned only in very exceptional circumstances. It may, however, be borne in mind that after commitment the trial in the sessions court is by no means to depend on the proceedings in the court of the committing Magistrates.

C.L. No. 120/Vlld-68 dated 16th November, 1970

Instructions contained in G.O. No. 1166/VI-6-19-1964, dated the July 15. 1964 should be strictly followed while committing cases to the- court of Sessions keeping in mind that the entire prosecution case is completely ready and includes the reports of the Chemical Examiner and the Serologist where it is necessary to rely on these for deciding the case.

Sessions Judges should, however, impress upon Judicial Magistrates that cases should not be committed to Sessions Courts unless all the evidence and specially the important evidence has been completed and that if in any particular case evidence under section 219* of the Code of Criminal Procedure remains to be recorded, it should be finished before the date fixed by the Sessions Judge for the hearing of the case.

G.L. No. 54/T, and 56/T dated 30th August, 1948

The calendar and the record of the case committed to sessions are generally sent by committing Magistrates to the courts of sessions long after the date of commitment in contravention of the provision of rule 35, Chapter V of the General Rules (Criminal),

* Now 1977vide notification no. 504/Vb-13 dated 5.11.83.
** This C.L. should be read in context of the charges made by Cr. P.C.of 1973

1957,* which requires that the record should be submitted within eight days of the order of commitment. This is highly objectionable.

In cases where the record is likely to take long in preparation or when it is required for recording evidence under section 219of the Code of Criminal Procedure, it should not be allowed to be detained in the Magistrate's court. The sessions court should get it for fixing dates and may return it when not required to the committing court for preparation or for the taking of proceedings under section 219 of the Code of Criminal Procedure as the case may be.

C.L. No. 151/VIIIa-99 dated 15th December, 1975

Separate registers for F.I.Rs., statements under section 164, Cr.P.C., dying declarations,, report of Chemical Examiner Serologist and other experts including ballistic experts, affidavits and identification memos should be maintained in the court of every Magistrate and all those documents, whichever may be available at the time of passing of the committal orders, be submitted to the courts of Sessions along with the committal orders.

C.L. No. 8/iv f 80 Admn. (A) dated 18th February, 1981

There should be a regular flow of commitment of cases to the sessions so as to avoid increase or decrease in pending sessions trials all of a sudden. If cases are committed to the court of sessions regularly, the pending files of sessions trials may not increase or decrease from month to month-necessitating withdrawal or posting of additional courts at short intervals.

(i) Expeditious disposal of Criminal cases and avoiding delay in committing cases to the sessions.

C.L. No. 27/VIIb-47 Dated; Alld. Nov., 05, 1973

I am directed to refer to Court's Circular Letter No. 96, dated July 19, 1971 and to say that it has come to the notice of the Court that due to unnecessary delay caused in the committal proceedings, the accused, who are on bail, get an opportunity to win over the prosecution witnesses and weaken the evidence against them. In consequence, the prosecution is unable to establish charges leveled against the accused. Such difficulties can be obviated to a great extent in case committal proceedings are finalised expeditiously.

I am, therefore, to request you kindly to impress upon all the committing Courts under your control to see that committal proceedings are finalized expeditiously, so that the disposal of Criminal cases is not unnecessarily delayed.

(ii) Disposal of committal cases by the Judicial Magistrates.

C.L No. 25/VIII -106/ Admn./96 dated May 18, 1996

I am directed to say that a large number of cases are pending in your judgeship for committal. The delay in committing the cases to the Court of Sessions results in

* Now 1977 vide notification 504/Vb-13 dated 5.11.83

tampering the witnesses and furnishes a ground to the accused to seek bail. The Hon'ble Court has taken a serious note of the aforesaid facts and has directed as under:

1. The committal proceedings in which the role of the Magistrate is limited should not take more than two months time and the cases should be committed to the Court of Session within two months.
2. In the monthly and quarterly return of the Subordinate Court the number of enquiries, which are pending for more than one year, six months and three months must be given specifically.
3. The arrear of committal enquiries must be disposed of by the Chief Judicial Magistrates/all other Magistrates within the next three months.

Therefore, you are requested to ensure the compliance of the above observations.

(iii) Quarterly return of pending committal enquiries in the Subordinate courts for more than one year, six months and three months.

C.O.No.46/Admin (E)/96 Dated: August: 13, 1996

In continuation of C.L. No. 25/VIII Admin. Dated May 18, 1996 on the above subject, I am directed to say that the requisite figures of pending committal enquiries in your judgeship for the quarter ending June, 1996 have not been received here so far.

I am, therefore to request you to kindly send immediately the figures of pending committal enquires for the quarter pending June, 1996 in your judgeship for more than one year, Six months and three months in the prescribed proforma, attached herewith to the Joint Registrar, Administrative (E) Section of the court and the same may also be sent henceforth regularly.

(iv) To ensure strict compliance of the Judgment and order of Hon'ble Supreme Court passed in petition for special Leave to Appeal (C) No.9140 of 2003: Ch. Venkateshwar Rao Vs. The Registrar (Administration) High Court of Andhra Pradesh, Hyderabad, A. P. & anr.

C.L.No. 30 /2003 Dated: Aug19, 2003

The Hon'ble Supreme Court in Petition for special leave to appeal (C) No.9410 of 2003: Ch. Vakateshwar Rao Vs. The Registrar (Administration) has observed with concern that in district Courts charge sheets have been found lying with the concerned staff without any action having been taken by verifying and placed them before the presiding officer and in not sent to the sessions court even after committal of the cases. The Hon'ble Supreme Court has further observed that several private complaints, criminal petitions in maintenance cases and criminal petitions were not called and were not placed before the officer.

I am, therefore, directed to a copy of order dated 5.5.2003 passed by Hon'ble Supreme court in Petition for Special Leave to Appeal (C) No 9140: Ch Vakateshwar Rao Vs. The Re Latter (Administration) High court of Andhra Pradesh, Hyderabad, U. P. & Anr. For your Information and necessary action.

(v) Direction regarding committal of cases pending in the Court of C.J.M./Judicial Magistrate.

C.L. NO. 44/Admn. (E-2) Dated 21st September, 2000

I am directed to invite your attention to the Court circular letter No. 27 dated 14.10.99, on the above subject and to request you kindly to send the court time to time fortnightly consolidated statement regarding committal of cases pending in the court of C.J.M./Judicial Magistrate in your Judgeship.

(vi) Submission of reports with regard to committal of Sessions Trials.

C.L. No. 10/VIII-C-114/Admin.(G)/Dated: Allahabad: 20.3.2008

In continuation of the Court's earlier Circular Letters (C.L. No. 77/VII-b, dated 5.11.1973; C.L. No. 25/VIII-106/Admin./96 dated 18.5.1996), I am directed to say that upon consideration of the matter the Hon'ble Court has desired that the District Judges concerned shall report back within one week from the receipt of the letter as to how many cases (with year-wise break up) in that district are pending for committal to the Court of Sessions of their Judgeships. Also, the District Judges will instruct all the concerned Presiding Officers to take steps to commit all such matters to the court of Sessions forthwith in accordance with law. Further, the position as it reaches by the end of April, 2008 be reported back so as to positively reach the Court by the 1st week of May, 2008. Similar follow up reports shall be sent in the first week of September, 2008 and January, 2009. The Magistrates will be instructed by the District Judges for expediting the committal of cases.

I am therefore to request you to kindly submit compliance report as per schedule prescribed by the Hon'ble Court and bring the contents of this Circular Letter to all concerned and impress upon all the Magistrates working under your administrative control to expedite the committal of cases and follow the directions in true letter and spirit.

15. SUPPLY OF COPIES OF RELEVANT PAPERS TO D.G.C. (CRIMINAL)

C.L. No. 77/Vl-b-35 dated 20th May, 1974

Copies of relevant papers in cases committed to sessions should invariably be prepared by the additional staff provided for the purpose and supplied to the District Government Counsel (Criminal) by the committing courts themselves.

16. USE OF BALL POINT PROHIBITED

C.E. No. 62/VIII-a-68 dated 31st May, 1972

For preparation of copies of statements to be supplied to the D.G.C. (Criminal) the use of ballpoint pens is prohibited.

17. PREPARATION OF CALENDAR BY MAGISTRATES

C.L. No. 1 dated 4th January, 1957

It is the duty of the Magistrates committing a case to inform the Sessions Judge who is the witnesses to be examined for the prosecution and for the accused. He is required under section 207-A(6)* to consider all the documents referred to in section 173

* Since replased by Cr. P.C. 1973

and it is on the basis of this consideration and the evidence given before him by the witnesses to the actual commission of the offence alleged that he decides to commit the case to the court of session. He is therefore, in the best position to know who will give evidence for the prosecution in the sessions court. If he cannot obtain a complete list of witnesses from the documents referred to in section 173 he may consult the public prosecutor; but the duty of ascertaining who will be the witnesses for the prosecution' in the sessions court is his and must be performed by him. He must state in the calendar the names of the witnesses to the actual commission of the offence examined by him and gist of the evidence given by them; he must also mention the remaining witnesses to be examined for the prosecution including formal witnesses and state what they are likely to depose about. It is not enough to state in the calendar that a particular witness is a formal witness or that he will give formal evidence; the gist of the evidence to be given by him should be stated, for example, that he will prove the identification proceedings or confession or dying declaration or carrying the dead body for post mortem examination and so on. If he has considered all the documents referred to in section, 173 he must know what evidence they are likely to give for the prosecution. Though the law regarding inquiries into cases triable by courts of sessions has been altered by the Amendment Act (No. XXVI of 1955), there is no alteration in the rules regarding preparation of the calendar. The attention of all the District Judges and District Magistrates is drawn to rule 35 in the General Rules (Criminal), 1957[*] which requires that the entries under heads 9 and 11 of the calendar must be full and accurate.

Their attention is also drawn to the new section 510-A[**] of the Code which should be used in appropriate cases. In sessions inquiries also Magistrates may accept evidence of formal witnesses by affidavit: When they do so, the fact that the witness has given evidence by affidavit should be stated in the calendar and the affidavit should be marked with an exhibit number and included among the documents.

C.L. No. 118/VIII-a-99 dated 6th August, 1974

Under rule 35 of General Rules (Criminal) the committing Magistrates shall continue to send along with the record of the case a calendar in the prescribed form (Part IX, No. 3) to the court of sessions as they have been doing prior to the commencement of the Code of Criminal Procedure, 1973. The words "examined in this court" shall, however be ignored from head no. 11 of the form in view of Section 209 thereof.

C.L. No. 6 dated 19th January, 1965

The Sessions Judge on receipt of calendar from the committing Magistrate will carefully scrutinize in the presence and with the help of D.G.C. (Criminal) and eliminate such witnesses as are unnecessary for the trial and only such witnesses as are considered necessary for trial be summoned.

C.L. No. 77/Vll-b dated 5th November, 1973

Committing courts should finalize the committal proceedings expeditiously so that .the disposal of criminal cases is not unnecessarily delayed. Delay in committal

[*] Now 1977 vide nitification no. 504/Vb-13 dated 5.11.83

[**] Now 296 Cr.P.C. 1973

proceedings gives an opportunity to the accused, on bail, to win over the prosecution witnesses and weaken the evidence against them.

C.L.*No. 156/VII-b-21 dated 21st December, 1971

Committing courts should exercise their discretion judicially while committing a case to the court of sessions and should keep in mind the total evidence, direct or circumstantial. If a case cannot result in conviction even though the evidence relied upon by the prosecution is accepted it should not be sent up for trial.

18. RECORDING OF STATEMENT U/SS 200 AND 202 Cr.P.C.

C.L*. No. 6/Admn. (B) dated 1st May, 1971

In every case the statement of the complainant, u/s 200 Cr.P.C. be recorded on the same day on which the complaint is made. Where for some good reason the statement cannot be recorded on the same day, it should be recorded on the following day. It should be ensured that the complainants do not have to come to the court often for this purpose and minimum inconvenience is caused to them.

The recording of statement of witnesses' u/s. 202 Cr.P.C. should not become a matter of routine. If the case is one in which notice shall be issued to the accused no detailed enquiry u/s 202 Cr.P.C. need be conducted and soon after recording the statement of the complainant notice can be issued to the accused. Where an enquiry u/s 202 Cr.P.C. is considered necessary the Magistrates must take personal interest while recording the statements of witnesses. They can, on their own, put a few questions and find out the status of the witnesses and also whether they had an opportunity to see the^ occurrence. By so doing a much larger number of complaints can be dismissed u/s. 203 Cr.P.C.

Further, the complaint cases should be kept pending without date only after the accused persons have been served so that such cases can be taken at short notice whenever necessary.

Recording of statements U/s. 200 Cr.P.C.

C. L. No.53/2007Admin(G): Dated: 13.12.2007

The Hon'ble Court has been pleased to observe that section 200 Cr.P.C. mandates that the substance of the information/statement only is required to be recorded by the magistrate which should be done by him in his handwriting as that would facilitate in pinpointing the controversy and check frivolous complaints .

Therefore, in continuation of earlier Circular letter no. 6 Admn.(B) dated 1st May 1971 , I have been directed to say that all the Magistrate working under your administrative control may please be directed to record statements under Section 200 Cr.P.C. in their own handwriting.

I am, further, to request you to kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control for strict compliance.

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* This C.L. should be read in contexet of the change made by Cr. P.C. of 1973

* This C.L. should be read in contexet of the change made by Cr. P.C. of 1973

19. INSTITUTION OF SESSIONS TRIAL

C.L. No. 54/D-1950 dated 28th August, 1950

In the case of Additional Sessions Judges (Additional District Judges) not at headquarters of a Sessions division the Government have issued a notification under sections 193(2) (new. section 194) and 409 (new section'381) of the Code of Criminal Procedure 1898, authorizing Additional Sessions Judges to try all cases committed by, and hear appeals arising from judgments passed by the magistrates of their respective districts. Notifications issued under the above provisions of the Code do not authorize Additional Sessions Judges to receive institution of cases direct but merely empower them to try the cases and hear the appeals after their institution in the Court Of Sessions.

To avoid inconvenience to the residents of the districts not at the headquarters of a Sessions Division, Sessions Judges should direct an official on the staff of such courts of Additional District and Sessions Judges to receive on their behalf sessions trials and criminal appeals and also revisions. Sessions Judges may also pass a general order of transfer in respect, of revisions under section 4 38(2) (new section 400) Code of Criminal Procedure.

C.L. No.16/D-2 dated 4th February, 1952 as amended by

C.L. No. 69/26-B dated 9th June, 1952

As under rule 21 Chapter IV General Rules (Criminal), 1957* a separate series of numbers is to be allotted to each district, a separate register in Form No. 15 should be maintained for each revenue district in a sessions division.

C.L. No. 70/Vll-F-229/Admn.(A) dated 4th November, 1982

Sessions trials and other work may, as usual, be transferred to the courts of Special Judges, if and when necessary to keep them fully engaged.

C.L. No. 38/Vlla-21 dated 19th May, 1984

It encloses a copy of Government letter no. Bhasa 15/VIII-9-3 (3)/84, dated 5.3.1984 along with its enclosure, a copy of the Criminal Law (Second Amendment) Act, 1983, No. 46 of 1983, and says that the provisions contained in the aforesaid Act with regard to cruelty to married woman and dowry death, etc. should be brought to the notice of all officers concerned, for their information and strict compliance.

(i) Non-adjournment of the Sessions Trial by the Sessions Judges.

G.L. No. C-73/1990, dated July 26, 1990.

I am directed to say that it has come to the notice of the Court that the Sessions Trial, after is opened, is being frequently adjourned by the Sessions Judges. This practice is contrary to law and is also not desirable.

I am, therefore, to request that Sessions Judges may kindly be directed that the Sessions Trials should proceed from day to day, once it is commenced and should be not ordinarily adjourned.

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* Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

The Sessions Judges may also be directed to follow the said direction, strictly.

20. HEARING OF CASES

C.L. No. 151/Vll-a-18 dated 28th September, 1974

Criminal courts, while taking up kidnapping and abduction cases, may consider the desirability of conducting proceedings in camera in case they are satisfied that the said procedure would be helpful in the dispensation of justice.

C.L. No. 104/VII-c-33 dated 30th August, 1971

In order to avoid hindrance in the rehabilitation of the deviant women, cases under S.I.T. Act* should be disposed of early.

C.L. No. 46/Vll a-19/Admn.(G) dated 4th June, 1986

The District Judges should ensure strict compliance of the provisions of section 327(2) Cr.P.C. as amended by Section 4 of Criminal Law (Amendment) Act, 1983 prescribing clearly, that the trial of cases under sections 376-376A-376B-376C, or 376-D, I.P.C. should be held in camera, by all the concerned judicial officers.

C.L. No. 52/Vll c-9 dated 6th May, 1969

In order to obviate the difficulty of witnesses showing reluctance to depose against Goondas in open court the presiding officers should allow increasing recourse to trial of cases against Goondas in camera whenever it is considered necessary by the court trying them.

In case it becomes necessary to start the trial in Jail, prior permission should be obtained from the Court.

21. NOTICE TO D.G.C. (CRIMINAL)

C.E. No. 77/VIIIf-11 dated 20th December, 1962

The necessity of strict compliance of the directions contained in paragraph 161 and 162 of the Legal Remembrancers' Manual regarding notice of date of hearing of cases to Government Pleaders [D.G.C. (Criminal)], hearing of the cases on the date fixed, cases to be taken up in succession, reasonable notice when the Presiding Officer does not propose to attend the court on days on which criminal work is fixed etc. is impressed on all the presiding officers.

22. RECORDING THE AGE OF AN ACCUSED

C.L. No. 52/Vll-b-32 dated 28th September, 1954

In the first instance, each accused in a murder case at the time of his examination by the Magistrate or the Sessions Judge should be specifically asked as to what his age is, and that age should be recorded. If the Magistrate or the Sessions Judge suspects that the age stated by the accused, having regard to the general appearance of the accused or some other reason, has not been correctly stated it is either an over-estimate or under-estimate then the Magistrate or the Sessions Judge should note his own estimate and if he considers it necessary order medical examination of the accused about his age. If any

* Now Immoral Traffic (Prevention) Act, 1956 vide Amendment Act 44 of 1946

documentary evidence on the point of age is readily available, the prosecution should be asked to produce it.

C.L. No. 11/Vlll-a-16 dated 25th February, 1965

Under Rule 53* of General Rules (Criminal), 1957,** Volume I, Presiding Officers of the Criminal Courts are required to record, *inter alia*, the age of the accused persons while examining them under section 342 (new section 313) of the Code of Criminal Procedure. Recording of age is an important factor in awarding sentence and considering the petition for mercy of a condemned prisoner and for remission of unexpired portion of the sentence by the Government.

C.L. No. 69 dated 13th August, 1968

Sessions Judges and Magistrates should give their estimate of the ages of the accused persons while recording their statements.

23. CASES OF JUVENILE

C.L. No. 89 Admn. (A) dated 3rd April, 1977

While dealing with the cases of the child offenders, the provisions of the U.P. Children Act, 1951 should be kept in view and acted upon by the courts concerned.

C.L. No 71/VII c-34 Admn. G dated 7th November, 1981

Government's Notification No. 3532/XXVI-2 55(P)/74 dated July 1981 empowers the Sessions Courts of the districts where the provisions of the U.P. Children Act, 1951* are in force to act as Juvenile Courts and to try offences punishable with death or life imprisonment.

C.L. No. 33/Admn. (G)VIIf-45 dated 13th May, 1986

It invites attention to the fact that the children below the age of sixteen years should not be confined in jail and also to the directions given in this regard by the Supreme Court in the case of Sheela Barse v. Union of India (Reported in AIR 1986 S.C. 1773).

The Supreme Court has been pleased to direct the District Judges in the country to nominate the Chief Judicial Magistrate or any other Judicial Magistrate to visit the District Jail and Sub-Jail in his District for the purpose of ascertaining how many children below the age of 16 years are confined in jail; what are the offences in respect of which they are charged; how many of them have been in detention whether in the same jail or previously in any other jail before being brought to the jail in question; whether they have been produced before the children's Court and if so, when and how many times; and whether any legal assistance is provided to them.

The report shall also state as to whether there are any children's - Home, Remand Home or Observation Homes for children within his District; and if there are any such homes, he shall inspect them for the purpose of ascertaining as to[1] what are the conditions

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* Now Rule 50 vide notification no. 504/Vb-13 dated 5.11.83

** Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

* Replaced by Section 63 of the Juvenile Justice Act, 1986.

in which children are kept there and whether facilities for education or vocational training exist.

Hon'ble the Supreme Court has further directed that the State Legal Aid & Advice Board in each State or any other legal aid organization existing in the State concerned, to send two lawyers to each jail within the State once in a week for the purpose of providing legal assistance to children below the age of 16 years who are confined in the jails. District Judges as Chairmen of the Legal Aid and Advice Committee of their Districts, should in consultation with the Administrative Chairman of the Legal Aid and Advice Board, take necessary steps to implement the aforesaid directions.

The Hon'ble Supreme Court has also observed that if there are other persons confined in jails who are there merely because they are suffering from some handicap (physical or otherwise) they should be released immediately and placed in appropriate home or place where they can receive suitable medical assistance or other educational training. Such persons shall also be medically examined in the home or place where they are kept in order to determine what medical assistance is necessary to be provided to them. District Judges should issue directions and take steps accordingly.

(i) Implementation of Juvenile Justice Act, 1986

C.L. No. 89/Admn.(A) dated 20th December, 1989

I am directed to send herewith a copy of Government Letter No. 3250/26-2/88/26 (P) 187, dated August 10, 1988, along with its enclosure, on the above subject, and to request that the contents of the said Government letter and the enclosure, may kindly be brought to the notice of all the concerned subordinate courts for their information and guidance in the matter of disposal of cases of Juvenile offenders.

शासकीय पत्र संख्या-3250/26-2/88/26 (पी)/87, दिनांक 10 अगस्त, 1988

(ii) किशोर न्याय अधिनियम, 1986 का कार्यान्वयन।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि किशोर अपराधियों के साथ अच्छा बर्ताव करके उन्हें सुयोग्य नागरिक बनाने के उददेश्य से इस प्रदेश में भारत सरकार द्वारा पारित किशोर न्याय अधिनियम, 1986 दिनांक 2 अक्टूबर, 1987 से लागू कर दिया गया है। इस अधिनियम के लागू होने के फलस्वरूप उ0प्र0 बालक अधिनियम, 1951 निरसित हो गया है। किशोर न्याय अधिनियम भारत सरकार के असाधारण गजट दिनांक 3 दिसम्बर, 1986 को उक्त गजट के खण्ड-1, भाग-2 में प्रकाशित हुआ है। इस अधिनियम की धारा -62 में प्रदत्त शक्तियों के अनुसरण में प्रदेश सरकार ने किशोर न्याय उत्तर प्रदेश में नियमावली, 1987 को भी 19 जनवरी,1988 के असाधारण गजट में प्रकाशित कर दिया है। इस नये अधिनियम में लागू हो जाने के कारण किशोर अपराधियों के रख रखाव, उनकी शिक्षा एवं प्रशिक्षण तथा उनके पुनर्वासन के क्षेत्र में महत्वपूर्ण परिवर्तन आ जायेगें। इन महत्वपूर्ण परिवर्तनों तथा अधिनियम की विशेषताओं का उल्लेख संलग्नक में कर दिया गया है।

2- *अतएव अनुरोध है कि कृपया इस अधिनियम की अपेक्षाओं एवं आकांक्षाओं के अनुरूप कार्यवाही सुनिश्चित कराने के उददेश्य से आप कृपया सभी अधीनस्थ न्यायालयों के संज्ञान में प्रमुख विशेषताओं को लाते हुये उनसे यह अनुरोध करने का कष्ट करें कि वे किशोर अपराधियों के मामलों के निस्तारण के समय उक्त अधिनियम की इन विशेषताओं तथा महत्वपूर्ण परिवर्तनों को देखते हुए आवश्यक कार्यवाही करें।*

<u>किशोर न्याय अधिनियम, 1986 के विशिष्ट प्राविधानों का विवरण</u>

1. *किशोर जो किसी भी अपराध के संबंध में पकड़ा जाए, हथकड़ी या बेड़ी नही लगायी जायेगी।*

2. *यदि किशोर को जमानत पर नहीं छोड़ा गया है तो उसे पुलिस स्टेशन या जेल में नहीं रखा जायेगा वरन् सम्प्रेक्षण गृह में निरूदध किया जायेगा।*

3. *किशोर के संबंध में न्यायिक कार्यवाही न्यायालय में सामान्य कक्ष में नहीं की जायेगी वरन् सम्प्रेक्षण गृह परिसर में की जावेगी। यह कार्यवाही ट्रायल के रूप में न होकर जॉच की तरह की जायेगी, जिसका निर्णय सामान्यतः तीन माह की अवधि में कर दिया जावेगा।*

4. *किसी भी किशोर को किसी अपराध में दोषी पाए जाने पर यदि उसे सलाह देकर या भर्त्सना देकर घर जाने की अनुमति नहीं दी गई है अथवा उसे परिवीक्षा पद पर नहीं छोड़ा गया है तो उसे किसी भी स्थिति में कारावास का दण्ड नहीं दिया जावेगा। किशोरों को उनकी स्थितिनुसार हरिजन एवं समाज कल्याण विभाग द्वारा संचालित राजकीय किशोर गृह/विशेष गृह में रखा जा सकेगा।*

5. *कोई भी पुलिस अधिकारी जो किशोर की जॉच के संबंध में किशोर न्यायालय/किशोर कल्याण बोर्ड के समक्ष उपस्थित होगा, पुलिस की वर्दी में नही होगा।*

6. *उपर्युक्त उपेक्षित किशोर को आवश्यकतानुसार किशोर न्याय अधिनियम की धारा 152 के अर्न्तगत किशोर कल्याण बोर्ड के आदेश से किशोर गृह में रखने के लिए भेजा जायेगा।*

7. *अधिनिययम की धारा -253 के अनुसार कोई भी वकील अथवा जन अधिवक्ता किशोर वेलफेयर बोर्ड में जॉच के समय उपस्थित नहीं होगे जब तक कि इसके लिए अनुमति न दे।*

8. *अधिनियम की धारा 24 के अनुसार एक ही प्रकरण में यदि दो या अधिक व्यक्ति सम्मिलित हैं जिसमें से एक किशोर हो, तो उस प्रकरण में किशोर एवं अन्य व्यक्ति की जॉच एक साथ नही की जावेगी।*

9. *अधिनियम के अनुसार किसी भी अपराध में दोषी पाये गये किशोर की जॉच सामान्य न्यायालय द्वारा नहीं की जायेगी। इस हेतु अधिनियम की धारा 5 के अनुसार किशोर न्यायालय तथा धारा-4 के अनुसार किशोर कल्याण बोर्ड के गठन का प्राविधान किया गया है तदनुसार अपचारी किशोर के लिए किशोर न्यायालय तथा उपेक्षित किशोर के निमित्त किशोर कल्याण बोर्ड का गठन किया जा चुका है।*

10. *किशोर न्याय अधिनियम के अर्न्तगत अपचारी अथवा उपेक्षित किशोरों के साथ व्यवहार करने के लिए किशोर न्यायालय व किशोर कल्याण बोर्ड के गठन होने के बाद इन किशोरों के संबंध में वर्तमान में संबंधित 57 जनपदों के सामान्य न्यायालयों के पीठासीन अधिकारी अथवा कोई भी दण्डानायक विचार करने के लिए सक्षम नहीं होगा। यदि किसी दण्डानायक के समक्ष कोई ऐसा किशोर लाया जाता है तो ऐसे किशोरों से संबंधित प्रकरण को उक्त कारण उल्लिखित करते हुए संबंधित बोर्ड/कोर्ट को स्थानान्तरित कर दिया जायेगा।*

11. *ऐसे किशोर जिनके मामले किशोर कल्याण बोर्ड/किशोर न्यायालय में विचाराधीन होते हैं और जिनको जमानत पर नहीं छोड़ा गया है, उनको रखने के लिए जिस स्तर पर सम्प्रेक्षण गृह स्थापित हैं। बोर्ड/कोर्ट से निर्णय हो जाने के उपरान्त उपेक्षित किशोरों के लिए किशोर गृह एवं अपचारी किशोर हेतु विशेष गृह की राजकीय व्यवस्था उपलब्ध है।*

(iii) Arbitrary function of the Presiding Officer/Principal Magistrate (A.C.J.M.) of Juvenile Court constituted under Notification No. 1402/26—2-88-32 (P)/87, dated 25th May 1988 by Harijan Evam Samaj Kalyan Vibhag.

C.L. No. 49/IV-1565/Admn.(A) dated July 21, 1991

I am directed to enclose herewith a copy of Government Letter No. UO-72/VII-Nyay-2, dated May 20, 1991 along with a copy of each of the notice in criminal miscellaneous petition No. 888 of 1991 and petition filed by Executive Director, Legal Aid and Service Clinic Faculty of Law, Banaras Hindu University, Varanasi in writ petition (Criminal) No. 1451 of 1985 in the Hon'ble Supreme Court of India on the above subject, and to request you kindly to give appropriate instructions to the officers dealing with these matters in your Judgeship.

माननीय उच्चतम न्यायालय में लम्बित क्रिमिनल मिसलेनियस पिटीशन नम्बर 888/1991 इस रिट पिटीशन क्रिमिनल नम्बर-1451/1985 में पारित माननीय उच्चतम न्यायालय के आदेशों का अनुपालन।

शासकीय पत्र संख्या यूओ-7/सात-न्याय-2, दिनांक 20 मई, 1991

लीगल एण्ड सर्विस क्लीनिक ला स्कूल बनारस हिन्दू विश्वविद्यालय बनारस ने अधिशासी निदेशक की ओर से मा0 उच्चतम न्यायालय में एक प्रार्थना-पत्र देकर किशोर न्यायालय के प्रिंसपल मजिस्ट्रेट (एसीजेएम) की मनमानी कार्य प्रणाली की ओर ध्यान आकृष्ट कराते हुए ए0सी0जे0एम0 सहित संबंधित व्यक्तियों को निर्देश जारी करने की प्रार्थना की है और मुख्यतः यह शिकायत की है कि किशोर न्यायालय के प्रिंसपल मजिस्ट्रेट अपनी शक्तियों एवं अधिकारों का प्रयोग नहीं कर रहे है। जो जुविनाइल जस्टिस एक्ट 1986 की धारा 5(2) के अन्तर्गत उनसे अपेक्षित है बल्कि वे उक्त अधिनियम की धारा 7(2) के अधिकारों का प्रयोग कर रहे हैं और इस प्रकार किशोरों को सामान्य फौजदारी के कानूनों के अन्तर्गत विचारित किया जा रहा है तथा जुर्माना किया जा रहा है और जुर्माना अदा न करने पर उन्हें जेल भेजा जा रहा है। प्रार्थना -पत्र में कुछ वादों के उदाहरण भी दिये गये हैं।

2- *हरिजन एवं समाज कल्याण विभाग द्वारा उनकी अधिसूचना संख्या 1402/26-2-88-32 (पी)/87 दिनांक 25 मई 1988 के द्वारा जुविनाइल जस्टिस एक्ट, 1986 की धारा 5 के अन्तर्गत प्रत्येक मण्डलीय मुख्यालय पर किशोर न्यायालय का गठन किया गया है। उक्त अधिसूचना में वाराणसी मण्डल में वाराणसी स्थित किशोर न्यायालय में अपर मुख्य न्यायिक मजिस्ट्रेट एवं प्रथम न्यायिक मजिस्ट्रेट तथा दो अवैतनिक सामाजिक कार्यकर्ताओं को दर्शाया गया है जो न्यायालय की सहायता करेगा।*

3- *माननीय उच्चतम न्यायालय में विचाराधीन क्रिमिनल मिसलेनियस पिटीशन नम्बर 888/1991 रिट पिटीशन क्रिमिनल लॉ 1451/1985 सुप्रीम कोर्ट लीगल एन्ड कमेटी बनाम यूनियन आफ इंडिया, में असिस्टेन्ट रजिस्ट्रार महोदय माननीय उच्चतम न्यायालय द्वारा जो नोटिस दिनांक 15-4-91 प्राप्त हुआ है उसकी प्रति एवं डा. सुरेन्द्र नाथ अधिशासी निदेशक लीगल एन्ड सर्विस क्लीनिक ला स्कूल बनारस विश्वविद्यालय के प्रार्थना पत्र की प्रति आपको सुलभ संदर्भ हेतु भेजी जा रही है।*

4- *कृपया माननीय उच्चतम न्यायालय द्वारा उक्त रिट याचिका में पारित आदेशों के अनुपालन हेतु जनपद न्यायाधीश वाराणसी तथा श्री नरेन्द्र चन्द्र दुबे तत्कालीन एडिशनल चीफ जुडीशियल मजिस्ट्रेट वाराणसी वर्तमान में सिविल जज अलीगढ़ के माननीय उच्चतम न्यायालय के आदेशों के अनुपालन हेतु तथा आवश्यक कार्यवाही किये जाने हेतु समुचित निर्देश जारी करने का कष्ट करें।*

IN THE SUPREME COURT OF INDIA CRIMINAL ORIGINAL JURISDICTION

Criminal Miscellaneous Petition No.888 of 1991 (Letter dated 1-2-1991 along with an application for directions received from Dr. Surrender Nath, Executive Director, Legal Aid & Service Clinic, Faculty of Law, Banaras Hindu University, Varanasi)

In

Writ Petition (Criminal) No.1451 of 1985 (under Article 32 of the Constitution of India)

Supreme Court Legal Aid Committee ……..Petitioner,

Versus

Union of India and Ors…… Respondents.

1. Chief Secretary, Government of U.P., Lucknow (U.P.)
2. Mr. Naresh Chandra Dubey, Additional Chief Judicial Magistrate, Designated as Principal Magistrate of Juvenile Court (Varanasi), U.P.

Whereas a letter dated 1.2.1991 along with an application for directions (copy enclosed) was sent and received in this Registry on 1.2.1991 from Dr. Surender Nath, Executive Director, Legal Aid & Service Clinic, Faculty of Law, Banaras Hindu

University, Varanasi and treated as Criminal Miscellaneous Petition above- mentioned in the Writ Petition (Criminal) No.1451 of 1985.

And whereas the said petition came up for preliminary hearing before this Court on the 8th April, 1991 when the Court was pleased to pass the following Order-

> "Issue notice, returnable within three weeks. In the meantime a copy of the petition sent by Executive Director, Legal Aid and Service Clinic, Faculty of Law, Banaras Hindu University, Varanasi may be forwarded to the District Judge for guidance and with a direction that he may collect the particulars keeping the information disclosed in the letter in view and send his report to the Court. The matter is adjourned for four weeks and the report is expected to be received by them."

NOW, THEREFORE, TAKE NOTICE that the above Petition is posted for hearing before this Court on Monday, the 6th May, 1991 and will be taken up by this Court at 10.30 0' Clock in the forenoon or so soon thereafter as may be convenient to the Court for orders when you may appear before this Court either personally or through Counsel and Show Cause to the Court why the prayer of the petitioner should not be granted.

Take further notice that in default of appearance the matter will be decided and determined in your absence.

Dated this the 15th day of April, 1991.

The Legal Aid and Service Clinic,
Law School, Banaras Hindu University, Varanasi-22100S (U.P.)
Through: Dr. Surendra Nath, Executive Director and Mr. A.K. Shukla, Advocate and Panel Lawyer of Clinic…….. Applicants

BEFORE THE REGISTRAR, SUPREME COURT OF INDIA, NEW DELHI

Subject: Non-Implementation or partial implementation of the Juvenile Justice Act, 1986 in Varanasi Mandal (division), disobedience of the directives of the Hon'ble Supreme Court regarding the trials of Juveniles by the A.C.J.M. Varanasi .Sri Naresh Chandra Dubey (designated as Principal Magistrate of the Juvenile Court established under J .J .Act) Particularly and illegal procedure adopted by other courts generally in the trial of delinquent juveniles.

The applicants associated with the Legal Aid and Service Clinic, Law School, B.H.U, Varanasi wish to bring to the kind notice of the Honourable Registrar and through him to the knowledge of the Honourable Justice of the Supreme Court- particularly Honourable Justice Rang Nath Misra and Honourable Justice M.N. Venkatchalliah who are at present considering identical issues in Criminal Writ Petition No.1451 of 1985- Supreme Legal Aid Committee v. Union of India and others- the mode and manner in which the cases of the delinquent juveniles are being tried in Varanasi Mandal contrary to the provisions of law prescribed by the Juvenile Justice Act, 1986 and the directives laid down by the Honourable Supreme Court.

It is respectfully submitted that the Honourable Supreme Court has been deliberating on the above stated subjects concerning delivery of justice to juveniles since 1986 and in the celebrated judgment given in the case of Sheela Barse v. Union of India

(reported in AIR 1986 SC 1573) the Hon'ble Supreme Court issued specific necessary directions to be followed by the State agencies and the subordinate judiciary. These directions have provided guidelines for the trial of delinquent juveniles and have prescribed a time frame for continuing such trials. Recently, in the same case, vide its order dated 29.8. 1988, the Hon'ble Supreme Court had sought information for every State regarding the implementation of the Juvenile Justice Act, 1986, framing of the relevant Rules and the establishment of Juvenile Courts as per provisions of the Juvenile Justice Act, 1986 (referred hereinafter as J.J.Act) in response to which, it is understood that (The State of Uttar Pradesh had filed an affidavit that J.J. Act has been implemented in the State since October 2, 1987 and Juvenile Courts have also been established and the trials of delinquent Juveniles are being conducted by these courts and neglected juveniles are being dealt with Juvenile Welfare Boards in accordance with the provisions of the J.J.Act and the J.J.Rules made there under. However, the Legal Aid and Service Clinic through this petition wishes to bring to the kind notice of the Hon'ble Supreme Court- which is at the moment overseeing the matter concerning juveniles at the initial stage in the interest of children as per orders recently issued in Criminal Writ Petition No.1451 of 1985--S.C. Legal Aid Committee v. Union of lndia -- on 17.3.1989 the real state of affairs in operation concerning the implementation of the J.J. Act and the trial of unfortunate lot of children as delinquent juveniles particularly in the Varanasi Mandal (division) comprising of five districts-Varanasi, Ghazipur, Jaunpur, Ballia and Mirzapur as given below:-

(1) That in-spite of the establishment of the juvenile courts in the State of Uttar Pradesh at every Mandal headquarter, the Additional Chief Judicial Magistrate, Varanasi -Sri Naresh Chandra Dubey - who has also been designated as Principal Magistrate of the Juvenile Court, Varanasi (having jurisdiction over five districts) has blatantly refused to function as Juvenile Court under J.J. Act on some untenable grounds given below although the State Government had also notified the other members of the Juvenile Court and the names of the two social workers--as given in Appendix IV enclosed herewith.

(2) That in spite of the notification issued by the Government of Uttar Pradesh issued with the concurrence of the Hon'ble High Court of Allahabad, the said A.CJ.M. has declined to call the meetings of the Juvenile Court, so established and function as Principal Magistrate during the past one year on the ground that the learned said Magistrate has sent some representation to the Honourable Court of Allahabad and unless specific instructions are received from the High Court and the Juvenile Courts are established according to Section 5(2) of the J. J .Act, the learned Magistrate would not function as such, although in the specific terms it has been made clear by the learned CJ.M. in his orders that Juvenile Court has been established u/s 5 of JJ. Act and the powers of the A.CJ .M. being exercised u/s 7 (2) of J. J .Act have come to an end. However, till today the newly established Juvenile Court has not started functioning due to the rigid attitude of the said A.CJ.M. who has decided not to act as such till he is posted at Varanasi as is evident by his version shown on 26-4-1990 in a case sponsored by the Legal Aid & Service Clinic (the details of which are given below in para 5 of this application and duly supported by the affidavit).

(3) That the trials of the delinquent juveniles of Varanasi district and other districts falling under the jurisdiction of the newly established Juvenile Court are being conducted in total contravention of the specific provisions of the J. J .Act and the directives of the Hon'ble Supreme Court given in the various orders in the above noted Criminal Writ Petition No.1451 of 1985, due to the adamant attitude and untenable stand taken by the learned A.C.J.M. of Varanasi-Sri N.C. Dubey -who is disposing the cases of the delinquent juveniles alone according to his own whims and procedure. It is to point out that prior to establishment of the Juvenile Court in Varanasi, the said learned A.CJ.M. was authorised to hear and try the cases of delinquent Juveniles u/s 7(2) of J.J. Act and the A.CJ.M. is still acting under the same section although the Juvenile Court has been notified and established by notification May 25, 1988.

(4) That the learned A.C.J.M. not only has refused to function as the Principal Magistrate of the Juvenile Court or to call the meeting of the Juvenile Court, he has even declined to apply the specific directives given by the Hon'ble Supreme Court regarding the conduct of trials of delinquent juveniles and the conclusion within a maximum period of time. The relevant directions of the Hon'ble Supreme Court, which have not been complied with by the learned A.CJ.M. in the case sponsored by the Legal Aid and Service Clinic and many others, in spite of repeated requests made are as follows:

> "...So far as a child-accused of an offence punishable with imprisonment of not more than 7 years is concerned, we should regard a period of 3 months from the date of filing of the complaint or lodging of the First Information Report as the maximum time permissible for investigation and a period of 6 months from the filling of the charge--sheet as a reasonable period within which the trial of the child must be completed. If that is not done, the prosecution against the child would be liable to be quashed...' (reported in AIR 1986 SC 1773 at 1779)

(5) That in a case sponsored by the Legal Aid & Service Clinic, Law School, B.H.U., Varanasi, a child of about 14 years of age was brought before the above-said A.CJ.M. Varanasi - Sri Naresh Chandra Dubey - on 26-3-1989 for the alleged offences under Section 25 Arms Act, u/s 401, Indian Penal Code and surprisingly u/s 3 (2) of U.P. Gangster and Antisocial Elements Act respectively in crime No.115 of 89, crime No.116 of 89 and crime No 117 of 89 of P .S. Cantt., Varanasi. It is pertinent to note that although P.S.Cantt. falls under the jurisdiction of learned C.J.M., the child was produced before the A.C.J.M. for remand, etc. because he was the age below 14 years and the A.C.J.M. was exercising the jurisdiction pertaining to juveniles. In the said cases, since the arrest of the Juvenile Kalit Dhir and initiation of the proceedings, the following irregularities have been committed:

(a) The child was kept under police lock up for 24 hours by the P.S.Cantt. along with other habitual offenders which has been verified by the C.D. As no copy is issued of this record, documentary evidence is not attached, herewith but the fact may got be confined through C.J.M. or District & Sessions Judge.

(b) No intimation was sent to the parents of the said child Kalit Dhir –who belongs to a respected family of Punjab-or to the Probation Officer,

Varanasi for preliminary enquiry as is desired by the provisions of J.J. Act, for about one month and the said child suffered all kinds of mental agony in the observation home. He was studying and his studies were discontinued.

(c) After having come to know about the detention of the said child in the observation home, the applicants approached the Incharge of the legal Aid authorities & of the Punjab University-Prof. V .K. Bansal - and on the information received from Prof. Bansal sent by the Legal Aid & Service Clinic, the father of the detained child came to Varanasi and moved an application for releasing the child under his custody .The father of the child - Sri Pratap Dhir is gazetted officer serving under Haryana Electricity Board.

(d) The father of the child secured an order of release by the learned A.C.J.M. on 11th May, 1989 but he could not get the custody of the child because the learned A.C.J.M. insisted for three sureties and he was not satisfied with one surety and personal bond of the father. Hence he had go back to Chandigarh to bring three persons from Chandigarh, spend lot of money in travels, etc., and ultimately got released his son on 23-5-1989, just after two months. Thus, the child suffered the agony of the observation home for two months due to the fault of those persons whose duty was to inform the parents about his detention but they failed to do so.

(e) That since no charge sheets were submitted in the concerned court of the learned A.C.J .M. which issued the orders of the remand and released the child on bail, in any of the above referred cases till the expiry of 90 days JIB from the date of lodging F.I.R. in P .S. Cantt, three applications were moved on 27-6-89 before the learned A.CJ.M. Varanasi - Sri N.C. Dubey (the competent authorised Juvenile Court) with the request to discharge the said Juvenile -Kalit Dhir - and close the case as well as discharge the sureties in accordance with the specific directions given by the Hon'ble Supreme Court in Sheela Barse V. Union of India reported in AIR 1986 SC 1773 (subsequently confirmed in the year 1988 by another order reported in AIR 1988 S.C. 2211. The photocopy of the orders passed by the Hon'ble Supreme Court were also attached with the application in the interest and welfare of the juveniles and in consonance with the directives given by the apex judicial body, the Hon'ble Supreme Court. The relevant portions of the statements made by the learned A.C.J .M. for not disposing the application of the said juvenile and for not acting as Juvenile Court are given below-

(A) "As I am going to be A.D.J. after May 1990, I would not dispose these applications till then."

(B) "When I have told not to place these applications before me, then why are they put and pressed upon time arid again."

After being drawn to the directives of the Hon'ble Supreme Court, the copy of which had already been filed in the Court on 27.6.89 with the original applications, the

learned A.C.J.M., Varanasi Sri N.C. Dubey- told the panel lawyers and the pairokar of the Clinic appearing before him on 26-4-90 that:

"Whatever step clinic considers necessary, it may take, but I would not dispose of these applications till I am posted in the capacity of A.C.J.M. at Varanasi."

The learned A.C.J.M. advised the panel lawyers to approach the Hon'ble Supreme Court for not following the directions of the Hon'ble Court regarding the conclusions of the trials of the juvenile's delinquents within the prescribed period.

(In this connection, it is to be submitted that the statements quoted here were made by the A.CJ .M. in Hindi and they are supported by an affidavit given by the pairokar of the clinic attached herewith).

(9) Even on 26-4-90, after receiving the copy of the clarification issued by the Registrar of Allahabad High Court dated 20-12-89 and circulated by the District & Sessions Judge, Varanasi on 23-1-90, the learned A.C.J.M. flatly denied that he has not received any communication in this regard from AIlahabad High Court, and without passing any order on the applications moved on 26-4-90, the learned Magistrate kept the court file with the above two applications in the court-box leaving the panel lawyers and the pairokar totally perplexed, amazed and helplessness.

(10) That the statements made by the learned A.C.J.M.-Sri N.C. Dubey- on 26-4-90 in the open court clearly indicate that Mr. N.C.Dubey is not going to discharge the functions of Principal Magistrate of the Juvenile Court till he is posted at Varanasi as A.CJ.M. and he is not going to dispose of the applications of Kalit Dhir moved on 27.6.89 till he is promoted as Addl. District & Sessions Judge, irrespective of the fact that the non- disposal of these applications amounts to the gross violations of the directives issued by the Hon'ble Supreme Court, contravenes the legislative provisions of J.J.Act, 1986 in letters and spirit. Owing to the stand taken by the learned A.C.J.M. the Juvenile Kalit Dhir and his father are facing continuous mental agony and harassment for the last 13 months since the lodging of the F.I.R. and perhaps would have to wait till the learned A.C.J.M., Varanasi, is promoted and some other persons are designated as members of the Juvenile Court.

Under the above circumstances and keeping in view the suggestions made by the learned A.C.J .M. Varanasi -Sri N .C. Dubey - himself to panel lawyers of the Clinic on 26-4-90 and on other dates earlier, the applicants representing the Legal Aid & Service Clinic, Law School, B.H.U., Varanasi, are constrained to move this application to the Honourable Supreme Court through the Honourable Registrar, with painful hearts. However, this application is being moved in the general interest and welfare of the Delinquent Juveniles facing trial in the Varanasi Mandal in various Districts and are unable to get justice according to the provisions of J. J. Act, 1986 and the directives issued by the Hon'ble Supreme Court due to the stand taken by the learned A.C.J.M. Varanasi - Sri N.C. Dubey - the Principal Magistrate designate of the Juvenile Court of not functioning as Juvenile Court. The purpose of moving this application is also, in addition to seek justice for Kalit Dhir, to acquaint the apex judicial body of the country about the state of affairs concerning the trials of juvenile delinquents in the Varanasi Mandal and also inform the Hon'ble Supreme Court as to how the subordinate judiciary can and is flouting in some cases the provisions of law and the principles of law

enunciated by the Supreme Court and, thus, consequently, making the efforts of the Hon'ble Supreme Court pertaining to juvenile justice administration futile--as is evidenced in the case of Kalit-Dhir. It is also submitted that as the Juvenile Court is not functioning in the Varanasi Mandal (covering Ballia, Ghazipur, Jaunpur, Varanasi and Mirzapur) due to the indifferent attitude taken by the learned A.C.J .M., Varanasi, Sri N .C. Dubey - the trials of each and every delinquent juvenile in these districts are, being contrary to the provisions of J. J. Act, in contravention of the procedure established by law and thus have far-reaching consequences.

Since, the Honourable Supreme Court has taken up the responsibility of overseeing the implementation of the Juvenile Justice Act at the initial stages in the interest of children (as per Justices R.N. Misra and M.N. Venketachalliah in the order dated 17-3-89), this application is being moved with the hope that it would be placed before the bench of the Honourable Justices Misra and Venkatachalliah who are dealing with the identical problems of the implementation of J. J. Act and delivery of justice to Juveniles in the Criminal Writ no. 1451 of 85. The consideration of this application by the Honourable Supreme Court would not only benefit the child Kalit-Dhir but would benefit several hundred delinquent and neglected juveniles of the Varanasi Mandal - the Eastern districts of U .P. and these children would also of get justice as has been envisaged by the new J. J. Act, 1986. At present, due to the attitude of the judicial officers like the present A.C.J.M., Varanasi, even the Juvenile Court established on 25-5-88 could not be started functioning till today and the juveniles are being tried by the Magistrates generally according to the normal criminal law - fines are being imposed, imprisonment in default of fine is awarded, juveniles are being sent to District Jail in some cases and the directive of the Supreme Court regarding the finalisation of the trial within a prescribed period is not at all followed; trials are continuing for several years from the date of filing complaints or lodging F.I.R., juveniles are being challenged u/s 109 Cr. P. C. by the Executive Magistrates (which is not permitted by the J. J. Act), some cases have been brought to the notice of the clinic that the case was disposed of by the former Juvenile Judge, Varanasi functioning under Children Act on the basis of the Supreme Court directive or on merit and the juvenile was discharged, but now after 2 to 3 years, the child is being summoned in the normal courts in the same crime because the charge sheet has come now after the lapse of 2-3 years. If these practices continue due to the "ignorance of law of the presiding officers" and "ignorance law of the prosecuting agency and police personnel" regarding the J. J. Act even after the lapse of more than three years, in fact the juveniles being delivered "injustice" instead of "justice" in this Mandal (division) of the State and there is an urgent need of interference by the Honourable Supreme Court in this deplorable state of affairs concerning the delivery of justice to juveniles. It is, therefore, requested that the matter be taken into cognizance by the Hon'ble Supreme Court and necessary directions be issued in this regard so that all these irregularities are stopped and the Juvenile court starts functioning. It is also prayed that the juvenile Kalit Dhir be awarded adequate compensation for the harassment and mental agony which he has been suffering and suffered for the last thirteen months due to the non- implementation of the Juvenile Justice Act, 1986 by the concerned authorities and persons responsible for the same so that justice be done.

It is, further, requested that the Legal Aid and Service Clinic of the Law School, B.H.U., Varanasi, would be highly obliged if the action taken on this application is

intimated to the Clinic and if any other formality like filing a separate writ petition or submission of other documents, etc., is required, the Clinic be kindly informed so that the same may be complied with.

In the end, it is prayed that in order to provide justice to several hundred juveniles of this eastern part of the State who are denied the benefit of the provisions of the Juvenile Justice Act, 1986, this application be kindly put before the appropriate Bench of Hon'ble Judges of the Supreme Court so that necessary action be taken and directions be issued by the Hon'ble Supreme Court to the concerned persons including the A.C.J.M. Varanasi, Sri N.C. Dubey- immediately to apply the law of the land and not apply one's own law.

(iv) Establishment of special court for typing cases relating to Juvenile Justice Act, 1986

C.L.No.62/ Admin:A-3, dated Allahabad:3 December 1998

I am directed to refer to Government Notification No.1297/60-198-1/16(2)/97 dated 27.6.1998 in the matter of establishment of the court (ACJM/CJM) specified in each district as Juvenile Justice court for typing the cases under Juvenile Justice act1986 and also to refer the Government Notification No.1402/26-2-88-32(P)/87 dated 25th May 1988 through which the Government had established the Juvenile Justice court at 11 divisional head Quarters with the place of sitting at Varanasi, Gorakhpur, Moradabad, Agra, Merrut, Allahabad, Faizabad, Lucknow, Jhansi, Bareilly and Pauri Garhwal defining the local areas comprising some of the district and to say that the court has considered the matter regarding trial of pending cases in the aforesaid 11courts and is of the view that when the cognizance has already been taken by the court, its Jurisdiction would not be cussed merely on the ground of local area from where the case up in the court falls to the jurisdiction of another court.

In the circumstances mentioned above, the court is of the view that the cases covered under Juvenile Justice, Act, which was earlier pending in one district of divisional Head Quarters, would continue to be tried by those courts.

C.L. No. 4/Main-B/Admin. (A-3) Dated 23.01.2010

Sittings of Juvenile Justice Boards.

On the above noted subject, I have been directed to say that in order to make Juvenile Justice Boards more functional and effective, the Hon'ble Court has been pleased to resolve that the Principal Magistrate presiding over the Juvenile Justice Boards shall hold sitting four days in a week and may sit at 03.00 PM onwards to attend the cases of the juveniles.

I am, therefore, to request you to kindly direct the concerned Magistrates working under your supervision to make compliance of the above direction of the Hon'ble Court.

Sitting of Juvenile Justice Boards in the month of May & June

C.L. No. 14/Main-B/Admin. (A-3): Dated 24.05.2010

In continuation of the Court's Circular letter No. 4/Main-B/Admin (A-3), Allahabad: dated; January 23, 2010, on the above noted subject, I have been directed to say that the Hon'ble Court has been pleased to order that during the months when the morning Court are being held i.e. in the month of May and June the Juvenile Justice

Boards shall hold sitting at 11 a.m. onwards instead of 3 p.m. to attend the cases of Juveniles?

I am, therefore, to request you to kindly direct the concerned Magistrates working under your supervision to make compliance of the above direction of the Hon'ble Court.

Submission of report regarding the conditions and the functioning of remand Juvenile Homes alongwith the capacity of the Juvenile Homes

No. 913/Main-B/Admin.(A-3) dated 17.01.2011

On the above noted subject, I have been directed to say that on consideration of your report regarding the conditions and the functioning of remand Juvenile Homes for the period from 01.01.2010 to 30.06.2010, the Hon'ble Court has been pleased to observe that your report does not contain the information as to since when the Juveniles are being detained in the Homes and also the cases /matters under which they are detained, is also not disclosed.

I am, therefore, to request you kindly to submit the desired information, as to since when the Juveniles are being detained and also the cases/matters under which they are detained alongwith name of the accused. Section, under which detained, the time period since detained in the Juveniles Homes in the enclosed prescribed proforma, to the Court, by return Fax, so that the same may be placed before Hon'ble Committee in its next meeting scheduled to be held on 10.02.2011.

PROFORMA					
Sl. No.	Name of the accused	Sections under which detained	Time period since detained	Reasons for delay	Suggestions

24. CLASSIFICATION OF PRISONERS

C.E. No. 20/VIII-a-21 dated 24th February, 1970

Presiding Officers should use only revised form of classification of prisoners instead of the old one and while doing so they should keep in mind that the form is properly filled in. All the courts concerned should make strict compliance of the provisions of the rules 58 and 73[*] of General Rules (Criminal). The details of previous convictions must invariably be given in the judgments and should be endorsed on the warrants.

C.L. No. 72/VIIb-28 dated 10th November, 1982

It impresses upon all the convicting courts to classify, at the time of conviction the minor prisoners and also other prisoners as 'Casual Offender' or 'Habitual Offender' according to the form of classification prescribed under para 286(Ga) of the Jail Manual and strictly follow the instructions contained in Note 1 at the foot of the said form of classification so that the minor convicted prisoners of the aforesaid category are not deprived of the facilities to be provided to them at the Kishore Sadan.

[*] Now rules 55 and 70 vide notification no. 504/Vb-13 dated 5.11.83

Strict compliance of the provisions as contained in Appendix 'F' of the General Rules (Criminal), 1977 regarding Rules framed under section 59(17) of the Prisons Act, 1894 for the classification of prisoners as reproduced from Chapter XII of the Jail Manual, Uttar Pradesh.

C.L. No. 21/2009 Admin. (G-II): Dated: 30.04.2009

Upon consideration of the letter no. 22480/Sama-1(3)/Bandi Vargikaran/2008 dated 26.8.2008 of Inspector General (Prisons) drawing attention towards the Subordinate Courts not providing information on the forms prescribed in accordance with the Rules framed under section 59(17) of the Prisons Act, 1894 read with Ch. XII para 286-C of the Jail Manual, Uttar Pradesh for classifying prisoners as professional or non-professional accused along with their conviction warrants which is resulting in difficulty to dispose of matters wherein consideration is to be made of their release prior to end of the term of punishment awarded serious concern is expressed by the Hon'ble Curt.

Therefore, while enclosing a copy of the letter no. 22480/Sama-1(3)/Bandi Vargikaran/2008 dated 26.8.2008 of Inspector General (Prisons), in continuation of the circular Letters noted in the margin, I am directed to say that all the judicial officer under your administrative control be directed to make strict compliance of the provisions as contained in Appendix 'F' of the General Rules (Criminal) by filling up Form of Classification of convicted prisoners as prescribed in para 286-C, to be sent with conviction warrant.

C.L. No. 2/2010/Admin. 'G-II' Dated 07.01.2010

Compliance of Section 176 Cr.P.C. by Judicial Magistrates.

Upon consideration of letter no. 7165(VI)/Sama – 1, dated 04.03.2009 of Inspector General, Prisons Administration & Reforms Services, U.P., Lucknow, the Hon'ble High Court has directed that powers of enquiry on death during custody as provided under Section 176 of the Code of Criminal procedure be exercised by the Chief Judicial Magistrate/Chief Metropolitan Magistrate/Addl. Chief Judicial Magistrates/Judicial Magistrates of your Judgeship and copy of the enquiry report alongwith list of evidence collected therein be sent to the Deputy Inspector General, Prisons of the region concerned to take necessary action.

I am, therefore, to request you to kindly bring the contents of the Circular Letter to all concerned working under your administrative control for strict compliance.

C.L. No. 3/2009/Admin. 'G-II' Dated 12.01.2010

Detention of convicted prisoners on robkars in Jails.

I have been directed to inform you that no convicted person should be committed to Jail by the trial courts or Chief Judicial Magistrates/Judicial Magistrates for detention on the basis of robkars and they must be committed to Jail by the trial court in accordance with Section 418 Cr.P.C. and Rules 96 to 99 of General Rules (Criminal) to serve out the sentence alongwith conviction/sentence warrants prepared on the proforma attached herewith mentioning details of sentence awarded by the trial court or appellate court against him.

I am, therefore to request you kindly to bring the contents of this Circular Letter in the notice of all the Judicial Officers working under your administrative control to make strict compliance.

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE

(Section 245 and 258, Schedule V from XXIX, Old Cr.P.C.)

Case No. ……..... Of 20
To the Superintendent of the Jail at
Whereas, on the ……..day of …….20, (Name of prisoner) …….the …..prisoner incase no. …….of the calendar for 20 ., was convicted before me (Name and official designation) of the offence of ……(mentioned the offence or offences concisely) under section (or sections) the Indian Penal Code (or of Act),……and was sentenced to (State the punishment fully and distantly).

This is to authorize and require you, the said Superintendent, to receive the said (prisoner's name) in to your custody in the said jail together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 20

Seal **Magistrate**

25. COUNSEL TO DEFEND PAUPER ACCUSED

C.L. No. 2/VIII-c-89 dated 8th January, 1952

As soon as a report under rule 37 of Chapter V, General Rules (Criminal), 1957,[*] has been received from the committing Magistrate that an accused person is possessed of sufficient means to enable him to engage counsel for his defence in the Court of Sessions, a Sessions Judge should inform him, if in custody, of the contents of the Magistrate's report and tell him that the court would not engage counsel to defend him. This will give the accused person, if he is not satisfied with such report, an opportunity of pointing out, that the committing Magistrate's report is incorrect and will enable the Sessions Judge to verify his statement, if necessary, by a further reference to the Magistrate concerned and to come to a decision on the point well ahead of the date fixed for the commencement of the trial. This procedure is meant to be followed, where necessary, in addition to that prescribed in rule 37 of Chapter V, General Rules (Criminal), 1957[*] and not in substitution thereof.

C.L. No. 38/VIII c-89 dated 14th April, 1951

Unless there is no choice, lawyers of less than five years' standing should not be appointed to defend the accused at the cost of the State. Every effort should be made to secure the services of competent and senior lawyers in such cases. Even senior lawyers may often be prepared to defend pauper accused in capital cases without regard to the actual remuneration paid to them on behalf of the State.

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[*] Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

[*] Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

C.L. No. 102/VIII-e-89 dated 15th November, 1961

To avoid chances of discrimination and complaint and to ensure better and proper defence of pauper accused a list of willing and competent lawyers be maintained and cases should be allotted to them in rotation. The list should be revised in February and given effect to from March each year.

C.L. No. 18 dated 18th January, 1969

Amicus curiae under rule 37, General Rules (Criminal) should be appointed at least two weeks before the date fixed for hearing of the trial because if the *amicus curiae* are appointed on the date fixed for the hearing of the Sessions trial, the trial has necessarily to be adjourned. In case the Judge proceeds with the trial, the same day the trial is ab initio invalid as held by the Supreme Court.

26. SUMMARY TRIAL

C.L. No. 4 dated 3rd October, 1975

Please invite the attention of all officers under your charge to section *2*06 Cr.P.C. and invite them to make use of this provision as and when occasion arises. In such cases the accused should be told in- plain and simple language, *inter alia*, that if he so desires he can plead guilty without appearing and by transmitting, before the specified date, by post, or by a messenger, to the Magistrate such plea as well as the amount specified in the summons.

C.L. No. 104/VII-b-108 dated 6th August, 1975

Magistrate should strictly follow the provisions of section 206(i) of the Code of Criminal Procedure, 1973 while deciding cases under section 260 of the said Code.

C.L. No. 1 dated 14th January, 1976

In criminal cases, a very liberal use of sections 205 and 206 Cr.P.C. should be made.

C.L. No. 4 dated 3rd February, 1976

The provisions of sections 205 and 206, Cr.P.C. should invariably be used in petty cases. It is true that forms for section 206 are not yet available. The substance of section 206, Cr.P.C. is that the accused need not come. He may not even engage a counsel. He is required to send the proposed amount of fine to the Court along with a plea of guilty. This idea can be formulated in simple language so that a villager may understand and comply. The District Judges may prepare rubber seals, containing a few sentences to convey the idea behind section 206 and get the seals stamped on the usual summons or on its reverse side.

Section 206 will help in improving the disposal of the officers and in executing the policy of the legislature in saving unnecessary cost to the litigant.

C.L. No. 66 dated 11th May, 1976

The District Judges are requested to arrange rubber stamps for all the magisterial courts, in following words:-

"If you desire to plead guilty without appearing in person, send written confession along with fine by post or messenger, on or before the date fixed.

If you desire to plead guilty through pleader, he may confess and pay fine on showing written authority from you."

C.L. No. 85/VIII b-108-Admn. (G) dated 24th November, 1984

The District Judges should see that henceforth, the aforesaid instructions are strictly complied with by the Magistrate. If any Magistrates do not do so, it may be treated adversely against him.

C.L. No. 13-VII d-92/Admn. (A) dated 18th January, 1978

It is impressed upon all the Magistrates that in the interest of expeditious disposal of criminal cases, such cases, which can be tried summarily, should generally be tried summarily.

While inspecting cases of Magistrates, the District Judges/the Chief Judicial Magistrates are requested to verify whether the Magistrates try summarily those cases, which can be tried summarily.

Compliance of the Provisions of Section 206 of the Code of Criminal Procedure, 1973.

C.L. No. 65/Vllb-108/Admn. (G), dated November 11, 1991

1. C.L. No.4 dated 3.10.1975.
2. C.L. No. 104/Vllb-108, dated 6.8.1975,
3. C.L. No.1, dated 14.1.1976,
4. C.L. No.4. dated 3.2.1976
5. C.L. No.66, dated 11.5.1976,
6. C.L. No. 13/VIId-92, dated 18.1.1976 and
7. C.L. No. 85/VIlb-108, dated 24.11.1984.

I am directed to invite your attention to Court's Circular Letter noted on the margin and printed at pages 457 & 459 of the book of Circular Orders 1990 Edn, on the above subject, and to say that in spite of repeated instructions, this Court is receiving complaints that the provisions of Section 206 (i) of the Code of Criminal Procedure are not being followed by the trying, Magistrates while deciding cases under Section 260 of the said Code causing harassment to the accused. Thus, with a view to give quicker relief to the accused persons involved in petty offences, the Magistrates may be directed to have the list of such cases prepared where punishment is possible in the form of fine where after the Magistrate may call upon the accused by a notice in writing fixing some date therein, on which if the accused pleads guilty, his case may be disposed of on the date fixed, by imposing the sentence of fine only. The Magistrates can make this fact of imposition of fine, only known to the litigants in general through the lawyers by giving them the option that in case the accused give an application whereby they plead guilty and want to got the sentence of fine only, then on getting their files from the record room, the Magistrate, may dispose of those matters by imposing fine only.

I am, therefore, to request you kindly to bring in the notice of all trying Magistrates the contents of this letter for their information and necessary compliance.

27. TRIAL BY RAILWAY MAGISTRATE AND MOBILE COURTS

C.E. No. 881/Admn. (B) dated 29th August, 1974

In terms of Government notification no. 132 6/VII-A.N.208/74, dated March 29, 1974, the Judicial Magistrates (Railways) are required to hold their courts at any place of any district in which they are posted so that complaints in respect of petty offences may be filed before them and they may then and there, decide such cases. Such court shall, however, be held at some distance from the scene of occurrence so that the litigant public may not be under the impression that the Judicial Magistrates are a part of the railway administration.

C.L. No. 703/Admn. (B) dated 11th July, 1975

Railway Magistrates will try at the railway station or on the line only cases in which passengers are apprehended for traveling without ticket. Other cases will be distributed among the various Judicial Magistrates including Munsif Magistrates having jurisdiction. In no case, a Railway Magistrate shall try a case other than a railway case on the line or at the railway station. When not trying a case on the line or at the railway station, the Railway Magistrates shall hold court at the headquarters and try such cases as are allotted to them.

C.L. No. 109/Admn. (B) dated 22nd August, 1975

To overcome the difficulties pointed out in connection with trial of cases relating to transport offences Thana wise, it has been decided as follows :-

1. The Chief Judicial Magistrates of each district may, in consultation with the District Judge, assign cases pending up to July 15, 1975 to a magistrate or distribute the same amongst the Judicial Magistrates available in the district.
2. As regards cases filed after July 15, 1975 the Chief Judicial Magistrate shall distribute them, in consultation with the District Judge, amongst the Judicial Magistrates available in the district so far as possible, Thana wise.

C.L. No. 119/Admn. (B) dated 15th September, 1975

Besides trying cases as indicated above a Railway Magistrate shall also try the following category of cases under the Indian Railways Act.

1. entering carriage in motion or improper travelling (Section 118);
2. entering carriage or other places reserved for females (Section 119);
3. drunkenness or nuisance on the railway (Section l20);
4. canvassing or hawking on a railway without a licence (Section 120-A);
5. tresspass and refusal to desist from tresspass (Section 122); and
6. disobedience of omnibus drivers to the railway servant section 123 and chain pulling.

In other classes of railway offences including offence under the Railway Property (Unlawful Possession) Act, 1966 the Chief Judicial Magistrates, in consultation with the District Judges, may exercise their discretion to assign any case or class of cases to a Railway Magistrate to hold trial at the Railway premises in the interest of justice.

C.L. No. 3546/Admn. (A) dated 6th April, 1981

It modifies aforesaid circulars and directs that:-

1. the Railway Magistrates may hold courts at any place of any district in which they are posted in order that the complaints in respect of petty offences may be filed before them and they may, then and there, decide such cases, so that the litigant public may be relieved of avoidable hardships and there may be speedy disposal of cases. Such courts shall, however, be held at some distance from the scene of occurrence, so that the litigant public may not be under the impression that the Judicial Magistrates are a part of the railway administration,

2. the Railway Magistrates should co-operate with the raiding parties of the railway administration and remain present on the spot for the trial of cases. Such cooperation is all the more necessary at the time of special drives conducted by the railway authorities,

3. the Railway Magistrates shall only try, at the railway stations or on the line, cases in which passengers are apprehended for travelling without tickets. In any case a Railway Magistrate shall not try cases other than a railway case at the railway station or on the line and in case they are not trying cases at the railway station or on the line, they shall hold court at the headquarters and try such cases as are allotted to them.

The trial of the following categories of cases under the Indian Railway Act may also be held by the Railway Magistrates at the railway premises:-

(i) entering carriage in motion or improperly travelling (Section 118);
(ii) entering carriage or other place reserved for females (Section 119);
(iii) drunkenness or nuisance on, the railway (Section 120);
(iv) canvassing or hawking on a railway without a licence (Section 120-A);
(v) trespass and refusal to desist from trespass (Section 122), and
(vi) Disobedience of omnibus drivers to the railway servants under section 123 and chain pulling.

As regards other class of railway offences including offences under the Railway Property (Unlawful Possession) Act, 1966, a discretion shall be exercised by the Chief Judicial Magistrate in consultation with the District Judge in order to assign any case or class of cases to a Railway Magistrate to hold the trial at the railway premises in the interest of justice, keeping in view the convenience of the railway administration, accused and witnesses.

Mobile Courts

C.L. No. 102/IVb-11 dated 9th June, 1976

The local transport authorities as well as municipal authorities be contacted immediately to provide a vehicle to carry the Special Judicial Magistrates who will be authorised to operate as mobile courts. The mobile courts should start functioning with effect from 1st July, 1976. These mobile courts would deal with cases under the Motor Vehicles Act, breach of Municipal bye-laws, Weights and Measures Act, etc., that is, the cases which can effectively be tried and dealt with on the spot. Top priority may please be given to this matter.

C.L. No. 64/Admn. (A) dated 15th September, 1984

It supersedes C.L. No. 102/IVb-ll dated 9th June, 1976 regarding holding of mobile courts and directs that the practice of holding mobile courts for the trial of cases under the Motor Vehicles Act be discontinued with immediate effect.

C.L. No. 133/Admn. (A) dated 25th August, 1976

For checking of ticketless passengers in the buses of U.P. State Road Transport Corporation, the services of one Special Judicial Magistrate may be made available to the District Magistrate whenever required.

28. RAILWAY MAGISTRATE

Regarding Sanction of staff to Additional Chief Judicial-Magistrate (Railway) equivalent to that of Additional Chief Judicial-Magistrates.

C.L.No. 46/Ve-54/Admn. (D) dated May 12, 1994

I am directed to send herewith a copy of the G.O. No. 5730/Sat – Nyaya –2-207/82, dated 12.1.1994, on the above subject, for information and necessary action.

अपर मुख्य न्यायिक मजिस्ट्रेट (रेलवे) को राज्य के अपर मुख्य न्यायिक मजिस्ट्रेटों के समान स्टाफ दिए जाने की स्वीकृति।

शासनादेश संख्या 5730/सात-न्याय-2-207/82 दिनॉकित 12 जनवरी, 1994 उपर्युक्त विषयक शासन के पत्र संख्या- 5851/सात-न्या-2-207/82दिनांक 19 नवम्बर, 1992 का आंशिक संशोधन करते हुए मुझे यह कहने का निदेश हुआ है कि अपर मुख्य न्यायिक मजिस्ट्रेट (रेलवे) के न्यायालय से सम्बद्ध पदों के विवरण में अहलमद/क्लर्क के स्वीकत पदों की संख्या 2 के बजाय 1 पढ़ी जाय। इस संशोधन के उपरान्त दिनांक 19.11.1992 में सूचित और शासनादेश संख्या -5978/सात-अ.न्याय.-207/82 दिनांक 27 जनवरी, 1987 के अनुलग्नक में उल्लिखित पदों की संख्या में कोई भिन्नता नहीं रह जाती है। सारांशतः प्रत्येक अतिरिक्त मुख्य न्यायिक मजिस्ट्रेट (रेलवे) के साथ रीडर का एक, लिपिक/अहलमद का एक तथा मेसेन्जर का दो (1 अर्दली, 1 चपरासी) पद अनुमन्य है। इसके अतिरिक्त प्रदेश के समस्त अतिरिक्त मुख्य न्यायिक मजिस्ट्रेटों/मुंसिफ मजिस्ट्रेटों/जुडीशियल मजिस्ट्रेटों तथा रेलवे मजिस्ट्रेटों के लिए शासनादेश संख्याः यू0ओ0-42/सात-आ.व्य.नि.-26/85-न्याय (अधीनस्थ न्यायालय) अनुभाग दिनांक 8.12.1989 द्वारा 65 आशुलिपिकों के पद भी शासन द्वारा स्वीकृत किए गए हैं जिनमें से एक-एक पद 18 अपर मुख्य न्यायिक मजिस्ट्रेट्स (रेलवे) के लिए है। कृप्या तदनुसार सभी अपर मुख्य न्यायिक मजिस्ट्रेटसों (रेलवे) अवगत कराने का कष्ट करें। यह भी स्पष्ट किया जाता है कि रेलवे मजिस्ट्रेटों के न्यायालयों को स्थायीकरण शासनादेश संख्याः 2709/सात-न्या.-2-207/82 दिनांक 24 जून, 1992 द्वारा आस्थगित करते हुए उक्त पदों को उच्चीकृत किया गया है और इन अस्थायी पदेां को वर्तमान में दिनांक 28. 2.94 तक के लिए सततीकृत किया गया है।

29. TRIAL OF CASES BY SPECIAL JUDICIAL MAGISTRATES/JUDGES

C.L. No.114/Admn. (A) dated 13th Ju!y, 1976

Municipal and other body's cases be entrusted to the Executive Magistrates who have been appointed Special Judicial Magistrates under section 13 Cr.P.C. and they be asked to give preference to the disposal of these cases.

C.L. No. 116/Admn. (B) dated 6th September, 1975

For expeditious removal of unauthorised occupation of Municipal land and also for early hearing of petty cases, Chief judicial Magistrates in exercise of the powers under section 15(2) of the Code of Criminal Procedure, 1973, should assign all Municipal cases for trial exclusively to one of the Magistrates. For speedy disposal

uncontested petty cases may, however, be heard at the spot but by way of precaution the Magistrate concerned should hold his court at a place from where he cannot see the Municipal authorities detecting offences and prosecuting people because once the offenders know that the condition at the spot can be quickly inspected by the trying Magistrate, they would not raise unnecessary objections.

C.L. No. 130/Admn. (A) dated 7th November, 1979

The District Judges should see that all the cases relating to embezzlement in cooperative societies pending in different courts, in their judgeship are transferred to the special courts concerned at an early date, if not already done.

C.L. No. 68/VIIC-227 dated 15th October, 1982

The cases under section 125 Cr.P.C. should be transferred to one Munsif-Magistrate with the direction that he may dispose them of expeditiously on priority basis.

Half-yearly reports of the effect and consequence of implementation of this scheme should be submitted to the Court.

C.L. No. 66/IVg-103/Admn. (A) dated 22nd June, 1978

The District Judge should nominate one Magistrate in the district for deciding cases under the Protection of Civil Rights Act, 1955 and transfer all pending cases under" this Act to his court for being decided on priority basis.

C.L. No. 79/IVg-103 dated 11th December, 1981

All cases under the Indian Penal Code relating to atrocities on Harijans should be entrusted for disposal to the Magistrate already nominated by the District Judge for deciding cases under the Protection of Civil Rights Act, 1955.

C.L. No. 79/Admn. (A)/VIIF-189 dated 14th November, 1984

The cases pending under the Section 198 A and 211 of the U.P. Zamindari Abolition & Land Reforms Act, 1950 and section 27 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 shall be soon transferred to the courts of Judicial Magistrates constituting special courts to try economic offences in the district headquarters as well as in tahsil headquarters (wherever courts of Munsif-Magistrates are situate in tahsil headquarters) with directions to dispose of such cases on top priority basis. They should so arrange their cause-lists that cases under these sections are put on the top and thereafter other types of cases. They should also be directed that such cases should not be adjourned for a long time. At the most, they may be adjourned for a week only. The District Judge should keep a vigilant eye on the listing and disposal of such cases.

A report in respect of such cases should be submitted to the Court every month giving the number of such cases pending at the commencement of the month and disposed of during the month.

29-A: Regarding permission for purchase of firearms by the judicial officers

C.L. No. 11/Ivh-16/Admin. (A): Dated 12.04.2010

I am directed to say that all the judicial officer's be directed that application to obtain necessary permission for purchase of firearm be made in the court at the time of submission of application for grant of such licence.

You are further requested kindly to get it circulated among all the judicial officers working on deputation as well as in your judgeship.

30. CRIMINAL WORK TO MUNSIF-MAGISTRATES

G.L. No. 26-2(1)-4(23) dated 30th May, 1939

Munsifs are meant for, civil work and are not expected to do criminal work if this interferes with the disposal of civil cases.

In the circumstances, it is necessary that the District Judge should have control over the amount of criminal work which the Munsifs invested with magisterial powers in his judgeship are asked to do. Cases should be sent to the Munsifs concerned for trial by the District Magistrate* through the District Judge concerned. The District Judge should satisfy himself when criminal work is sent to the Munsif or a Munsif is to be invested with magisterial powers that this will not result in a dislocation of civil work.

C.D.O. No. 122, dated 14th August, 1974

Munsif Magistrates exercising criminal jurisdiction should not abuse their powers and must not act in any arbitrary manner.

C.L. No. 135/VIf-80 dated 24th August, 1976

The Munsif-Magistrates should work continuously for one financial year on the civil side and for the next financial year on the criminal side.

C.L.No. 175/IV-F-80/Admn. (A) dated 9th November, 1976

The Officers will be transferred from civil to criminal court or vice-versa, as the case may be, but the work of civil or criminal side will not be transferred from one court to another. Such a change of work will not entail shifting of the Munsif-Magistrate from his official residence,

C.L. No. 1/ Admn. (B) dated 12th February, 1971

On transfer of a criminal case from the court of one Magistrate to another Magistrate, the case may be given a new number with new date, which shall be the date of receipt after transfer. At the same time, the earliest number of the cases as also the date of the initial institution be noted below the new number so that it may give an idea of the period for which that case is pending.

C.L. No. 39/VIII a-108, dated 19th April, 1978

The instructions contained in the aforesaid circular letter should be strictly followed.

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* Now Chief Judicial Magistrate

31. SUMMONING OF WITNESSES

C.L. No. 77/IV h-36 dated 28th May, 1976 as modified by

C.L. No. 51/IV-h-36 dated 10th March, 1977

(i) Procedure

(a) Besides normal summons, simultaneous service by registered post direct from the court may be made in case the party so applies.

(b) Normal summons should be sent through the Superintendent of Police to the Station Officer concerned within three days. The Station Officer shall report compliance directly to the, court concerned within 15 days of the receipt of the summons in the office of the Superintendent of Police.

(c) The Inspector General of Police, Uttar Pradesh has issued separate directions in this behalf to his subordinate officers. In case, however, no report is received from the S.O. concerned within the prescribed time or report of non-compliance is received with regard to witness, the court should take up the matter with the Superintendent of Police concerned immediately.

(d) Notice to the accused also should be sent by registered post. (Government has been moved separately to amend sections 62, 65 and 69 Cr.P.C.).

(e) The court Ahalmad and the Thana Moharrir concerned should meet once every month and in the presence of the Chief Judicial Magistrate and compare their order books relating to summons and other processes so that the discrepancies, if any, may be reconciled. Necessary directions to the police officers have been issued by the Inspector General of Police in this behalf also.

C.L. No. 82 dated 31st May, 1976

At these meetings, two of the court Ahalmads should be required to bring their respective registers of service of summonses and compare them in the presence of the Chief Judicial Magistrate. If the court Ahalmad is found to be in, any way slack or lacking in his work, the matter- should immediately be brought to the notice of District Judge by the Chief Judicial Magistrate and severe action should be taken against the defaulting court Ahalmad.

The meetings should be held outside court hours.

C.L. No. 124/VII b-107 dated 29th July, 1976

All the magisterial courts, while issuing summons or warrants under sub-section (1) of section 204 Cr.P.C. 1973, should strictly follow the provisions of sub-section (3) of the said section and ensure that the summons and warrants issued in complaint cases are invariably accompanied by a copy of the complaint.

(ii) Police officers

C.L. No. 69/VIIb-9 dated 28th October, 1983

In future summonses for the attendance of Police Officials/ Officers as witnesses should not be sent to the U.P. Police Head Quarters, Allahabad and are served on the

Police Officials/ Officers of the district concerned in the manner prescribed in the Court's Circular Letter No. 65/VII b-9 dated 14.6.1979.

C.L. No. 81/VIIb-68-Admn. 'G' dated 19th November, 1984

A police officer need not be summoned for evidence by any court during the period of time he is attending a training course in any police training institution.

In case a summons has already been issued and the date of his evidence falls during the period of his training course, and the office in-charge of the police training institution informs the court that the said police witness is attending an in-service training, the courts shall do well to postpone the date of evidence' to a date after the completion of his training course. It is expected that the officer in-charge of the police training institution shall be informing the court concerned the date on which the training course is expected to conclude.

In exceedingly rare and exceptional cases where the court concerned is personally satisfied that further postponement of evidence is not possible, the court concerned shall forward such summons to the officer-in-charge of the police training institution with a covering D.O. emphasizing the importance of the matter and directing him to relieve the witness to enable his appearance on the, due date.

It is expected that officer-in-charge of police training institutions, on receipt of such D.O. from any court, shall not seek any further adjournment and relieve the police officer to appear for his evidence in the concerned court on the due date, provided again, that the date does not clash with the dates of the final examination of the trainee.

C.E. No. 108/VII-d-41 dated 24th November, 1961

Officials of the Home branch of Uttar Pradesh Government may be summoned by name only when their personal attendance is absolutely essential; and if certain document, etc., are only to be produced or testified to, before the court or some evidence is to be tendered on the basis of official records, the summons may not be issued by name of the officials, so that the Government may be able to depute any competent person from their staff to appear before the court to do the needful.

C.L. No.65/VIIb-9 dated 14th June, 1979

The summonses requiring appearance of transferred police officers or officials, as witnesses should, instead of being sent to the Police Headquarters, Allahabad be sent to the Superintendent of Police of the district concerned after ascertaining their address from the Public Prosecutor. In case it is not possible to ascertain the addresses of transferred police officers or officials from the Public Prosecutor, the summonses of non-gazetted police officials should be sent to the local Superintendent of Police and that of gazetted police officers to the Assistant Inspector General of Police, U.P., Lucknow, requesting them to arrange for the service of summonses.

C.L. No. 65/VII-b-68 dated 13th June, 1951

This Court has received report that summonses issued in sessions cases are not invariably received back after service before the trial commences. Complaints have also been received indicating that Magistrates and Police Officers summoned to give evidence

in sessions courts do not always attend in time and on the dates fixed. This result in unnecessary adjournments and delay in the disposal of sessions cases.

District and Sessions Judges and Additional District Judges should send a report to the Court whenever a sessions trial has to be adjourned due to the default of the police or the Magistrate.

C.L. No. 28 dated 26th March, 1968

Assistant Sessions Judges and Magistrates should, as far as possible, accommodate district authorities by not insisting on appearance of the Magistrates detained on law and order duties during festivals like Id, Moharram and Holi, etc. as witnesses on those dates. Convenient dates should be fixed for their appearance.

G.L. No. 10/VII b/68 dated 17th March, 1947

Government have directed the Inspector General of Police to issue circular order to ensure that police officers attend court without fail on the date fixed by the Sessions Judge, and that careful attention is paid to the service of summonses and their return to the courts concerned.

District Magistrates have also been asked to issue instructions to all Magistrates subordinate to them that they should attend the sessions court on the due date whenever required to do so.

(iii) Wireless message

C.E. No. 2/VII-b-68 dated 3rd January, 1975

With a view to avoid undue pressure on police wireless grid and to enable it to control the law and order situation, the services of the police wireless grid can be utilized with the permission of the District Judge for summoning witnesses in Sessions Trials only in special circumstance and subject to the following conditions in supersession of G.O. no. 22 65/VIII-2088-1948, dated August 22, 1955:

(1) Radiogram can be used only in cases where information cannot be sent in time through postal service.
(2) Radiogram should be written in telegraphic language.
(3) Radiogram should be sent under the signature of the District Judge only.

C.L. No. 102/VI b-11 dated 9th June, 1976

The Government has restored the wireless facilities for summoning of prosecution witnesses. The facility so restored may please be utilized for summoning of prosecution witnesses.

C.E. No. 65/IVh-36 dated 24th March, 1977

It informs all the District and Sessions Judges that the Court has decided that on the criminal side the processes should be filled in by the Court Moharrirs or any other police official before filing them in courts and directs in future no process should be accepted unless it is duly filled up.

(iv) Doctors

G.L. No.7/VIIIa-5 dated 7th August, 1951

A medical practitioner whether he be a private practitioner or a government servant should not be summoned to appear at 10 a.m. on the date on which he is summoned as a matter of course but should be summoned to attend at a time when the court thinks it will be able to examine him. Every effort should be made to accommodate him so as to interfere as little as possible with his professional work.

C.L. No., 45/VIII a-5 dated 24th March, 1971

Evidence of medical officers coming from outside should be fixed after lunch interval and of those who are posted at the place where the court is situate should also be recorded after lunch interval keeping in mind the convenience of the doctors. If bail applications are taken up soon after lunch interval, the time for appearance of medical practitioners may be fixed keeping in mind the time generally taken in such applications. In case any bail application remains un-disposed of it may be taken up after, the medical evidence has been recorded or on the next day as may be desired by the parties. Steps should also be taken that the medical practitioners do not have to wait standing outside the courtroom for want of furniture.

C.L. No. 82/VII b-52 dated 23rd September, 1968

While issuing summons to a medical officer full particulars of the case in which he is to be examined should be furnished by, the courts concerned so as to enable him to come prepared with the case. The medical officer so summoned should be relieved as soon as practicable to avoid dislocation of work of the hospitals due to his long absence.

C.L. No. 19/VIII-a-84 dated 24th April, 1967

Magistrates should invariably mention the names of parties 'and particulars of the case in the letter of request, in H.C.J. Form No.IX-27, issued to the Civil Surgeons/Medical Officers-in-Charge in order to give them an idea of the case in which they are required to give evidence.

C.L. No. 5 dated l6th January 1965 read with

C.L. No. 53/VII-6-52 dated 4th October, 1960

Frequent summoning of Civil Surgeon* and Medical Officers and at too short notice dislocates normal working of the hospitals. This should be avoided as far as possible and the instructions contained in the above-noted circular letters should be followed.

C.L. No. 88/VIIb-52 dated 4th November, 1980

The summons to the doctors should be routed through the Chief Medical Officer of the district and should be issued well in advance so as to reach at least a week before.

The evidence of doctors should as far as possible be taken after lunch.

* Chief Medical Officer.

(v) Government Servants

C.L. No. 48/VII b-68 dated 30th May, 1973

Summonses should be sent in case of government servants locally posted either through Police or through other serving agency, so that signed acknowledgement on one of the files is received back in the court in time. Simultaneously, information or another copy of the summons should also be sent to the Head of the Department or office so that non-appearance on the date fixed may be avoided.

C.L. No. 126/IV-g-3 dated 14th December, 1951

The summoning of District Election Officers and Returning Officers to give evidence outside the district their posting dislocates election work. Sessions Judges and Assistant Sessions Judges may, therefore, consider the advisability of not summoning District Election Officers and Returning Officers to give evidence outside their districts up to the end of the general elections to enable them to devote their whole time to the proper discharge of their duties connected with the elections. If it is found absolutely necessary to examine any particular officer, Sessions Judges may consider the possibility of examining him on commission or, of recording his evidence on one day in all the cases in which his attendance might be required before the end of the general elections.

C.L. No. 83/VIId-41 dated 8th September, 1961

When the officers of the Regional Passport Office or staff working under them situated at Delhi, Calcutta, Bombay, Madras and Lucknow are required to appear in courts of law in connection with cases arising out of forgery of passports and documents have to be produced and testified to, summons may be sent to the Regional Passport Officers to depute any competent person from their staff and officials may be summoned by name only when their personal attendance is considered essential.

C.L. No. 96/VIII b-16 dated 10th August, 1979

The summonses for service may be sent to Government only when all possible efforts to find out the address of the witnesses at the local level have failed; and in the event, a summons is sent to the State Government it should be ensured that the State Government has at least about a fortnight at its disposal to effect service. The summonses should contain the full name and designation of the Officer issuing the summons with a legible seal of the court.

C.L. No. 85/VIII b-16 dated 29th October, 1980

It invites attention of all Presiding Officers to the Courts Circular letter aforesaid and directs them to comply with the instructions contained therein strictly, failing which serious action will be taken against them.

(vi) Examination on commission of officers of the Mint etc.

C.L. No. 1791/38-a-2 dated 24th April, 1923 read with

G.L. No. 26/VII-b dated November, 1950

When the evidence of an officer connected with the Mint or the Currency department is required as to the genuineness or spuriousness of a coin or currency note, it

must be remembered that Sessions Judges and Magistrates can always send the coin or note to the Mint Master, or the Commissioner of Paper Currency, Calcutta as the case may be under cover of their court seal or by a messenger whose evidence can afterwards be taken and at the same time issue a commission of the examination of such officer as a witness under the provisions of section 503* of the Code of Criminal Procedure. This would prevent the great inconvenience of officers being called away from their duties unnecessarily. In special cases, a careful discretion is to be exercised, regard being had to the above considerations.

Sessions Judge, District Magistrates** and courts subordinate to them may consider the question of examining officers of the Indian Security press (Stamp press) Currency Notes Press and the Central Stamp Stores, whose evidence may be required in a case on commissions under Section 503*** of the Code of Criminal Procedure. It is, however made clear that the power to issue commission is discretionary and should be exercised judicially after considering the circumstances of the case and the objection of the accused, if any.

(vii) Commission for examination of witnesses in Pakistan

C.E. No. 44/VIII-b-31 dated 29th July, 1963

The Central Government in pursuance of sub-section (3) of section 504* of the Criminal Procedure Code 1898 read with section 137 of the Army Act, 1950 directs that commission from the Judge Advocate General of the Army, or the Chief Legal Adviser of the Air Force, at the instance of Courts Martial in India for the examination of witnesses in Pakistan shall be issued in the Form annexed (to the C.E.) to the Court of the D.M. or Magistrate of the 1st Class within the local limits of whose jurisdiction in Pakistan the witness resides and that such commission shall be sent to the Ministry of External Affairs, Government of India, new Delhi, for transmission to the court concerned.

(viii) Appearance of police officials in courts as witnesses.

C.L.No.65/VIIb-9 Dated: Allahabad: 14.6.79

It has come to the notice of the court that summonses for the appearance of police officials/officers who have been transferred from the district are being sent to police headquarter, Allahabad for service and return. As no register of transferred police officials or officers is maintained at the police, Headquarter is unable to such summonses.

The D.I.G., Police head-quarters, Allahabad has issued a circular letter to all S.P.S. that they should maintain record of all police officials/ officers transferred from their district to other district so that the public prosecutor may be in a position to inform the court about the latest address of police officers/officials.

I am, therefore, directed to say that henceforth summonses requiring appearance of transferred police officers or officials as witness should instead of being sent to the

* Now Section 284 of Cr.P.C.1973
** Now The Chief Judicial Magistrate.
*** Now Section 285 of Cr.P.C.1973
* Now Section 284 of Cr.P.C.1973

Police headquarters, Allhabad be sent to the S.P. of the district concerned after ascertaining their address from the public prosecutor. In case, It is not possible to ascertain the address of transferred police officers or officials from the public prosecutor, the summons of non-gazetted police officials be sent to the local S.P.and that of gazetted police officers to the Assistant inspector General of Police, U.P. Lucknow requesting them to arrange for the service of summonses.

The above instructions may please be brought to the notice of all concerned for compliance.

(ix) Appearance of police officials in courts as witnesses.

C.L.No.69/ VIIb-9, Dated: Alld: October 28, 1983

While inviting your attention to court's circular letter No.65/VIIb-9, dated 14.5.79 emphasizing the need to send summons for attendant of police of the District conceded, when the police official/ officer is reported to have been transferred to some other district, I am directed to say that have been brought to the notice of the court recently that the directions contained in the said circular letter dated 14.4.79 are not being complied with strictly with the result that summonses for the attendance of police officials/officers as witnesses are still being sent to the U.P. police head quarters, Allahabad which does not maintain any record of the transfers and posting of police officials/ officers. This obviously results in non-service of the summons in time and sometime the summonses are even lost in transit.

I am, therefore, directed to emphasize upon you to see personally that in future summonses for the attendance of police officials/ officers as witnesses are not sent to the U.P. Police head Quarters, Allahabad and are served on the Police officials/ officers of the district concerned in the manner prescribed in the court's circular Letter No.65/ VIIb-9, dated 14.6.79.

This may kindly be communicated to all concerned for strict compliance.

(x) Appearance of police official in courts as witnesses.

C.L.No. 24/VIIb-dated: Alld: 13.7.1998

I am directed to Say that Directed General of Police, U.P. has apprised to the court that summons/warrants for the appearance of Police officials/officers are being sent to the headquarters director General of Police U.P. directly for service. The directorate has no such track for keeping the posting of sub-inspector/Head constable as to where they had been transferred. This results in non service of the summons/warrants in time.

Considering above situation it indicate that directions contained in court's circular Letter No.65/VIIB-9dated 14.6.79 and circular letter no.69/VIIb-9, Dated 28.10.83 (copy enclosed for ready reference) are not being complied with strictly by the presiding Officer working under you.

I am, therefore directed to impress upon all the presiding Officer to follow directions contained in the aforesaid court's circular letter for the attendance of Police Officials/officers as witness with the modification that if the service of summons/notice is not possible through the senior superintendent of police/superintendent of police of district concerned for the want of present address of transferred police officials below the

rank of the Inspector, the same be got served through Inspector general of police Headquarters, Allahabad.

This may kindly be communicated to all concerned for strict compliance.

(xi) Service of summons upon witness and accused persons.

C.L.No.42/98 Dated: Allahabad: 20/8/1998

The Hon'ble court has noticed that the present system of service of summons is not effectively working and service upon the witness/accused persons are not being effected within the period fixed by the courts. The system is effecting the speedy trial of sessions and magisterial cases. In this regard, the court has taken the following decisions for strict compliance by all:-

1. Old practice of fixing one sessions trial for three days in continuation is revived. No other sessions trial except any formal part-heard trial in which one or two formal witnesses are to be examined should be fixed on the that day.
2. The process register as mentioned in rule 12 of chapter III OF G.R.Criminal be strictly maintained by all courts. A police official who is receiving the summons must state his name and number in clear block letters in columns no.5 so that the responsibility be fastened upon him.
3. Public prosecutor and D.G.C. (Criminal), as the case may be, should be asked to apply to the court for issue of summons but giving complete particulars of the witness. The summons should, thereafter be prepared and served upon the witnesses.
4. If the police personnel are not complying with the directions of the court then appropriate action under the provision of the contempt of courts Act be initiated against them.

(xii) Effective control on Summons Cells

C.L. No. 76/Admin. (F); Alld. Dated: 14.12.2007

Identifying the delay in service of Summons to be the main cause for delay in disposal of the Criminal Cases, on the recommendations of Hon'ble Court a cell with adequate number of police constables to be attached to each district court exclusively, has been constituted to attend the work of each court as per direction of the Sessions Judges/CJMs.

I am directed to say that you shall exercise effective control over such cell and shall also submit a quarterly statement to the Hon'ble Court showing the performance for each month on the enclosed prescribed proforma.

Therefore, I am to say that kindly ensure the compliance of above direction in right earnest.

(xiii) Service of summons on formal witnesses.

C.L.No. 43/98 Dated: Allahabad: 20/8/1998.

The Hon'ble Court has noticed with concern that the criminal cases are prolonging because the formal witnesses are not attending the courts on the date fixed for their evidence In order to ward off this evil the Hon'ble Court has taken a decision that the cases of such formal witness who have been transferred from the district be sent to them by registered post on the current place of posting intimated by them.

I am, therefore, directed that the aforesaid directions of the court be strictly followed.

Non-submission of Service Report in Contempt mattes by the Chief Judicial Magistrates

C.L. 23/2006: Admin *'G';* Dated: 29.05.2006

Hon'ble Court while dealing with Contempt Petition has noticed that the reports with regard to the service of the summons are not being submitted by the Chief Judicial Magistrates within time. As a result of which, the contempt matters cannot proceed get delayed on account of the non-availability of the service report.

Therefore, while drawing attention of all concerned to Court's Circular letter No. 109/VIIC-2/Admin. 'G' dated 30.11.1990 and Circular letter No. 19/Admin. 'G' dated 3.2.1991 : I am directed to request that the contents of and directions in the circulars aforesaid, be unerringly gone through all the way for ensuring strict compliance by all concerned especially the Chief Judicial Magistrate under your administrative control by transmitting service reports within the time prescribed. Non-submission of service report within time may be viewed seriously and action might be initiated against the defaulting Chief Judicial Magistrate.

C. L. No.51/2007Admin (G): Dated: 13.12.2007.

The Hon'ble Court has noticed that the delay in disposal of criminal trials is attributable to non-service of summons/notices for want of addresses of witnesses. Frequent transfers of police officers, doctors and other witnesses also causes delay in disposal of cases for want of their correct addresses. Therefore, the Hon'ble Court has been pleased to direct that where summons/notices are returned on account of non-availability of the witnesses for want of correct addresses, they shall send those summons/notices to the Director General (Medical and Health) and Director General (Police) respectively for effecting service such summons/ notices and it shall be duty of the Directorate concerned to return them to the Court concerned after service.

I am further to request you to kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit.

(xiv) Payment of diet Money to witnesses.

C.L. No. 35/VIII Dated: 24.9.2003

The Hon'ble Court has observed with concern that traveling allowances and diet money are not being paid in time to the Prosecution witnesses who are summoned for statement in criminal cases earning lack of interest by the witnesses to appear in the courts on the date fixed. As such, for want of the said allowances/diet money they become hostile resultantly causing delay in disposal of criminal cases.

I am, therefore, directed to request you to kindly issue necessary instructions to all the concerned in your Judgeship to ensure payment of traveling allowances and diet money to the witnesses timely so as to enable them to succour the courts with their testimony for reaching judicial findings.

I am also to add to kindly ensure strict compliance of above directions of the Court.

Reg. Insurance of identity of witnesses produced by the prosecution in support of its case

C.L. No. 24/2010/Admin. 'G-II' Dated 23.08.2010

I am directed to say that all the judicial officers within the State to make all possible efforts before recording statement of the prosecution witnesses, to ensure that witnesses produced by the prosecution in support of its case, are the actual witnesses and no impostor or fraudulent person is produced by the prosecution knowingly or unknowingly. If such a case is detected, the matter be immediately reported to the appropriate authority with recommendation of taking stern action in the matter.

The above instructions may kindly be brought to the notice of all the Magistrates and Sessions Judges under your administrative control for guidance and strict compliance.

32. EXPEDITIOUS DISPOSAL

(i) Procedural changes

C.L. No. 66/VIIb-2 dated 24th September, 1984

Henceforth all the provisions of the Code of Criminal Procedure, 1973, relating to the early disposal of criminal cases should be exercised keeping in view the main changes made in the Cr.P.C. 1973, for reducing the arrears and expediting the trial of criminal cases. The District Judges should send a yearly statement to the State Government showing the progress in the disposal of criminal cases under intimation to the Court.

Main changes

(1) Powers of revision against interlocutory orders have been taken away. This had accounted for a large number of cases of delays. (Section 397(2)

(2) The provision of compulsory stay of proceedings on the intimation of transfer petitions has been deleted. (Section 407 and 408)

(3) Committal proceedings in Sessions cases have been abolished. (Section 209)

(4) Limits have been prescribed for the duration of security proceedings. If a person has been kept in custody pending these proceedings for six months, the proceedings shall stand terminated. In other cases where the proceedings are not concluded within six months, the proceeding will ordinarily terminate but the court may in special cases continue the same. (Section 116)

(5) Offences punishable up to 2 years will be summons cases with a simplified procedure (as against six months under the old code. [Section 2(iv) and (x)].

(6) The scope for the summary trial of cases has been enlarged considerably. (Section 260)

(7) The procedure in summary trial has been simplified further. (Section 262-265)

(8) Summons to witnesses can be served by post. (Section 69)

(9) In petty cases, accused can plead guilty by post, by sending the amount of fine to the court. (Section 206)

(10) Oral examination of formal witnesses has been dispensed with. (Section 296)

(11) Trial can be held in the absence of the accused if he is recalcitrant. (Section 317)

(12) Provision has been made for appointment of Special Magistrates from retired or serving officers to deal with petty cases etc. (Section 13 and 18)

(13) The system of Metropolitan Magistrates has been made available to cities of population of more than a million. (Section 8 and 16)

(14) Periods of limitation have been provided for offences punishable with imprisonment for not more than three years. (Section 468)

Changes made in Cr.P.C. after 1973 by the amendment in 1978

The provisions incorporated in the Code of Criminal Procedure (Amendment) Act, 1978, with a view to reduce the delays/speedy disposal of cases are indicated below-

i) A proviso was added to sub-section (1) of Section 11 Cr.P.C. to establish special courts of Judicial Magistrates having jurisdiction throughout any local area and to confer on such courts exclusive jurisdiction to try any particular cases or particular class of cases.

ii) Sub-section (3) was added to Section 206 to provide that the State Government may specially empower a Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable u/s 320 and to other offences punishable with imprisonment for a term not exceeding 3 months, where a Magistrate is of opinion that imposition of only fine would meet the ends of justice.

iii) A third proviso was added in sub-section (2) of section 309 to provide that no adjournment shall be granted for the purpose of enabling the accused to show cause against the sentence proposed to be imposed upon him.

iv) Section 326 providing that a de novo trial is not obligatory when there is a change of Magistrate was amended to extend the scope of the section to the Court of Session also to expedite trial of cases.

Report by the Court concerned against the defaulting investigating officer to Higher Authorities

C. L. No. 52/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has noticed that the delay takes place in submission of Police Report before the Magistrate on account of various reasons such as the investigating officer being biased in favour of accused, investigation officer being transferred from one police officer to another on account of their transfer. Such delay at times results in the accused getting undue advantage of being set at liberty due to non filing of Police report

within the time stipulated u/s 167 (2)(b)Cr.P.C. .The Hon'ble Court has been pleased to recommend that all the criminal courts shall write to S.P./S.S.P. Concerned for necessary action against an investigating officer if he is found to be wanting in discharge of his duties deliberately in submitting the Police report within time as per mandate u/s. 167(2)(C) of Cr. P. C.

Therefore, I am directed to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit.

(ii) Classification and disposal of criminal cases

C.L. No. 23/VIII-b-249 dated 3rd February, 1975

For early disposal of criminal cases, Judicial Magistrates should classify all criminal cases in various groups. Criminal cases of similar nature should be classified in one group, i.e., petty and minor cases be classified in one group and be disposed of by Magistrates under Section 206 of Cr.P.C. 1973.

(iii) Under trials

C.L. No. 17/VI-b-3 dated 27th February, 1973

C.L. 114/VII-b-3 dated 5th September, 1975

All possible efforts should be made to expedite disposal of trial of under trials in jail so that the period spent by an under – trial in jail may be reduced to the minimum.

C.L. No. 28/VIIIh-13 dated 7th March, 1979

All the Magistrates and Sessions Judges should adopt all possible measures to expedite the disposal of cases of under trials.

C.L. No. 90/VIIIg-38 Admn. G. dated 1st December, 1980

The District Judges should make all out efforts in disposal of cases of under trial prisoners confined in jails for over six months, especially old cases, expeditiously.

C.L. No. 59/VIII-g-38/Admn.(G) dated 16th September, 1981

To ensure the disposal of cases of under trial prisoners within the time stipulated in the order of Supreme Court dated 30-4-1979 passed in the case of Nimeon Sangama and others versus Home Secretary, Government of Meghalaya and others AIR 1979 S.C. 1518 following steps should be taken:-

(a) The criminal courts shall get a periodical list of under trial prisoners pertaining to their courts prepared fortnightly and except in cases of murder and dacoity may pass orders releasing the under trial prisoners who may be in jail for over six months on bail or personal bonds as the circumstances may require in conformity with the directions of the Supreme Court in its order dated 30.4.1979 mentioned above.

(b) The Chief Judicial Magistrate or the Additional Chief Judicial Magistrate should bring to the notice of each court the cases of under trials over six months old pertaining to the respective courts after his jail inspection to enable the respective

courts to pass suitable orders in cases of such under trials who may be in jail for over six months.

(c) The following extracts from amended Section 167 Cr.P.C. should be brought to the notice of all criminal courts for compliance. No Magistrate shall authorize detention of accused person in custody for a total period exceeding –

(1) 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(2) 60 days where investigation relates to any other offences and on the expiry of the said period of 90 days or 60 days, as the case may be, the accused person shall be released on bail, if he is prepared to furnish bail.

(d) The Court may, in suitable cases where the accused are indigent and unable to furnish bail, in its discretion, release the accused on personal bond.

C.L. No. 77/S.T. AD(E) dated 8th December, 1981 and

C.L. No. 51/A.D.(E) dated 30th August, 1982

To keep proper control over the disposal of such cases the Presiding Officers should maintain proper record of under trials involved in the cases in the enclosed proforma.

At the end of the each quarter a statement in this proforma shall be prepared by each Court showing the details of only such cases in which the under trial prisoners could not be released and shall be sent to the Chief Judicial Magistrate in the case of the Magisterial Courts and to the District & Sessions Judge in the case of the Sessions Courts. The Chief Judicial Magistrate or the District & Sessions Judge, as the case may be, shall cause a consolidated statement of all the Courts under him to be prepared latest by the 8th day of the same month. Thereafter the District & Sessions Judge shall get a consolidated statement of all the Sessions and Magisterial Courts prepared and sent to the High Court so as to reach their latest by the 15th day of the said month.

At the time of periodical checkings, the Presiding Officers would look into the reasons of delay in disposal of such cases where the under trial prisoners are confined in jail and shall arrange for their quick disposal on priority basis.

(NOTE: The proforma is given under)

RECORD OF CASES IN WHICH UNDERTRIAL PRISONERS ARE CONFINED IN JAIL

Sl. No.	Case No. and names of parties	Names of Under Trial prisoners	Section under which charged	Maximum sentence (and also the minimum sentences, if prescribed) which can be awarded for the charge	Date since when confined in jail	Date when he crosses half of the period of Maximum sentence which can be awarded and if the Minimum sentence is also prescribed then the date when he crosses half of that period	Date of release
1	2	3	4	5	6	7	8

The breakup of the total number of under trials according to the number of completed years of detention						The total number of under trials who have already spent in jail		Remarks
						Equal to the period of imprisonment, had they been convicted	Exceeding the maximum period of imprisonment had they been convicted	Note:- Where the accused is released on disposal of the case, the date of disposal should be noted in this column.
9						10	11	12
1 yrs	2 yrs	3 yrs	4 yrs	5 yrs	Above 5 years			

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C.L. No. 85/VIIIg-38 Admn. (G) dated 24th December, 1982

The Court has noticed that in petty cases involving short sentences the under trials are detained in Jail for periods even longer than what they will be required to undergo as imprisonment in case of their conviction for the offence for which they are detained.

It has also come to the notice of the Court that in some cases the appeals of the accused persons who are convicted and awarded short sentences are not disposed of promptly with the result that the convicted persons serve out the sentences awarded to them even before their appeals come up for hearing.

In order to avoid the anomalies mentioned above, the following guidelines are issued for strict compliance in future:-

(i) After inspection of Jail, the Chief Judicial Magistrate or Additional Chief Judicial Magistrate, as the case may be, should point out such cases as described in the first paragraph of this letter to the Magistrates concerned who may release such under trials on nominal bail or on personal bond.

(ii) In case of appeals against convictions involving short sentences either such appeals should be disposed of on priority basis or, if that is not possible due to pressure of work, the court should invariably pass orders for suspension of sentence pending appeal and for releasing the accused on bail or on his own bond.

Even in cases of appeals against conviction, which do not involve short sentence, if the court is of the view that it may not be possible looking to the pendency of appeals, to dispose of such appeal before the expiry of period of sentence, the court should follow the above procedure.

Task force to reduce the under trial prisoners languishing in jail

Letter No. 406/Admin.G-II dated 10.01.2011

I have been directed to say that Statements/reports regarding disposal of cases of under-trial prisoners received from the District Judges were placed before the Hon'ble Committee and on the basis of reports received from various districts about the under trial

prisoners languishing in jail and after careful consideration of the matter, the Committee has directed as under:-

> "1. For the cases fixed for appearance, all the Trial Judges be asked through the District Judges to ensure attendance of accused who have not yet appeared, by coercive measures where other accused are detained in jail unnecessarily. In such cases, if need be, the bail of such accused may be cancelled and they may be taken into custody. Such cases where the accused are detained in jail for a substantial period, may be separated in exceptional circumstances and proceeded with expeditiously.
>
> 2. For the cases pending at the stage of committal to the Court of Sessions, all the Magistrates be asked through the District Judges to ensure that all such cases be committed to the Court of Sessions within three weeks positively.
>
> 3. For the cases pending at the stage of charge, all the Trial Judges be asked through the District Judges to ensure that the charges are framed forthwith and the trial of these cases be concluded at the earliest, if possible, within a period of six months.
>
> 4. In respect of the cases pending for evidence, all the Trial Judges be asked through the District Judges to ensure that the evidence be concluded and the cases be disposed of at the earliest, if possible, within four months.
>
> 5. For the cases pending for arguments, all the Trial Judges be asked through the district Judges to ensure that the cases be decided positively within one month and compliance report be sent to the High Court.
>
> 6. For the cases which are shown to be stayed, the District Judges be asked to submit report about the complete details of the cases stayed and also about the details of the matter. In which, the stay order has been passed by the Superior Courts."

I am, therefore, to request you to kindly to ensure compliance by all concerned and to submit compliance report after one month in accordance with the directions of the Committee.

(iv) Grant of certificate of exemption from personal attendance to under trials for going abroad

C.E. No. 136 dated 11th November, 1971

The under trials sometimes apply for temporary restoration of passport facility either refused or impounded, to proceed abroad for short periods in connection with their business and there is a possibility of their influencing witnesses for tampering with documentary evidence. Before granting the certificate for exemption from personal attendance during the pendency of the case, the Magistrates should take the following points into consideration:

(i) The court is in a better position to judge whether an accused's visit abroad is likely to affect the administration of justice;

(ii) The court can judge the gravity of the offence for which an accused is being tried by it; and while exempting him/her from personal appearance or not objecting to his/her visit abroad, impose certain conditions e.g., ask for additional bail sureties, etc. to ensure that the accused does not escape the punishment that may be prescribed under the law;

(iii) In a case in which the court feels that a person should not be allowed to go abroad, it can pass orders to that effect under sections 6(2)(g) and 10(3)(h) of the Passport Act, 1967;

(iv) For restoration of passport facilities, it should be considered if the visit of the accused is likely to bring some benefit to the country e.g., foreign exchange, foreign collaboration, export promotion, etc.;

(v) Grant of passport facilities is entirely the responsibility of the Government of India. There should, however, be no objection to the courts granting certificates for "exemption from personal appearance" or "no objection to proceed abroad, for short periods" during the pendency of the case.

(v) Corruption cases

C.E. No. 69 dated 6th November, 1963

Delay in disposal of cases of corruption against government servants often leads to acquittal of accused. Priority should, therefore, be given to disposal of cases of corruption under the Prevention of Corruption Act.

C.L. No. 74/IVg-64 Admn. A dated 2nd August, 1980

The cases submitted by the State Vigilance Department should be dealt with on priority basis by the District & Sessions Judge himself or some senior Additional Sessions Judge who may be deputed for the purpose.

If it is not possible for District Judges to devote sufficient time to the disposal of cases submitted by the State Vigilance Department, they may allot such cases to one senior Additional Sessions Judge, with directions to dispose of those cases on priority basis.

C. L. No-38/2007: Admin 'G' Dated: 31.8. 2007.

The 2nd Administrative Reforms Commission, in its 4th Report titled 'Ethics in Governance' has inter alia, recommended that:-

a) it has to be ensured that the proceedings of courts trying cases under the Prevention 0f Corruption Act are held on a day-to-day basis, and no deviation is permitted.

b) the Supreme Court and the High Courts may lay down guidelines to preclude unwarranted adjournments and avoidable delays.

In this regard, I am directed to say that the above recommendations of the Administrative Reforms Commission be complied with strictly and it be ensured that the proceedings of courts trying cases under the Prevention of Corruption Act are held on a day-to-day basis without any deviation by the concerned court functioning under your

supervision and control. They may also be directed that no unwarranted adjournments in such cases be given in order to avoid delay in disposal thereof.

I am further to say that the Special Judges functioning under the provision of the Prevention of Corruption Act in the concerned judgeships be directed to give primary attention to disposal of cases under this Act and only if there is inadequate work under the Act they should be entrusted with other responsibilities/work.

Providing the information in respect of offences under Prevention of Corruption Act, 1988

No. 677/Admin. E-II dated 13.01.2011

With reference to the letter no. C-1/33 dated 23.12.2010 received from the Secretary General, Supreme Court of India, I am to say that he has desired the information regarding institution, disposal and pendency of cases under the Prevention of Corruption Act, 1988 up to 2010 on enclosed proforma and also desired the same on quarterly basis in future.

So, it is requested that kindly provide the requisite information up to 2010 strictly on prescribed proforma within two weeks and the information of the same be provided on quarterly basis in future also at the end of each succeeding quarter.

PROFORMA

STATEMENT SHOWING INSTITUTION, DISPOSAL & PENDENCY OF CASES IN RESPECT OF OFFENCES UNDER PREVENTION OF CORRUPTION ACT, 1988 IN THE SUBORDINATE COURTS IN THE STATE/UNION TERRITORY OF .....FOR THE YEAR 2010

Sl. No.	Name of the Court	Opening Balance as on 01.01.2010	Institution from 01.01.2010 to 31.12.2010	Disposal from 01.01.2010 to 31.12.2010	Pendency at the end of 31.12.2010

Standard format for Subordinate Courts of State/UT

STATEMENT SHOWING INSTITUTION, DISPOSAL & PENDENCY OF CASES IN RESPECT OF OFFENCES UNDER PREVENTION OF CORRUPTION ACT, 1988 IN THE SUBORDINATE COURTS OF THE STATE/UNION TERRITORY OF ..... IN QUARTER ENDING[1] .....20.....

Sl. No.	Name of the Court	Opening Balance as on	Institution from ..... to	Disposal from ....to....	Pendency at the end of ...

(vi) Nationality cases

C.D.O. No. 79 dated 1st September, 1959

[1] Year will be 4 quarters (1) January to March; (2) April to June; (3) July to September; (4) October to December

Civil suits filed by Pakistani nationals for determination of their nationality should be disposed of as expeditiously as possible so that no Pakistani national may resort to such legal processes or prolonging their stay in this country.

(vii) Motor vehicle cases

C.L. No. 60/VIIf-69 dated 29th April, 1976

The following instructions should be followed for achieving speedy disposal of old cases under the Motor Vehicles Act:-

1. Old cases under the Motor Vehicles Act may, if necessary, be distributed equally amongst the officers competent to try such cases.
2. New cases under the said Act may be instituted in various courts than wise.
3. Temporary assistance of one clerk may, if necessary, be provided to expedite the issue of summons and entry of such cases in the respective registers.
4. Sufficient number of copies of the proforma of the summons under section 130* of the Motor Vehicles Act be got printed locally and distributed to all the courts dealing with Motor Vehicles Act cases for issue of summons in future in the said proforma indicating there in the fine proposed so that the accused transmits his plea of guilt and remits the fine proposed. Thereafter the case of the accused may be disposed of without his appearance in court.
5. The courts which are specifically directed to disposed of old cases may, if necessary, request the S.S.P. to provide the requisite number of constables for serving the summons issued under section 130* of the Motor Vehicles Act.
6. The summonses to those accused who are residing outside the station, should be sent under certificate of posting.
7. All the summonses which are issued under section 130 (Now Section 208 M.V. Act 1988) of the Motor Vehicles Act, should be entered in a register and whenever money orders are received, necessary entry in respect thereof be made in that register. The receipts of fine be prepared and the entries made in the Fine Register. The amount of fine be deposited in the treasury under the proper head by means of treasury challan.
8. The courts which are nominated for dealing with the old cases under the Motor Vehicles Act shall try to dispose of such cases within four months.
9. The District Judges shall direct the Magistrates concerned to dispose of such cases along with their regular work within the stipulated period of time.

C.L. No. 96/VII f-69 dated 5th June, 1976

It encloses a proforma of the summons under section 130 (Now Section 208 M.V. Act 1988) of the Motor Vehicles Act for preparation of printed copies thereof locally and distribution to all the courts dealing with Motor Vehicles Act cases.

C.L.No.P.S.(R G)/77/2000 Dated June 14, 2000

With reference to the circular letter wherein thrust was, given for making disposal of seven years old cases, information has been received that proceeding in a large number of such old cases are stayed by the Appellate/High Court.

I am desired to request you to furnish the statement of the cases both civil and criminal in which the proceedings have been stayed by the Hon'ble court. The information must also bear the reference of the particulars of the case/petition in which stay orders have been passed by the Hon'ble court. This information must reach to the High Court positively by June 25, 2000.

PROFORMA
SPECIAL SUMMON TO A PERSON ACCUSED OF AN OFFENCE UNDER M.V. ACT ETC.

To,

……
S/o …….
Address:

Vehicle No.

Whereas your attendance is necessary to answer a charge under the M.V. Act, you are hereby required to appear in person (or by pleader before Judicial Magistrate …… On the …. Day of ….19…. or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit by registered post before the aforesaid date the plea of guilty in writing and the sum of Rs. …… by money order as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorize such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein fail not otherwise a warrant of arrest shall be issued against you.

Dated, this ……. Day of …… 19 ……

(Signature)
(Seal of the Court)

C.L. No. 94/Admn. (A) dated 13th September, 1978

Guidelines for the disposal of cases under the Motor Vehicles Act:-

1. Cases under the Motor Vehicles Act will be decided by the Judicial Magistrates and the Munsif-Magistrates only, as far as possible thanawise. The Chief Judicial Magistrates however, in consultation with the District Judges should make arrangements in such a way that one day only one Magistrate should, as far as possible, take up these cases thereby avoiding difficulty to the transport authorities and the litigants in attending more than one court in a day.

2. The Magistrates deciding such cases will try to accommodate, as far as possible, the prosecuting agency and the accused persons, even if they turn up in court after their case had been taken up.

3. The Magistrates shall use the provisions of section 130* of the Motor Vehicles Act to the maximum possible extent while deciding cases under that Act.

C.L. No. 82/Admn.(A) dated 23rd July, 1979

District Judges should inform the Court the total number of cases under the Motor Vehicles Act pending in their districts, the number which can be tackled with the aid of section 130* (Now Section 208 M.V. Act 1988) of Motor Vehicles Act and the requirement of clerks and funds. The following scheme is to be put in effect:-

1. The Magistrates dealing with the cases under the Motor Vehicles Act shall tentatively fix the amounts of fine imposable for the various offences. They shall, so far as possible, be uniform among the various Magistrates deciding such cases. The District Judge may informally meet the Magistrates to canalize this.
2. Five copies of the notice under section 130* of the Motor Vehicles Act are to be prepared in respect of each case. One of the notices is to be sent through the Police agency; the second notice is to be sent by registered A.D. post; third and the fourth copies to be sent to the A.R.T.O. (Enforcement) concerned for onward transmission to the R.T.O. concerned and the fifth copy shall remain on the file of the case.
3. To facilitate the work of the transport authorities, the notices may be sorted out R.T.O. office wise and sent in separate bundles along with lists of the notices. The R.T.O. concerned would serve the accused and then return to the court one of the notices in token of service.
4. Normally two-month long dates shall be fixed in the notices.
5. The accused may deposit the amount of fine indicated in the notice either through a crossed bank draft or money order or in cash in the court.
6. If the fine amount is received in the court by the date mentioned in the notice, the case shall be closed by the Magistrate. If the fine amount is not deposited by the said date and the accused does not appear on that date, the court shall take recourse to processes compelling attendance as provided in the law. If the accused appears and contests the case, the case may be decided on merits.
7. A separate register shall be maintained for entering of the fines received in Motor Vehicles Act cases. The money orders etc., shall be received by the Presiding Officer himself and each entry of deposit in the register shall be initialed by the Presiding Officer.

(viii) Petty cases

C.L. No. 77/IV h-36 dated 28th May, 1976

(i) Offences punishable with imprisonment for 2 years or less are to be treated as petty offences.

(ii) The Magistrate should dispose of a petty criminal case within 30 days of the submission of the charge sheet.

* Now Section 208 M.V. Act, 1988

C.L. No. 150/VII-c-3 dated 27th December, 1979

It invites attention to section 9 of the Uttar Pradesh Criminal Law (Composition of Offences and Abatement of Trials) Bill, 1979 which has been notified as U.P. Act No. 35 of 1979 published in U.P. Gazette Extra-ordinary as Government Notification No. 3378/XVII-v-1-37/78 dated December 21, 1979 on the same date and says that all the criminal courts should take immediate action in accordance with the aforesaid provision.

The provision of section 9 of the aforesaid Act is quoted below for ready reference:-

Section 9 – Notwithstanding anything contained in any other law for the time being in force –

(1) the trial of an accused for -

(a) an offence punishable under -

(i) the Motor Vehicles Act, 1939; or

a. the Public Gambling Act, 1867, not being an offence punishable under Section 3 of that Act or an offence in respect of wagering punishable under Section 13 of that Act; or

(ii) Section 34 of the Police Act, 1861, or

(iii)Section 160 of the Indian Penal Code, 1860; or

(b) any other offence punishable with fine only, or

(2) a proceeding under section 107 or section 109 of the Code of Criminal Procedure, 1973, pending before a Magistrate on the date of commencement of this Act from before January 1, 1977 shall abate.

Every criminal court should pass order of abatement immediately and intimation of order may be given either by post or on the date fixed in the case.

As modified by C.L. No. 51/IV h -36 dated 10th March, 1977

In petty cases, where the facility of stenographer is available, the Presiding Officer should be encouraged to dictate judgment in open court.

C.L. No. 8/IV f-80 Admn. A dated 18th February, 1981

Magisterial courts should try to dispose of cases involving petty offences on priority basis, so that the number of pending criminal cases may be reduced and for this purpose, they may have mixed cause list in which cases involving serious and petty offences should both be fixed daily.

C. L. *No-36/2007:* Admin 'G' Dated: 29 *August,* 2007.

Taking stock of the staggering pendency of criminal cases the Hon'ble Court has decided that urgent Steps are required to be taken for reduction of arrears and speedy disposal of cases and consequently has resolved that Cases involving petty offences, including traffic and municipal challans, be transferred to the Court of special Metropolitan Magistrates/ Special judicial Magistrates.

Therefore, in continuation of earlier court's circular letter no. 47/Admin. 'G'/2006 dated Feb. 15th, 2006 I am directed to say that the cases involving petty offences,

including traffic and municipal challans be transferred to the Courts of Special Judicial magistrate/ Special Metropolitan magistrate for their expeditious disposal.

(ix) Food adulteration cases

C.L. No. 116/Admn.(B) dated 6th September, 1975

As regards trial of food adulteration cases, the appearance of the accused should be secured quickly so that he may have opportunity to get a sample sent to the Central Food Laboratory, Calcutta for examination and no dates should be fixed in such cases without such an opportunity being given to the accused. Further, it may be so arranged that public servant such as Food Inspector may not have to attend the court every day and to wait unnecessarily. This can be done if the food adulteration cases are taken up by one Magistrate and all such cases in which the same Food Inspector has to give evidence are fixed on the same day.

C.E. No. 19/VII f-227 Admn.(F) dated 8th February, 1980

It encloses Government of India letter no. P/15025/99/79 PH (F &N) PFA dated 7.12.79 and requires all the District Judges to bring the following points to the notice of Judicial Magistrates empowered to try cases under the Prevention of Food Adulteration Act:-

(i) The original memo in Form I along with specimen impression of seal is not sent separately and sometimes is not complete in all respects.

(ii) Seals applied on the package are not easily identifiable.

(iii) The challan to the effect that necessary fee has been deposited, is not enclosed.

(iv) Sample containers are not generally affixed with court seals. Seals are fixed on the parcel, which get damaged during transit.

(v) Distinguishing number is not marked on the container as well as the cover.

(vi) Samples are sent by ordinary post and not by registered post as required under the PFA Rules.

(vii) Samples containers/packets do not have any court seals affixed on them. They bear only the Food Inspectors seals. Such sample containers are put in a parcel having court seals on the outside packing only. Sometimes all court seals on the parcel are received broken in transit and none remain which can be compared with specimen impression of seal.

The above omission and commissions lead to avoidable delays in the submission of reports of analysis by the central food laboratories.

The concerned courts, authorized to try food adulteration cases, may kindly be suitably advised to comply with the procedures as laid down under Section 13 of the PFA Act. The procedure inter alia lays down that the courts shall first ascertain that the mark and seal or fastening is intact and the signatures are not tampered with. One of the samples be sent to the Director, Central Food Laboratory, under the court's seal. A copy of the memo and a specimen impression of the seal used to seal the container and the cover shall be sent separately by registered post to Director, Central Food Laboratory. Form 1

prescribed for sending the sample to the Director also lays down that the treasury challan for the fee deposited in the court should be enclosed.

C.E. No. 54/VII f-227 dated 18th August, 1981

It enclosed Letter No. P. 15025/94/80-PH (F&N) PFA of Directorate General of Health Services dated 10.6.1981, which emphasizes that it is a statutory requirement on the part of the court to send a copy of T.C./D.D. of Rs. 40/ towards analysis fee while forwarding the sample for analysis to the Director of C.F.L.

C.L. No. 49/VII f-227 Admn. (G) dated 29th April, 1980

In Special Leave Petition (Crl.) No. 489/79 A.P. Abdulla versus Food Inspector, Kannanore and others dated July 16, 1979, Hon'ble Supreme Court has desired that food adulteration cases, which involve imprisonment, should be disposed of expeditiously.

The District Judges are requested to take necessary and effective steps in this regard.

(x) Other cases

C.L. No. 15/Admn. (A) dated 28th January, 1977

The courts should decide the cases relating to reckless and dangerous driving as expeditiously as possible.

C.L. No. 167/VIII h-13/Admn.(A) dated 18th November, 1977

All the Judicial Magistrates should give top urgency to the disposal of cases under labour laws pending in their courts.

C.L. No. 185/IVg-103 dated 12th December, 1977

All the Chief Judicial Magistrates and Judicial Magistrates are directed to try cases arising under the protection of Civil Rights Act on priority basis.

The offences punishable under section 3 to 7 of the Act may be tried by the Magistrates by way of summary procedure in accordance with section 15 of the said Act unless they are of pinion that the punishment under the offences is likely to be of more than 3 months.

C.L. No. 112/IVg-103 dated 4th October, 1978

Magistrates nominated for disposal of cases under the Protection of Civil Rights Act, 1955 should obtain a report from police in private complaints as to whether the matter relates to harijans or not and whether it comes within the definition of 'harassment' or not, so that the cases may be disposed of quickly.

C.L. No. 89/VII f-39 dated 24th July, 1979

The Chief Judicial Magistrates should specifically allot one or two courts to take cognizance of cases under Factories Act according to the prevailing circumstances in their districts.

C.L. No. 107/VIII g-38 dated 21st June, 1977

The Magistrates should ensure that the cases involving theft of art objects should be disposed of as expeditiously as possible.

C.L. No. 33/Admn.(A) dated 21st February, 1977

Whenever formal applications for withdrawal of D.I.R. cases pending in different courts are made, the courts concerned should disposed of such applications promptly, instead of putting up for disposal on the date fixed.

C.L. No. 68/Admn.(A) dated 10th October, 1984

The District Judge should see that the cases relating to water pollution filed by the Water Pollution and Control Board, U.P., Lucknow are decided early.

C.L. No. 48/VIII g-38 Admn. G dated 25th April, 1980

Cases pending against police personnel should be decided on priority basis.

C.L. No. 4/VII-f-50 dated 13th January, 1971

Expeditious disposal of cases against military personnel, who are in service, should be made and provisions of sub-rule (1) of rule 80 of General Rules (Civil), 1957, Volume 1, be strictly followed.

C.L. No. 4/VII-f-50 dated 10th February, 1981

All the Presiding Officers of the criminal courts should ensure that criminal cases involving military personnel are dealt with on priority basis and every possible effort should be made to avoid adjournments of such cases.

C.L. No. 132/VII-h-35 dated 29th October, 1971

Priority should be given to the disposal of cases relating to theft of telegraph and electricity wire and transformers by all Munsif – Magistrates and Judicial Magistrates so that such crimes may be brought under control.

C.L. No. 95/VII-g-38 dated 21st December, 1973

Cases arising out of violent agitations in the country are not allowed to protract in the courts and should be disposed of expeditiously to enable anti social elements being kept under control.

Cases to be given priority

C.L. No. 14 dated 23rd January, 1976 and

C.L. No. 21/VIII-g-38 dated 12th February, 1976

Cases under the Defence of India Rules, Arms Act, Essential Commodities Act and Prevention of Food Adulteration Act should be disposed of urgently on priority basis.

(xi) To facilitate clearance of arrears

C.L. No. 77/IV-h-36 dated 28th May, 1976

(i) Liberal use of the probationary provisions should be made.

(ii) Cases pending for more than four years up to June 30, 1976 may be taken up on the file of the Chief Judicial Magistrates for disposal (this is not to be treated as a ground for transfer).

(iii) Cases in which an accused remains absconding for more than one year may, after due formalities under Section 299 Cr.P.C, be consigned to record room and may not be accounted for statistical purposes.

(iv) As far as possible, roster should be so arranged by the Magistrate that fixed days are allotted to various police stations, according to work.

(v) In pending cases, whenever the court considers fit, it may call for affidavits from the doctors and the identifying magistrates or if the parties agree, to have them examined on commission, provided that any party may call them for cross-examination.

(vi) Time limit may be fixed for examination of witness by the parties during the trial subject to the discretion of the court under Section 311 Cr.P.C.

(vii) In complaint cases, use that is more liberal be made of the provisions contained in section 205 of the Code of Criminal Procedure which enables the court, when issuing summons, not to summon the accused in person. (C.L. No.4, dated February 3, 1976 of Hon'ble A.J. may also be seen in this connection).

(viii) Cases should be classified according to special Acts and entrusted to a particular officer for disposal.

(ix) Compounding of cases, which are compoundable, should be encouraged.

C. L. No.61/2007Admin (G): Dated: 13.12.2007.

The Hon'ble Court has noticed that a long delay in disposal of Petty Criminal Cases pertaining to Municipal Challans, Police Challans, Traffic Challans, Challans under Weights and Measurements Act and Forest Act etc. is taking place due to the Challenging Authorities not providing correct address of the accused in the Challans submitted before the Courts which results in services of notices/summons on them not being affected.

Therefore, I am directed to say that the Court concerned shall send summons/notices of all such accused persons to the Department concerned to be served upon them.

I am further to add that to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit .

(xii) Postponement or adjournment

C.L. No. 81/VIII f-40 dated 25th September, 1956

The commencement of a trial of an accused should not be postponed beyond what is a reasonable period on the ground that other persons involved in the offence are yet to be apprehended. The attention of all the District Magistrates is invited to paragraph 55 of the Handbook for Criminal and Revenue Courts which requires that prompt action under

section 87 and 88 (new sections 82 to 85) of the Code of Criminal Procedure should be initiated against the accused who is absconding, and if he is not arrested within a reasonable time, the court should commence the trial against the accused who is already in custody or has appeared before it. All Magistrates should note these directions for strict compliance.

C.L. No. 1 dated 14th January, 1976

The officers may be asked to be cautious in granting adjournments of old cases, and even if an adjournment is granted, a short date may be fixed.

C.L. No. 51/IV h-36 dated 10th March, 1977

Witnesses present must be examined the same day.

C. L. No.67/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has noticed that exceptionally long time is being consumed by the courts in recording the statement of the witnesses of formal nature. However, the enabling provision of Section 296 Cr.P.C. providing for tendering of evidence on affidavit is a departure from the usual mode of giving evidence. This would help the court to gain the and the cost, besides relieving the witness of all that the said has to see in court only to prove some formal points. . Therefore, the Hon'ble Court is of the view that the statement of such formal witnesses, if necessary on some formal points, should normally be tendered by affidavit and not by examining all such witnesses in court. If any party wishes to examine the deponent of the affidavit, it is open to him to make an application before the court.

Therefore, I am directed to request you to kindly bring contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and supervision for compliance in right earnest.

(xiii) Complaints u/s 406/409 I.P.C. due to non-payment of workers' share of contributions to PF/FPF and prosecution u/s 14 of the EPF & MP Act, 1952- measure for reducing pendency of cases in the Court.

C.L.No. 44/VIIf-119/Admn.(G-2) dated August 4, 1993

I am directed to enclose herewith a copy of Government letter No. 15014/2/92-Jus (M), dated October 22, 1992 along with its enclosure i.e. the letter No. P.O. Case/CHT/92/18386 dated July 23, 1992 of Commissioner, Central Provident Fund, New Delhi with the directions that the Presiding Officers working under you be apprised that effective measures be adopted to dispose of the cases of complaints u/s 406/409 I.P.C. due to non-payment of workers' share of contributions to PF/F.P.F. and prosecution u/s 14 of the E.P.F. and M.P. Act, 1952 and they be expedited in a measure to reduce the pendency of such cases in the court.

I am further directed to ask you kindly to intimate Government of India in the Ministry of Law & Justice, New Delhi, at the earliest the action taken with regard to disposal of such cases as desired by them in their letter dated October 22, 1992, referred to above, under intimation to the Court.

I am also to request you kindly to sent the figures of pending cases under the E.P.F. & M.P. Act and cases filed u/s 409/409 I.P.C., to this Court along with the disposals during the year of 31.3.89, 31.3.90, 31.3.91, 31.3.92 and 31.3.93 on the following proforma:-

PROFORMA

Pendency as on	Total No. of cases pending	No. of cases pending less than one year	No. of cases disposed of	No. of cases pending between 1 to 3 years
1.	2.	3.	4.	5.

No. of cases disposed of	No. of cased pending 3 years and above	No. of cases disposed of	Reasons for not disposing of the cases mentioned in Column No. 3,5 & 7	Remarks
6.	7.	8.	9.	10.

(xiv) Compliance of the direction of the Hon'ble Supreme Court issued in Writ Petition (Civil) No. 1128 of 1986-Common Cause, A Registered Society v. Union of India & others (Published in J.T. 1996 (4) SC 701).

C.L.No. 31/VIIIb-287 Admn. 'G' Section dated June 12, 1996

While enclosing a copy of the order passed in the aforesaid Writ Petition, I am directed to intimate you that the directions contained in the above-mentioned order of the Hon'ble Supreme Court, be strictly complied with.

I am, therefore, to request you that the directions of the Hon'ble Supreme Court be communicated to all the Criminal Courts in the judgeship for strict compliance and such compliance report be submitted to the Court within three months from the date of receipt of this communication.

Writ Petition (C) No. 1128 of 1986, dated 1.5.1996

'Common Cause' a Registered Society v. Union of India, 1996 Cr.L.J. 2380

B.P. Jeevan Reddy, S.B. Majumdar, JJ.

B.P. Jeevan Reddy, J:- "Common Cause", a registered society espousing public causes has asked for certain general directions in this writ petition, preferred under Article 32 of the Constitution of India, with respect to cases pending in Criminal Courts all over the country. The directions asked for are:

(a) quashing of all proceedings against persons accused of offences under the Motor Vehicles Act where the proceedings were initiated more than one year ago and are still pending in any Court in the country;

(b) to direct the unconditional release of the accused and dismissal of all proceedings pending in Criminal Courts with respect of offences under Indian Penal Code or other penal statutes which have been pending for more than three years from the date of their institution and for which offences the maximum sentence provided under law is not more than six

month-with or without fine. This direction is sought in respect of all prosecutions whether lodged by police, other governmental agency or by a private complaint;

(c) directing the unconditional release of all the accused and dismissal of criminal proceedings against persons who have been in police or judicial custody for a period more than three years from the date of their arrest or remand to such custody, where the offences alleged are not punishable with more than seven years – with or without fine; and

(d) directing the unconditional release of the accused and dismissal of proceedings against persons accused of offences under Section 309 of the Indian Penal Code (I.P.C.) where the proceedings have been pending in any Court for more than one year from the date of their institution.

The petitioner has requested that the aforesaid directions should apply not only to cases pending in Courts on the date of the passing of the order but also to cases executed hereinafter.

Notices were directed to Union of India and the State Government of Uttar Pradesh and Bihar and to the Delhi Administration; Counters have also been filed by them.

We are of the opinion that the suggestions made are well meaning and consistent with the spirit underlying Part III of the Constitution of India and the Criminal Justice System. They deserve serious consideration by this Court and the High Courts in the country. It is a matter of common experience that in many cases where the persons are accused of minor offences punishable not more than three years-or even less with or without fine, the proceedings are kept pending for years together. If they are poor and helpless, they languish in jails for long periods either because there is no one to bail them out or because there is no one to think of them. The very pendency of criminal proceedings for long periods by itself operates as an engine of oppression. Quite often, the private complainants institute these proceedings out of oblique motives. Even in case of offences punishable for seven years or less with or without fine, the prosecutions are kept pending for years and years together in Criminal Courts. In a majority of these cases, whether instituted by police or private complainants, the accused belong to poorer sections of the society, who are unable to afford competent legal advice. Instances have also come before courts where the accused, who are in jail, are not brought to the Court on every date of hearing and for that reason also the cases undergo several adjournments. It appears essential to issue appropriate directions to protect and effectuate the right to life and liberty of the citizens guaranteed by Article 21 of the Constitution. It is also necessary to ensure that these criminal prosecutions do not operate as engines of oppression. Accordingly, the following directions are made which shall be valid not only for the States of Uttar Pradesh, Bihar and Delhi but for all the States and the Union Territories:

1(a) Where the offences under IPC of any other law for the time being in force for which the accused are charged before any Criminal Court are punishable with imprisonment not exceeding three years with or without fine and if trials for such offences are pending for one year or more and the concerned accused have not been

released on bail but are in jail for a period of six months or more, the concerned Criminal Court shall release the accused on bail or on personal bond to be executed by the accused and subject to such conditions, if any, as may be found necessary, in the light of Section 437 of the Criminal Procedure Code (Cr.P.C.).

1(b) Where the offences under IPC or any other law for the time being in force for which the accused are charged before any Criminal Court are punishable with imprisonment not exceeding five years, with or without fine, and if the trials for such offences are pending for two years or more and the concerned accused have not been released on bail but are in jail for a period of six months or more, the concerned Criminal Court shall release the accused on bail or on personal bond to be executed by the accused and subject to the imposing of suitable conditions, if any, in the light of Section 437 Cr.P.C.

1(c) Where the offences under IPC or any other law for the time being in force for which the accused are charged before any Criminal Court are punishable with seven years or less, with or without fine, and if the trails for such offences are pending for two years or more and the concerned accused have not been released on bail but are in jail for a period of one year or more, the concerned Criminal Court shall release the accused on bail or on personal bond to executed by the accused and subject to imposing of suitable conditions, if any, in light of Section 437 Cr.P.C.

2(a) Where criminal proceedings are pending regarding traffic offences in any Criminal Court for more than two years on account of non serving summons to the accused or for any other reason whatsoever, the Court may discharge the accused and close the cases.

2(b) Where the cases pending in Criminal Courts for more than two years under IPC or any other law for the time being in force are compoundable with permission of the Court and if in such cases trial have still not commenced, the Criminal Court shall, after hearing the public prosecutor and other parties represented before it or their advocates, discharge or acquit the accused, as the case may be, and close such cases.

2(c) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force pertain to offences which are non-cognizable and bailable and if such pendency is for more than two years and if in such cases trials have still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

2(d) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force are pending in connection with offences which are punishable with fine only and are not of recurring nature, and if such pendency is for more than one year and if in such cases trial have still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

2(e) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force are punishable with imprisonment up to one year, with or without fine, and if such pendency is for more than one year and if in such cases trials have still not commenced, the Criminal Courts shall discharge or acquit the accused, as the case may be, and close such cases.

2(f) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force are punishable with imprisonment up to three years, with or without fine, and if such pendency is for more than two years and if in such cases trial has still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

3. For the purpose of directions contained in clauses (1) and (2) above, the period of pendency of criminal cases shall be calculated from the date the accused are summoned to appear in the Court.

4. Directions (1) and (2) made hereinabove shall not apply to cases of offences involving (a) corruption, misappropriation of public funds, cheating, whether under the Indian Penal Code, Prevention of Corruption Act or any other statute, (b) smuggling, foreign exchange violation and offences under the Narcotics Drugs and Psychotropic Substances Act, (c) Essential Commodities Act, Food Adulteration Act, Acts dealing with Environment or any other economic offences, (d) offences under Arms Act, Explosive Substances Act, Terrorists and Disruptive Activities Act, (e) offences relating to the Army, Navy and Air Force, (f) offences against public tranquility; (g) offences relating to public servants (h) offences relating to coins and Government stamp, (i) offences relating to elections, (j) offences relating to giving false evidence and offences against public justice, (k) any other type of offences against the state, (l) offences under the taxing enactments and (m) offences of defamation as defined in Section 499 IPC.

5. The Criminal Courts shall try the offences mentioned in Para (4) above on a priority basis. The High Courts are requested to issue necessary directions in this behalf to all the Criminal Courts under their control and supervision.

6. The Criminal Courts and all Courts trying criminal cases shall take appropriate action in accordance with the above directions. These directions are applicable not only to the cases pending on this day but also to cases, which may be instituted hereafter. As and when a particular case gets covered by one or the other direction mentioned in Directions (1) and (2) read with Direction (4) above, appropriate orders shall be passed by the concerned Court without any delay.

The writ petition is disposed off with the above directions.

(xv) Disposal of cases involving Economic Offences

C.L.No. 18/Admn.(A) dated March 13, 1991

I am directed to say that it has been brought to the notice of the court that the Presiding Officers who are especially empowered under Section 11(2) of the Code of Criminal Procedure, 1973 for deciding cases involving Economic Offences exclusively and quickly are reluctant in deciding these cases as they involve a lot of evidence and are time consuming. This aspect of the matter is being examined by the court and necessary orders will be sent after a decision has been taken by the court in the matter. In the meantime, the Court directs that the Presiding Officers who are doing cases involving economic offences may take up the cases on priority basis and decide them an expeditiously as possible.

I am, therefore, to request you kindly to bring the contents of this C.L. to the notice of the Judicial Magistrate (Economic Offences) for information and necessary compliance.

(xvi) Expeditious disposal of cases in which Foreigners are involved

C.L. NO. 25/VIIg-38/Admn.(G) dated March 3, 1994

I am directed to say that it has been brought to the notice of the Court that the cases involving Foreign Nationals are pending in the Indian Courts for a long time. It has been felt that inordinate delay in the disposal of such cases is being viewed as a violation of Human Rights. Therefore, with a view to give quicker relief to the Foreigners involved in cases, it has been decided that such cases be segregated and they may be put before such Courts as may be specifically earmarked by you for their quick disposal to achieve cutting down delay in trial of these cases.

I am, therefore, to request you kindly to bring the contents of this letter to the notice of the concerned Presiding Officers for strict compliance.

(xvii) Expeditious disposal of cases filed by or against military personnel

C.L.No. 75/VIIf- 50/Admn.(G) dated July 28, 1990

I am directed to invite your attention to Court's Circular letter No. 4/VIIf-50, dated January 13, 1971 and No. 4/VIIf-50, dated February 10,1981 and to the proviso to sub-rule (1) of Rule 80 of General Rules (Civil), 1957, Volume I on the above subject and to say that in the proceeding of Annual Civil Military Liaison Conference held at Headquarters Central Command Lucknow on 6 and 7th June, 1990 it has been resolved that priority should be given to Army personnel's litigation as per the existing instruction.

I am, therefore, to request you kindly to ensure that the above directions are strictly complied with.

(xviii) Expeditious disposal of the cases of under trial foreign nationals

C.L. No. 48/Admn. 'E' Section, dated May 21, 1994

I am directed to request you that the Chairman, National Human Rights Commission has expressed concern about the foreign nationals who are languishing in various jails. He is also of the view that unless the trials are expedited, on the plea of violation of human rights, an issue having international implication would soon be raised.

I am, therefore, to request you kindly to furnish the particulars of all foreign nationals in custody, as under trial prisoners in your district on the proforma attached herewith to this Court, and one copy may be sent to Sri L.C. Bhadoo, Registrar (Admn.), Hon'ble Supreme Court of India, New Delhi. You are also requested to issue suitable directions to all the courts working under you to expeditiously dispose of the cases of under trial foreign nationals.

C.L. No. 8053/Admn. 'E' Section, dated May 30, 1994

In continuation of Courts Circular Letter No. 48/Admn. 'E' Section dated 21st May, 1994, on the subject noted above, I am directed to enclose herewith proforma* as mentioned in above cited letter.

(xix) Implementation of guidelines for expeditious disposal of pending cases of under trial prisoners, as given in the order dated 4.8.95, passed by the Hon'ble Supreme Court in Writ Petition (Criminal) No. 57/1979 (Hussainara Khatoon and others v. Home Secretary, Bihar and others with W.P. (Cri.) No. 222/1979 (Shri Rahim Malla & others v. The Home Secretary, Govt. of Jammu and Kashmir).

C.L.No.44/VIII 6-287(PIL) dated November 9, 1995

I am directed to send herewith a copy of order dated 4.8.1995 of Hon'ble the Supreme Court, on the above subject and to request you kindly to ensure the compliance of the guidelines, given in the aforesaid order of the Hon'ble the Supreme Court strictly under intimation to the Court.

(See for Judgment 1995 Cri. L.J.-4020)

(xx) Implementation of guidelines for expeditious disposal of pending cases of under trial prisoners, as given in the order dated 4-8-95 passed by the Hon'ble Supreme Court in writ petition (criminal) no. 222/1979 (Shri Rahim Malla & others vs. The Home Secretary, Govt. of Jammu & Kashmir)

C.L.No.9/VIII b-287 (PIL), dated February 29, 1996

With reference to the Court's Circular letter No. 44/VIIIb-287(PIL), dated 9.11.1995, I am directed to send herewith a copy of order dated 4.8.1995 passed by the Hon'ble Supreme Court, on the above subject and to request you kindly to ensure the compliance of the guidelines, given in the aforesaid order of the Hon'ble the Supreme Court strictly under intimation to the Court.

WRIT PETITION (CRIMINAL) No. 222 of 1979

(Under Article 32 of the Constitution of India for the enforcement of fundamental rights).

Rahim Malla v. The Home Secretary, Government of Jammu & Kashmir*.

HON'BLE THE CHIEF JUSTICE OF INDIA
HON'BLE MR. JUSTICE B.L. HANSARIA
HON'BLE MR. JUSTICE S.C. SEN

The Petition above mentioned along with the connected matter being called on for hearing before this Court on the 3rd day of January, 1995, upon perusing the record and hearing Counsel for the parties herein the Court took time to consider its Judgment and the petition alongwith the connected matter being called on for judgment on the 4th day of August, 1995, this Court for the reasons and observation made in its Order DOTH PASS inter alia the following Order:-

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* Proforma could not be procured.

* Reported in 1995 AIR SCW 3520

"……..We share the sympathetic concern of the learned counsel for the petitioners that under-trials should not languish in jails for long spells merely on account of their inability to meet monetary obligations. We are, however, of the view that such monitoring can be done more effectively by the High Court since it would be easy for that court to collect and collate the statistical information in that behalf, apply the broad guidelines already issued and deal with the situation as it emerges from the status reports presented to it. The role of the High Court is to ensure that the guidelines issued by this Court are implemented in letter and spirit. We think it would suffice if we request the Chief Justices of the High Courts to undertake a review of such cases in their States and give appropriate directions where needed to ensure proper and effective implementation of the guidelines. Instead of repeating the general directions already issued, it would be sufficient to remind the High Courts to ensure expeditious disposal of cases. Withdrawal of cases from time to time may not always be an appropriate and acceptable remedy, but what is required is to evolve a mechanism, which would enable early disposal of cases. The High court being on the spot would be able to diagnose the ailment rather than merely deal with symptoms. We are, therefore, of the view that these petitions have served their purposes and should stand disposed of leaving the further implementation to the High Courts."

IN ADDITION, THIS COURT DOTH FURTHER ORDER that the ORDER dated the 30th April, 1979 passed by this Court in the above said Petition granting bail shall stand vacated subject to the Order quoted above:

IN ADDITION, THIS COURT DOTH LASTLY ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Aziz Mushabbar Ahmadi, Chief Justice of India at the Supreme court, New Delhi, dated this the 4th day of August, 1995.

(xxi) Disposal of cases of under trials.

C.L.No.68/ VIIg-38: Admin (V) Dated: DEC: 10, 1996

Special secretary, State of U.P. has informed that large number of cases of under-trials is pending in the Subordinate Courts. The under-trials are languishing in jails for want of disposal of their cases.

By enclosing a list of the under trials showing the period of their detention, I am directed that the directions contained in circular Letter 59/VIIIg 38/ Admin 'G' Dated 16.9.1981 be followed strictly.

I am, therefore, to request you that kindly make all out efforts in disposal of cases of under trials prisoners confined in jails for over six months and report of the compliance be sent to this Hon'ble court in each month.

(xxi-a) Trial of hardened criminals inside the jail premises.

C.L. No. 13/2008; Admin. (G): Dated May 19, 2008

In a reference having been made by a District and Sessions Judge to the Hon'ble Court seeking permission for trial of the notorious hardened under trial prisoners inside the jail precincts on request of the Senior Prosecuting Officer based on the direction of the Senior Superintendent of Police and the District Magistrate, upon consideration, the

Hon'ble Court has resolved that a direction be issued to all the District and Sessions Judges that on such request being received by them they are supposed to take decision in their discretion in the matter in consonance with the provision made in Section 9(6) of the Criminal Procedure Code as amended by U.P. Act 1 of 1984 which provides that where it appears expedient to do so for consideration of internal security or public order, the Court of Sessions may hold its sitting in a particular case at any place in the sessions division without consent of the prosecution and the accused and only in case of their being not convinced of there being any security threat involved, should they refer the matter to the Hon'ble Court for consideration and decision.

Therefore, I am directed to request you to kindly make strict compliance of the above directions of the Hon'ble Court and to bring the contents of this circular letter to all the Judicial Officers working under your administrative control.

(xxii) Implementation of guidelines for expeditious disposal of pending cases of under trial prisoners, as given in the order dated: 4.8.95 passed by the Hon'ble Supreme Court in writ petition (Criminal) No.222/1979 (Shri Rahim Malla and others VS. The Home Secretary, Govt. of Jammu and Kashmir.

C.L.No. 9/ VIIb-287(PIL), Dated: Feb: 29, 1997

With reference to the court's circular letter no.44/VIIIv-287 (PIL), dated 9.11.1995, I am directed to send herewith a copy of order dated 4.98.1995 passed by the Hon'ble supreme Court, on the above subject and to request you kindly to ensure the compliance of the guidelines, given in the aforesaid order of the Hon'ble the Supreme court strictly under intimation to the court.

(See for Judgment 1995 Cr. L.J.4020)

(xxiii) Disposal of the cases of under trials expeditiously

C.L.No.43 Dated: 30th September, 1997

It has come to the notice of the Hon'ble court that cases of under trials are not transferred for disposal from the vacant court. The Hon'ble court has expressed its concern on such situation.

Speedy trial is a right of the accused whether he be a suspect or under trial, he is not denuded of his right to have expedient fair trial. It is an obligation of each court to ensure that there is no infringement of the indefeasible rights of the accused on account of delay in disposal of their cases. Social interest also lies in punishing the guilty and exoneration on of the innocent, but this determination must be arrived with reasonable disposal.

By enclosing the copy of the order of the Hon'ble court passed in bail Application No. 6128/1997, I am Directed to request you that the said order be circulated amongst all the district Judges and additional District Judges for guidance and strict compliance in future.

I am, therefore, to request you that the direction of the Hon'ble court be complied.

C. L. No. 7/2007/Admin 'G': Dated: 20th February, 2007

The Government of India, Ministry of Home Affairs, New Delhi has intimated to the Court that the Parliamentary Committee on the Welfare of. Scheduled Castes and Scheduled Tribes on the Ministry of Tribal Affairs, while considering the matter pertaining to atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them recommended as under:

> "The Committee is aware that one of the terms of reference of the Malimath Committee was to suggest a sound system of managing, on professional lines, the pendency of cases at investigation and trial stages and making the police, the Prosecution and the judiciary accountable for delays in their respective domains. The Committee feels that the time taken in disposal of atrocity cases should be considerably cut short. The Ministry of Law and Justice should look into this matter and take necessary steps. The Committee hope that the Sessions Courts notified as Special Courts would give up top priority to atrocity cases, which in the opinion of the Committee will help in bringing the pendency down. "

Therefore, in this regard while enclosing herewith a copy of D.O. No. 11017/50/2001-JUS (M), dated December 22, 2006 of Sri Rajiv Agarwal, Additional Secretary, Government of India, Ministry of Home Affairs, New Delhi, I am directed to request you to Impress upon the concerned Courts to ensure speedy trial of cases pertaining to atrocities committed against Scheduled Castes and Scheduled Tribes, so as to minimize the pendency of such cases.

C. L. No: 77/ 07/ Admin 'G' Section Dated: Allahabad: 15.12.2007

The Hon'ble Apex Court during consideration of the matter involving illegal detention of Michal Lalung for 54 years in Writ Petition (Criminal) No.296 0f 2005 and News Item "38 years in Jail without Trial" published in Hindustan Times dated 06.02.2006 in connected Writ Petition (Criminal) No. 18 of 2006 has been pleased to lay down the following guidelines for trial of mentally ill under- trial prisoners lying since long in various psychiatric hospitals/nursing homes:-

> **(i)** whenever a person of unsound mind is ordered to be detained in any psychiatric hospital/nursing home under Section 330 (2) of the Code, the reports contemplated under Section 39 shall be submitted to the concerned Court/Magistrate periodically. The Court/Magistrate shall also call for such reports if they are not received in time. When the reports are received, the Court/Magistrate shall consider the reports and pass appropriate orders whenever necessary. In regard to prisoners covered by sub section (1) of Section 30 of the Prisoners Act, 1900, the procedure prescribed by sub sections (2) and (3) of that Section read with Section 40 of the Mental Health Act, 1987 shall be followed.
>
> **(ii)** Wherever any under trial prisoner is in jail for more than the maximum period of imprisonment prescribed for the offense for which he is charged (other than those charged for offenses for which life imprisonment or death is the punishment), the Magistrate/Court shall treat the case as closed and report the matter to the medical officer in charge of the psychiatric hospital, so that the

Medical Officer in charge of the hospital can consider his discharge as per Section 40 of the Act.

(iii) In cases where, the under trial prisoners (who are not being charged with offense for which the punishment is imprisonment for life or death penalty), their cases may be considered for release in accordance with sub section(1) of Section 330 of the Code, if they have completed five or more years as inpatients.

(iv) As regards the under trial prisoners who have been charged with grave offenses for which life imprisonment or death penalty is the punishment, such persons shall be subjected to examination periodically as provided in sub section (1), (3) and (4) of Section 39 of the Act and the officers named therein (visitors, medical officer in charge of the hospital and the examining medical officer respectively) should send the reports to the court as to whether the under trial prisoner is fit enough to face the trial to defend the charge. The Sessions Courts where the cases are pending should also seek periodic reports from such hospitals and every such case shall be given a hearing at least once in three months. The Sessions Judge shall commence the trial of such cases as such, as it is found that such mentally ill person has been found fit to face trial.

Upon consideration of the above judgment, the Hon'ble Court has opined that it behooves the subordinate judiciary to implement the directions of the Hon'ble Apex Court given as above.

Therefore, while enclosing a copy of the judgment of the Hon'ble Apex Court, I am to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers under your administrative control and impress upon them to make compliance of the directions contained therein in letter and spirit.

C. L. No.54/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has been pleased to express deep concern over the state of trial of the under trial prisoners languishing in jail for a considerably long period of time, sometimes even longer than the maximum period stipulated under law for which they could be convicted.

1. C.L.No. 114/VIIb-3 dated 05.09.1975.
2. C.L.No.28 /VIIIh-13 dated 07.03.1979.
3.C.L.No. 90/VIIIg-38 Admin.(G) dated 01.12.1980.
4.C.L.NO. 59/VIIIg-38Admin.(G) dated 16.09.1981.
5.C.L.No.18/VIII-b-Admin.(G) dated 19/21.04.2000.

Therefore, I am directed to say that in continuation of a catena of Circular Letters issued on the subject earlier by the Hon'ble Court noted in the margin, the priority should be given to the trial of the cases of such under trial prisoners of the above category.

I am, further to request you to kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control for strict compliance.

Guidelines laid down by Hon'ble Apex Court in the matter of trial of under trial prisoners languishing in prison since long in Writ Petition (Criminal) No. 296 of 2005 and the connected Writ Petition (Criminal) No. 18 of 2006

C.L. No. 28 Admin 'G' Section Dated: Allahabad: 19.12.2008

In continuation of Court's earlier Circular Letter no. 77 Admin G Section dated 15.12.2007 on the above subject, I am directed to say that the Hon'ble Apex Court has been pleased to pass following order on 03.09.2008 in Writ Petition Criminal No. 296 of 2005 and the connected Writ Petition (Criminal) No. 18 of 2006:-

> "Order passed by this Court on 24th October 2007, be reported and circulated.
>
> There are large numbers of under trial prisoners who are mentally ill and thus unable to face trial. This Court has passed an order on 24.10.2007 and issued directions to see that the trial of these under trial prisoners be expedited or to see whether they could be released from the Jail or from Mental Hospital as per Law. The District Judges of each District of the States will monitor these pending cases and give a report every six months to the respective High Courts and the High Courts may issue appropriate directions to protect the rights of these under trial prisoners.
>
> The Writ Petitions are disposed of accordingly."

Upon consideration of the matter, the Hon'ble Court has desired that (i) the trial of these under trial prisoners be expedited and their release be considered from Jails or Mental Hospitals as per Law (ii) the District Judge shall monitor all the pending cases of such under trial prisoners who are mentally ill and thus are unable to face trial and submit a report after every six months to this Hon'ble Court.

I am, therefore, to request you to kindly bring the contents of the circular letter to the notice of all the Judicial Officers under your Administrative Control and impress upon them to make compliance of the directions in right earnest. Further action taken report and six monthly reports as directed by the Hon'ble Apex Court be regularly sent.

(xxiv) To decide suites Criminal Trials Labour Disputes, Rent Control Cases & other cases on basis of a time bound programmed fixed by the court

C.L.No.46/ dated: 15th October, 1997

While enclosing herewith a copy of the judgment and order dated 24.9.1997 passed by the division bench of Hon'ble Mr. Justice R.R.K. Trivedi and Hon'ble Mr. Justice M.Katju in civil Misc. writ Petition No.30219 of 1997 Ayodhya Sahai alias Kunwar Bahadur Vs District Judge, Jaunpur and another and I am directed to say that the court has issued general mandamus to decide suits, criminal trials, labour disputes, rent control cases and other cases on basis of a time bound programme fixed by the court for each case usually by day to day hearing. This exercise must start from the next date after the receipt of this Judgment

I am further directed to emphasize that if any suit, criminal trial and other the cases take more than two years to decide from the date of institution or an appeal take more than one year an adverse entry shall be placed on the record of the judicial officer

responsible for the delay by the district Judge of the district and if the officer himself is the district Judge an adverse entry shall be placed in his record by the Hon'ble Inspecting Judge of the District. It may also amount the judicial misconduct of the concerning judicial officer who are responsible for the delay in deciding the cases.

I am, therefore, to request you kindly to provide a copy of the aforesaid order to all the Presiding Officers working under you for strict compliance and ensure that directions contained in the said order are being carried out strictly.

I am, further, to add that a copy of aforesaid order may also be made available to all the Bar Associations in the district, the D.G.C. (Criminal), D.G.C. (Civil), D.G.C. (Revenue) and other counsel representing the State and local bodies or local authorities in your district for information.

(See for Judgment: 1997 AWC (supp.) 525)

(xxv) Resorting provisions of the code in the matters where accused are absconding.

C.L.No.24/viIb-65/Admn. (G) Dated: 16th June, 2000

The delay in the disposal of criminal cases at the trial stage is not only against the principal of the law but it also does a great injustice both to the victim and the society as also to the assailant. Although human memory is sharp but with the passage of time much of evidence is lost as apparently many influences are at work. The criminal remains absent from court proceedings and the courts are not resorting to the provisions as contained in the code (Section 299) which in fact gives encouragement to the criminal. That s how the delay in the disposal of criminal cases becomes in a way the negative contribution to the Judicial system. It has come to the notice of the Hon'ble Court that almost in each district a large number of cases are awaiting trial on account of nonappearance of the accused despite several steps for procuring the attendance of the accused have been taken. Justice suffers, and so does the society. To overcome such a situation the provisions of section 299 of code should be resorted expeditiously which would in give relief to over burdened court dockets.

I am, therefore to bring to your notice that the matters of the absenting accused be taken up on priority basis and every quarterly the position of such be brought in to the notice of Hon'ble Court.

(xxvi) Court Management for expeditious disposal of cases by Subordinate courts.

C.L.No.27 admin A/DR (S) Dated: June 21, 2000.

It has been observed by the Hon'ble court that in the event of a Presiding Officer being transferred from a district in midterm and being not replaced by an officer of comparable seniority at that level, the working of the courts is substantially disturbed as the shifting in offices takes places on seniority basis. It then creates a situation in which the officer move up in the numbered hierarchy leaving many, if not all, of their cases behind. They inherit the caseload of the numbered position into which they move. The same situation arises every June when in the normal course Presiding Officer receive order of their transfer. Besides disrupting many of the cases pending in these courts, such a practice does little to promote an interest in the efficient disposal of cases and

commitment to a particular caseload. The realization that without the foreseeable future most or all of their cases be left behind encourages a wait-and-so attitude.

Hon'ble court with a view to effectively manage the court dockets and as ensuring expeditious disposal of cases have pleased to give following directions:-

1. All Sessions trials which are not part heard on tied-up to any Session judge or Special Judge or designated court shall be so allocated as to enable the senior most amongst the Session Judges to begin with the latest committal proceedings. the rest in seniority to deal with the session cases of a year before and so on and each one them will fix dates and rescheduling of the calendar/cause-list maintained by them may be done as necessary. Sessions Trial shall be fixed on day to- day basis as far as possible.

2. All the cases which are pending where no officers have yet been posted should be transferred to the courts which are functioning and a criteria be fixed that the entire list of pending cases in the absent a court be divided half and half on year wise basis and the latter half dealing with old cases should first be transferred within 15 days and the other half may be retained in those courts for a period of three months in the hope of courts being manned by the officers within that period. If no posting takes place then those cases shall also stand transferred in the like manner as the latter set of cases.

3. On a transfer to a court on its vacancy, the officer may be posted in that court without indicating his nomenclature and affecting his seniority. Such officer is to continue in the same court till he is transferred to some other district or he is posted to the parent (instituting) court such as the Court of J.S.C.C., Chief Judicial Magistrate, Civil Judge (Senior Division) Civil Judge (Junior Division). Special Courts under Special Acts or for some administrative reasons he is transferred to some other post or place.

4. The Posting & transfer will not affect his enter seniority vis-à-vis local officers irrespective of the Court where he may be posted for the purposed functioning.

5. The officer in the district court shall be assigned the work according to the court number though for administrative purposes for maintaining seniority a different list may be prepared.

6. In the district court, every courtroom will be serially numbered excepting the court of District Judge and the officers will be posted as presiding officer of a particular court irrespective of their seniority in the district. However, in posting the officers in parent (Instituting) of special courts it may not be necessary to post the officer with reference to court numbers and they shall be posted by the designation.

7. The District Judge in his discretion on certain contingencies may change the place of sitting of a Presiding Officer of the court and give number of such court according e.g. if a senior officer is posted as court no.16 while

a junior officer is posted as court no.1in a most spacious court room the senior officer may be assigned court room no.1 renumbering the court No.1 as court no.16 and vice versa.

I am, therefore, to request you kindly to ensure compliance of the above directions of the Court and it be brought to the notice of all the Presiding officers posted in the judgeship for their information.

I am, further to request you that the arrangement so made compliance of the directions aforesaid be intimated to the court.

(xxvii) Expediting the old cases of 'Older Persons'.

C.L.No.30 dated: 10th July, 2000

In the chief Justice conference held in the year 1999 it was resolved that the High court shall vigorously pursue for quicker disposal of cases of persons aged above 65 years as far as practicable on priority basis. Government of India have also adopted "National Policy for Older Persons because the India has Largest population of older persons in the world. At present, large number of older persons is passing through an era of difficulties and hardships because the family, which used to traditionally look after them, is no longer being able to do so. There is high incidence of litigation concerning property and inheritance, two of the most common issue in which elderly persons who are generally involved. There are some older persons who are facing criminal charges and are languishing in jails as under-trial persons. The elderly people deserve to be attended by the legal system somewhat on priority basis. There is no built-in provision in the judicial system to ensure speedy or time bound disposal of cases. Many of the cases take years to conclude and may extend beyond the lifetime of orderly persons.

I am, directed to request you that the precedence should be given for hearing and final disposal of those cases wherein one of the parties is passed the age of 65 years, as a time bound project and to clear the docket of such cases by 31.12.2000.

(xxviii)To ensure effective management of court docket in the light of certain circular letters issued by the court recently.

C.L.No.46 /Admin G. dated: October 20, 2000

Kindly take reference of the marginally noted court's circular letters in regard to bring effective management of the court dockets and for ensuring expeditious disposal of cases, certain directions were issued by the court through the above noted circular letters.

C.L.No. 24 dated 16.6.2000
C.L.No.25 dated 16.6.2000
C.L.No. 26 dated 18.6.2000
C.L.No. 27 dated 21.6.2000
C.L.No. 28 dated 5.7.2000
C.L.No.29 dated 6/10.07.2000
C.L.No.30 dated 10.7.2000.

A progress report regarding speedy disposal of cases as directed in the above-mentioned court's circular letter is needed.

I am, therefore directed to request you kindly to submit progress report in the matter to the court latest by 1st week of November, 2000.

(xxix) Expeditious disposal of Criminal Appeals as also for reducing arrears of pending cases.

C.L. No. 23/2004 Dated: 23rd August, 2004

It has been noticed that a large number of criminal appeals are pending disposal since long in the Subordinate Courts. The Hon'ble Court expressing its utmost concern has desired that the pending criminal appeals are taken up and decided on priority basis to avoid unsustainable and protracted litigation in Subordinate Courts. The delay in the disposal of criminal appeals at the first appellate stage is not only against the mandate of Law but it also does a great injustice both to the victim and the society as also to the assailant it is injustice to the victim and to the society.

In view of the above, the Hon'ble Court has directed and desired that the criminal appeals be disposed of on war footing during the 'Arrear Clearance Year 2004".

I am, therefore, directed to request you that the directions of Hon'ble court be complied with in letter and spirit and the contents of the circular letter may kindly be brought to the notice of all Judicial Officers in your Judgeship for strict compliance.

C. L. No. 52/2006 Dated 15.11. 2006.

In order to take care of the huge arrear of cases the Hon'ble court has desired that in appropriate cases the Subordinate *Judiciary* must scrupulously follow the provisions of Section 258 of the Code of Criminal Procedure, 1973 in the event police fails/neglects to serve notice upon the accused.

Therefore, I am directed to say that ail the Chief Metropolitan Magistrates, Additional Chief Metropolitan Magistrates, Chief Judicial Magistrates, Additional Chief Judicial Magistrates and Judicial Magistrates working In the Judgeship under your administrative control, dealing with petty cases, especially the Challan cases, may please be Instructed to give limited opportunities to the police to secure presence of the accused strictly in accordance with law and in case the police machinery fails to secure presence of the accused, the Magistrate, except for the reasons recorded otherwise, In suitable matters, should take steps to decide the cases relying on provisions like Section 258 of the Code of Criminal Procedure, 1973.

I am to further request you to kindly provide to the Hon'ble Court a monthly report of all such cases decided under Section 258 Cr.P.C. so that it may be monitored accordingly.

C. L. No.49/2007Admin (G): Dated: 13.12.2007.

With a view to bringing heavy pendency of Criminal Cases under control, on the recommendations of Malimath committee, Chapter XXI-A consisting of 12 Sections has been added in the Code of Criminal Procedure which provides a self contained procedure for implementation of the concept of 'Plea Bargaining' to be used in Criminal cases except relating to offenses affecting the Socio economic condition of the Country. This is a special provision where a suspect may be advised to admit a part or all the crime charged, in return for a specified punishment rather than await trial with the possibility of either acquittal or a more serious punishment. The Hon'ble Court has desired that in proper cases the subordinate Courts must make application of these provisions.

Therefore, I am directed to request you kindly to impress upon all Judicial Officers working under your administrative control to make maximum use of provisions of Chapter XXI-A Cr.P.C. .

(xxx) Timely disposal of cases.

C.L. No. 1/ Admin 'G' /2006: Dated: 15th February, 2006

The continuing adds to the institutions together with failure to maintain momentum by way of clearance has resulted in a disquieting increase in the pendency of the cases. With the end in view of striking at the problem of docket explosion and to energize the judicial system the Hon'ble Chief Justice of India is pleased to well-express that the cases in which proceedings before the Trial Court have been stayed by Sessions Courts/ Fast Track Courts of Session Judges, Sessions cases in Which the accused person is in jail for more than 3 year and civil cases in which injunction/ stay have been granted by Subordinate Courts, be identified and such cases be taken up for hearing on priority basis ensuring an all out effort by all concerned to depose them of as far as possible, within one year.

Therefore, the Hon'ble Court has been pleased to order that all such cases in the judgeship under your administrative control, be immediately identified and taken up for hearing to ensure their disposal within one year. Further monthly progress of identification and disposal of such cases be monitored and reports be transmitted to the Court recurrently and punctually so as to reach by 10th day of next following month, for further monitoring of the matter.

I am, therefore, whished-for requesting, you to bring the contents of this circular to the notice of all the judicial officers in the judiciary in your administrative authority and take all such steps as possibly will be decisive in accomplishment of the objective.

C. L. No-31/2007: Admin 'G' Dated: 29 August, 2007.

With reference to above, I am directed to say that in the Chief Justices Conference-2007 upon consideration of matter of speedy disposal and reduction of arrears it has been resolved that while issuing summons to an accused, he may be informed of the provisions of 'plea bargaining' contained in Chapter XXI-A of the Code of Criminal Procedure.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control for strict compliance of the directions of the Hon'ble Court.

(xxxi) Expeditious disposal of cases.

C.L. No. 4/ Admin 'G' /2006: Dated: 15th February, 2006

The gradual increase in the institution coupled with failure to keep pace with them has resulted in an alarming rise in the pendency of the cases. Invigorating the judicial system to bid a go bye to the problem of docket explosion, is the bewail call of the social order.

Colossal pendency of significantly old civil cases and criminal cases involving petty offences including traffic and municipal challans also criminal complaint cases

under Section 138 of Negotiable Instruments Act has caused sombre anxiety. Therefore, the Hon'ble the Chief Justice of India wishes that significantly old civil cases as also all criminal cases involving petty offences including traffic and municipal challans and complaints under Section 138 of Negotiable Instruments Act, are as for as possible, taken up an day today basis and are disposed of without any further postponement.

As a step crucial in attainment of unqualified sense of contentment amongst the litigants, the Hon'ble Court has been pleased to order that radically old civil cases as also all criminal cases involving petty offences including traffic and municipal challans and complaints under Section 138 of Negotiable Instruments Act, be, as for as possible taken up on day to day basis and disposed of without any deferral. If need be, referred to herein above criminal case might be assigned to all the judicial officers including Special Judicial Magistrates/ Special Metropolitan Magistrates exercising powers of Judicial Magistrate-first Class, in the judiciary under your administrative control. Further monthly progress of disposal of such cases be monitored and reports be sent out to the Court periodically and promptly so as to reach by 10th day of next following month for further monitoring of the matter.

Therefore, I am directed to request you to take all such steps as might be obligatory in execution of the goal.

C. L. No. 46/2006, Dated 27.l0.2006

The Hon'ble Supreme Court in marginally noted cases while laying down various guidelines has provided that the Court seized with the matter regarding withdrawal from the prosecution under section 321 of the Code of Criminal Procedure, in giving its consent to the request of the State for withdrawing prosecuting has to ensure that the public prosecutor has applied his mind independently, in good faith and the withdrawal is in public interest. It has been brought to the notice of this Hon'ble Court that the guidelines so prescribed are not followed in the spirit.

1. Sheo Nandan Paswan v. Statre of Bihar 1987 SCC 877
2. Mohd. Mumtaz v. Nandini Satpathy, AIR 1987 SC 836
3. V.S. Achuthanandan v. R. Balakrishana Pillai, AIR 1995 SC 436
4. Abdul Karim v. State of Karnataka, AIR 2001 SCC 116
5. Jasbir Singh v. Vipin Kumar Jaggi, AIR 2001 SC 2734
6. Rahul Agarwal v. Rakesh Jain, AIR 2005 SC 910

Therefore, I am directed to request you to converse to all the Judicial Officers posted in the judgeship under your administrative control to ensure that guidelines laid down by the Hon'ble Supreme Court are strictly followed and specific reasons are given for exercising of powers under Section 321 of the Code of Criminal Procedure for withdrawal of the prosecution.

C. L. No.57/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has been pleased to observe that Section 258 is included in chapter XX of the Code of Criminal Procedure in the form of an exception to the aforesaid normal progress chart of the trial in summons cases. By S.258, the power of Court to discharge an accused at midway stage is restricted to those cases instituted otherwise than on complaints. This section vivisects only "summons cases instituted otherwise than on complaints" into two divisions. One division consists of cases in which no evidence of material witness was recorded in which case the magistrate shall discharge the accused at

midway stage recording the reasons .The other division consists of cases where stoppage of proceedings is made after the evidence of the principal witnesses has been recorded and in such case he shall pronounce the judgment of acquittal.

Therefore in continuation of the earlier Circular Letter no. 52 /2006 dated 15.11.2006 , I am directed to say that the Magistrate Courts in their discretion may resort to the provisions U/s 258 of Cr.P.C. in appropriate cases .

I am further to say that kindly bring contents of this Circular Letter to the knowledge of all the Magistrates working under your administrative control to strictly comply with the above direction of the Hon'ble Court.

C. L. No.68/2007Admin (G): Dated: 13.12.2007.

The growing docket explosion in both civil as well as criminal side of cases has necessitated an exploration of a device to meet this mammoth challenge. Hon'ble Court has envisioned that if at the level of subordinate courts, the practice of grouping the cases of like nature is adopted and such group of cases is listed before the courts, a considerable dent may be made in containing the rising number of cases.

Therefore, I am directed to request you to kindly instruct all the judicial officers to get the cases of identical nature sorted out by their respective offices and get them listed before the court in such a manner so that cases of one nature happen to be heard by the presiding officers on a particular date.

I am to add further that kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control to make strict compliance of the directions given.

Creation of a Cell in each district for monitoring of compliance of directions for speedy disposal of matters

Letter No. 1354/2011/Admin. G-II dated 24.01.2011

It has come to the notice of Court that officers are not giving due attention to the matters in which the Hon’ble Court or Hon’ble Supreme Court has recommended or issued directions for speedy disposal, making day to day hearing. Therefore, I have been directed to ask you to form a Cell, of which you or senior Additional District Judge shall be incharge, for monitoring of aforesaid matter and, please report compliance to the Court within fifteen days.

(xxxii) Strict compliance of Circular letters issued by Hon’ble Court in respect of expeditious disposal of cases and elimination of arrears in District Courts.

C.L. No. 16/2007: Dated: 25.04.2007

While referring to circular letters [(1) CL No. 14, dt. 20.3.1998 (2) CL No. 33, dt. 20.3.98 (3) CL No. 39 dt. 20.8.1998 (4) CL No. 59 dt. 11.11.1998 (5) CL No. 18 dt. 19/21.4.2000 (6) CL No. 27 Dt. 21.6.2000 (7) CL No. 30 dt. 10.7.2000 (8) CL No. 28 dt. 10.8.2001 (9) CL No. 13 dt. 16.4.2001 (10) CL No. 20 dt. May/June 6, 2003 (11) CL No. 28 dt. 4.8.2003 (12) cL No. 41 dt. 29.10.2003 (13) CL No. 44 dt. 20.12.2003 (14) CL No. 46 Dt. 20.12.2003 (15) CL No. 2586 dt. 19.2.2005 (16) CL No. 23, dt. 23.8.2004 (17) CL No. 7/2005 dt. 10.2.2005 (18) CL No. 1 dt. 15.2.2006 (19) CL No. 2 dt. 15.2.2006 (20

CL No. 3 dt. 15.2.2006 (21) CL No. 7 dt. 20.2.2007] I am desired to communicate that the Hon'ble Court has noticed with dismay that the Subordinate Courts are not paying adequate attention in carrying out the instructions issued by the Hon'ble Court in these circular letters and the purpose of passing these circular letters has become ineffectual.

I am, therefore, desired to communicate to you kindly to impress upon the Judicial Officers working under your supervision & control in the judgeship to ensure strict compliance of the directions issued by the Hon'ble Court in the marginally noted circular letters.

(xxxiii) Number of under trial prisoners together with the period of their detention and the status of their trial.

C.L.No.16/ VIIIh-/2006; Dated: 4 May 2006

Recently the court noticed number of instances of under trial prisoners languishing in jails for a few decades. Such wretched cases illustrate the inconsiderateness of the justice delivery system and portray a rather dreary image of its functioning, having direct crash on human and constitutional rights of the prisoners. The court is of the considered view that regular monitoring of the progress of the under trial prisoners by the court itself and efficient inspection actually and meticulously investigating the number of under trial prisoners together with the period of their detention and the status of trial might help in avoiding the stoppable like hood of having such inopportune and forgotten under trial prisoners as well expediting the trial of such prisoners.

Therefore, I am directed to request you to kindly regular and valuable scrutiny of the progress of the trial of under trial prisoners by the courts under your administrative control I am further directed to demand that while making joint inspection of the Distrilct Jail under courts Circular Letter N0. 82/VIIIf-9/Inspection Section dated 12.9.1994 make concrete and painstaking analysis of the number of under trial prisoners. Further also the chief Judicial Magistrate/ Additional Chief Judicial Magistrate authorized to ascertain the position of the under trials under court's G.L. No. 38/Admin (B) dated 9th Dec. 1968 read with the Court's C.L.No.198/Admin. dated 10.12.1976 be directed to craft substantial and conscientious analysis of the number of under trial prisoners together with the period of their detention and the status of trial still further neatly typed Quarterly report in regard to the number of under trial prisoners together with the period of their detention and the status of their trial as well method of steps taken to accelerate the of such prisoners be recurrently sent so as to reach the Deputy Registrar (Administration) by the 10th day of the opening month of each next following quarter.

33. MEDICAL EVIDENCE BY AFFIDAVIT

C.E. No. 88 dated 31st May, 1976

Evidence of medical witnesses may be tendered by means of affidavits which should necessarily contain a detailed description of the injuries, the nature of weapon by which such injuries could be caused and the duration of the injuries, etc. and the affirmation of the witness that he had prepared the injury report in his handwriting and that the original was before him and that it bore his signature.

As modified by C.L. No. 51/Ivh-36 dated 10th March, 1977

Documents like report of the Civil Surgeon, identification memo, etc. should be used in evidence without examining the witnesses who had prepared them.

Examiner of questioned documents

C.L. No. 76/IX f-16 dated 26th May, 1976

It invites attention to the provisions of section 293 Criminal Procedure Code, 1973, (Act II of 1974) specially to its sub-section (2), and the court desires that the Director, Forensic Science Laboratory, as expert witness, may not be summoned for examination in criminal cases in the ordinary course.

C.L. No. 11/VIII-b-39 dated 6th February, 1954

In every case in which it is necessary to examine the Examiner, the court should, before issuing a summons to him, consider if his personal attendance can be dispensed with without causing hardship or injustice to any party. If the court is satisfied that no such hardship or injustice would be caused, it should dispense with his personal attendance.

In this connection a reference is invited to paragraphs 12 and 13 of the rules regulating the application for, and payment for the services of the Government Examiner of questioned Documents sent to all District Judges with Government endorsement no. 1986/VI-872-1953, dated the 22nd August, 1953 and to section 284 (since repealed by Cr.P.C., 1973) of the Code of Criminal Procedure, 1898.

Chemical Examiner

C.L. No. 32/76-53 dated 28th February, 1974

The Chemical Examiner to Government of Uttar Pradesh has been redesignated as "Chemical Examiner and Serologist to Government, Uttar Pradesh".

C.L. No. 108/VII-b-53 dated 22nd August, 1975

Material exhibits should be sent to the Chemical Examiner and Serologist for examination only when it is very essential for the disposal of criminal cases.

C.L. No. 86/VII-b-53 dated 25th August, 1970

When a Magistrate decides that a reference to the Chemical Examiner is required in the course of any proceedings under the Criminal Procedure Code, he shall immediately, in Form no. 1, call on that officer for a report and shall request the Chief Medical Officer or the Officer in civil medical charge by endorsement to Form no. l to forward to the Chemical Examiner the substance of which analysis is required. All poisons used as exhibits, when no longer required, shall be returned through the Chief Medical Officer to the Chemical Examiner for disposal.

C.E. No. 22/VII-b-53 dated 20th March, 1972

The provisions of paragraphs 756 and 757 of U.P. Medical Manual and paragraphs 2 and 3 of Annexure 5 to the Handbook for Criminal and Revenue Courts should be strictly followed by all the Judicial Magistrates to avoid delay in the report of the Chemical Examiner.

34. PRODUCTION WARRANT

C.L. No. 62/V11-C-31 dated 9th June, 1978

The Court has noticed that criminal courts often insist on the production of the accused before the courts even though an order passed by the Government under section 268 Cr.P.C. is in operation against the accused.

During the course of an inquiry, trial or other proceedings under the Cr.P.C., the accused are produced before criminal courts in pursuance of an order passed under section 267 Cr.P.C. and so long as an order passed by the Government under section 268 Cr.P.C. in respect of any person or class of persons is in operation, it would not be desirable for the criminal courts, to insist upon the production of any person or class of persons before them and the courts should accept the statement given by the officer in charge of the prison in this regard as contemplated under section 269 Cr.P.C.

35. TRIAL UNDER MILITARY LAW

C.L. No. 20/VIII-a-69 dated 5th March, 1951 as amended by

C.L. No. 56/VIII-a-69 dated 30th May, 1951 read with

G.O. No. 303/VI-872-41 dated 14th February, 1951

The attention of all the subordinate courts is invited to the mandatory provisions of sections 125 and 126 of the Army Act, 1950 and also to the rules made under section 549 (new section 475) of the Code of Criminal Procedure, 1898 (Act -V of 1898), contained in Appendix H of General Rules (Criminal), 1957, stressing the necessity of strict compliance with the requirements laid down for the trial of persons subject to military law.

C.E. No. 62/VII-a-83 dated 1st October, 1964

All the District Judges and Additional District and Sessions Judges should forward free of charge a copy of its judgment on conviction of military pensioners to the pension-paying officer concerned and the Controller of Defence Accounts (Pensions) Allahabad to enable them to suspend convicted pensioners under the provisions of Pensions Regulations for the Army/Air Force/ Navy. Rule 143(ii) of General Rule (Criminal), 1957* (*now 1977 vide notification no. 504/vb-13; dated 05.11.1983) to be followed strictly.

36. PART HEARD CASE PENDING ON TRANSFER OF OFFICER

G.L. No. 492/67-2 dated 5th February, 1921

When an officer with a part heard sessions trial or other important case receives orders of transfer, he must immediately make a full report to the High Court to enable it to decide whether orders are required to detain him in order to enable such part heard case to be completed before he leaves the station.

C.L. No. 88 dated 4th December, 1973

The following particulars must invariably be intimated to the Court immediately on handing over charge by an officer regarding part heard sessions trials:

1. Number of prosecution and defence witnesses in the part heard case.

2. Number of each type of witnesses already examined and to be examined.
3. Time already spent and time to be taken.
4. Suggestions of the District Judge for the disposal of the case.

C.L. No. C.V./8/78 dated 6th October, 1978

The Presiding Officers should avoid keeping part-heard criminal cases pending unnecessarily on their files.

C.L. No. 34/Admn. (A) dated 26th March, 1980

The successor Sessions Judge may resume trial of part heard sessions cases keeping in mind section 326 of Cr.P.C. (As Amended by Central Act No. 45 of 1978) which permits the succeeding officer to resume trial from the stage left by his predecessor. Since section 326 relates to procedural law, it can apply to the sessions cases pending since before the commencement of the amended Act.

C.L. No. 76/IV-e/Admn. (A) dated 15th September, 1980

The above mentioned circular is modified to the extent that its provisions shall not apply to sessions trial that were pending on April, 1, 1973 (Act No. 2 of 1974) came into force.

C.L. No. 71/53B/Admn. (A) dated 7th November, 1983

Whenever any Additional Sessions Judge (including Additional District and Sessions Judge) is transferred from one court to another court in a local arrangement, he shall submit a list, of all the part heard sessions trials in which recording of evidence has commenced, to the Sessions Judge, who shall record an order for transferring such trials to the file of the court to which the Additional Sessions Judge has been transferred.

C.L. No. 41/VIIb-116 dated 2nd June, 1984

The attention of all the District Judges and C.J.Ms is invited to the full Court judgment delivered in the case of Radhey Shyam vs. State of U.P. reported in 1984 All. L.J. 666 regarding power of Sessions Judges to transfer part heard case or appeal from court of an additional Sessions Judge to another competent court within his sessions division.

C.L. No. 54/VIIC-25 dated 31st August, 1984

It invites attention of all the Sessions Judges to sections 6**,** 7 and 8 of the U.P. Dacoity Affected Areas Act, 1983, and says that the Sessions Judge is not competent to entertain a transfer applications in respect of a case pending before the special court if there is only one special court in the sessions division. The Sessions Judge can entertain an application for transfer when there are two or more special courts in the sessions division.

37. EVIDENCE

G.L. No. 5 dated 7th March, 1952

Some Magistrates and Sessions Judges do not examine accused persons correctly. This not unoften leads to a waste of the appellate court's time. Mistakes are also made by

officers in regard to the use of evidence brought on record under section 288[+] of the Code of Criminal Procedure.

Attention of all Sessions Judges and District Magistrates[*] is drawn to the Supreme Court's judgment in Tara Singh versus State in which these matters have been fully considered. The case is reported in 1951, A.L.J., at page 640.

C.L No. 46/VII-b-31 dated 4th May, 1953

Attention of all Additional and Assistant Sessions Judges and Sessions Judges is drawn to the Court's judgment in Criminal Appeal No. 748 of 1949 reported in I.L.R. (1953) (1) All. 197,regarding the scope and object of sections 162 and 288+ of the Code of Criminal Procedure and section 145 of the Evidence Act.

Discharge of International obligation assumed by India under the Hague Convention on Taking Evidence Abroad in Civil and Commercial matters by resorting to the procedure for recording evidence as provided under the Convention by Indian Courts.

C.L. No. 27/2009/Admin. 'G-II': Dated: May 19, 2009

Upon consideration of D.O. No. 9(1)/09-Judl; Dated 9.1.2009 of Sri T.K. Vishwanathan, Law Secretary, Government of India, Ministry of Law & Justice, Department of Legal Affairs, Shastri Bhavan, New Delhi informing about accession to the Hague Convention on Taking Evidence Abroad in Civil and Commercial matters and thereby arising international obligation under the said Convention to follow the procedure for evidence as per provisions of the Convention, the Hon'ble Court has desired that the Subordinate Courts under its administrative control should be directed to sincerely abide by procedure as provided in Hague Convention on Taking Evidence Abroad in Civil and Commercial matters for recording the evidence.

While enclosing a copy of the complete text of the Hague Convention on Taking Evidence Abroad in Civil and Commercial matters and a copy of letter dated 9.1.2009 of Sri T.K. Vishwanathan, Law Secretary, Government of India, Ministry of Law and Justice, Department of Legal Affairs, I am directed to request you to kindly impress upon the Judicial Officers working under your administrative control to ensure compliance of the above directions of the Hon'ble Court with all sincerity.

Execution of Requests for service of summons/notices under The Hague Convention on service Abroad of the Judicial or Extra-Judicial Documents in Civil and Commercial Matters, 1965.

C.L. No. 24/2009/Admin. 'G-II': Dated: May 15, 2009

Upon consideration of the letter dated 30.09.2008 of the Government of India, Ministry of Law and Justice, Department of Legal Affairs whereby, it has been informed that India has become a party to the Hague Convention on Service Abroad of the Judicial or Extra-Judicial Documents in Civil and Commercial matters, 1965 with effect from 1st August 2007 and as a result of this, has assumed an obligation to ensure service of

[+] Note: Since repealed by Cr.P.C., 1973

[*] Note: Now Chief Judicial Magistrate

summons/notices on reciprocal basis received from other State parties to the Convention in India and that the process servers are not making sincere efforts to effect serve of summons and notices on the notices, the Hon'ble High Court has resolved that all the subordinate Courts be instructed to ensure service of summons/notices on the notices, the requests of which have been received, in a proper manner and punctilious manner giving effect to the provisions of aforesaid Convention in letter and spirit.

While enclosing a copy of text of the Hague Convention on Service Abroad of the Judicial or Extra-Judicial Documents in Civil and Commercial matters, 1965 alongwith copy of letter dated 30.09.2008 of the Government of India, Ministry of Law and Justice I am, therefore, to request you to kindly direct all the Judicial Officers working under your administrative control to ensure compliance of the above direction in right earnest.

38. EXHIBITS

G.L. NO. 11/VIII-a-40 dated 17th March, 1949 read with

G.L. No. 14/VIII-a-41 dated 22nd April, 1949

When only a portion of a statement previously made by a witness has been put to him for the purpose of corroborating or contradicting him under section 157 or 145 of the Indian Evidence Act, only such portion of the statement should be proved. The Sessions Judge should get an extract prepared from the statement and have an exhibit mark put on such extract only and not on the whole statement. The extract should indicate the source from which it has been prepared and a copy of the entire statement which may be on the file should be placed among papers on the record which have not been proved and exhibited so that it may be referred to, if and when necessary.

G.L. No. 14/VIII-a-42 dated 22nd April, 1949

In cases in which a witness is asked as to why he failed to state certain facts in the lower court, which he has subsequently added in his statement before the Court of Session, it is not necessary for the purpose of proving such omissions to exhibit the entire statement of the witness before the lower court. The Judge should, in such cases, read the statement and make a note to the effect that the omission exists. A copy of the entire statement in which the omission exists should, however, be put on the file among the papers not proved and not exhibited so that it might be referred to, if and when necessary.

39. Transmission of exhibits to court

G.L. No. 11/VIII-a-41 dated 2nd May, 1950

Sessions Judges should follow the provisions of rule 135, Chapter XIII of the General Rules (Criminal), 1957[*] and exercise their discretion carefully in the matter of selecting exhibits for transmission to the High Court so as to ensure that all important and necessary material exhibits are sent to the Court in the event of an appeal. Even if, in the opinion of the Judge, no material exhibits need be transmitted to the High Court in the event of an appeal, an order to that effect should be recorded by him at the conclusion of the trial.

[*] Note: Now 1977 vide notification no. 504/Vb-13 dated 5/11/83

C.L. No. 63 dated 16th October, 1962

The Sessions Judges should pay personal attention to the compliance of rule 135 General Rule (Criminal), the intention of which is that, all such material exhibits which are likely to be of assistance in disposal of an appeal should be submitted to the Court in consultation with the counsel for the parties.

When there is any dispute between the prosecution and the defence as to any fact or any inference from facts in the decision of which an inspection of the material exhibit would be helpful, it should invariably be sent to the Court. For example, where injuries have been caused by a sharp or pointed weapon and there is dispute as to whether the weapon exhibited could have caused the particular injuries the weapon should be sent. In case of gunshot injuries, the dispute as to whether the injuries could have been caused with the particular gun is not so frequent. Similarly, bloodstained clothes of the victim will normally not be of help to the Court except in a case where the number or nature of holes in clothing may give any indication as to the manner of assault suggested by the prosecution. In the former case the trial Judge would be justified in not sending the clothes but in the latter case they should properly be submitted.

The trial Judge would be well advised to ask the counsel for the parties to note their opinion on the margin of the order sheet or himself give the detailed opinion in his order sheet on the date the arguments are heard.

C.L. No. 13/VII-b-53 dated 24th January, 1969

Through this C.L. the attention of the District Judges is invited to G.O. No. 220-J/XXII-671-1940, dated March 8, 1941, requiring the Chemical Examiner to deal with exhibits sent to him for examination promptly so that murder cases may be decided expeditiously and also to G.O. No. 3503/VI-2439-1939, dated November 27, 1939, requiring the Sessions Judges to send a copy of the judgment for information to the Chemical Examiner in all cases in which he has been consulted.

40. RELEASE ON PROBATION

C.L. No. 40/VIIC-8/Admn. (D) dated 21st May, 1987

Although it is within the judicial discretion of the court to release or not to release an offender on probation of good conduct, it would be proper to extend the application of these provisions to more cases in areas where it is found that the persons released on probation, whether or not under the supervision of the probation officer do not revert to crimes. Where the applications of the provisions of the above Act have salutary effect, there can be no objection to release of more persons on probation. If, however, it is found that persons released on probation have abused it by reverting to crimes during or after the period of probation, or that the supervision over such persons is slack, the trial courts can become strict while giving the benefit of the provisions of this Act to the offenders.

The aim of the probation of Offenders Act, 1958 is to stop an offender from becoming hardened criminal and in order to achieve this objective, the implementation of the Act can be extended to more cases where after considering the report of the probation officer and having regard to the circumstances of the case including the nature of the offence and the character of the offender it is found necessary.

41. SENTENCES AND PUNISHMENTS

(i) In cases of dacoity

C.L. No. 24/VIIh-22 and 25/VIIh-22 dated 17th March, 1951

Sessions Judges sometimes convict accused persons under section 395, read with section 397 of the Indian Penal Code although there is no evidence that such persons had, at the time of committing the dacoity, used any deadly weapon or caused grievous hurt to any person or attempted to cause death or grievous hurt to any person. The language of section 397 is quite clear and the provisions of that section should be carefully borne in mind before applying that section to the case of an accused person found guilty of the offence of robbery or dacoity.

C.L. No. 42/IV-h-22 dated 4th May, 1956

Inadequate sentences should on no account be passed in dacoity and other allied cases. The attention of all Session Judges is drawn to the observation made, in this connection, by their Lordships Hon'ble Mr. Justice James and Hon'ble Mr. Justice Mukerjee in their judgment in Criminal Appeal no. 1150 of 1951, Om Prakash and others versus State (copy forwarded with C.L.).

C.L. No. 52 dated 19th June, 1956

The Court had occasion to see that in a sessions trial where the accused were found guilty of four dacoities under section 395, Indian Penal Code the sentences of seven years' imprisonment passed in respect of each of them were ordered to run concurrently.

Normally sentences for two or more offences should be consecutive and should not be made concurrent as a matter of course or without good reasons. It is also to be noted that the fact that the offences are committed in the course of one and the same transaction does not mean that the sentences for them should be concurrent or that the accused should not suffer separately for each offence. In this connection, the attention of all Sessions Judges and Magistrates is also drawn to the case State versus Khuda Bux, 1952 A.L.J. (p. 39).

(ii) Consecutive or concurrent

G.L. No.4/VII-b-82-51 dated 18th April, 1951

The letter invites attention to the following observations contained in a judgment of the High Court in a Criminal Revision.

“I find that magistrates invariably make the several sentences concurrent without exercising any discretion in the matter. It is laid down in section 35 (new section 31) of the Code, that one sentence of imprisonment will commence after the expiration of other sentence of imprisonment unless the court directs that such sentences shall run concurrently. Obviously, the normal rule is that the sentences should be consecutive and they may be made to run concurrently only if there is some reason. Whether the sentences should run consecutively or concurrently is left to the discretion of the court, but the court must exercise its discretion judicially. It must not exercise it arbitrarily and

must not on every occasion blindly order the sentence to run concurrently as if there were no alternative."

C.L. No. 22/VII-C-15 dated 26th March, 1954

A youthful offender who escapes from the reformatory school, commits another offence during the period of his detention (though not actually confined in the reformatory school), and is convicted comes within the purview of section 32 of the Reformatory Schools Act, 1897.

The sentence passed in a case, to which section 32 of the Reformatory School Act, 1897, applies, should commence at once, that is, a court has no power to award a consecutive sentence in such a case, irrespective of the provisions of section 397 (new section 427) of the Code of Criminal Procedure, 1898.

As specifically provided for by this section, the court should in each case, report the matter to the State Government immediately after conviction.

(iii) Fixing of dates for execution of condemned prisoners

C.L. No. 28/VIII-a-19, dated 21st March, 1957

The provisions of the Supreme Court Rules and the instructions issued by the Government of India, Ministry of Home Affairs regarding procedure to be followed in relation to petition for mercy appeals and applications for special leave to the Supreme Court by or on behalf of the prisoners sentenced to death should be strictly followed while fixing the date for execution of the condemned prisoners.

Article IX of the aforesaid instructions, inter alia, provides that the sentence of death shall not be executed until the expiry of the period of limitation prescribed for referring applications for special leave to the Supreme Court. Under Order XXI, rule 2 of the Supreme Court Rules, 1950, such a period of limitation is thirty days from the date of the order of the High Court refusing certificate of leave to appeal to the Supreme Court.

Sessions Judges should, therefore, fix the date for execution of the prisoners sentenced to death after the expiry of the period of limitation prescribed for preferring application for special leave to the Supreme Court by or on behalf of the condemned prisoners.

(iv) Report regarding conviction of Yugoslav nationals

C.L. No 57/VIIIe-32 dated 16th October, 1954

The Government of India and the Government of the Federal Peoples Republic of Yugoslavia have agreed, on a basis of reciprocity, to exchange information regarding nationals of one country convicted and sentenced by a court of criminal jurisdiction in another country.

Whenever a Yugoslav national is convicted and sentenced by a criminal court in a sessions division, the Sessions Judge should submit a report to Government for transmission to the Government of India.

42. SUBMISSION OF PROCEEDINGS IN CAPITAL CASES

C.L. No. 47 dated 23rd April, 1958

Under rule 67[+] of the General Rules (Criminal), 1957[*], the Sessions Court is required to submit its proceedings to the High Court at the latest on the fourth day after the sentence of death has been pronounced.

All the Sessions Judges should, therefore, submit the proceedings along with the complete record of the case on fourth day at the latest.

C.L. No. 47/VIIb-43/Admn. (G) dated 8th May, 1978

A death case is to be listed for hearing within 30 days of receipt of reference from the District and Sessions Judges for confirmation of death sentence. The District Judges should therefore see to it personally that the record of a death case is transmitted to the Court along with the reference for confirmation of death sentence without any delay. To avoid delay in transit, the record of a death case should invariably be sent by registered parcel and not by R.R.

C. L. No. 26/ 2007/ Criminal Sec. Dated: 25.5.2007

Upon a careful consideration of the matter Hon'ble Court has taken a decision that the paper books in the criminal cases be prepared with adequate copies wherever appeals are admitted. In case where the trial resulted in the conviction, the paper books be prepared immediately after the decision is rendered. As far as those cases where the accused are acquitted in the trial court, paper books will be prepared immediately on receiving notice of admission from the High Court.

I am therefore, to request you to kindly apprise the contents of the circular letter to the notice of all judicial Officers in the Judgeship under your supervision and control for their information, guidance and strict compliance of Court's direction as above.

C. L. No. –28/2007 : Dated : 29 June, 2007

It has come to the notice of Hon'ble Court that the Presiding Officers of the Courts working on the Criminal Side, while delivering judgments/Orders, in the criminal matters are often not citing particulars such as name of the Police Station, District, Crime Number and Sections of the case at the beginning of the judgement at the top of the right side of the page, which has resulted in tremendous difficulty for Hon'ble Court in appreciation at the appellate level.

Therefore, I am directed to say that, the Hon'ble Court has resolved that from now onwards all the judgments In criminal matters shall bear the name of the Police Station and the District to which the case belongs and also the relevant Sections and the crime number at the top of the page on the right side without fail. Further the issuing authority shall ensure before issuing the certified copy of the Judgement/Order that the same bears above particulars.

[+] Note: Now Rule 64 vide Notification no. 504/Vb-13 dated 5.11.1983

[*] Note: Now 1977 vide Notification no.504/Vb-13 dated 5.11.1983

I am to request you to kindly ensure that the above directions are complied with by all the concerned under your administrative control, in letter and spirit.

43. REALISATION OF FINE

C.L. No. 169/VIII a-105 dated 28th October, 1976

The Criminal Courts should take all possible steps for expeditious realization of unpaid amounts of fines imposed by them in Criminal Cases.

44. SET-OFF

C.L. No. 142/VIIb-110 dated 19th December, 1978

Section 428 of the Code of Criminal Procedure, 1973 provides that the period of detention, if any undergone by an accused person during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction. In order to facilitate the jail authorities to find out the period of detention already undergone by a particular convict as an under trial the court is taking steps to bring about relevant amendments in form nos. 35, 42, 43 and 44 in Appendix B (part VIII) of General Rules (Criminal), 1957*.

Till such amendments are finalised, while filling in such forms the Presiding Officers/officials are directed to mention crime no. 19- below the words case no. or trial no. as the case may be in the relevant forms.

45. MEASURES TO SAFEGUARDS A CONVICT'S RIGHT TO APPEAL AND SUSPENSION OF SENTENCE

G.L. No. 1/VIIb-35 dated 23rd August, 1956

In Criminal Revision no. 1113 of 1952 Shambhu, etc. v. State, reported in 1956 Allahabad Law Journal, page 521, it has been pointed out that -

(i) an order or an order sheet (fard ahkam)is not a judgment;

(ii) a memorandum of appeal must therefore be accompanied by a copy of judgment;

(iii) if it is accompanied by a copy of the order in the order sheet and not the judgment it is not entertainable and can be rejected straightaway;

(iv) an appellate court can exercise its powers of enlarging an appellant on bail under section 426(1) (new section 389) of the Code only when there is a valid appeal before it;

(v) an appellant cannot be released on bail unless the memorandum of appeal filed by him is accompanied by a copy of the judgment; and

(vi) there must be reasons for enlarging him on bail and they must be stated in the order.

The question of releasing an appellant on bail can arise only after the execution of the sentence of imprisonment is suspended; therefore, an appellate court must first pass

* Note: Now 1977 vide Notification no. 504/Vb-dated 5.11.1983

an order suspending the execution of the sentence and then order him to be released on bail. Since actually the reasons are required for suspending the execution of the sentence, it is obligatory upon an appellate court to read the judgment before suspending the execution of the sentence.

The following instruction should be noted for strict compliance in all cases where an application for copy or translation of judgment under section 371(1) (new section 363), of Code of Criminal Procedure is made by or on behalf of a convict:

(i) Ordinarily, a judgment by which an accused person is sentenced to a term of imprisonment should be delivered in the early part of the day.

(ii) The Presiding Officer should take steps to ensure that there is no delay in furnishing a convicted person sentenced to a term of imprisonment upon his application, with a copy of the whole of the judgment. Save in exceptional circumstances, a copy should be supplied within 24 hours unless he is to be released on bail under sub-section (2-A) of section 426 (new section 389) of the Code.

(iii) The work of preparing a copy of the judgment should be taken in hand as soon as the convicted person applies and the copy delivered to him as soon as it is ready.

(iv) Sessions Judges should watch the compliance of these instructions by the Magistrates in their judgeship and report to the Court when delay in the supply of a copy to an accused person comes to their notice.

C.L. No. 20 dated 3rd April, 1964

(v) The accused in a case of a death sentence, should, as required by section 371(3) (new section 363) of the Code of Criminal Procedure, be invariably informed that, if he wishes to prefer an appeal, his appeal should be preferred within thirty days of the date of sentence as provided under Article 115(a) of the Limitation Act (Act no. 36 of 1963).

45-A. FORWARDING A SURRENDER CERTIFICATE OF CONVICT TO HON'BLE THE APEX COURT

C.L. No. 12/Admin. G-II dated 11.03.2011

While enclosing herewith a copy of letter dated 20.12.2010 of Sri A.I.S. Cheema, Secretary General, Supreme Court of India, I am directed to say that when a convict surrenders to undergo the term of imprisonment and informs the Court or the Jail Authorities that he has filed a petition before Hon'ble the supreme Court, the Courts as well as the Jail Authorities concerned shall ensure that on the same day of surrendering, surrender certificate is furnished to the Registrar (Judicial), Supreme Court of India, New Delhi and a copy thereof be immediately faxed to him.

You are therefore, requested to communicate the contents of this circular letter to all the Judicial Officers/Courts subordinate to you and the Jail Authorities of your District to ensure strict compliance.

46. APPEARANCE OF PRISONERS BEFORE HIGH COURT

C.L. No. 24/VIII-a-28 dated 17th March, 1956

The issue of a notice for the hearing of a criminal appeal by the High Court does not necessitate the appearance of the prisoner in person before the Court on the date of hearing.

Therefore, unless the High Court issues a specific order that the accused should be produced from jail. The Magistrate should not issue orders to the jail authorities for the appearance of accused in person.

47. SESSIONS CASES AND APPEALS

(i) Distribution of work

C.L. No. 2352 dated 8th July, 1904

When the criminal work of a judgeship is light, it is the duty of the District Judge to take on his own file as much of the civil appellate work of his district as possible. It is only in this way that District Judges can judge the qualification of their subordinate officers. It is, moreover, desirable that Judges should take every opportunity of enlarging their acquaintance with civil law, and the court thinks that this end will best be secured by Judges making a point of hearing from time to time some original civil suits in addition to their civil appellate business. Judges should note in their annual reports reasons, which have prevented them from complying with these instructions.

G.L. No. 21/67-5(2) dated 4th July, 1931 as modified and supplemented by

G.L. No. 9/67-2 dated 1st February, 1938 and

C.L. No. 4/VIII-h-13 dated 11th January, 1951

Where there are Additional or Assistant Sessions Judges to help District Judges, the work should be so arranged that District judges dispose of a fair proportion of civil work.

In order that District Judges should be fit for, higher judicial appointments it is imperative that they should do civil work regularly. The object will be sufficiently served if District Judges do not transfer to Civil Judges any Munsif's appeals over Rs. 2,000 in value. They should decide four or five original suits during the course of the year. Such original suits should be of a valuation over Rs. 5,000.

C.L. No. 32/IV-4 dated 26th February, 1971

In order to bring the civil work under control most of the criminal appeals and revisions be entrusted to Additional Sessions Judges for disposal and important sessions trials, criminal appeals, revisions and civil work including appeals be done by the District Judges themselves.

C.L. No. 33 of 1969 dated 25th March, 1969

Except during the summer-vacation, the Additional District and Sessions Judges should not take up criminal work but devote themselves to the disposal of civil cases exclusively triable by a District Judge.

C.L. No. 123 dated 14th August, 1974

District Judges should ensure that all types of work both civil and criminal, is distributed amongst the Additional District Judges according to their seniority and capacity.

C.L. No. 205/IV-h-14/Admn. 'A' dated 23rd December, 1976

The District Judge and the senior Additional District and Sessions Judge in the district shall ordinarily devote 3/4th time to civil work and only 1/4th time to criminal work.

C.L. No. 189/IV-g-28/Admn. (A) dated 16th December, 1977

The Assistant Sessions Judges should henceforth be required to try only three sessions cases in a quarter.

C.L. No. 62/IV-h-14 dated 31st May, 1979

The District Judges and Senior Additional District Judges, who are not doing required civil work, will be subject of comment in the annual entry.

C. L. No.75/2007Admin (G): Dated: 13.12.2007.

It has been observed by the Hon'ble Court that to enable the Court to have complete grip over the case and to better appreciate the oral evidence adduced before it, the long intervals in the examination of witnesses should be avoided .Therefore, in continuation of earlier General letter no. C-73/1990 dated 26.7.90 I have been directed to say that in all the Sessions trials, the statement of witnesses should be recorded by the courts concerned on the day-to-day basis as per the Schedule drawn by the Sessions Judges.

I am, further to add that the contents of this Circular Letter be brought to the notice of all the Judicial Officers working under your administrative control for strict compliance

(ii) Sessions trial

G.L. No. 73/VIII-a-14 dated 29th October, 1948

If the record is not received within eight days of the order of commitment, an explanation of the Committing Magistrate should be called for and an entry made in the remarks column of the sessions statement. At the same time the Sessions Judge should act in accordance with the directions contained in G.L. no. 54/T, dated the 30th August, 1948, and summon the record for fixing dates if necessary.

G.L. No. 7/VIII-a-14 dated 29th October, 1948 as modified by

G.L .No. 7/VIII-a-14 dated 12th February, 1949 and

C.L. No. 55/VIII-a-14-49 dated 26th August, 1949 and

C.L. No. 80/VIII-a-14 dated 25th November, 1949 and

C.L. No. 32/VIII-a-14 dated 7th April, 1956

Sessions Judges should generally be able to decide sessions trials in which sentence of death can be awarded within two months of commitment, and others in which

some or all of the accused are in jail within a reasonable period, not exceeding four months if they arrange or rearrange their cause list on the line indicated below:

(1) All the sessions trials triable by Assistant Sessions Judges should ordinarily be transferred to their file on receipt of the calendar and the record.

(2) If the record is not received within eight days of the order of commitment, an explanation of the Committing Magistrate should be called for the delay and an entry made in the remarks column of the Sessions Statement as prescribed in General Letter no. 67, dated the 18th October, 1948. At the same time, the Sessions Judge should act in accordance with the directions contained in G.L. no. 54/T, dated the 30th August, 1948 and summon the record for fixing date, if necessary.

(3) If the pending file of sessions trials is not heavy and all the cases can be easily decided within two months of commitment, dates should be fixed in all of them immediately on receipt of record at the same time showing preference to cases in which the sentence of death can be awarded, irrespective of the fact whether accused are in jail or on bail, and giving next choice to those in which all or some of the accused are in jail.

(4) Wherever the pending file of Sessions Judges is heavy and all the sessions trials cannot be decided within two months of commitment, dates need not be fixed in all of them. The cause list should, in such cases, be invariably prepared for a period of two months only and in special cases for two and a half months. The Sessions Judge will thus have to consider every week which sessions trials should be fixed for one more week. In doing so, preference should always be given to cases in which the sentence of death can be awarded, whether the accused are in jail or on bail and whether it is a new or an old commitment.

The next choice would be for cases in which all or some of the accused are in jail. Thereafter, sessions trials should ordinarily be fixed in order of date of commitment.

Part heard cases should ordinarily be accommodated within the cause list already fixed and, if necessary, by adjourning or dislocating temporarily another sessions case, preferably other than a murder case.

C.L. No. 93/VII-b-103 dated 19th December, 1973

Instructions contained in C.L. no. 6/Admn.(B), dated May 1, 1971, more particularly in paragraph 3 thereof, regarding the keeping of criminal cases pending without date till such time as the court is in a position to fix a date in a reasonable time, the operation of which was suspended under C.L. no. 60, dated May 23, 1972, are put into effect again. The latter C.L. is to be treated as withdrawn.

(5) The Sessions Judge should be strict in granting adjournments, and should ordinarily record the statement of all the witnesses present, as indicated in G.L. No. 60/VII-d-21, dated the 16th September, 1948.

(6) It is observed that most of the adjournments are due to the absence of witnesses and assessors. The Sessions Judge should first of all address the District Magistrate impressing upon him the necessity of the attendance of witnesses and assessors on the date fixed and of the return of processes ordinarily a week before the dates fixed. If, however, this does not have the desired effect, they should themselves

take legal steps to secure their attendance. At the same time, instances of such adjournments should be brought to the notice of the Court when considered necessary.

C.L. No. 123/VII-b-68 dated 7th October, 1971

Delay in disposal of cases can be avoided to some extent if summonses are served well in time and the witnesses turn up on date fixed. A monthly statement showing the number and percentage of summonses not returned after service, the number of witnesses who did not turn up and the time of the court wasted due to non - appearance of the witnesses duly scrutinized by the District Judge should be sent to the Court regularly on or before the 10th of every month. The time wasted due to non-appearance of witnesses may also be entered in the daily sitting register.

(7) All the working days, excluding Saturdays if wanted for miscellaneous work, should be devoted to sessions work whenever it be heavy. Criminal appeals in which accused persons are in jail may also be heard according to convenience on the days indicated for sessions work.

C.L. No. 32/VIII-a-14 dated 7th April, 1956

A criminal appeal, in which an advocate practicing in the High Court is expected to appear, may if the Sessions Judge so wishes be fixed for hearing on a Saturday.

C.L. No. 73/VIII-a-14 dated 12th May, 1971

The instructions contained in G.L. No. 73/VIII-a-14, dated October 29, 1948 regarding fixation of dates for the trial of sessions cases should be strictly followed. Preference should be given to cases in which death sentence can be awarded. Cases in which the accused is in jail should be given priority over cases in which accused is on bail. Proceedings should be well controlled so that cases may be disposed of according to the time schedule prescribed without granting unnecessary adjournments.

G.L. No 73/VIII-a-14 dated 29th October, 1948 as modified by

G.L. No. 7/VIII-a-14 dated 12th February, 1949 and

C.L. No. 55/VIII-a-14-49 dated 26th August, 1949 and

C.L. No. 80/VIII-a-14 dated 25th November, 1949

(8) Urgent civil work may also be taken up on working days where it is felt that irreparable loss would otherwise be suffered by a party or where, under the rules or orders of the Government or the Court, cases are required to be expedited or decided within a prescribed period.

As far as possible, Divorce, Testamentary and Guardianship cases should be done on Saturdays along with other miscellaneous work.

(9) For the time an Additional Sessions Judge is posted at the station, very few sessions trials at the most, two or three a month for each Judge should be transferred to the file of Assistant Sessions Judges working under the District Judge so that they may be able to devote the greater part of their time to civil work.

Fridays may be set part for the disposal of criminal appeals, small cause court cases and old civil cases including old civil appeals by such officers, as have such cases on their file.

G.L. No. 11/67-3 dated 1st May, 1941

(10) Sessions cases should be heard from day to day until their conclusion, unless there is an unavoidable breakdown in the case. In order to prevent waste of the time of court in the event of such a breakdown appellate work may also be fixed on the same day along with sessions work. By the exercise of care in the fixing of dates, Sessions Judges should be able to prevent loss of time with the minimum of inconvenience to parties and their counsel.

C.L. No. 26/IV-28 dated 23rd March, 1949

(11) Civil Judges, Additional Civil Judges and Judges of the Courts of Small Causes in Agra and the Judges Small Cause Court, Lucknow, are ex officio Assistant Sessions Judges and, any officer who holds any of the offices mentioned above will automatically exercise the powers of an Assistant Sessions Judge within the local limits of the Sessions Division where he is for the time being posted, without the issue of a fresh notification by Government. But District Judges should, while transferring criminal work to Judges of the Courts of Small Causes, make sure that the Small Causes Court work pending on their file does not suffer by reason of the transfer of sessions work to those officers.

C.L. No. 125/IV-h-14 dated 10th December, 1932

(12) Cases under sections 302 and 396 of the Indian Penal Code and dacoity cases should be given preference over cases under section 6(1) of the Criminal Law (Amendment) Act.

C.L. No. 41 /V-g-28 dated 25th April, 1953

(13) Criminal work should, so far as possible, be done by Assistant Sessions Judges on continuous days, which may be reserved for such work in advance every month. As criminal work is received by transfer, it should be fixed for disposal on those days. Some civil cases of a light nature including fresh Munsif's appeals may also be fixed for hearing on those days so that in case the criminal work is not found to be sufficient to keep the officer fully occupied on the days reserved for criminal work, he may not have to sit idle on those days. By adopting this method, civil work will not be dislocated.

(This does not apply to officers who have been or may be declared unfit for promotion as Additional District Judges and in the absence of any special orders no criminal work should be transferred to them for disposal).

C.L. No. 20/VII-h-13-2/53 dated 7th February, 1953

(14) Criminal appeals against decision of Assistant Sessions Judges, which lie to the Sessions Judge, should not be transferred to junior Additional District Judge but should be heard by the District and Sessions Judge himself.

C.L. No. 47 dated 21st September, 1967

Cases should be handled in a businesslike manner. Adjournments should be avoided. Special efforts ought to be made to secure attendance of witnesses on the date fixed; redundant, prolix and irrelevant cross-examination should not be permitted. Monthly statements of the progress of work with each officer should be submitted to the Court. In case an officer is unable to put in good work the Court will have to take steps to revert him as Civil Judge. A special eye should be kept on sessions cases and criminal appeals and proper guidance be given to subordinate officers.

C.L. No. 78 dated 24th December, 1965

(15) Inviting the attention to Court's general letters no. 73/VIII-a-n, dated 29th October, 1948, the Sessions Judges are directed to maintain a chart in the prescribed proforma with three columns, the first mentioning month and dates, the second mentioning number, year and sections of the I.P.C. under which the offences charged are punishable and the third for remarks e.g. whether accused is in jail, or on bail, a lunatic or absconding or the case is stayed by the High Court. The entries are to be checked by sessions clerks of the court concerned and corrected up to-date.

(iii) Disposal of urgent criminal work during absence

G.L. No. 10/VII-b-62 dated 10th March, 1949

The Sessions Judge can make arrangement with the District Magistrate only when no Additional or Assistant Sessions Judge is available in the division.

A difficulty is likely to arise when during the Sessions Judge's absence the Additional or Assistant Sessions Judge in charge of urgent criminal work, has himself to be unavoidably absent or is incapable of acting by reason of sudden illness or some such cause. To avoid such a contingency Sessions Judges may themselves direct before their departure from the judgeship that during their absence the Additional or Assistant Sessions Judge, as the case may be, shall dispose of, urgent applications, but that if such Judge is also unavoidably absent or incapable of acting the District Magistrates shall do so.

(iv) Furnish of statement purpose to the order of Hon'ble court in Criminal Misc. Application No.6475 of 2000 regarding Sessions trial cases pending for more than three years where charges have already been framed.

C.L.No. 54/VIIb-18dated: Alld: December 6, 2000

With reference to the circular letter No.8/VIIb-18 dated February 9, 2000 wherein it was made implicit to ensure compliance of the directions given by Hon'ble Supreme Court in Raj Deo Sharma cases (AIR 1999 S.C.3524) **instances** have come into notice of the Hon'ble court in judicial side (criminal Misc. Application No.6475 of 2000) that the directions given by Hon'ble Supreme Court are not being observed in letter and spirit. In view of the aforesaid it is incumbent on the court of complete the hearing within time frame and equally it is obligatory on the part of prosecuting agency to produce the witnesses in time so that accused on the heinous offences may not be acquitted on non producing of the witness within the time frame. Hon'ble Court in judicial side has further

directed to ascertain the position of the Sessions tribal cases pending in judgeship for more than three years where charges have already been framed.

You are, therefore, requested to furnish the following information by Fax/Special messenger by 23.12.2000.

1. Number of Sessions cases pending for trial for more than three years from the date of framing charge. The list shall indicate the date of framing of charge the date of commencement of examination of witnesses the reason for adjournment and total number of adjournments.

2. Whether section 309 Cr.P.C. is followed in letter and spirit and if not why?

3. Whether there is due service of summons in time and if not whether S.S.P. concerned is informed and if so. Whether any reply is received?

4. Whether any case has been adjourned for examination of the investigating officer and other official witnesses and whether S.S.P. concerned has been informed and if so. Whether any reply has been received from him?

5. Whether Trial Judge adjourned for examination of the investigating officer and other official witnesses and if so, what is the total number of such cases and since how long those are pending and whether any reply has been received from him?

6. Whether the circular of this court referred to above has been communicated to all the officers of the subordinate court by the District Judge concerned?

48. APPEALS UNDER SECTION 476,* CRIMINAL PROCEDURE CODE

C.L. No. 40 dated 11th April, 1958

Appeals under section 476 (new section 340) Criminal Procedure Code are heard by a Civil, Criminal or Revenue Court depending upon the court from whose order the appeal is filed. All such appeals should not be entered in the register of appeals in Form no. 13 of the General Rules (Criminal), 1957, maintained in Criminal Courts.

Appeals from orders of criminal courts under section 476, (new section 340) Criminal Procedure Code only should be shown in the register in Form no. 13 of the General Rule (Criminal), 1957.+ Other appeals under section 476-B (new section 341) Criminal Procedure Code should be shown in the register of Miscellaneous Appeals (Form no. 81) of General Rules (Civil), 1957+.

49. APPEALS UNDER SECTION 124-A OF THE INDIAN PENAL CODE AND SECTION 110 OF THE CODE OF CRIMINAL PROCEDURE

G.L. No. 20/18B dated 2nd May, 1932

* Note: Now Section 340 Cr.P.C.

+ Note: Now 1977 vide Notification No. 504/Vb-12 dated 5.11.1983

When the offence is of such a nature that the appellant may be a source of danger to the public, as in the case of an offence under section 124-A and other seditious activities or a case under section 110 of the Code of Criminal Procedure, the appeal should be disposed of with the least possible delay even if the appellant has for some special reason been released on bail.

50. FORMS AND RULES IN GENERAL RULES (CRIMINAL)

C.L. No. 112 dated 28th August, 1975

All the courts are to follow the rules and forms prescribed in General Rules (Criminal) with such modifications as may be necessary for regulating the practice and proceedings of their courts.

51. INSPECTION OF RECORD IN CRIMINAL CASES

C.L. No. 96/VIII-42 dated 28th September, 1970

Under rule 139 of General Rules (Criminal)) 1957[+] a separate register for making entries with respect of inspection in criminal cases only should be maintained in Form No. 6 of General Rules (Civil), 1957.

52. COMPLIANCE OF HIGH COURT'S JUDICIAL ORDERS

G.L. No.2/VIII-b-6-30 dated 5th May 1943 read with

C.L. No. 45/VIII-a dated 4th May, 1953

A certificate that the judicial order of the High Court exercising criminal jurisdiction has been complied with and necessary action taken must be sent by lower criminal courts invariably to the High Court in every case.

C.L. No. 41/VIII-a-30 dated 28th May, 1965

In addition to the certificate mentioned above a quarterly statement, showing compliance and reasons for non-compliance of the Court's orders should be sent to the Court by the end of the month following the quarter in question. Further, as soon as in compliance with the order to surrender to bail, the accused has surrendered or is arrested, the fact should be communicated by the Sessions Judge the District Magistrate or vice versa before whom the convict has surrendered or has been produced after arrest.

C.L. No. 88/Admn.(B) dated 1st June, 1974

Chief Judicial Magistrates must make prompt compliance of all judicial orders issued by the Court.

C.L. No. 165/VIII-h-37 dated 17th November, 1977

The District judges should see that notices or warrants in habeas corpus petitions sent to them for service are given top priority for expeditious service and to ensure that the compliance reports are sent to the Court within time, by registered post A.D.

[+] Note: Now 1977 vide Notification No. 504/Vb-12 dated 5.11.1983

C.L. No. 32 dated 22nd May, 1981

All the District Judges and Chief Judicial Magistrates are directed to see that the orders of the Court are properly complied with, with all promptness and reports regarding compliance of Court's orders are sent immediately to the Court after the orders have been served and complied with.

C.L No. 19/VIIIb-119Admn.(G) dated 11th April, 1989

Whenever a reference is made to the Chief Judicial Magistrate of the district concerned regarding an inquiry and report about demise of an appellant in a case pending in the Court, the Chief Judicial Magistrate generally forwards to this Court the statement of the police pairokar and statements of one or two witnesses of that area, without applying his mind. This practice is not satisfactory.

Henceforth in such matters the Chief Judicial Magistrate should ensure that the police submit a correct report regarding the death of the appellant and after getting himself satisfied with the report so submitted by the police, he should forward the same to the Court.

53. COMPLIANCE OF ORDERS OF SUPREME COURT AND HIGH COURT

(i) Copy of Court's order dated 25.11.1993 passed in Criminal Misc. Case No.669 of 1993 Surya Prakash Dubey and another v. C.J.M. & others.

C.L. No. 8O/Admn.(A) dated December 15, 1993

I am directed to send herewith a copy of Court's order dated 25.11.1993 passed to Criminal Misc. Case No.669 of 1993 *Surya Prakash Dubey and another v. Chief Judicial Magistrate and others* for compliance.

I am also to request you kindly to emphasize upon the Chief Judicial Magistrate, working under you to comply with the aforesaid orders of the Court strictly, in future.

Hon'ble R.K. Agarwal, J

Compliance report from the C.J.M. Pratapgarh has not been received regarding service on opp. party no.4. Notice was sent by the office to the C.J.M. Pratapgarh on 27.10.93 with a direction that the notices be returned to this Court by 11.11.93. It is a matter of regret that C.J.M. Pratapgarh has not taken any care to see that the compliance of the Court's order is made. The Court has noticed that C.J.Ms. do not pay proper attention for complying with the Court's order and the cases are to be adjourned on account of non-compliance of the Court's orders. This state of affair is highly deplorable. District Judge concerned also cannot ignore this state of affair and should during regular inspection as well as surprise inspection must see that the court's orders are, as this lapse also would affect their efficiency regarding administrative control, duly complied with by the CJ.Ms. concerned. Addl. Registrar is directed to send a copy of this order to all the District Judges and C.J.Ms. and also to the Government advocate. List in the week beginning from 2Oth December, 1993.

C.L. No. 27/dated July 7, 1995

It has come to the notice that the orders passed by the Hon'ble Court in criminal cases are not often complied and in most of the cases compliance reports are not

submitted to the Court properly and promptly despite C.L.No. 88/Admn. (B), dated June 1, 1974 and C.L. No.32, dated 22.5.1984. The Hon'ble Court has taken a serious view of the matter.

I am, therefore, to request you to kindly look into the matter personally and direct the Chief Judicial Magistrates to enter all process and orders issued by the Hon'ble Court in the process register maintained in their offices and it shall be their personal responsibility to ensure that due compliance is made and timely information is sent to this Court.

(ii) Compliance of the Judicial Orders of the High Court and Hon'ble Supreme Court in Criminal Cases

C.L. No.10 dated March 1, 1996

It has been brought to the notice of the Hon'ble Court that subordinate Courts who have passed a sentence of convictions are not often issuing the conviction warrants when the criminal appeal or criminal revisions preferred against their orders are dismissed. Attention of all the Officers is drawn to provision contained in Section 418 Cr. P.C., Rules 24 & 97 of General Rules (Criminal) and C.L. No. 88/Admn. (B), dated 1.6.1974.

Kindly impress upon all the officers working under you that compliance of the orders of superior Courts in such matters shall be their personal responsibility. The Court shall take a serious view in case of default reported to the Court.

Compliance of the direction of the Hon'ble Supreme Court issued in WP (Civil) No. 1128 of 1986 – Common Cause, A Registered Society v. Union of India & Others. (Published in J.T. 1996 (4) SC 701)

C.L.No.31/VIIIb-287 Admin 'G' Section Dated June 12, 1996

While enclosing a copy of order passed in the aforesaid Writ Petition, I am directed to intimate you that the directions contained in the above mentioned order of the Hon'ble Supreme Court, be strictly complied with.

I am, therefore, to request you that the directions of the Hon'ble Supreme Court be communicated to all the Criminal courts in the Judgeship for strict compliance and such compliance report be submitted to the court within three months from the date of receipt of this communication.

(iii) Compliance of the direction of the Hon'ble Supreme Court passed in criminal appeal no.82 of 1995 – Bani Singh and others v. State of U.P.

C.L.No.65/ Admin: (G) Dated 02 Dec., 1996.

While enclosing a copy of the judgment dated 9.7.1996 passed in the aforesaid criminal Appeal reported in Judgment Today (1996 (6) S.C.287. I am directed to communicate you and all the officers posted in the judgeship that directions given in the judgment of Hon'ble Supreme Court be complied with so that the administration of Criminal Justice may be toned up.

I am, therefore to direct you that the direction of the Hon'ble Supreme Court be brought to the knowledge of the officers posted in the Judgeship for strict compliance.

(See for Judgment AIR SC 2429)

(iv) Compliance of the direction of the Supreme Court issued in writ petition (Civil) No. 1128 of 1986 – Common Cuse v. Union of India and others-J.T. 1996(4) S.C. 701

C.L.No. 11/VIIIb-287/Admin (G)/Dated: Alld: March 17, 1997

In continuation of the court's C.L.No.31/VIIIb-287 Dated 12.6.1996 and C.L.No.43/VIIIb-287 dated 6.8.1996, I am directed to intimate you that the directions made in the abovementioned orders of the Supreme Court has been modified by the Hon'ble Supreme Court vide order dated 28.11.1996, the copy of the modified order is enclosed herewith for strict compliance.

I am, therefore, to request you that the directions contained in the modified order be communicated to all the criminal courts of your judgeship, for strict compliance.

(See for Judgment 1996 6 S.C. C. 775)

(v) Compliance of the direction of Hon'ble Supreme Court contained in Judgment rendered in Criminal Appeal No.1045/98, Raj Deo Sharma Vs. the state of Bihar.

C.L.No.61/dated; Allahabad: 17th November, 1998

The Hon'ble Supreme Court while deciding the aforesaid Criminal Appeal has issued direction to be followed by the Criminal Courts particularly sessions courts and special courts of India.

By enclosing the copy of the judgment, I am directed to communicate you that the directions contained in the said judgment be brought to the notice of all the criminal courts for strict compliance.

(See for Judgment: 1999 (39) A.C.Cr. 665)

(vi) Citing of the ruling of Hon'ble Supreme Court and High Court.

C.L.No.18/Dated: Allahabad: 19/8/1999.

It has come to the notice of the court that the decisions/rulings cited at the bar in the cases before the subordinate to courts are not referred in the Judgments/orders given by the Judicial officers, subordinate to the High Court. The court has taken a serious stock of this situation. Under Rule 6 of General Rules (Civil), it is obligatory on the part of the Judicial Officers to follow the ruling of the High Court and of Apex Court. This alone is not sufficient for them to extract a sentence here and there from the Judgment referred at Bar and to build upon it. Enunciation of the reasons or the principal on which a question before the court is to be decided, must also bear the reference of the cases cited for and against by the parties on the subject and should not only refer facts but also refer the law cited on the point in issue from the side of the Bar.

I am, therefore directed to communicate you that the Laws laid down by the High Court and the Apex Court and referred by the Advocates should be followed and their reference should be made in the judgments.

This fact may be brought to the notice of all the Judicial Officers subordinate to High Court for strict compliance.

(vii) Compliance of the directions of Hon'ble Supreme Court contained in judgment- Criminal Miscellaneous petition no.2326/99 in criminal appeal No.1045/98 Raj Deo Sharma vs. state of Bihar.

C.L.No.8/VIIb-18: Dated: Allahabad: February 7, 2000.

The Hon'ble Supreme Court while deciding the aforesaid criminal miscellaneous petition No.2326/99 in criminal Appeal No.1045/98- Raj Deo Sharma vs. State of Bihar has issued certain directions to be followed by the trial Judges. The Hon'ble Supreme court has also desired to circulate the judgment to all the trial Judges so that may comply with the provisions of Section 309 of the code in the letter and spirit.

I am, therefore, directed to send herewith a copy of the judgment, aforesaid and to request you kindly to circulate the same to all the trial judges for strict compliance of the directions as contained therein.

C.L.No.25: VIIIg-38: Dated 16 June, 2000

Hon'ble supreme Court of India on May 1, 1986 in Writ Petition No 1128/86 (Common Cause vs. Union of India and others) gave the following directions for the release of under trial languishing in jail.

1. Where the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with imprisonment not exceeding three years with or without fine and if trial for such offences are pending for one year or more and the accused concerned have not been released on bail but are in jail for a period of six months or more. The criminal court concerned shall release the accused on bail or on personal bond to be executed by the accused and subject to such condition if any as may be found necessary. In the light of section 437 of the Criminal Procedure Code. (Cr.P.C.).

2. Where the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with imprisonment not offences are pending for two years or exceeding five years with or without fine and if the trial for such more and the accused concerned have not been released on bail but are in jail for a period of six months of more the criminal court concerned shall release the accused upon bail or on personal bond to be executed by the accused and subject to the imposing of suitable conditions if any in the light of section 437 (CrP.C.).

3. When the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with seven years or less with or without fine and if the trials for such offences are pending for two years or more and the accused concerned have not been released on bail but are in jail for a period of six months or more the criminal court concerned shall release the accused on bail or on personal bond to be executed by the accused and subject to the imposing of suitable conditions if any in the light of section 437 (CrP.C.).

It has been viewed seriously by the Hon'ble Court that above directions are not followed by the courts and without verifying whether any accused falls under the aforesaid category, routinely extending the period of remand. Further it has also been noticed that these matters are also not taken up in the monitoring cell committee constituted vide the Government Letter No.3986/7-Nyay-2-64G/94 dated 26.11.1994. In order to ensure the directions of the Hon'ble Supreme Court following instructions are issued for immediate implementation:-

1. All Courts whether Judicial Magistrates of first Class or Special courts, before extending the period of remand of any prisoner, should ascertain the period of remand already undergone by the prisoner and examine whether he is entitled to be released on bail as per the directions, not able to furnish surety/security they may be released on personal bonds to ensure their attendance on the dates of hearing.

2. In the Monitoring Cell Meeting review of the cases of all prisoners who are in judicial custody for the period of 6 months or more shall also be considered.

3. As and when a cases falling under any of the three categories as at (a) to (c) above mentioned by the Supreme Court is noticed, the concerned court should suo moto, "release the accused on bail or on personal bond to be executed by the accused and subject to such conditions, if any, as may be found necessary in the light of section 437 of the Code of Criminal Procedure"

I am, therefore desired to request you to direct all criminal courts to ensure strict compliance of the directions of the Hon'ble Supreme Court.

(viii) Compliance of the directions of Hon'ble Supreme Court contained in the order dated 30.8.99 in the applications of Criminal Misc. Petition Nos. 6715/97,5969/98 and 4744/99 in Writ Petition (criminal) No.1171 of 1982 – Laxmi Kant Pandey Vs. Union of India and others.

C.L.No.29/ VIIf –45: Dated; July 06, 2000

In continuation to the Court's Notification No.314/VII-45, dated October 30, 1991, I am directed to send herewith a copy of letter no. 3545/89/x, dated September 28, 1991 of the Hon'ble Supreme Court of India, New Delhi along with the order dated 30.8.1999 passed by the said Court in the applications of Criminal Misc. Petition Nos. 6715/97, 5969/98 and 4744/99 in Writ Petition (criminal) No.1171 of 1982-Laxmi Kant Pandey vs. Union of India and others which has already been disposed off by the Hon'ble Supreme Court vide its judgment dated 6th Feb. 1984 reported in AIR SC 469 and to say that it may be read along with the instructions contained in the aforesaid Court's Notification No.314/ VII-45 dated October 30,1991.

I am, therefore, to request you kindly to ensure that the directions of Hon'ble Supreme Court contained in its order dated 30-8-1999 be strictly complied with by all concerned.

(See for Judgment 2001 (9) SCC 379)

(ix) Circulation of copy of judgment dated 28.8.2000 delivered in Criminal Capital Sentence Reference No. 3 of 2000 connected with Criminal Appeal Nos. 112, 132, 133, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151 and 152 of 2000.

C.L. No. 14/2001 Dated: 23rd March, 2001

I am to directed to send herewith a copy of judgment dated 28.8.2000 passed by Hon'ble D.K. Trivedi, J. and Hon'ble Kamal Kishor J. High Court, Lucknow Bench, Lucknow in Criminal Capital Sentence Reference No. 3 of 2000 state vs. Ram Sewak and others connected with Criminal Appeal No. 112 of 2000, Criminal Appeal No. 132 of 2000, Criminal Appeal No. 133 of 2000, Criminal Appeal No. 142 of 2000, Criminal Appeal No. 143 of 2000, Criminal Appeal No. 144 of 2000, Criminal Appeal No. 145 of 2000, Criminal Appeal No. 146 of 2000, Criminal Appeal No. 147 of 2000, Criminal Appeal No. 148 of 2000, Criminal Appeal No. 149 of 2000, Criminal Appeal No. 150 of 2000, Criminal Appeal No. 151 of 2000 and Criminal Appeal No. 152 of 2000 for information and necessary action.

C.L. No. 23/D.R. (J) Dated: 23 April, 2001

In criminal contempt case No. 16 of 1999and 19 of 1999 in Re: Swami Nath Yadav, advocate and four others Hon'ble Court held Sri Swami Nath Yadav, Prabodh Kumar Yadav, Sorakh Yadava, Sheo Dutta Yaddav and Raj Kumar Yadava to be guilty for contempt of court and they were sentenced of one month's simple imprisonment and also fine of Rs. 2000/- against them. Against said judgment Criminal Appeals No., 70-71 of 2001 was preferred before Hon'ble Supreme Court. Hon'ble Supreme Court in Criminal Misc. Petition No. 349-350 of 2001 entitled Prabodh Yadav and Sorakh Yadav Vs. State of U.P. has been pleased to suspend sentence awarded to the alleged contemner. However, they have been debarred from practice in any court till the disposal of these appeals. Hon'ble Supreme Court has passed following orders:-

"The imprisonment sentence passed on the appellants will remain suspended on the following conditions:

1. Appellants shall not practice in any court till the disposal of this appeal and
2. They shall execute a bond for a sum of Rs. 5000/- with two solvent sureties to the satisfaction of the C. J. M. Azamgarh".

I am therefore desired to inform you that Sri Prabodh Kumar Yadav and Sorakh Yadav have been debarred from doing practice in any court.

You are therefore requested to bring the order of Hon'ble Supreme Court in the notice of all concerned for compliance.

(x) Compliances of the directions of Hon'ble the Supreme Court rendered in criminal Appeal No. 392 of 2001- State of U.P. vs. Shambhu Nath Singh and others.

C.L. No. 17/2001 Dated: 4 May, 2001

While enclosing herewith the copy of the judgment of Hon'ble the Supreme Court of India passed in criminal Appeal No. 392 of 2001, State of U.P. vs. Shambhu

Nath Singh and others, I am directed to invite your attention to the legal position and to ask you to ensure that witnesses in criminal cases summoned for the day should not be returned back without their examination.

I am, therefore, to request you kindly to ensure that the directions of the Hon'ble Supreme Court contained in the aforesaid Criminal Appeal be strictly complied with by all concerned.

(See for Judgment 2001 A.L.J.835)

(xi) To comply with the observation made by the Hon'ble High Court in Criminal Misc. Application No. 1520 of 2001. Dinesh Kumar and others vs. State of U.P. & others with regard to entertaining surrender applications.

C.L. No. 18/2001, Dated: 15th May, 2001

While deciding Criminal Misc. Application No. 1520 of 2001, Dinesh Kumar & Others Vs. State of U.P. & others Hon'ble High Court has observed that the magistrates have adopted a peculiar procedure for entertaining surrender applications and thereafter in such cases the court concerned calls for the report as to whether the person making such an application is required in the case or not. The Hon'ble Court has further observed that there is only one provision in the code, which permits appearance/surrender of the accused, or one who is suspected in an offence for seeking bail under section 437 of the Code of Criminal Procedure.

I am therefore, desired to send herewith a copy of order dated 15.3.20001 passed by the Hon'ble Court in the aforesaid Criminal Misc. Application for your information, necessary action and strict compliance of the observations made by the Hon'ble Court.

(xii) Reproducing the injuries in the Judgment from the injury reports of the injured person.

C.L. No. 13/VIb-47 Dated: 3rd March, 2002

It has come to the notice of the Court that. Sessions Judges, Additional Sessions Judges and Magistrates do not specifically mention in their judgments the injuries found by the doctors on the person of the injured. On this account the Court experiences difficulty in passing orders on the bail applications filed in appeals. The injury reports in some cases are not readable because of being written in bad handwriting.

I am, therefore, directed to request to you to impress upon all the Presiding Officers of the Criminal Courts, under you to invariably reproduce in their Judgments the injuries from the injury reports of the injured persons.

(xiii) Circulation of order dated 26.03.2001 of the Hon'ble Court passed in Criminal Misc. Application No. 1661 of 2001

C.L. No. 23/ Dated: 23rd July, 2002

Hon'ble Court (Hon'ble Mr. Justice R.K. Dash) while disposing of the Criminal Misc. Application No. 1661 of 2001 has observed with concern that the procedure as prescribed in Code of Criminal Procedure is being overlooked by the police and the Magistrate both.

I am, therefore, directed to send her with a copy of order passed in criminal Misc. Application No. 1661 of 2001- Ashok Yadav & others vs. State of U.P. & another and to request you to circulate the same to all the Judicial Officers in your Judgeship for their guidance and strict compliance of the procedure as prescribed in Code of Criminal Procedure.

(See for Judgment 2001(2) A Cr. R 1202)

(xiv) To ensure compliance of the orders of Hon'ble Supreme Court passed in Transfer Petition (c) Nos.417-423 of 2002. Union of India & ors. Vs. Radhika Backliwal & ors.

C.L. No. 33/ Dated: 27th September, 2002

The Hon'ble Supreme Court in Transfer petition (C) Nos.417-423 of 2002. Union of India & ors. Vs. Radhika Backliwal & ors. has been pleased to stay the proceedings in Writ Petitions filed and pending in respect of retail dealers/ gas agencies /SAO/LDO dealership in various High Courts/ Proceedings before Subordinate Courts relating to cancellation dated 9th August, 2002. The Hon'ble Supreme Court has also directed that the contents of the order be informed to the subordinate courts.

I am, therefore, to send herewith a copy of order passed by Hon'ble Supreme Courts in Transfer Petition (C) Nos.417-423 of 2002. Union of India & ors. Vs. Radhika Backliwal & ors. for information and to request you to kindly ensure strict compliance of the orders, aforesaid.

(See For Judgment 2003 (2) SCC 316)

(xv) Circulation of the copy of Judgment and order passed by Hon'ble the Supreme Court in Criminal Appeal No. 863 of 2002. Delhi Administration (Now N.C.T. of Delhi) vs. Manohar Lal.

C.L. No. 38/ Dated: 22nd November, 2002

I am directed to send herewith a copy of the Judgment and order of Hon'ble the Supreme Court passed in Criminal Appeal No. 863 of 2002. Delhi Administration (Now N.C.T. of Delhi) Vs. Manohar Lal and to request you to kindly bring the contents of the Judgment and order, aforesaid, to the notice of all the Judicial Officers in your judgeship for their information and compliance.

(For Judgment, see 2002 SCC (Cri.)1670)

(xvi) To ensure strict compliance of the orders of Hon'ble the Supreme Court passed in Special Leave Petition (Crl.) No. 2745 of 2002. Sunderbhai Ambalal Desai Vs. State of Gujarat.

C.L. No. 39/2002 Dated: 26th November, 2002

I am directed to send herewith a copy of orders dated 1st October, 2002 passed by Hon'ble the Supreme Court in Special Leave Petition (Cri.) No. 2745 of 2002. Sunderbhai Ambalal Desai Vs. State of Gujarat and to request you kindly to bring the contents of the order of Hon'ble the Supreme Court to the notice of all the officers concerned in your judgeship and to ensure strict compliance of the directions as contained in the aforesaid orders of the Apex court.

(See for Judgment A.I.R. 2003 S.C. 638)

(xvii) Reproducing the details of the medical examination including post-mortem examination in the Judgment.

C.L. No. 4/2003 Dated: 20th February, 2003

During the proceedings in Government Appeal No. 406 of 2000, State Vs. Bal Kishan & others, the Hon'ble court (Hon'ble Mr. Justice S.K. Agarwal and Hon'ble Justice R.S. Tripathi) has observed with concern that the post-mortem examination reports are not detailed properly and also the reports, are either not given or derailed in a most cursory manner. The Hon'ble court has deprecated this practice.

In this regard, I am directed to say that the trial courts especially Additional District Judges, who are holding trials for heinous offences, be advised to detail the medical examinations including post-mortem examination reports properly and at least injuries should be detailed in the judgments so that the Hon'ble court may appreciate their observations especially on the medical conflicts. In this regard, a court C.L. No. 13, dated March 3, 1982 has already been issued earlier (copy enclosed).

I am, therefore, to request you kindly to ensure strict compliance of the directions as above and also the directions issued earlier though the Court's C.L. No. 13, dated March3, 1982 and in future non-compliance of the directions of the court shall be viewed seriously by the Court.

These directions may kindly be brought to the notice of all concerned for future guidance and strict compliance.

(Xvii-a) To mention the age of convicted persons in the conviction warrants by the Trial Courts

C.L. No. 6/Admin. 'G-II' Dated 11.02.2010

The Hon'ble High Court has been pleased to direct that the age of convicted persons must be recorded in the conviction warrants, sent to jail.

I am, therefore, to request you to kindly bring the contents of this Circular Letter to the notice of all concerned working under your administrative control for strict compliance.

(xviii) Submission of death Report by the Chief Judicial Magistrate in the cases pending in the Court.

C.L. No. 7/ VIIIb-119Dated: 27th September, 2002

In continuation of the Court's earlier circular letter no 19/VIIIb-119/Admin "G" dated April 11, 1989. I am directed to say that the Hon'ble Court, the Division Bench presided over by Hon'ble Mr. Justice S.K. Agarwal has been pleased to direct that Death Report submitted by Chief Judicial Magistrate received from any Police Station be forwarded to this Court after holding an enquiry i.e. after recording evidence oral as after well as documentary, if any, by the Chief Judicial Magistrate.

The Court has further directed that for holding enquiry the statement of concerned constable, Gram Pradhan and two member of the family may be recorded. Medical Report relating to death and the report of Police Station be forwarded to the

Court with a letter that the enquiry is being held in the matter and after conclusion of the enquiry, report relating to enquiry be submitted before the Court by the Chief Judicial Magistrate.

I am also to add kindly to bring the contents of the circular letter to the notice of the Chief Judicial Magistrate working under your administrative control for strict compliance.

C.L. No. 30/2006: Dated: 7.8. 2006

I am directed to say that in Sheela Barse Vs. Union of India reported in (1993) 4 Supreme Court Cases 204, Hon'ble Supreme Court issuing directions extracted as below has held that no person should be held in jail merely on the ground of mental illness:-

a) It is directed that the function of getting mentally ill persons examined and sent to places of safe custody hitherto performed by Executive Magistrate shall hereafter be performed only by Judicial Magistrate.

b) The Judicial Magistrate, will, upon a mentally ill person being produced, have him or her examined by a Mental Health professional/Psychiatrist and if advised by such MHP/Psychiatrist sends the mentally ill person to the nearest place of treatment and care.

c) The Judicial Magistrate will send reports every quarter to the High Court setting out the number of cases of persons sought to be screened and sent to places of safe custody and action taken by the Judicial Magistrate thereon.

I am, therefore, directed to communicate to you the aforesaid directions of Hon'ble Apex Court with the request to kindly bring the contents of the circular letter to the notice of all the Judicial Magistrate(s) in the Judgeship under you administrative control for information and strict compliance.

(xix) To ensure strict compliance of the Court's directions passed in fist Appeal from Order No. 1010 of 2003. The Oriental Insurance Company Ltd. vs. Smt. Nargis and others.

C.L. No. 8/2004 Dated: 29th March, 2004

In First Appeal from Order No. 1010 of 2003. The Oriental Insurance company Ltd. vs. Smt. Nargis and others, the Hon'ble Court (Hon'ble M.Katju, J. and Hon'ble R.S Tripathi, J.) has expressed its concern that provision as contained in Section 170 of the U.P. Motor Vehicles Act, 1988 and directions passed by the Hon'ble Supreme Court in United India Insurance Co. Ltd. vs. Jyotsanaben Sudhirbhai Patel and others –Jt 2003 (6) SC 547 are not being complied with strictly by the tribunal in passing order. As such, the Hon'ble Court has been pleased to issue a general direction to all the Motor Accident Claims Tribunals in the State of U.P. that in future they must record reasons in writing before allowing any application U/S 170 of the Act since it is a statutory requirement of section 170 and failure to do so may invite disciplinary action against the Judge of the Tribunal by this Court under its general supervisory powers.

In this regard, I am directed to send herewith a copy of the order dated 12.2.2004 passed by the Hon'ble Court in First Appeal from order No. 1010 of 2003, referred to above, and to request you to kindly communicate the same to all the Motor Accident

Claims Tribunal in your district for their information and strict compliance of the directions as contained in the aforesaid order of the Hon'ble Court.

(See for Judgment 2004 A.L.J. 2124)

(xx) Circulation of Judgment dated 21.11.2003 of the Hon'ble Court passed in Criminal Misc. Petition No. 6417 of 2002. Govind and others vs. State of U.P. and others.

C.L. No. 13/2004 Dated: 31st March, 2004

I am directed to send herewith a copy of the Judgment delivered by the Hon'ble Court (Hon'ble R.K.dash, J. and Hon'ble K.K. Mishra, J.) on Criminal Misc. Petition No. 6417 of 2002. Govind and Others v. State of U.P. and others and to request you to kindly circulate the same to all the Judicial Officers in your Judgeship for their guidance and strict compliance as desired by the Hon'ble Court.

(xxi) Court's concern for noncompliance of the directions for quoting medical examination report as well as post mortem examination report in trial courts judgment.

C.L. No. 33/ Dated: 28th April, 4.2004

Time and again inconvenience is being caused to the Hon'ble Court during proceedings of Government Appeals to the effect that the trial courts are still not quoting medical examination report as well as post mortem examination report in the judgments despite there is clear direction in the Court's Circular Letter No. 13/VIb-47, dated 23.3.1982 and No. 4/2003, dated 20.2.2003 on subject.

Recently, while hearing Government Appeal No. 2367 of 2002- State vs. Ramesh Kumar and Others inconvenience has again been caused to the Hon'ble Court (Hon'ble S.K. Agarwal, J. and Hon'ble R.C. Panday.J.) that the post mortem examination report has not been quoted anywhere in the judgment of the trial court nor there was any proper discussion of the medical evidence. The Hon'ble Court has expressed its deep concern over this unhealthy practice of the trial courts, which is causing undue difficulties in passing orders on bail applications and deciding Govt. Appeals even for admission also.

In this regard, I am directed to say that the judgment of acquittal or conviction, the trial court should and must quote the medical examination report as well as post mortem examination report and omission to make mention of these facts shall be taken serious notice.

I am, therefore, to request you to kindly ensure strict compliance of the directions being issued once again in this respect to prevent unhappiness of the Hon'ble Court.

Kindly bring the contents of the circular letter to the notice of all the Judicial Officers in your Judgeship for strict compliance of the directions, aforesaid.

(xxii) Strict compliance of the directions given by the Hon'ble Court in Cri. Misc. Application No.2154 of 1995 Smt. Amarawati and another Vs. State of U.P.

C.L. No. 44/2004 Dated: 16th October, 2004

I am directed to say that the Full Bench comprising seven Hon'ble Judges of the Court in Cri. Misc. Application No. 2154 of 1995-Smt. Amrawati and another Vs. State of U.P. has considered to following questions:-

1. Whether the arrest of an accused is a must if cognizable offence is disclosed in the F.I.R. or in a criminal complaint.
2. Whether the High Court can direct the subordinate Courts to decide the Bail Application on the same day it is filed; and
3. Whether the case Dr. Vinod Narain vs. State of U.P. Writ Petition No. 3643 of 1992 reported in 1995 (32) A.C.C. 375 has been correctly decided by the five Judge Full Bench of this Court.

Upon consideration of the above questions, the Full Bench has ordered as under:-

1. Even if cognizable offence is disclosed in the F.I.R. or complaint the arrest of the accused is not a must, rather the police officer should be guided by the decision of the Supreme Court in Joginder Kumar Vs. State of U.P., 1994 Cri. L.J. 1981 before deciding whether to make an arrest or not.
2. The High Court should ordinarily not direct any subordinate Court to decide the bail application the same day, as that would be interfering with the judicial discretion of the Court hearing the bail application. However, as stated above, when the bail application is under Section 437 Cr.P.C. ordinarily the Magistrate should himself decide the bail application the same day, and if he decides in a rare and exceptional case not to decide it on the same day he must record his reasons in writing. As regards the application under Section 439 Cr.P.C., it is in the discretion of the learned Sessions Judge considering the facts and circumstances whether to decide the bail application the same day or not, and it is also in his discretion to grant interim bail the same day subject to the final decision on the bail application later.
3. The decision in Dr. Vinod Narain Vs. State (Supra) is incorrect and is substituted accordingly by this judgment.

I am, therefore, directed to send herewith a copy of the judgment and order dated 15.10.2004 passed by the Full Bench of the Court in Cri. Misc Application No. 2154 of 1995, aforesaid for your information and strict compliance of the directions as contained therein. The directions of the Court may kindly be brought to the notice of all the Judicial Officers in the Judgeship for their guidance.

(See for Judgment 2004 (4) E.S.C.2321)

Compliance of the direction passed by the Hon'ble Court in Criminal Misc. Application No. 3129 of 2008-Annapurna Devi Vs. State of U.P. & Others.

C.L.No. 8/2009 Admin.G-II Dated: 07.04.2009

While passing Judgment and order in Criminal Misc. Application No. 3129 of 2008 – Annapurna Devi vs. State of U.P. & Others, the Hon'ble Court has observed that:

"It is also made clear that when such orders for registering or investigating a case under Section 156(3) Cr.P.C. are passed, the Magistrates concerned should generally fix a time frame preferably within one or two weeks by which time, the FIR should be registered. It is regrettable that a tendency is growing among many police officers not to file FIRs expeditiously and to keep the matters hanging for long periods of time before registering the FIR in pursuance of the Magistrate's order for investigation in a case. On some occasions the accused are even successful in obtaining orders staying arrests in proceedings under section 482 Cr.P.C. on the basis that FIRs have not yet been registered, whereupon the matter could only be questioned by a Division Bench Writ Court."

I am, therefore, directed to send herewith a copy of Judgment and order dated 5.3.2008 passed by the Hon'ble Court in the above mentioned case with the request to kindly circulate a copy of this circular letter to all the Judicial Officers in the judgeship under your supervision and control for their information and guidance.

(xxiii) Strict compliance of the direction as contained in the Judgment and Order passed by the Hon'ble Court in Habeas Corpus Petition No. 35964 of 2003.

C.L. No. 5/2005 Dated: 5th February, 2005

While deciding the Habeas Corpus Petition No. 35964 of 2003 in re- Lakshmi Narain Vs. State of U.P. & others the Hon'ble Court (Hon'ble Mr. Justice S.K. Agarwal & Hon'ble Mr. Justice R.C. Panday) has noticed with concern that despite directions of the Court for arrest of the of the accused Lakshmi Narain alias Lallu to serve out the sentence. He continued to enjoy the liberty as if he was never convicted. It cannot be said that the office of the lower Court was not in collusion as without their collusion this accused Lakshmi Narain alias Lallu would not have remained out of jail after dismissal of his appeal from this Court for such a long period of 18 years. Possibility of many more persons in the State who might be enjoying freedom like Sri Lakshmi Narain alias Lallu. Even after their conviction without being lodged in jail due to connivance of the staff of the District Judgeships concerned and the local police may not be ruled out.

Therefore, I am directed to send herewith a copy of Court's order referred to hereinabove and request you to kindly direct and require the Chief Judicial Magistrate of the judgeship under your administrative control to submit a report as soon a copy of the judgment of conviction or a copy of the order-sheet of this court is received by him from this Court in compliance specifically indicating therein whether the accused has been arrested and remanded to jail or not in pursuance thereto.

(See for Judgement 2005(51) ACC 55)

(xxiv) Submission of Death Report by the Chief Judicial Magistrate in the cases pending in the Court.

C.L. No. 15/2005: VIIIb-119: Dated: 19th April, 2005

In criminal appeal No. 2408 of 1981- Ram Chand vs. State, the Hon'ble Court (Hon'ble Imtiyaz Murtaza ,J and Hon'ble M. Caudhary, J.) has observed and ordered as under:-

"It has come to over notice that whenever it is reported that any of the accused appellant or revisionist has died and report regarding verification of the death is called for from the CJM concerned the reports submitted in most of the cases are vague and enigmatic based on the reports of head constable and that too not within the time specified by the Court. It is not proper.

Henceforth Sessions Judges should ensure and emphasize upon the Chief Judicial Magistrates that in case an accused appellant whose death is required to be verified is either murdered or killed in police encounter the report of the police officer not below the rank of sub-inspector along with particulars of the crime countersigned by the station officer should be submitted and Chief Judicial Magistrate concerned should record the statement of the Sub-Inspector concerned on oath who shall prove the GD entry regarding registration of the crime and get its true copy proved and filed.

In other cases CJM concerned should ensure that fact regarding death of any accused appellant should be enquired by any police officer not below the rank of sub-inspector posted at the police station concerned who himself shall enquire into the matter carefully and promptly and submit his report under his signature countersigned by the station officer concerned. After receiving the police, report in the court CJM concerned shall record statement of the sub-inspector on oath who enquired into the matter in addition to the statements of any of the witnesses having personal knowledge of the matter. And then CJM concerned after his subjective satisfaction shall submit his report along with the statements of witnesses recorded by him and the report submitted by the police along with the papers concerned to this court within the time specified."

Therefore, in continuation of Court's earlier C.L. No. 19/VIII-b-119/Admin. "G", dated April 11, 1989 and C.L. No. 7/ VIII-b199, dated March 29, 2003 I am directed to send herewith a copy of the order dated 2.12.2004 passed by the Hon'ble Court in criminal Appeal No. 2408 of 1981, aforesaid, for your information and compliance with the request to kindly bring the contents of the Court's circular letters, referred to above, as well as the order dated 2.12.2004 to the notice of the Chief Judicial Magistrate in your Judgeship for strict compliance of the directions issued by the Court in this regard.

(xxv) Circulation of copy of the Judgment and order passed by the Hon'ble Court in first Appeal From Order No. 246 of 1998- Dr. Prem Pal Singh and another vs. Shri Pokar Ram and another.

C.L. No. 16 /2005 Dated 19th April, 2005

I am directed to send herewith a copy of Judgment and Order dated 08.12.2004 passed by Hon'ble Court (Hon'ble Mr. Justice A.K. Yog and Hon'ble Mr. Justice R.B. Misra) in first Appeal from Order No. 246 of 1998- Dr. Prem Pal Singh and another Vs. Shri Pokar Ram and another for information and strict compliance.

I am further to add that the directions given by the Hon'ble Court in the aforementioned Judgment and Order may kindly be communicated to all those who are exercising jurisdiction of the Motor Accident Claims Tribunal in the Judgeship under you administrative control for their information and compliance faithfully and punctually.

(See Judgment 2005(1) A.W.C. 818)

(xxvi) Circulation of copy of the Judgment and order passed by the Hon'ble court in First Appeal No. 271 of 2005- Moti Lal vs. Bhagwan Das.

C.L. No. 24 /2005 Dated 8th August, 2005

I am directed to send herewith a copy of Judgment and Order dated 4.3.2005 passed by Hon'ble Court (Hon'ble Sushil Harkauli, J. and Hon'ble G.P. Srivastava, J.) in First Appeal no. 271 of 2005- Moti Lal vs. Bhagwan Das for information and strict compliance.

I am further to add that the directions given by the Hon'ble Court in aforesaid Judgment and Order may Kindly be brought to the notice of all the Judicial Officers in the Judgeship under your administrative control for their information and guidance faithfully and punctually.

(See for Judgment 2005 (60) ALR7)

C.L. No. 50/2006: Dated 15th November, 2006

In Criminal Misc. Writ Petition No.12873 of 2005 – Ramesh and another v. State of U.P. & others, the Hon'ble High Court has observed that the staff of the subordinate court do not communicate the orders passed by Hon'ble Court in time and as such this type of careless activity malign the image of judiciary, if not properly followed in true perspective.

While enclosing herewith a copy of the order dated 15.09.2006 passed in Criminal Misc. Writ Petition No. 12873 of 2005 – Ramesh and another v. State of U.P. and others aforesaid, I am directed to request you to kindly direct all officers working under your supervisory control to be more careful about their staff in respect of communication of the order of the High Court to uphold the majesty.

Kindly ensure strict compliance of the directions above.

(xxvii) Endorsement regarding age of he accused when he mention his age at the time of his examination under Section 313 Cr. P.C.

C.L. No. 5/2006 Admin 'G' Dated: 15th February, 2006

While taking orientation and inviting attention to court's Circular Letter Nos. 69 dated 13.8.1968, 117/VIIc-34 dated 5.8.1974, 89 /Admin. 'A' dated 3.5.1977, 71/VIIc-34 /Adm. 'G' dated 7.11.1981 and 33/ Admin, 'G' /VII-f-45 dated 13.5.1986. I am desired to say that the Hon'ble Court (coram Hon'ble Mr. Justice Imtiyaz Murtaza and Hon'ble Mr. Justice Amar Saran) in Cri. Jail appeal No.58 of 2001- Kaloo Vs. State of U.P. 2006(54) ACC 343 has been pleased to "direct all the Sessions Judges and Magistrates in the State of U.P. to make a positive endorsement as to their own estimate of the age of the accused when the accused mention their ages at the time of their examination under Section 313 Cr. P.C. This endorsement must be made in each and every case even if the Court concerned is in agreement with the age as mentioned by the accused. This direction has become necessary because we are finding that the requirement in Rule 50 of the General Rules (Criminal) that the court must not down its own estimate of age in case it is not in agreement with the age mentioned by the accused are more often than not being overlooked by trial courts. Only if the Court is required to record a positive finding about the age of the accused in each trial after looking to the age mentioned by the accused in

his statement, other material on record, the court's subjective impression of the age, and in the event that the court deems it appropriate by getting the medical examination of the accused conducted or by seeking further documentary or other evidence of age, that we can ensure that the mandate of Rule 50 of the General Rules (Criminal) and directions of the Apex Court are observed in letter and spirit. Only by this exercise will a proper estimate of the age be available on record which is very necessary for deciding on questions of the appropriateness of the procedure adopted for the trial of the case, i.e. whether the trial of the accused should have been conducted according to the procedure prescribed under the Juvenile Justice Act or otherwise, what should be the appropriate sentence, if the accused is of very young age or he is very old, and certain cases whether death or life sentence would be the appropriate sentence considering the age of the Accused".

Therefore, I am directed to send out her with a copy of the judgment and order dated 30.9.2005 in Crl. Jail Appeal No. 58 of 2001- Kaloo vs. State of U.P. with the request that the contents of and directions in the judgment and orders afore stated, be unerringly gone though all the way for ensuring strict compliance by all concerned.

Compliance of directions/orders given by Hon'ble Supreme Court in Writ Petition (Civil) No. 549 of 2008 – Health for Millions Tr. Legal Advisor Vs. Union of India & ors.

C.L. No. 34/2009/Admin. 'G-II': Dated July 16, 2009

While passing order in Writ Petition (Civil) No. 549 of 2008 – Health for Millions Tr. Legal Advisor Vs. Union of India & Ors., the Hon'ble Apex Court has observed that:

> "……..that Government of India undertakes to implement Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008, with effect from 31st May, 2009, and enforcement thereof shall not be further extended under any circumstances. In view of this statement made at the Bar and the undertaking. It is not necessary to pass any further order in these writ petitions by way of interim measure. However, we direct that no Court in the country shall pass any order, which is inconsistent with this order."

Therefore, I have been directed to send herewith a copy of the Order dated 06.05.2009 passed by the Hon'ble Apex Court in the above mentioned case with the request to kindly circulate a copy of this circular letter to all the Judicial Officers in the Judgeship under your supervision and control for their information, necessary action and compliance.

Compliance of directions/orders given by Hon'ble Supreme Court in Petition for Special Leave to Appeal (Civil) Nos. 11801-11804 of 2005 – Jai Prakash vs. M/s. National Insurance Co. & Ors.
C.L. No. 13/2010/Admin. 'G-II': Dated 17.05.2010

While passing order in Petition for Special Leave to Appeal (Civil) Nos. 11801-11804 of 2005 – Jai Prakash Vs. M/s. National Insurance Co. & Ors. The Hon'ble Apex Court has observed that:

> "…..All Claims Tribunals in his State to register the reports of accidents received under section 158(6) of the Act as applications for compensation under Section

166(4) of the Act and deal with them without waiting for the filing of Claim applications by the injured or by the family of the deceased. The Registrar General shall ensure that necessary Registers, forms and other support is extended to the Tribunal to give effect to Section 166(4) of the Act.

For complying with section 166(4) of the Act, the jurisdictional Motor Accident Claims Tribunals shall initiate the following steps:

(a) The tribunal shall maintain an Institution Register for recording the AIRs, which are received from the Station House Officers of the Police Stations and register them as miscellaneous petitions. If any private claim petitions are directly filed with reference to an AIR, they should also be recorded in the Register.

(b) The Tribunal shall list the AIRs as miscellaneous petitions. It shall fix a date for preliminary hearing to enable the police to notify such date to the victim (family of victim in the event of death) and the owner, driver and insurer of the vehicle involved in the accident. Once the claimant/s appears, the miscellaneous application shall be converted to claim petition. Where a claimant/s files the claim petition even before the receipt of the AIR by the Tribunal, the AIR may be tagged to the claim petition.

(c) The Tribunal shall inquire and satisfy itself that the AIR relates to a real accident and is not the result of any collusion and fabrication of an accident (by any 'Police Officer-Advocate-Doctor' nexus, which has come to light in several cases).

(d) The Tribunal shall by a summary enquiry ascertain the dependent family members/legal heirs. The jurisdictional police shall also inquire and submit the names of the dependent legal heirs.

(e) The Tribunal shall categories the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability.

(f) Wherever the insurer does not dispute the liability under the policy, the Tribunal shall make an endeavor to determine the compensation amount by a summary enquiry or refer the matter to the Lok Adalat for settlement, so as to dispose of the claim petition itself, within a time frame not exceeding six months from the date of registration of the claim petition.

(g) The Insurance Companies shall be directed to deposit the admitted amount or the amount determined, with the claims tribunals within 30 days of determination. The Tribunals should ensure that the compensation amount is kept in fixed deposit and disbursed as per the directions contained in General Manager, KSRTC v. Susamma Thomas; [1994 (2) SCC 176]

(h) As the proceedings initiated in pursuance of Section 158(6) and 166(4) of the Act, are different in nature from an application by the victim/s under Section 166(1) of the Act, Section 170 will not apply. The insurers will therefore be entitled to assist the Tribunal (either independently or with the owners of the vehicles) to verify the correctness in regard to the

accident, injuries, age, income and dependents of the deceased victim and in determining the quantum of compensation.

The aforesaid directions to the Tribunals are without prejudice to the discretion of each Tribunal to follow such summary procedure as it deems fit as provided under Section 169 of the Act. Many Tribunals instead of holding an inquiry into the claim by following suitable summary procedure, as mandated by Section 168 and 169 of the Act, tend to conduct motor accident cases like regular civil suits. This should be avoided. The Tribunal shall take an active role in deciding and expeditious disposal of the applications for compensation and make effective use of Section 165 of the Evident Act, 1872, to determine the just compensation.

Therefore, I have been directed to request you to kindly circulate a copy of this circular letter to all the Judicial Officers in the judgeship under your supervision and control for their information, necessary action and compliance.

Circulation of the copy of the judgment dated 03.12.2010 of Hon'ble the Division Bench comprising Hon'ble Mr. Justice Devi Prasad Singh and Hon'ble Mr. Justice S.C. Chaurasia in Misc. Writ Petition No. 10503 (M/B) of 2009, Vishwanath Chaturvedi v. Union of India and others

Letter No. 3154/2011/Admin.G-II dated 21.02.2011

I am directed to send a copy of the Judgement dated 03.12.2010 of Hon'ble the Division Bench comprising Hon'ble Mr. Justice Devi Prasad Singh and Hon'ble Mr. Justice S.C. Chaurasia in Misc. Writ Petition No. 10503(M/B) of 2009, Vishwanath Chaturvedi v. Union of India and others, and to request you to kindly circulate copy of the judgment to all the Judicial Officers working under your control with the instruction to comply strictly with the directions given by the Hon'ble Court in the said Judgement.

Circulation of the copy of the Judgment dated 22nd November, 2010 passed by the Hon'ble Apex Court in Petition(s) for Special Leave to Appeal Crl. No. 9507/2010 (Cri. MP No. 23051/2010) Rajbir @ Raju & Another v. State of Haryana

C.L. No. 11/2010/Admin G-II dated 07.03.2011

While enclosing a copy of the Judgment & order dated 22.11.2010 passed by Hon'ble the Apex Court (Hon'ble Mr. Justice Markandey Katju and Hon'ble Justice Gyan Sudha Misra) in Special Leave Petition (Crl.) No. 9507 of 2010 (entitled Rajbir @ Raju & Anr. V. State of Haryana), I am directed to say that the Hon'ble Supreme Court has directed to ordinarily add section 302 IPC to the charge of section 304-B IPC. So that death sentence can be imposed in such heinous and barbaric crimes against women.

I am, therefore, to request you to circulate this circular letter and copy of Judgment/Order of Hon'ble the Supreme Court to all the Judicial Officers under your administrative control for their information & guidance.

54. EXPLANATION BY MAGISTRATES

G.L. No. 12/VII-a-82 dated 2nd May, 1950

The provision in rule 100 : Chapter X of the General Rules (Criminal), 1957*, that when a Sessions Judge on examining the record of any proceeding, thinks fit to report the result of examination for the orders of the High Court, he should, except in a case in which delay should be avoided, call for and submit with the report the explanation of the officer whose proceedings have been examined by him, was made with the object of getting the views of the officer whose proceedings have been examined by the Sessions Judge as well. It is, however, impressed upon all District Magistrates and all Magistrates in their districts that whenever they are called upon to give explanations as required by the rules or by order of the High Court or the Sessions Judge, they have to carry out the orders and whatever explanation they submit should be properly worded and should not show either disrespect or discourtesy to any superior officer or court.

55. INITIATION OF CONTEMPT PROCEEDINGS

C.L. No. 86/VIIg-2 dated 7th September, 1953

Before making a recommendation for starting contempt proceedings a case should be examined in the light of the principles affirmed by the Supreme Court in their judgment in Brahma Prakash Sharma and others versus The State of Uttar Pradesh, Criminal Appeal no. 24 of 1951, decided on 8th May, 1953 (1953 A.L.J.R., p. 571).

C.L. No. 40/VII c-25 dated 25th March, 1975

While making preliminary enquiries in contempt matters the statements of alleged contemners and the witnesses must either be recorded on oath or taken on affidavits.

C.L. No. 57/VIII e-c-167 dated 20th May, 1961

Whenever a report, regarding contempt of subordinate courts is made, it should be accompanied by, as many copies of the report as there are parties against whom proceedings are proposed to be initiated together with one extra copy.

C.L. No. 68/V110-25 dated 19th June, 1979

The Court has noticed that contempt references from the subordinate courts are often received after the period of expiry of one year from the alleged date of contempt with the result that the same are filed.

Attention of all the judicial officers including District Judges is invited to the provisions of Section 20 of the Contempt of Courts Act 1971 which provides that no court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

Timely submissions of service reports in Contempt matters by the Chief Judicial Magistrates.

C.L. No. 11/2009/IIIb-36/Admin 'G', Dated: April 7, 2009

Taking serious view of the non submission of reports within stipulated time by the Chief Judicial Magistrates in the matter of effecting service of summons in Contempt

* Note: Now 1977 Vide Notification No. 504/vb-13, dated 5.11.1983

Applications, the Hon'ble Court has desired that all the Chief Judicial Magistrates must ensure that summons are duly served upon the alleged contemnor and compliance report is sent to the Hon'ble Court on or before the date fixed in summons.

Therefore, in continuation of earlier Circular Letters (1. C.L. No. 109/VIIIC-2/Admin. 'G' dated 30.11.1990. 2 C.L. No. 19/Admin. 'G' dated 3.2.191. 3. C.L. No. 23/06/Admin. 'G' dated 29.5.2006), I have been directed to say that the Chief Judicial Magistrates shall ensure service of summons in Contempt Applications well within stipulated time.

I am further to request you to kindly bring the contents of this Circular letter to the knowledge of all the Judicial Magistrates under your administrative control for strict compliance.

Non-submission of Service Report in Contempt matters by the Chief Judicial Magistrates.

C.L. No. 23/2006: Admin 'G'. Dated: 29.5.2006

Hon'ble Court while dealing with Contempt Petition has noticed that the reports with regard to the service of the summons are not being submitted by the Chief Judicial Magistrates within time. As a result of which, the contempt matters cannot proceed get delayed on account of the non-availability of the service report.

Therefore, while drawing attention of all concerned to Court's Circular letter No. 109/VIIC-2/Admin. 'G' dated 30.11.1990 and Circular letter No. 19/Admin. 'G' dated 3.2.1991; I am directed to request that the contents of and directions in the circulars aforesaid, be unerringly gone through all the way for ensuring strict compliance by all concerned especially the Chief Judicial Magistrate under your administrative control by transmitting service reports within the time prescribed. Non-submission of service report within time may be viewed seriously and action might be initiated against the defaulting Chief Judicial Magistrate.

Service of process issued in contempt petitions and other cases.

C.L. No. 19/Admin./C/Sec. Dt. Allahabad, February 3, 1991.

I am directed to say that when contempt petitions and other cases are filed in this Court, processes are sent to the districts for service. But it has been experienced that either the processes are not returned by the Chief Judicial Magistrate concerned or many times reports received from the districts are found to be incorrect sometimes reports are returned by the Chief Judicial Magistrates with a lot of delay either due to fault of their own office or due to the lapse on the part of the police. In the above state of affairs, much time of the court is wasted in join through the files and assigns orders, either to await or search the process or issue reminder. To avoid above situation and loss of time and restore the efficacy of the processes, the Court is of the view that the processes sent by the Court are promptly entered in the relevant registers, maintained in the office of the Chief Judicial Magistrates and sent to the police and returned to their own office ensured at least one week before the date fixed and to dispatch the same promptly so as to reach this Court before the due date.

I am, therefore, to request you kindly to direct that the Chief Judicial Magistrate will peruse the register of the process of this Court maintained in his office on each working day to ensure that no process is lying unattended or unreturned by the due date.

Service Report of notices sent to Chief Judicial Magistrates for service upon the persons.

C.L.No. 109/VIIC-25, Admn. (G) Dated: Allahabad: November 30, 1994

I am directed to say that while exercising original jurisdiction on criminal contempt and civil contempt this Court sends a motion of notice in contempt proceedings for procuring the attendance of the contemnor. It has been observed by the Court that whenever such notices are sent for service upon the persons concerned the court is not obliged in the proceedings or the court.

I am, therefore, to say that whenever such notices are sent to the Chief Judicial Magistrates of the Districts for service upon the persons concerned a report about the fate of the same should invariably be transmitted to the Court indicating whether it has been served or not, accepted or refused before the date of hearing of the case as mentioned in the notices.

Kindly instruct the Chief Judicial Magistrate of your judgeship to ensure strict compliance as above.

56. REVISIONS

G.L. No. 15/X dated 20th September, 1951

Unless on a perusal of the judgment and the grounds of Criminal Revision filed under section 435 (new section 397) of the Code of Criminal Procedure the Judge is satisfied that notice should be issued, counsel for the applicant may be heard first. Notice should be issued to State Counsel and the opposite parties (if any) if the court after hearing counsel for the applicant is satisfied that there is *prima facie* some merit in the application.

These instructions do not fetter the discretion of Sessions Judges to dispose of any revision application without hearing any party as provided under section 440 (new section 403) of the Code of Criminal Procedure; and where an application appears to be obviously frivolous or groundless there is no reason why a Sessions Judge may not, if he thinks fit, reject it without even hearing counsel for the applicant.

C.L. No. 63/IV h-14 dated 12th June, 1979

Sessions Judges should see that criminal revisions are equally distributed for hearing in the file of Sessions Judges and Additional Sessions Judges.

C.L. No. 6/VIII-188/Admn.(G) dated 24th January, 1989

The Court has noticed that piecemeal decisions are being given by the Sessions Judges hearing criminal revisions against the one and the same order creating an anomalous position.

Henceforth criminal revisions filed before the Sessions Judges against one and the same order of the Magistrates should be heard by the same court. All the Presiding Officers of the courts concerned should ensure strict compliance.

C.L. No. 43/Ve-84/Admn. (G) dated 20th July, 1989

If a revision is filed in the High Court under section 397(i) Cr.P.C. it must be mentioned therein that no revision has been filed before the Sessions Judge against the same order and if a revision is filed before the Sessions Judge under section 397(i), Cr.P.C., it must be mentioned therein that no revision has been filed in the High Court against the same order.

C. L. No. 50/2007Admin (G): Dated: 13.12.2007.

It has been observed by the Hon'ble Court that in many cases , the Criminal revisions may be decided without the compulsion of issuing notices to the opposite parties and the revisional power should be exercised when it is shown that there is legal bar against the continuance of the criminal proceedings or the framing of the charge or the facts as stated in F.I.R. even if taken at the face value and accepted in their entirety, do not constitute offense which the accused has been charged with . In that situation even without issuing notice to the opposite party the Court exercising revisional jurisdiction may make the disposal of that revision.

Therefore, in continuation of the earlier issued G.L.No. 15/X dated 20th September, 1951, I am directed to say that in above noted circumstances without issuing notice to the opposite party the Court concerned may proceed to decide the revision and summary disposal of the revision may also be made in accordance with the directions given by the Hon'ble Apex Court in AIR 2000 S.C. 522 Kanti Bhadra Shah and another Vs. State of West Bengal and AIR 2002 S.C. 107 Munna Devi Vs. State of Rasjasthan.

Therefore, I am directed to request you to kindly bring the contents of this Circular Letter to all the Judicial Officer under your administrative control for their guidance and Strict compliance.

57. DISPOSAL OF REFERENCE UNDER THE INDIAN RAILWAYS ACT, 1890 AND THE RAILWAYS (LOCAL AUTHORITIES TAXATION) ACT, 1941

G. L. No. 4/180-1(2) dated 26th March, 1945

The Government of India in Express G.G.O.no. F-III-44/TX-17(17), dated the 9th December, 1944, express the intention that cases referred to judicial officers under Government of India, Railway Department (Railway Board) notification no. F-42./TX-17-16, dated the 11th January, 1944, should not be treated as ordinary judicial proceedings before them but that judicial officers should function as quasi judicial tribunals and observe the rules of natural justice which would not necessarily be the same as those by which ordinary cases are dealt with and that the provisions of the Court Fees Act, 1870, should not be applied to in these cases.

58. DISPOSAL OF GOODS SUBJECT TO EXCISE DUTIES

C.L. No. 92/VII-f-38 dated 9th November, 1956

In order to prevent violations of the Central Excise and Salt Act, 1944 and the Central Excise Rules, 1944, when a subordinate court is about to pass orders for the disposal of goods subject to central excise duties, it should notify the fact to the nearest Superintendent of the Central Excise. The places at which Superintendents of the Central Excise are stationed are mentioned in the list given below:

LIST OF SUPERINTENDENTS IN THE CENTRAL EXCISE, COLLECTORATE, ALLAHABAD, U.P.

1	Superintendent of Central Excise,	Allahabad
2	Ditto	Banaras
3	Ditto	Azamgarh
4	Ditto	Gorakhpur
5	Ditto	Bareilly
6	Ditto	Moradabad
7	Ditto	Rampur
8	Ditto	Shahjahanpur
9	Ditto	Budaun
10	Ditto	Lucknow
11	Ditto	Gonda
12	Ditto	Faizabad
13	Ditto	Sitapur
14	Ditto	Farrukhabad
15	Ditto	Kannauj
16	Ditto	Kasganj
17	Ditto	Mainpuri
18	Ditto	Kaimganj
19	Ditto	Kanpur (Central)
20	Ditto	Kanpur (Muffasil)
21	Ditto	Kanpur (Old)
22	Ditto	Jhansi
23	Superintendent of central Excise	Agra
24	Ditto	Mathura
25	Ditto	Meerut
26	Ditto	Muzaffarnagar
27	Ditto	Bulandshahr
28	Ditto	Aligarh
29	Ditto	Dehradun

59. ARREST AND DETENTION OF JUDICIAL OFFICERS

(i) Arrest and detention of Judicial Officers-Guidelines

C.L. No. 54/IX-f-69/Admn.'G' dated October 22, 1992

I am directed to enclose herewith a copy each of letter No. F.No.L.19017/3/92-Jus, dated 13.4.92/23.4.1992 a copy of letter No. L.l9017/4/90-Jus., dated 26.4.1990/2.5.1990 from the Government of India, Ministry of Law and Justice (Department of Justice) New Delhi with a copy of letter No. VII-11017/15/88- G.P.A.II, dated 4.10.1988, and D.O. No.VI-25013/42/89-G.P.A.II, dated 27.3.92/31.3.1992 from

the Joint Secretary to Government of India, Ministry of Home Affairs, New Delhi regarding use of handcuffing by the Police and on the subject noted above, for information and necessary compliance.

I am to add that the contents of this letter and enclosures may kindly be brought to the notice of all judicial officers working under your supervision for their information and future guidance.

Arrest and detention of Judicial Officers-Guidelines' to Registrars

L.No.F.No.L. 19017/3/92-Jus, Government of India, Ministry of Law & Justice (Department of Justice) dated 3.4.1992/23.4.1992

C.No. 190117/4/90-Jus. dated 26.4.1990/3.5.1990

I am directed to invite your attention to the above cited communication of this Department (copy enclosed) and to say that the Supreme Court in its Judgement delivered on 11.9.1991 in Writ Petition (Criminal) Nos. 517, 518 and 523-27 of 1989 *Delhi Judicial Service Association, Tis Hazari Court Delhi* v. *State of Gujarat and others* has laid down certain guidelines in the case of arrest and detention of a Judicial Officer. These guidelines have been circulated by the Ministry of Home Affairs to the Home Secretaries of all States and Union Territories Administration vide DO letter no. VI-25013/42/89-G.P.A.II, dt. 31.3.1992 for compliance. A copy of the same is attached for information and for circulation to all concerned.

2. A perusal of the Judgment of the Supreme Court will also show that the Apex Court has also observed that

> "No Judicial Officer should visit a Police Station on his own except in connection with his official and judicial duties and functions. If it is necessary for a Judicial Officer or a Subordinate Judicial Officer to visit the Police Station in connection with his official duties, he must do so with prior intimation of his visit to the District and Sessions Judge."

3. It is requested that the above observations of the Supreme Court may also kindly be brought to the notice of all concerned including the Subordinate Courts under the jurisdiction of your High Court for compliance.

Practice of handcuffing the arrested persons by police as a matter of routine-guidelines regarding.

L.No.L.19017/4/90-Jus.Government of India, Ministry of Law & Justice (Department of Justice) dated 26.4.1990/2.5.1990

I am directed to invite your attention to the judgment of the Supreme Court in *Prem Shankar Shukla v. Delhi Administration* (AIR 1980 SC 526) wherein the indiscriminate use of handcuffs by the law enforcing agencies has not been approved by the Supreme Court. The Honourable Court has also laid down suitable guidelines in the matter. The directions of the Supreme Court had been circulated to all State Government by Ministry of Home Affairs vide their letter No. VII-11017/15/88- G.P.A. II, dated 4.10.1988 (Copy enclosed) for compliance. A perusal of the judgment will show that a duty has also been cast on the judiciary as well for ensuring proper implementation of its directives.

I am therefore, to request you kindly to bring these directives of the Supreme Court to the notice of all Subordinate Courts under the jurisdiction of your High Court for proper compliance.

Use of handcuffs-guidelines regarding

L.No. VII-11017/15/88-GPA.II Government of India, Ministry of Home Affairs, dated 4.10.88

I am directed to say that this Ministry has issued instructions on the use of handcuffs by police from time to time. It was stressed in this Ministry's letter No. F .2/l3/57-P .IV dated 26th July, 1957 (copy enclosed) that the use of handcuffs should be restricted to cases where the prisoner was a desperate character or there were reasonable grounds to believe that he would use violence or attempt to escape or where there were other similar reasons. While reiterating these instructions, it was impressed upon the State Government vide this Ministry's letter No.8/70/74-GPA.I dated 8th November, 1974 (copy enclosed) that there should ordinarily be no occasion to handcuffs the prisoners such as Satyagrahis, persons occupying good positions in public life and professionals like journalists, jurists, doctors, writers, educationists. The instructions were reiterated in this ministry's D.O.No. 15/38/76-G.P.A.II dated 29.7.1976 (copy enclosed).

2. Further instructions on the use of handcuffs by Police were communicated to State Government in a letter-dated 22.8.1978 (copy enclosed) written by the then Prime Minister to State Chief Ministers. In this letter, the Prime Minister suggested that handcuffs should not be used except where there was a reasonable apprehension of violence, escape or reasons and, in no case, merely to humiliate or harass a person. Generally, even such apprehensions would be justified only where such a person is suspected of being involved in any grave non-bailable offence, has a history of previous conviction for serious offence, or is a known bad character. There should also be a clear prohibition in the rules of the use of handcuffs in respect of persons who are bed-ridden in hospital, old and infirm, women prisoners, juveniles and prisoners involved in Civil Proceedings. Persons accused of violating prohibitory orders in the context of political or other similar demonstrations should also not be subjected to handcuffs.

3. The Supreme Court of India, however, in its order of Writ Petition (CRL) No.163 of 1988 dated 4.8.1988 has directed that rules or guidelines may be issued in conformity with the judgment of that Court in a case of *Prem Shankar Shukla v. Delhi Administration* (SCR 855 of 1980) as regards the circumstances in which handcuffing of the accused should be resorted to. While declaring Rule 26.21A and 26.22 of Chapter XXVI of the Punjab Police Manual as violative of Articles 14, 19 and 21 of the Constitution, the Supreme Court laid down the following guidelines for handcuffing the prisoners:

(i) That no prisoner shall be handcuffed or fettered routinely or merely for the convenience of the Custodian or escort.

(ii) That it is arbitrary and irrational to classify prisoners for purposes of handcuffs, into 'B' Class and ordinary class. No one shall be fettered in any form based on superior class differentia as the law treats them equally.

(iii) Handcuffing of prisoners should be resorted only in exceptional circumstances where there is a clear and present danger of escape or where the concerned accused is so violent that he cannot otherwise be secured. Handcuffing may be avoided by increasing the strength of the armed escort or by taking prisoners in well-protected vans.

(iv) It is only in exceptional circumstances where there is no other reasonable way of preventing the escape of the prisoner that recourse to handcuffing him may be taken. Even in such extreme cases where handcuffs have to be put on, escorting authority must record contemporaneously the reasons for doing so. The belief in this behalf must be based on antecedents, which must be recorded, and proneness to violence must be authentic. Vague surmises or general averments that the under trial is a crook or desperado, rowdy or maniac cannot suffice. Merely because the offence is serious, the inference of escape proneness or disparate character does not follow.

(v) These recorded reasons must be shown to the Presiding Judge and his approval should be taken. Once the Court directs that the handcuffs are not to be used, no escorting authority should over-rule this correction.

4. It is requested that the above guidelines may kindly be brought to the notice of all concerned through the Directors General of Police and Inspectors General of Prisons. It may kindly be ensured that the instructions are scrupulously observed.

5. A copy of the instructions issued in the matter may kindly be endorsed to this Ministry.

D.O.No. Vl-25013/42/89-GPA-ll Bharat Sarkar/ Government of India

Grih Mantralaya/Ministry or Home Affairs dated 27.3.1992/31.3.1992

Please refer to this Ministry's instructions regarding use of handcuffing by the Police issued vide this Ministry's letter No. VII-11017/15/88-GPA-II, dated 4.10.88. Recently the Supreme Court of India in its Judgment in a Writ Petition (Criminal) No. 517,518 and 523-27 of *1989-Delhi Judicial Service Association, Tiz Hazari Court, Delhi v. State of Gujarat and others,* have laid down following guidelines which should be followed in the case of arrest and detention of Judicial Officers:

(a) If a judicial officer is to be arrested for some offence, it should be done under intimation to the District Judge or the High Court as the case may be.

(b) If facts and circumstances necessitate immediate arrest of a judicial officer of the subordinate judiciary, a technical or formal arrest may be affected.

(c) The fact of such arrest should be immediately communicated to the District and Sessions Judge of the concerned district and the Chief Justice of the High Court.

(d) The Judicial Officers so arrested shall not be taken to a police station, without the prior order or directions of the District and Sessions Judge of the concerned District, if available.

(e) Immediate facilities shall be provided to the Judicial Officer for communication with his family members, legal advisers and judicial officers, including the District and Sessions Judge.

(f) No statement of a judicial officer who is under arrest be recorded nor any panchnama be drawn up nor any medical tests be conducted except in the presence of the Legal Adviser of the Judicial Officers concerned or another judicial officers of equal or higher rank, if available.

(g) There should be no handcuffing of a judicial officer. If, however, violent resistance to arrest is offered or there is imminent need to effect physical arrest in order to avert danger to life and limb, the persons resisting arrest may be over powered and handcuffed. In such a case, immediate report shall be made to the District and Sessions Judge concerned and also to the Chief Justice of the High Court. But the burden would be on the police to establish the necessity for effecting physical arrest and handcuffing the judicial officer and if it is established that the physical arrest and handcuffing of the judicial officers was unjustified, the police officers causing or responsible for such arrest and handcuffing would be guilty of misconduct and would also be personally liable for compensation and/or damages as may be summarily determined by the High Court.

2. The above guidelines are not exhaustive but those are minimum safeguards, which must be observed in case of arrest of a judicial officer. These guidelines should be implemented by the State Government.

3. The State Government/Union Territories Administration are requested to bring these guidelines to the notice of the concerned officers for compliance. A copy of the instructions issued by the States/ Union Territories may also be forwarded to this Ministry.

60. CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

C.L. No. 38/Admn.(G) VIIf-256 dated April 12, 1994

(i) Imposing of lower penalties than those prescribed under the Child Labour (P&R) Act, 1986.

It has come to the notice of the Court that Sections 14 and 15 of the Child Labour (P&R) Act, 1986 are not being complied with properly.

The Court has, therefore, been pleased to direct you to impress upon all the Presiding Officers working under you to make proper compliance of Sections 14 and 15 of the Child Labour (P&R) Act, 1986 while awarding punishment in cases concerning Child Labour Prohibition and Regulation Act, 1986.

61. COMMUNICATION OF ORDERS OF SUPREME COURT

C.L. No. 68/VIIb-47/Admn.(G) dated July 6, 1990

(i) Communication of orders of Supreme Court of India in Criminal matters

I am directed to enclose herewith a copy of D.O. letter No. l/89-C/Registrar (J), dated June 18, 1990, on the above subject, and to say that in order to prevent fake and

forged orders purporting to be from Supreme Court of India, the authorities of Supreme Court with detailed discussion with various authorities of Ministry of Home Affairs of the Government of India, had decided to evolve a fool-proof procedure to be adopted with effect from 1.8.1990 for transmission of orders of the Supreme Court in respect of (i) Staying execution of capital sentences, and ascertaining factual position regarding condemned prisoners; (ii) release of convicts; and (iii) enlargement on bail of prisoners.

The detailed procedure to be adopted in the matter has been stated in the letter aforesaid.

I am, therefore, to request you kindly to acknowledge the receipt of this Circular Letter and intimate the same to this Court immediately for onward necessary action.

Supreme Court of India, New-Delhi 11000 D.O. No.l/89-SC/Registrar (J) dated June 18, 1990

You may be aware that a significant number of instances have occurred during the last few years where unscrupulous persons have got convicts lodged in various jails in the country released outright or on bail by producing fake or forged orders purporting to be from this Court before the executing Court/competent authorities and obtaining consequential orders and producing them to the detaining authorities. In order to prevent such occurrences in future, we had detailed discussion with various authorities and have with the active assistance of the Ministry of Home Affairs of the Government of India arrived at a full-proof procedure to be adopted with effect from 1.8.1990 for transmission of orders of the, Court in respect of: (i) staying execution of capital sentences, and ascertaining factual position regarding condemned prisoners; (ii) release of convicts; and (iii) enlargement on bail of prisoners.

2. The procedure to be adopted for transmission of such orders is as follows:-

> "When this Court passes any order on the three matters indicated in the previous paragraph, the said order will be conveyed through wireless network to the concerned judicial authorities or the jail concerned or to both with copies to the authorities through whom the cause has arisen. Thereafter the formal order of the court will as usual be sent through the normal communication channels."

3. With the introduction of the above procedure the Executing Court will act only on receipt of the wireless message conveyed through the Police net work. If any order is presented before the court without being preceded by the Wireless Message for execution, the authority should get in touch with Mr. Manohar Lal, Joint Registrar (Telephone Nos.: Off: 381379, Res. 2240477) or Mr. Ramesh Sharma, Joint Registrar (Telephone Nos. Off: 381379 Res: 622922) or Mr. P.N. Likhyani, Additional Registrar (Telephone Nos: Off: 385046 Res: 5506999) and obtain confirmation of the authenticity of the order before processing if further. Any change in the names of the officers to be contacted will be intimated well in advance.

4. May, I, in the circumstances, request you to intimate the revised procedure indicated in paras 2 and 3 above to all the Judicial Officers under your jurisdiction immediately and confirm having communicated the procedure and the officers having received the communication, to me at the earliest?

Please treat this as most urgent and acknowledge receipt.

62. COMPLAINT CASES

(i) Follow up Proper procedure in complaint cases as laid down in Sections 204, 205, 87, 88 & 309(2) of Cr. P.C. Act No.2 of 1974.

C.L. No.C-72/1990, dated: July 26, 1990

I am directed to say that in Criminal Misc. Case No.612 of 1987- *Vishwanath Jiloka v. I Munsif Lower Criminal Court,* Bahraich decided by Hon'ble S.R. Bhargava, J., on 3.4.1989 (reported in 1989 Criminal L.J. 2082), the following observations were made by the Court:-

> "When contingency for issuing a warrant as laid down in S. 87 has not arisen the Magistrate should invariably think of issuing summons only. While issuing summons the Magistrate should bear in mind S. 205 Cr .P .C., which empowers the Magistrate to dispense with personal attendance of the accused and to permit him to appear by his pleader. The Magistrate may at any stage of the proceedings, even though he has earlier exempted personal attendance of the accused, order the accused to be personally present. Where the accused in a complaint case are of different districts or State, the Magistrate should invariably issue a summons to the accused dispensing his personal attendance and permitting him to appear through pleader. This will automatically minimise mischievous and vexatious complaints filed simply for causing harassment and humiliation to the accused. Even when the personal attendance of the accused in a criminal case has not been exempted or when a warrant is issued to the accused in a complaint case under S. 2O4 (1) (b) and the accused after being served with summons or warrant or having come to know of the same appears before the Magistrate, it is not at all legal for the Magistrate to take him into custody and then grant judicial remand necessitating a bail application and a bail order under S. 437 Cr.P.C. When a person appears or is brought before a Magistrate or court in response of summons or warrant, the proper procedure to be followed is laid down in S. 88 Cr. P .C. In case of breach of bonds furnished under Section 88 Cr. P .C. action can be taken for enforcing the bonds and further for arrest under Section 89 Cr.P.C. Therefore, the practice followed in the Courts of Magistrate by even some members of the Bar, namely, moving an application for surrender of the accused in a complaint case and then after the accused is taken in the custody applying for bail, is contrary to provisions of Cr.P.C. and is altogether un-warranted. It should be immediately given up and the accused of the complaint cases should be assured that they will be honourably dealt with in the courts of the Magistrate.
>
> When an equally efficacious procedure is available for securing attendance of the accused in a complaint case, namely, obtaining bond with or without sureties under Section 88 Cr.P.C. power of judicial remand under Section 309(2) should not be used, otherwise there would be unnecessary infringement of the fundamental right of liberty. Perusal of Sections 88, 89 and 309(2) Cr.P.C. however, make it clear that in cases where accused of complaint case commits default and absents himself from the court entailing his arrest on a warrant issued under Section 89 Cr.P.C. and is unable to offer sufficient cause for his absences, power of judicial remand under Section 309(2) can be used."

I am, therefore, to request that Munsif-Magistrates may kindly be directed to follow-up the procedures strictly.

63. CRIME AGAINST WOMEN

(i) Regarding expeditious disposal of cases relating to the incidents of rape, molestation, abduction, kidnapping and atrocities being committed on women.

C.L.No. 16/VIIIh-13/Admn. 'G'/dated: Allahabad: March, 23 1996

It has come to knowledge of the court that cases relating to rape, kidnapping and atrocities to women are not being decided early. A decision has been taken that all such cases be decided within six months of the filing of the charge sheet.

I am, therefore, directed to communicate that the directions as given above be complied with strictly by all the Judicial Officers.

(ii) Concerning directions laid down in the judgment dated 16th January, 1996 of Hon'ble the Supreme Court of India in Criminal Appeal No. 616 of 1985 (The State of Punjab v. Gurmit Singh and others)

C.L.No. 17/Admn. 'G'/dated March 25, 1996.

For trial by Lady Judges of the cases of sexual assault on the females, wherever available, avoiding the disclosure of the name of the prosecutrix in their judgments.

In pursuance of the order of Hon'ble the Supreme Court, I am directed to intimate that the cases of sexual assault on the females be tried by lady Judges, wherever available. Trials of Sexual assault cases be held in camera under the provisions contained in Section 327(2) and (3) Cr.P.C. and the mention of the name of the porsecutrix in Judgment be avoided.

I, therefore, directed that the aforesaid guidelines be strictly complied with and the Judgment* of Hon'ble the Supreme Court, on the said subject copy enclosed, be circulated for strict compliance of, the directions contained therein.

Criminal Appeal No. 616 of 1985
The State of Punjab v. Gurmit Singh

JUDGMENT
DR. ANAND J.

"….Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity but also inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim; a

* For perusal of Judgment See 1996 Cr.L.J. 1728(SC). An extract of the Judgment containing guidelines is being reproduced.

rapist degrades the very soul of the helpless female. The Courts, therefore shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Courts find it difficult to place implicit reliance on her testimony, it may look for evidence, which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.

There has been lately, lot of criticism of the treatment of the victims of sexual assault in the court during their cross-examination. The provisions of Evidence Act regarding relevancy of facts notwithstanding, some defence counsel adopt the strategy of continual questioning of the prosecutrix as to the details of the rape. The victim is required to repeat again and again the details of the rape incident not so much as to bring out the facts on record or to test her credibility but to test her story for inconsistencies with a view to attempt to twist the interpretation of events given by her so as to make them appear inconsistent with her allegations. The Court therefore should not sit as silent spectator while the victim of crime is being cross-examined by the defence. It must effectively control the recording of evidence in the court. While every latitude should be given to the accused to test the latitude of the prosecutrix and the credibility of her version through cross-examination, the court must also ensure that cross-examination is not made a means of harassment or causing humiliation to the victim of crime. A victim of rape, it must be remembered, has already undergone a traumatic experience and if she is made to repeat again and again, in unfamiliar surroundings, what she had been subjected to, she may be too ashamed and even nervous or confused to speak and her silence or confused stray sentence may be wrongly interpreted as "discrepancies and contradictions" in her evidence.

The alarming frequency of crime against women led the Parliament to enact Criminal Law (Amendment) Act, 1983 (Act 43 of 1983) to make the law of rape more realistic. By the Amendment Act, Sections 375 and 376 were amended and certain more penal provisions were incorporated for punishing such custodians who molest a woman under their custody or care. Section 114-A was also added in the Evidence Act for drawing a conclusive presumption as to the absence of consent in certain prosecution for rape, involving such custodians. Section 327 of the Code of Criminal Procedure, which deals with the right of an accused to an open trial, was also amended by addition of sub sections-(2) and (3) after renumbering the old Section as sub-section (1). Sub-sections (2) and (3) of section 327, Cr. P.C. provide as follows:

Section 327, Court to be open-

(2) Notwithstanding anything contained in sub-section(1), the inquiry into and trial of rape or an offence under Section 376, Section 376-A, Section 376-B, Section 376-C or Section 376-D of the Indian Penal Code shall be conducted in camera:

Provided that the presiding judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court.

(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the Court.

These two provisions are in the nature of exception to the general rule of an open trial. In spite of the amendment, however, it is seen that the trial Courts either are not conscious of the amendment or do not realize its importance for hardly does one come across a case where the enquiry and trial of a rape case has been conducted by the court in camera. The expression that the inquiry into and trial of rape "shall be conducted in camera" as occurring in sub-section (2) of Section 327 Cr.P.C. is not only significant but very important. It casts a duty on the court to conduct the trial of rape cases etc. invariably "in camera". The courts are obliged to act in furtherance of the intention expressed by the Legislature and not to ignore its mandate and must invariably take recourse to the provisions of Section 327(2) and (3) Cr.P.C. and hold the trial of rape cases in camera. It would enable to victim of crime to be a little comfortable and answer the questions with greater ease in not too familiar a surroundings. Trial in camera would not only be in keeping with the self-respect of the victim of crime and in tune with the legislative intent but is also likely to improve the quality of the evidence of prosecutrix because she would not be so hesitant or bashful to depose frankly as she may be in an open court, under the gaze of public. The improved quality of her evidence would assist the court in arriving at the truth and sitting truth from falsehood. The High Courts would therefore be well advised to draw the attention of the trial courts to the amended provisions of Section 327 Cr.P.C. and to impress upon the Presiding Officers to invariably hold the trial of rape cases in camera, rather than in the open Court as envisaged by Section 327(2) Cr.P.C. When trials are held in camera, it would not be lawful for any person to print or publish any matter in relation to the proceedings in the case, except with the previous permission of the Court as envisaged by Sec. 327(3) Cr.P.C. This would save any further embarrassment being caused to the victim of sex crime. Wherever possible it may also be worth considering whether it would not be more desirable that the cases of sexual assaults on the females are tried by lady Judges, wherever available, so that the prosecutrix can make her statement with greater ease and assist the Courts to properly discharge their duties, without allowing the truth to be sacrificed at the alter of rigid technicalities while appreciating evidence in such cases. The Courts should, as far as possible, avoid disclosing the name of the prosecutrix in their orders to save further embarrassment to the victim of sex crime. The anonymity of the victim of the crime must be maintained as far as possible throughout. In the present case, the trial Court has repeatedly used the name of the victim in its order under appeal, when it could have just referred to her as the prosecutrix. We need say no more on this aspect and hope that the trial Courts would take recourse to the provisions of Sections 327(2) and (3) Cr.P.C.

Liberally, trial of rape cases in camera should be the rule and an open trial in such cases an exception.

(iii) Statement showing pendency and disposal of cases relating to rapes, molestation, abduction, kidnapping and atrocities committed on woman.

C.L.No.53//VIIIh-13 Dated/December 11, 1997

This is in continuation of court's circular Letter No.16/VIIIh-13/dated 23.3.1996 by which you were required to dispose of cases relating to rape, and kidnapping atrocities committed on woman within six months from the date of filing the charge sheet.

In 50th Anniversary of India's Independence, the Government of India have included in its programme, the disposal of aforesaid cases expeditiously.

I am, therefore, to request you kindly to submit a statement showing year-wise pendency & disposal of the cases mentioned above to the court by 20th December 1997.

(iv) Case relating to violence against the women and to ensure speedy disposal.

C.L.No. 28/ VIID-108 dated: July, 5.2000

National Commission for women has made certain recommendation that the atrocities against the women have become a permanent issue and the High Court and Supreme Court denounced it. More attention in the court for dealing the cases of such nature against the women is required. Emphasis was also given by the Commission that a mechanism for having speedy disposal of cases be devised.

Hon'ble Court expressed with concern that in subordinate courts women litigants have to uniquely disproportionately and with unacceptable frequency endure a climate of condescension, indifference and hostility. Her cases are not given priority. At any rate, it is abundantly clear and it is necessary that conducive atmosphere is maintained in the courtroom and priorities are given in cases where in women is appearing either as witness or victim of the crime.

I am, therefore, directed to request you to bring into the notice of Civil Judicial Officers/Magistrate and other criminal courts to take up the cases relating to violence against women on priority basis and also to ensure speedy disposal. Further effective monitoring of such cases be also made so as achieve early resolution of disputes.

Strict compliance of the Guidelines laid down by the Hon'ble Apex Court in Vishakha and others v. State of Rajasthan and others; (1997) 6 SCC 241.

C.L. No. 29/2009/Admin. (G-II), Dated: May 30, 2009

The Hon'ble Apex Court in Vishakha and others v. State of Rajasthan and others; (1997) 6 SCC 241 has laid down certain guidelines to ensure the prevention of sexual harassment of women, which are as under:-

1. Duty of the Employer or other responsible persons in work places and other institutions:

   It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

(a) physical contract and advances
(b) a demand or request for sexual favour.
(c) Sexually colored remarks;
(d) Showing pornography;
(e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work, whether she is drawing salary, or honorarium or voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps:

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation, they should take the following steps:

(a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

(b) The Rule/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other Law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action:

   Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism:

   Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim; such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee:

   The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

   The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

   The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

   The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

8. Workers' Initiative:

   Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness:

   Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment:

    Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps

necessary and reasonable to assist the affected person in terms of support and preventive action.

11. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993."

In this regard, I am directed to say that the guidelines laid down by the Hon'ble Apex Court in the aforesaid case be complied with strictly in letter & spirit.

Recommendation made by the Inter Ministerial Committee constituted by Ministry of Overseas Indian Affairs, Government of India to curb the menace of the fraudulent overseas marriages and to determine legal action against such overseas Indian spouses.

C.L. No. 43/2009/Admin. 'G-II' Dated: Allahabad 2.9.2009

The Secretary, Ministry of Overseas Indian Affairs, Government of India has brought to the notice of Hon'ble Court on the issues relating to delivery of justice to the Indian women, who were married and thereafter deserted by their overseas husband to prevent such fraudulent marriages and to determine the possible legal action that could be taken against such overseas spouses.

Upon consideration of the matter, the Hon'ble Court is of the view that the situation, however, needs attention as it involves the right of the married women subjected to cruelty on demands of dowry, concealment of earlier/existing marriages, marriages of convenience; and deceit in marital affairs.

To overcome the problem and to determine possible legal action that could be taken against such Indian overseas spouses, the Hon'ble Court has desired that all such matters pending for maintenance before the Chief Judicial Magistrate and 1st Class Magistrates and the suits for restitution of conjugal rights, divorce and custody of children pending before the Civil Judges and Sessions Judges, wherever the family courts have not been set up, and all such cases, where the family courts are set up (in 12 districts in the State of Uttar Pradesh), should be put on Fast Track. Wherever the woman deserted by her overseas husband, is claiming maintenance, and is seeking some relief relating to her marriage including custody of children, the cases should be decided very expeditiously. All these cases should not be unnecessarily adjourned and that as far as possible these cases should be decided within a period of six months from the date they are instituted.

I am further directed to say that upon consideration of the matter the Hon'ble Court has desired that the District Judges concerned shall report back the data of such cases in every six month, so that the Court may suggests measures, if any unnecessary delay is being caused in such cases.

I am, therefore, directed to request you to kindly bring the above directions to the notice of all the Family Courts and all the Judicial Officers working under your administrative control for information and strict compliance.

64. INVESTIGATION

(i) Letter of request to competent authority for investigation in a country or place outside India and vice-versa.

C.L. No. 102/Vll-b-1/Admn.(G) dated November 16, 1990

I am directed to say that the Ministry of Home Affairs, Government of India has forwarded a copy of Notification No. 2/8/90- Judl. Cell dated 4.6.1990 (Copy enclosed) in pursuance of sub-section (2) of Section 166-A of the Code of Criminal Procedure, 1973 (2 of 1974), on the above subject, specifying the procedure to be followed in the above matter for being followed. A copy of the extra ordinary Gazette of India Part II dated 20.4.1990 is also enclosed herewith by which amendment has been made in the Code of Criminal Procedure.

I am, therefore, to request you kindly to apprise all courts under your supervision the contents of this Circular Letter for information and necessary action.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1990

(No.10 of 1990)

(20th April. 1990)

An Act further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty- first Year of the Republic of lndia as follows:-

Short title It and commencement.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1990.

(2) It shall be deemed to have come into force on the 19th day of February, 1990.

Insertion of new Sections 166-A and 166-B.

2 of 1974

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code of Criminal Procedure), in Chapter XII, after Section 166, the following sections shall be inserted, namely:-

Letter of request to competent authority for investigation in a country or place outside India.

"l66-A. (l) Notwithstanding anything contained in this Code, if, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court of an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

Letter of request from a country or place

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence

	collected during the course of investigation under this Chapter.	outside India to a Court or an authority for investigation in India.
	166-B.(1) Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit-	
	(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced; or	
	(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.	

(2) All the evidence taken or collected under sub-section (1) or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or Police Officer, as the case may be to the Central Government for transmission to the Court or the authority issuing the letter of request in such manner as the Central Government may deem fit."

Repeal and Saving	3 (1) The Code of Criminal Procedure (Amendment) Ordinance, 1990 is hereby repealed.	Ord. 1 of 1990
	(2) Notwithstanding such repeal, anything done or any action taken under the Code of Criminal Procedure, as amended by the said Ordinance, shall be deemed to have been done or taken under the Code of Criminal Procedure, as amended by this Act.	

(ii) Compliance of the direction or Hon'ble the Supreme Court issued in Writ Petition No. 340-343 of 1993 Vineet Narain and others vs. Union of India

C.L. No. 15/Vlllb-287 dated March 16, 1996

While enclosing a copy of the order passed, in the aforesaid Writ Petition, I am directed to communicate you and all the Judicial Officers posted in the Judgeships that the direction containing in the order* of Hon'ble the Supreme Court, be complied with.

I am therefore to direct you that the direction of Hon'ble the Supreme Court be brought to the knowledge of the officers posted in the Judgeship for strict compliance.

WRIT PETITION (CRL.) Nos. 340-343 OF 1993

Vineet Narain v. Union of India, 1996 (2) SCC 199: 1996 A Cr R 216 (SC)

J.S. Verma,
S.P.Bharucha
S.C. Sen, J.J.

* Reported in (1996)2 SCC 199: 1996 A Cr R 216 (SC): 1996 A W C 465 (SC)

ORDER

The true scope of this writ petition has been indicated during the earlier hearings. At this stage, when some charge sheets have been filed in the special court and there is considerable publicity in the media regarding this matter, with some speculation about its true scope, it is appropriate to make this order to form a part of the record.

The gist of the allegations in the writ petition are that Government agencies, like the CBI and the revenue authorities, have failed to perform their duties and legal obligations inasmuch as they have failed to properly investigate matters arising out of the seizure of the so called "Jain Diaries" in certain raids conducted by the CBI. It is alleged that the apprehending of certain terrorists led to the discovery of financial support to them by clandestine and illegal means, by use of tainted funds obtained through 'hawala' transactions; that this also disclosed a nexus between several important politicians, bureaucrats and criminals, who are all recipients of money from unlawful sources given for unlawful considerations; that the CBI and other Government agencies have failed to fully investigate into the matter and take it to the logical and point of the trail and to prosecute all persons who have committed any crime; that this is being done with a view to protect the persons involved, who are very influential and powerful in the present set up; that the matter discloses a definite nexus between crime and corruption in public life at high places in the country which poses a serious threat to the integrity, security and economy of the nation; that probity in public life, to prevent erosion of the rule of law and the preservation of democracy in the country, requires that the Government agencies be compelled to duly perform their legal obligations and to proceed in accordance with law against each and every person involved, irrespective of the height at which he is placed in the power set up.

The facts and circumstances of the present case do indicate that it is of utmost public importance that this matter is examined thoroughly by this Court to ensure that all Government agencies, entrusted with the duty to discharge their functions and obligations in accordance with law, do so, bearing in mind constantly the concept of equality enshrined in the Constitution and the basic tenet of rule of law: "Be you ever so high, the law is above you". Investigation into every accusation made against each and every person on a reasonable basis, irrespective of the position and status of that person, must be conducted and completed expeditiously. This is imperative to retain public confidence in the impartial working of the Government agencies.

In this proceeding, we are not concerned with the merits of the accusations or the individuals alleged to be involved, but only with the performance of the legal duty by the Government agencies to fairly, properly and fully investigate into every such accusation against every person, and to take the logical final action in accordance with law.

In case of persons against whom a prima facie case is made out and a charge sheet is filed in the competent court, it is that court which will then deal with that case on merits, in accordance with law.

However, if in respect of any such person the final report after full investigation is that no prima facie case is made out to proceed further, so that the case must be closed against him, that report must be promptly submitted to this Court for its satisfaction that the concerned authorities have not failed to perform their legal obligations and have

reasonably come to such conclusion. No such report having been submitted by the CBI or any other agency till now in this Court, action on such a report by this Court would be considered, if and when that occasion arises. We also direct that no settlement should be arrived at nor any offence compounded by any authority without prior leave of this Court.

We may add that on account of the great public interest involved in this matter, the CBI and other Government agencies must expedite their action to complete the task and prevent pendency of this matter beyond the period necessary. It is needless to observe that the results achieved so far do not match the available time and opportunity for a full investigation ever since the matter came to light. It is of utmost national significance that no further time is lost in completion of the task.

(iii) Implementation or directions of Hon'ble Supreme Court dated 29.8.1990 in Criminal Appeal No.386 of 1978 Kishore Chandra v. State of Himachal Pradesh

C.L. No. 23/IXf-69/Admn. (G) dated April 2, 1992

I am directed to send herewith a copy of the Government letter No. D 372/VII-Nyaya-3-1899/90, dated January 31, 1992 containing an extract of the Hon'ble Supreme Court's judgment*, dated August 29, 1990, on the above noted subject and to request you kindly to circulate a copy of this letter with enclosures to all the Judicial Officers under your supervision, the Bar Associations at Headquarters and at Tehsil levels, for their information and necessary action.

In this case, the Hon'ble Supreme Court has made the following observations:-

Before parting with the case, it is necessary to state that from the facts and circumstances of this case it would appear that the investigating officer has taken the appellant, a peon, the driver and the cleaner for ride and trampled upon their fundamental personal liberty and lugged them in the capital offence punishable under Section 302, I.P.C. by freely fabricating evidence against the innocent. Undoubtedly, heinous crimes are committed under great secrecy and that investigation of a crime is a difficult and tedious task. At the same time, the liberty of a citizen is a precious one guaranteed by Art. 3 of Universal Declaration of Human Rights and also Art. 21 of the Constitution of India and its deprivation shall be only in accordance with law. The accused has the fundamental right to defend himself under Art. 10 of Universal Declaration of Human Rights. The right to defence includes right to effective and meaningful defence at the trial. The poor accused cannot defend effectively and adequately. Assigning an experienced defence counsel to an indigent accused is a facet of fair procedure and an inbuilt right to liberty and life envisaged under Arts. 14, 19 and 21 of the Constitution. Weaker the person accused of an offence, greater the caution and higher the responsibility of the law enforcement agencies. Before accusing an innocent person of the commission of a grave crime like the one punishable under Section 302, I.P.C., an honest, sincere and dispassionate investigation has to be made and to feel sure that the

* For perusal of Judgment see Kishore Chandra v. State of Himachal Pradesh (1991) 1 SCC 286:1991 SCC (Cri) 172 : AIR 1990 SC 2140: 1990 Cr.L.J.2289 (SC).

person suspected of the crime alone was responsible to commit the offence. Indulging in free fabrication of the record is a deplorable conduct on the part of an investigating officer, which undermines the public confidence reposed in the investigating agency. Therefore, greater care and circumspection are needed by the investigating agency in this regard. It is time that the investigating agencies evolve new and scientific investigating methods, taking aid of rapid scientific development in the field of investigation. It is also the duty of the State, i.e. Central or State Governments to organize periodical refresher courses for the investigating officers to keep them abreast of the latest scientific development in the art of investigation and the march of law so that the real offender would be brought to book and the innocent would not be exposed to prosecution.

Though Art. 39A of the Constitution provides fundamental rights to equal justice and free legal aid and though the State provides amicus curiae to defend the indigent accused, he would be meted out with unequal defence if, as is common knowledge the youngster from the Bar who has either a little experience or no experience is assigned to defend him. It is high time that senior counsel practicing in the court concerned, volunteer to defend such indigent accused as a part of their professional duty. If these remedial steps are taken and an honest and objective investigation is done, it will enhance a sense of confidence of the public in the investigating agency.

We fervently hope and trust that concerned authorities and Senior Advocates would take appropriate steps in this regard.

क्रिमिनल अपील संख्या 386 आफ 1978 - किशोर चन्द ब. हिमाचल प्रदेश स्टेट से सम्बन्धित मामले में माननीय उच्चतम न्यायालय के निर्णय दिनांक 29.8.1990 के सम्बन्ध में।

राजकीय पत्र सं0 : डी 372/सात-न्याय-3-1899/90 दिनांक 31 जनवरी, 1992

उपर्युक्त विषय पर माननीय उच्चतम न्यायालय के निर्णय दिनांक 29 अगस्त, 1990 की एक फोटो प्रति संलग्न करते हुए मुझे यह कहने का निदेश हुआ है कि इस निर्णय में माननीय उच्चतम न्यायालय द्वारा दिए गए निदेशों/आलोचनाओं के अनुपालन हेतु समुचित कार्यवाही करने का कष्ट करें तथा कृत कार्यवाही से कृपया शासन को भी अवगत कराने का कष्ट करें।

C. L. No. –21/12006 : Dated: 29 May, 2006

I am directed to invite the attention of all the Judicial Officers towards order passed by Hon'ble Court in Criminal Misc. Writ Petition No. 2173 of 2006-Nardev @ Tomy & Ors. vs. State of U.P. & Ors.

In which Hon'ble Court has observed that the Magistrates are not careful at the time of passing orders under Section 156 (3) Cr.P.C. while they ought to be careful in scrutinizing individual cases as also the orders should not be passed on routine basis.

Therefore, while enclosing herewith a copy of judgment and order dated 22.2.2006 passed by Hon'ble Court in Criminal Misc. Writ Petition No.2173 of 2006 - Nardev alias Tomy and others Vs. State of U.P. and others, I am to request you to kindly circulate the copy of the judgment to all the Magistrate under your supervision and control in judgeship for their guidance and strict compliance.

C. L. No. 51/2006: Dated: 15.11.2006.

The Hon'ble Court while passing judgment /order In criminal Misc. application No. 6152 of 2006 -Smt. Masuman Vs. State of U.P. and others has expressed deep

anguish over non-observance of the provisions under Section 156(3) Cr.P.C in its true spirit by the Judicial Officers, which in the Court's observation has made the provIsion of 156(3) of the Code otiose.

Therefore In continuation of the Court's earlier Circular letter no.21 of 2006 dated 291t1 May I 2006 , I have been directed to send herewith a copy of the judgement and order dated 25.09.06 passed by the Hon'ble Court in above criminal misc. application 6152 of 2006- Smt. Masuman Vs. State of U.P. and others connected with various other Criminal misc. applications with the request to kindly ensure that the provisions as contained In Section 156(3) of Cr.P.C are strictly followed by the Judicial Officers in the Judgeship under your supervision and control while providing them with a copy of the Judgement and order aforesaid for their intimation, guidance & compliance.

(iv) Guidelines regarding application of provisions as contained in Section 156(3) Cr.P.C.

C.L. No. 5/08/Admin 'G' Section Dated: Allahabad: 21.01.2008

I am directed to say on the above subject that the Hon'ble Court has been pleased to withdraw the Court's Circular Letter No. 51 of 2006 Dated 15.11.2006 issued as a guideline for application of the provisions as contained in Section 156(3) of Cr.P.C.

Therefore you are requested to kindly bring this fact to the knowledge of all the Judicial Officers working under your administrate control for information.

65. JURISDICTION

(i) Special Courts under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

C.E. No.77 Main B-Admn. (D) dated July 30, 1990

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution, the Governor is please to order the publication of the following English translation of Notification No. 44/VII.A.N.124/89, dated January 30, for general information.

Notification/Misc. No. 44/VII-A.N. 124/89 dated January 30, 1990.

In exercise of the powers under Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No.33 of 1989), the Governor, with the concurrence of the Chief Justice of High Court of Judicature at Allahabad is pleased to specify the District and Sessions Judges of Pauri Garhwal, Chamoli, Tehri Garhwal, Uttarkashi, Almora and Pithoragarh and the second Additional District and Sessions Judges of other districts of Uttar Pradesh to be the Special Courts of their respective districts try the offences under the said Act.

(ii) Withdrawal of the powers of Assistant Sessions Judge, earlier conferred on Court of Small Causes, Civil Judges and Additional Civil Judges, and of recess facility to them.

C. L. No. 50/IV-g-27; dated May 21, 1994

I am directed to say that Court's Circular Letter No. 26/IV-28, dated March 23, 1949 by which the Judges of the Court of Small Causes, Civil Judges and Additional Civil Judges were appointed as Ex-officio Assistant Sessions Judges, was reconsidered

by the Court and on reconsideration the Court has revoked the aforesaid Court's Circular Letter with immediate effect.

I am further to say that all the Civil Judges/Additional Civil Judges, Judge Small Causes Court and Additional Judge Small Causes Courts in the State are conferred powers under Section 11(3) of the Code of Criminal Procedure, 1973 by the Court vide Notification No. C-394/JR (S) /94, dated, Allahabad, May 21, 1994, copy enclosed.

The Civil Judges/Additional Civil Judges, Judge Small Causes Court/Additional Judge Small Causes Court who used to avail sessions recess as they were earlier exercising powers of Assistant Sessions Judges shall not be allowed any recess, instead these; officers after conferment of powers under Section 11(3) of the above mentioned Code may be detained during summer vacations, winter vacation in the Hills for doing the criminal work as Additional Chief Judicial Magistrates.

So far as Civil powers are concerned, the Government of Uttar Pradesh has already in exercise of the powers under clause (b) of sub-section (1) of Section 36 of the Bengal, Agra and Assam Civil Courts Act, 1887 invested in consultation with the High Court, the powers of the Court of Civil Judge on all the Additional Chief Judicial Magistrates in Uttar Pradesh vide notification No. 969/VII-A.N.-214-90, dated March 6, 1990 and communicated to the District Judges vide Court's Circular Letter No.38, dated, March 21, 1990.

I am, therefore, to request that the contents of this Circular may be brought to the notice of all concerned.

HIGH COURT OF JUDICATURE AT ALLAHABAD

NOTIFICATION

No. C-394/JR (S)/94 dated May 21, 1994

In exercise of the powers conferred under Section 11(3) of the Code of Criminal Procedure, 1973, the High Court is pleased to confer the powers of Judicial Magistrate, First Class upon all the Judges Small Causes Court, Additional Judges, Small Causes Court, Civil Judges and Additional Civil Judges in the State.

(iii) Special court for trying cases under section 122 D (7)198A (7) and 211 (5) of U.P.Z.A. and L.R. Act and section 27 (6) of U.P. Imposition of Ceiling on Land Holdings Act.

C.L.No.45/Admn-A3 dated : Allahabad: 14th October, 1997

With reference to the court's letter No.19161/Admin.A-3 dated November 15, 1996 on the above subject I am directed to request you kindly to furnish data of cases pending section 122 D(7), 198(7) and 211 (5) of the U.P. Zamindari abolition and land reforms Act and Section 27(6) (g) of the U.P. Imposition of ceiling on Land Holdings Act in your judgeship, to the court immediately.

(iv) Conferment of powers of Special Courts to one of the existing Sessions Courts to try cases falling under the Electricity Act-2003.

C.L. No. 29/main-B/Admin.(a-3) Dated : 21.9.2004

On the above subject, I am sending herewith a copy of Government Notification no. 1232/VII-Nyaya-2-2004-206/81, dated August 31,2004, regarding constitution of IV Senior most court of Additional District & Sessions Judge in each district as Special court under section 153 of the U.P. Electricity Act-2003 and where such Additional District and Sessions Judge is not available, the Senior most Additional District & Sessions Judge of the district as special court under the aforesaid Act.

I am, therefore, to request you kindly to ensure compliance of the aforesaid Government Notification.

विद्युत अधिनियम 2003 (अधिनियम संख्या-36 सन् 2003) की धारा 153 के अधीन शक्ति का प्रयोग करके राज्यपाल उक्त धारा की उप धारा (1) के अधीन जिले के समस्त चतुर्थ वरिष्ठतम अपर एवं सत्र न्यायाधीश के न्यायालयों को, और जहॉ ऐसे न्यायालय नहीं है, वहां जिले के वरिष्ठतम अपर जिला एवं सत्र न्यायाधीशों के न्यायालयों की विशेष न्यायालय के रूप में गठित करते है और उच्च न्यायालय इलाहाबाद के मुख्य न्यायाधीश की सहमति से उक्त न्यायालयों के समस्त पीठासीन अधिकारियों को अपनी अपनी अधिकारिता के भीतर उक्त अधिनियम की धारा 135(4) के अधीन निर्दिष्ट अपराधों के शीघ्र विचारण के प्रयोजन से उक्त न्यायालयों के न्यायाधीश के रूप में नियुक्ति करते हैं।

66. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

(i) Constitution of Special Court under Narcotic Drugs and Psychotropic Substances Act, 1985

C.L. No. 103/Main 'B' dated November 16, 1990

I am directed to request you kindly to furnish the figures of cases pending in your Judgeship under the aforesaid Act, as on 31.10.1990, along with your proposal for the Additional District Judge/Additional Sessions Judge to be nominated for the purpose for trial and disposal of cases, under the aforesaid Act, to the Court, at an early date, so that the Government may be moved with full facts and figures.

I am to add that with regard to the districts of Agra, AIlahabad, Aligarh, Bareilly, Faizabad, Ghaziabad, Gorakhpur, Jhansi, Kanpur Nagar, Lucknow, Meerut, Moradabad, Nainital, Saharanpur and Varanasi, it may also be intimated that at present which Court has been nominated to deal with such cases in your respective district.

(ii) Committee for the review of N.D.P.S. Cases

C.L.No. 14 dated : May 20, 1999

I am directed to say that in the light of directions contained in writ petition No.307of 1993- Supreme Court Legal Aid Committee Vs. Union of India & others, a committee for the review of N.D.P.S. Cases in the courts of the State of Uttar Pradesh was constituted by state Government. While Hon'ble Chairman of the Committee was assessing N.D.P.S. Cases pending in the Subordinate courts, the committee experienced certain irregularities and difficulties in the course of the meeting. Recommendations contained in the report of the committee were considered by the court and the court issues the following guidelines which be followed in the disposal of like cases:-

1. In cases where charge sheet is filed against the accused who were absconding for a long period and sureties were also not available the court should start proceedings under section 299 Cr. P.C. and thus to dispose of the cases in the manner as provided in law.

2. Similar is the situations in which accused jumped bail and is absconding.

3. Court should expedite the cases of those persons who have previous Narcotics history, are resident of other district and are in jail for a long period.

4. In cases where charge sheet is submitted without the report of chemical examiner, the court before accepting the charge sheet must direct the Investigating Officer to file the charge sheet along with report of Chemical Examiner.

5. Where police had challaned persons under Narcotic not having in their possession 'Bhang', 'Bhang' is not Narcotic as define in the Act, court should dispose such cases according to law.

It has also come to the notice of the court that list in the district are not being prepared as per directions. District Judges should see that the lists are prepared as per directions.

I am, therefore, to request you kindly to bring the contents of this letter to all the concerned Judicial Officer for their information and strict compliance.

C. L No: 31 /2006: Dated: *7.8.* 2006

While deciding Criminal Misc. Application NO. 1239 of 2002 - Rajesh Singh Vs. State of U.P. the Hon'ble Court has observed with concern that the provisions as contained in N.D.P.S. Act and Cr. P.C. are not being followed in true spirit by the Judicial Officers in the Subordinate Courts. The Hon'ble Court has observed in the matter quoted herein as below:-

> "....the original provisions of the N.D.P.S. Act, 1985 has been substantially amended by the amending Act No.9 of 2001, Section 36-A of the original Act provided for trial of offences under the Act by the Special Courts. This section has been amended and amended sub clause 1 (a), which is relevant for the purpose of this petition, is extracted below:
>
> > Section 36-A --"Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-
> >
> > a) all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one 01: them as may be specified in this behalf by the Government."
>
> Sub-clause (5) of the said section is also relevant and is extracted below:
>
> > Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offences punishable under this act with imprisonment for a term of not more than three years may be tried summarily."

4. From the perusal of the above provision along with Section 4 of the Cr.P.C., It is clear that in case the punishment provided for the offence under the N.D.P.S. Act is more

than three years, the offence is triable by Special Court and to that extent the provision of Section 36-A NDPS Act over rides the provisions of the Cr.P.C. The trial for offences under the N.D.P.S. Act, which are punishable for imprisonment of three years or less, should be a summary trial by the Magistrate under Chapter XXI of the Cr .P .C. For the purpose to further clarify the position of law, it is also necessary to refer to Section 4 Cr .P .C., which is as follows:-

> Section 4 "Trial of offences under the Indian Penal Code and other laws - (1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, enquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.
>
> (2). All offences under any other law shall be investigated, enquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, enquiring into, trying or otherwise dealing with such offences.

5. The above clause (2) therefore, show that all the offences should be tried according to the provisions of Cr. P.C. except where there is special provision in any other enactment regarding the trial of any offences. Section 36-A of N.D.P.S. Act only provide for trial by Special Courts for offences punishable under N.D.P.S. Act with imprisonment for a term of more than three years only. Therefore, if an offence is punishable with imprisonment for a term up to three years, it shall have to be tried by the Magistrate in accordance with the provision of Section 4 (2) Cr.P.C.

6. It will not be out of place to mention that after the enforcement of amending Act No.9 of 2001 this procedure for trial has to be followed for all the offences irrespective of the date of commission of the offence. It is basic principle of law that amendment in procedural law will apply to the pending cases also. Not only this there is also specific provision regarding it in amending Act No.9 of 2001. Section 41 of the Act provides as follows:-

> Section 41: " Application of this Act to pending cases -(1) Notwithstanding anything contained in sub section (2) of Section 1, all cases pending before the Courts or under investigation at the commencement of this Act shall be disposed of in accordance with the provisions of the principal act as amended by this Act and accordingly, any person found guilty of any offence punishable under the principal Act, as it stood immediately before such commencement shall be liable for a punishment which is lesser than the punishment for which he is otherwise liable at the date of the commission of such offence:
>
> Provided that nothing in this section shall apply to cases pending in appeal.
>
> (2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Act has not come into force."

8. Now the next question that arises for decision is as to what is the punishment provided for the present offence under amended N.D.P.S. Act. It appears that the punishment for recovery of Narcotic Drugs or Psychotropic Substance has been divided in 3 categories as mentioned in the table given at the end of the Act. In this table, 2

columns No.5 and 6 are material, the first is regarding the small quantity and the other is regarding commercial quantity. The third category will follow from this table where the quantity is above small quantity but is less than commercial quantity. The ganja has been given at live No.55 'of this table, 1000 gm of ganja has been categorized as small quantity and 20 kg. of gania has been categorized as commercial quantity. Accordingly, to the third category in respect of recovery of ganja is above 1 kg. and below 20 kg.

In view of the above observations of the Hon'ble Court, I am

directed to send herewith a copy of the judgement passed in the aforesaid Crl. Misc. Application for your information and to kindly bring the contents of the circular letter as also judgement to the notice of all the Judicial Officers in the Judgeship for their guidance.

C. L. No. 36/2006/Admin 'G': Dated: 10.8. 2006

While hearing Criminal Misc. Bail Application No.5108 of 2006-Jagdish Vs. State of U.P., the Hon'ble Court has observed with concern that the recovered article under N.D.P.S. Act is not being weighed either by the arresting officer or by the S.H.O. concerned as also by the Magistrate who grants the first remand to the accused. The Hon'ble Court has further observed that the learned Sessions Judge who dispose of the bail application of the applicant even do not care to get the recovered article weighed while after the amendment of 2003 of N.D.P.S. Act, 1985 the weight of recovered article goes to the root of the Jurisdiction because only the weight of recovered article determines the jurisdiction. .

I am, therefore, directed to request you that all the recovered articles under N.D.P .5. Act as and when are recovered be weighed either by the arresting officer or the S.H.O. of the Police Station concerned and in case both the authorities fail to discharge their duty it is incumbent upon the Special Judge/Magistrate who grants first remand to the accused to get the recovered article weighed.

Now, while enclosing herewith a copy of order passed in Criminal Misc. Bail Application No.5108 of 2006-Jagdish Vs. State of U.P. aforesaid, I am further to request you to kindly ensure strict compliance of the directions as contained in the circular letter by all the Judicial Officers working under your supervision and control in the judgeship faithfully and punctually.

Compliance of the directions passed by Hon’ble Court in Criminal Jail Appeal No. 6680 of 2006 (In S.T. No. 23 of 2006 arising out of Case Crime No. 567 of 2006 P.S. Dhampur, District Bijnor.)

C.L. No. 15/2009/Admin. ‘G-II’: Dated: April 9, 2009

The Hon’ble Court while deciding the Criminal Jail Appeal No. 6680 of 2006 Lalit alias Kalliya Karak Behadur versus State of U.P. arising out of S.T. No. 23 of 2006 pertaining to Crime No. 567 of 2006 P.S. Dhampur, District Bijnor, reduced the punishment awarded from 10 years RI to 2½ years and has provided the guidelines for awarding punishment to the effect that it is fair and justifiable to adjust the sentence in conformity with the scheme of sentence in the NDPS Act, 1985 and to fix the quantum of sentence in proportion to the sentence given in scheme of the Act.

Therefore, while enclosing a copy of the judgment passed in above mentioned case, I am directed to request you to kindly adhere to the guidelines as provided above, while awarding punishment in cases covered under the NDPS Act.

I am further to request you to kindly bring the contents of the Circular Letter to the knowledge of all the Judicial Officers working under your administrative control for strict compliance.

Disposal of cases involving petty offences

C.L. No. 23/2010/Admin. E (F.T.C. Cell): Dated 12.08.2010

I have been directed to say on the above subject that the Hon'ble Court has directed as follows:-

(1) That the Chief Metropolitan Magistrate and all Addl. Chief Metropolitan Magistrates/Metropolitan Magistrates/Chief Judicial Magistrates/Addl. Chief Judicial Magistrates/Judicial Magistrates/Civil Judges (Junior Division) has empowered for summary trial under Section 260(1)(C) of Cr.P.C. shall issue Special Summons under Section 206 Cr.P.C. on Form No. 30 of Schedule-II of Cr.P.C., in the following form:-

"Form No. 30

SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

To …….. (Name of the accused) ……..of …… (address)

WHEREAS your attendance is necessary to answer a charge of a petty offence ……..(state shortly the offence charged), you are hereby required to appear in person (or by pleader) before …….(Magistrate) of …….on the …….day of …….20 ……, or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty in writing and the sum of ……rupees as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein

this ……..day of …….. 20…….

(Seal of the Court) (Signature)"

A note shall also be mentioned on the aforesaid Special Summons that if the accused desires to deposit the amount of fine after pleading guilty, he may deposit the fine in the Bank. The Special Summons will be enclosed a receipt in three parts with the mention of particulars of the case, the amount of fine to be deposited and the Account Number of the Bank. One part or such receipt shall be given to the litigant after he deposits fine in the Bank, the second part shall be sent by the Bank to the court concerned and third part shall be retained by the Bank.

(2) That with effect from 1st of July, 2010, a separate register shall be maintained for registering the cases involving petty offences and if possible, the registration of such cases can be done directly on computer.

(3) The office of the District Court shall identify all such cases, which deal with petty offences and ensure that sufficient number of cases are listed before the Courts each day and the summons are issued immediately after orders are passed by the Courts.

(4) A Website be created for each District containing details of such cases involving petty offences where summons have been issued.

(5) A Centralized Account be opened in each District in one Bank for the purpose of deposit of fine by the accused persons against whom special summons are issued and the same can be transferred in the Government Account where amount of fine is deposited.

(6) Each District Judge shall inform the High Court every fifteen days about the progress made in his district so that the data can be compiled and placed before the Committee monitoring the disposal of such cases.

I am, therefore, to request you to kindly direct all concerned under your administrative control to ensure compliance of the above directions of the Hon'ble Court in right earnest.

67. PETTY CRIMINAL CASES

(i) Transfer of Petty Criminal Cases under the Local and Special Acts to the Courts of Executive Magistrate having powers of special Judicial Magistrate First Class

C.L. No. 47/Admn. (A) dated May 19, 1994

I am directed to send herewith a copy of G.O. No. 4521/8/9/26(5)/89, dated August 2, 1989, issued by the Special Secretary, Government of U.P., Home (Police) Section-9, Lucknow, addressed to all the District Magistrates of U.P., regarding disposal of petty criminal cases by the Executive Magistrates having powers of Special Judicial Magistrates and to request you kindly to get 100 petty criminal cases in which the offence is punishable with fine only under the Special and Local Acts and in which the offence is triable by the Special Executive Magistrates who have been conferred with such powers of Special Judicial Magistrate, by this Court from time to time, under Section 13(3) of Code of Criminal Procedure, 1973 (Act No. 2 of 1974), transferred to the Court of Executive Magistrates posted in his District immediately under intimation to the Court and the list of such cases transferred to the Courts of Executive Magistrates may also be sent to this court as well as to the Government.

कार्यपालक मजिस्ट्रेट द्वारा छोटे फौजदारी मुकदमों के निस्तारण एवं उनका सावधिक विवरण भेजने के संबंध में।

शासनादेश संख्या-4521/आठ-9-26/5/89, गृह (पुलिस) अनुभाग-9 दिनांक 2 अगस्त,1989

दिनांक 7.4.89 को उच्च न्यायालय के वरिष्ठ न्यायाधीश माननीय श्री के0सी0अग्रवाल की अध्यक्षता में हुई बैठक में यह निर्णय लिया गया था कि प्रयोग के तौर पर माननीय उच्च न्यायालय द्वारा जिला न्यायाधीशों को इस आशय के निदेश दिये जायेंगे कि जिलों में नियुक्त ऐसे कार्यपालक मजिस्ट्रेट्स जिन्हें न्यायिक मजिस्ट्रेट के अधिकार प्राप्त हैं, को सौ-सौ छोटे अपराधों के मुकदमें स्थानान्तरित कर दिये जाये।

2- *उपर्युक्त बैठक में ही यह जानकारी दी गयी कि द0प्र0सं0 की धारा 107/117,145 एवं 133 के मुकदमें तथा यू0पी0 एक्ट नं0* XIII *आफ 1972 के अन्तर्गत आबंटन/रिलीज के मुकदमें जो कार्यपालक मजिस्ट्रेट् के न्यायालय में दायर किये जाते हैं, का समय से निस्तारण नही किया जाता है और उनके निस्तारण एवं जुर्माने की वसूली के बारे में आवश्यक सावधिक विवरण संबंधित मुख्य न्यायिक मजिस्ट्रेट्/मख्य मैट्रोपोलिटन मजिस्ट्रेट को नहीं भेजे जाते हैं।*

3- *उक्त के सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि समस्त जिलाधिकारी यह सुनिश्चित करेंगें कि प्रस्तर -1 में उल्लिखित माननीय उच्च न्यायालय के निर्देश पर जब भी फौजदारी मुकदमें कार्यपालक मजिस्ट्रेट्स के न्यायालयों में प्राप्त होते हैं तो उनका तत्परता पूर्वक निस्तारण किया जाता है। यह भी आवश्ख्यक होगा कि जिलाधिकारी कार्यपालक मजिस्ट्रेट् के न्यायालय में वर्तमान में लम्बित फौजदारी मुकदमों के निस्तारण में विलम्ब के कारणों की समीक्षा कर लें और कार्यपालक मजिस्ट्रेट्स को समुचित निर्देश देकर उनका तत्परतापूर्वक निस्तारण कराया जाना तथा कार्यपालक मजिस्ट्रेट्स के न्यायालयों में लम्बित/निस्तारित होने वाले मुकदमों के संबंध में नियमानुसार सावधिक विवरण (रिटर्नस) मुख्य न्यायिक मजिस्ट्रेट्/मुख्य मैट्रोपोलिटन मजिस्ट्रेट्स को भविष्य में समय से प्रेषित किया जाना सुनिश्चित करें।*

C.L.No.17/Main 'A'/ J.R (I) dated: 21-4-2000

The Government of Uttar Pradesh, by Notification no. 3093/VII-Nayay-2-201 G/92 dated 26.8.96, had established courts of special Judicial Magistrate, I class and of special metropolitan Magistrate in only 46 districts of the state of UP. As defined in Rule 2 of the Uttar Pradesh Petty Offences (Trial by Special Judicial Magistrate) Rule, 1997, Special Judicial Magistrate will try petty offences. In order to dispose of the pendency of petty cases, Hon'ble court is considering for creation of further courts of Special; Judicial Magistrate. In this regard, the details of pending cases in your judgeship, which can be triad Special Judicial Magistrate/ Special Metropolitan Magistrate are required.

I am, therefore, to request you kindly to submit details showing number of pending cases of petty offences, which can be triad by Special Judicial, Magistrate/ Special Metropolitan Magistrate in your Judgeship to the Hon'ble court at the earliest.

C.L.No.19/ Main 'A'/J.R. (I) /Dated: May 12, 2000

This is in reference to court's circular letter No. 17/main 'A' /J.R. (I) dated 21.4.2000 pertaining to pendency of cases of petty offences in your Judgeship. With a view to dispose of the cases, Hon'ble court is considering for creation of more court of Spl. Judicial Magistrate/ special Metropolitan magistrate in the district.

I am to say that Government of India has also sought information by 31.5.2000 for creation of more courts of special Judicial Magistrate/Special Metropolitan Magistrate in the district of Utter Pradesh, which has to be furnished to Parliament in respect of parliamentary question.

In order to prepare proposal on the aforesaid reference, information on the following proforma is to be obtained from you:-

1. Total number of pending cases of petty offences in your Judgeship as on 01.4.2000.
2. Indicate probable number of post of SJM/SMM (excluding existing posts) as per norms, if required, to be created on the basis of pendency of cases in your Judgeship.

I am, therefore, to request you kindly to furnish the latest information as on 1.4.2000 on the above proforma to the court by return post/fax.

C. L. No. 56/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has been pleased to observe that the pendency of criminal cases has swelled to a large extent by inclusion of criminal cases of petty nature and the same could be brought down by making maximum use of the provisions made under

Section 206 (1) Cr. P.C. which provides for summary disposal of such cases by the Magistrates U/s 260 of Cr.P.C.

Therefore, I am directed to request you to kindly bring contents of this Circular Letter to all the magistrates working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit.

68. PREVENTION OF CRUELTY OF ANIMALS

(i) Copy of Judgment dated 19.1.96 passed by Hon'ble Mr. Justice A.N. Gupta in Criminal Misc. Case No. 25 of 1996 (Bal Gangadhar Tripathi & another v. State of U.P. and another) regarding prevention of Cruelty to animals

C.L. No. 5/Admn. 'G'/dated February 14, 1996

I am directed to send a copy of Judgment dated 19.1.96 in Criminal Misc. Case No.25 of 1996 (Bal Gangadhar Tripathi and another v. State of U.P. and another), on the above subject, for guidance of all the Courts.

Criminal Misc. Case No. 25 of 1996

Bal Gangadhar Tripathi V. State of U.P. Hon'ble A.N. Gupta, J.

Eight trucks loaded with calves from Kosi Kalan district Mathura and one truck similarly loaded from Kanpur were proceeding towards Bihar and on 12.12.95 when a Police Party headed by S.I. Shiv Murti Singh was informed that they were loaded mercilessly and cruelly in those trucks without proper documents, he intercepted them at about 9.00 p.m. within jurisduction of his Police Station, namely, Akbarpur district Faizabad (Ambedkar). They were coming on a high speed and when the police party signaled them to stop, they tried to run away by increasing the speed but incidentally railway crossing ahead was found closed and motor trucks had to stop there which were seized by the chasing police party. It was found that these trucks were loaded with 44, 44,42,42,43,27,27,29 and 27 calves, respectively, in all 325 calves. On checking, it was found that the trucks neither had proper documents of their registration etc. nor there was any certificate or licence or any medical certificate that these calves were fit to be slaughtered. They were found mercilessly and cruelly stacked almost like goods in the said trucks. Accordingly, the police party seized the said trucks and the calves and a Case Crime No.514 of 1995 under section 11(d) of U.P. Prevention of Cruelty to Animals Act, 1960, Section 7 of Criminal Law Amendment Act and 3/8 U .P. Prevention of Cow Slaughter Act.

Sri Bal Gangadhar Tripathi who is petitioner No.1 before me, although an Advocate by profession based at Faizabad but is engaged in advancement of prevention of cruelty to animals. With the same mission petitioner No.2 Bhola Nath is working at Faizabad. They have set up an Organization known by the name of "Go Vansh Evam Go Sanrakshana Sanvardhan Parishad". These calves were given in the Supurdgi of petitioner No.1. The case is still under investigation. Some of the persons were owners of the trucks as well as calves loaded therein and in some cases owners of the trucks and the calves were different persons. All of them applied before learned Magistrate for release of the trucks as well as of the calves. Both the petitioners requested the learned Magistrate to give them opportunity of hearing, which was granted. After hearing the

applicants and the petitioners, the learned Magistrate rejected the release applications. Thereafter, those owners filed revisions before learned Sessions Judge which are pending. In those revisions, the two petitioners applied for an opportunity of hearing but the same has been rejected by him by means of the impugned order dated 10.1.96. Now, the petitioners in keeping with their mission have approached this Court under section 482, Cr. P .C. by filing this petition.

A perusal of the order of learned I Addl. Sessions Judge, Faizabad shows that he held that under Section 301 Cr .P .C. the persons who are neither complainants nor accused before the court, have any right of hearing and in any case since neither any inquiry, trial or appeal was pending, the petitioners could not be heard. He also observed that in criminal cases it is the Government which has to protect rights of the citizens and for the purposes of criminal machinery since the Government has, appointed Public Prosecutors, it was not necessary to hear the petitioners.

The animals are national assets. They are not only essential for the human living as they provide milk etc. but they help in maintaining ecological balance, even they help in maintaining proper environment. Although the different Legislatures have passed enactments for prevention of cruelty to animals but the Government machinery and Governmental efforts by themselves are not sufficient and therefore, the voluntary organizations have definitely an important role to play in the matter. It is very rare to find any private citizen approaching a court of law for prevention of cruelty to animals. In fact, it is voluntary organizations and the persons having zeal and mission who come to court and bring the matter to the notice of the Court or to the notice of the appropriate governmental authorities. Thus, these matters are in the nature of public interest litigation although the cases may be tried or concluded largely within the frame work of the Code of Criminal Procedure. In such matters to deny a right of hearing to the voluntary organisation would be unjust and improper. In fact, a Division Bench of this Court in the case (in which I was also a Member) Vishwa Hindu Adhivakta Sangh v. Union of India 1993 LCD 112 (paragraph 62) observed that in matters of larger public interest the court must hear those persons who are vitally interested in the out-come of those cases. The Hon'ble Supreme Court in the case of State of West Bengal & others v. Ashutosh Lahiri & others, (1995) 1 Supreme Court Cases 189 held that any person representing Hindu community challenging exemption granted under Section 12 of West Bengal Animal Slaughter Control Act to cow slaughtering on Bakri'd-day, has a locus standi to be heard in the matter. Further, under Article 48 of the Constitution in Part IV relating to Directive Principles of State Policy, it has been provided that the State shall have endeavour to prohibit the slaughter of cows and calves and other mitch and draught cattle. These matters cannot be decided just by narrowly interpreting Section 301 Cr.P.C. Even if Section 301 in strict terms may not be applicable to the facts of the case yet being almost in the nature of Public Interest Litigation and the petitioners being vitally interested in the same it would be just and proper to permit them to have a hearing in the revision because apart from other things in such matters the prosecution or accused may not bring forth all the relevant facts in order to escape from clutches of law and therefore, voluntary organizations which are represented by the petitioners should be heard by the courts.

In the result, this petition under section 482 Cr.P.C. is allowed. Order dated 10.1.96 passed by learned I Addl. Sessions Judge, Faizabad is hereby quashed. It is directed that the petitioners shall be heard in the revisions pending before him. It is made clear that the learned Sessions Judge shall not be influenced by any observations made in this judgment so far as merits of the revisions pending before him are concerned.

Copy of this judgment shall be furnished to the petitioners as well as to the learned Government Advocate free of cost, within five days.

The Registrar is directed to circulate a copy of this judgment to all the courts in Uttar Pradesh for their guidance.

69. RELEASE OF INMATES OF PROTECTIVE HOMES

(i) Circulation of the copy of order passed by the Hon'ble Supreme Court on 12.4.93 in writ petition No.1900/1981 Dr. Upendra Bakshi v. State of U.P. No. 5777 dated May 15, 1993

I am desired to enclose here with a copy of the order* passed by the Hon'ble Supreme Court on 12.4.93 in the aforementioned writ petition for the necessary compliance by the subordinate courts.

Extracts of Judgment

In this public interest litigation petition the State Government was requested to evolve a scheme for rehabilitation of girls lodged in protective homes in the State so as to enable the Court to lay down broad guidelines for administration of protective homes under Suppression of Immoral Traffic in Women and Girls Act at the final hearing of the writ petition. The State Government had shifted the Protective Home at Agra in the new building. The Hon'ble Apex Court directed the State Government to carry out the following directions:

(1) The approach road to the new building shall be made into a pucca or semi-pucca road so that it does not get blocked or waterlogged by rain. This shall be done within 3 months from today.

(2) The big hall as also three rooms used as classrooms and the kitchen shall be provided with cross ventilation by putting up sufficient number of windows so as to ensure passage of air in and out of the rooms. The District Judge or the Additional District Judge nominated by him shall determine how many windows are necessary to be constructed for this purpose.

(3) Exhaust fans shall be provided in the big hall, three classrooms, kitchen and offices.

(4) The State Government shall provide police protection throughout day and night for the inmates of the Protective Home in the new building.

(5) The State Government shall either provide accommodation to the staff of the Protective Home in or near the new building or provide conveyance to the member of the staff for coming to the Protective Home and going back to their

* For perusal of Judgment see AIR 1987 SC 191 : 1986(4) SCC 106

respective homes unless public transport is available in the immediate vicinity of the Protective Home.

(6) Mosquito nets have been provided by the State Government to each and every inmate as also to the members of the staff staying in the Protective Home but if that has not yet been done, the State Government shall immediately take steps to provide mosquito nets to each and every inmate and member of the staff staying in the Protective Home.

(7) The State Government shall provide a conveyance for taking the inmates to the court and bringing them back to the Protective Home and similarly, conveyance shall also be provided to the District Judge or Additional District Judge inspecting the Protective Home.

(8) The District Manager (Telephones), Agra shall immediately shift the telephone to the new building and whatever steps are necessary for this purpose shall be taken by the State Government without any delay.

(9) The State Government shall immediately provide cooking gas in the kitchen so that it is not necessary to use wood for cooking which may emit a lot of smoke and lead to discomfort and suffocation on account of lack of ventilation.

(10) The State Government shall immediately proceed to carry out rewiring as also to install the electric meter in a safe place where there is no dampness. The latest Inspection Report of the Additional District Judge dated June 30, 1986 revealed that the electric meter has been shifted to the chamber of the Superintendent. The new place to which it is shifted is not damp so as to imperil the safety of the inmates. That is a matter, which would have to be looked into, by the District Judge or the Additional District Judge when he goes for inspection. The State Government shall without any undue delay proceeds to take the necessary steps to install a generator so that the safety of the inmates is not jeopardized.

(11) The State Government shall set up, within a period of two weeks from the receipt of the court's order, a Board of Visitors on which there shall be at least three social activists working in the field of welfare of women and particularly suppression of immoral traffic in women and there shall also be included in the Board of Visitors two persons to be nominated by the District Judge, Agra within two weeks from the date of the Court's order.

(12) The Superintendent of the Protective Home shall take care to see that no women or girl is detained in the Protective Home without due authority and process of law. The District Judge, Agra who carries out monthly inspection of the Protective Home shall verify during every visit that no women or girl is detained except under the authority of law and if he finds that any of them is detained without any authority of law, he shall take steps to see that she is released and repatriated to her parents or husband or other proper authority.

(13) The District Judge, Agra is directed to nominate two socially committed advocates who would by turns visit the Protective Home once in a fortnight and enquire from the inmates in regard to their needs and requirements and provide them legal aid and assistance, where required. Each of the advocates visiting the

Protective Home pursuant to this direction shall be paid by the State Government an honorarium of Rs. 50 per visit plus out of pocket expenses.

(14) It is absolutely essential that the inmates in the Protective Home should be provided a proper rehabilitation programme so that when they come out of the Protective Home, they are in a position to look after themselves and they do not slide into prostitution on account of economic want. The inmates must be given vocational training and guidance by way of rehabilitation. The State Government is directed to produce at the next hearing of the writ petition a detailed rehabilitation programme, which they have either set up or they propose to set up within a specified time limit. The Superintendent of the Protective Home is directed to consider whether it would be possible to arrange for their wedding to proper persons in case they want to get married. The Superintendent of the Protective Home can follow the example of the Nari Niketan in Delhi where a committee was set up by this Court for the purpose of investigating into the antecedents of the would be bridegrooms in order to ensure that they were genuine persons wishing to marry the inmates and not bogus or sham bridegrooms who were going through the ceremony of marriage merely for the purpose of selling the inmates or pushing them into prostitution. The District Judge will constitute an appropriate committee for this purpose consisting of himself and at least two social activists. The State Government will also initiate proper follow up action in this behalf with a view to ensuring that the inmates are not taken back to the brothels or/ and they do not once again slide into prostitution.

(15) The District Judge, Agra or any other Additional District Judge nominated by him shall visit the Protective Home once every month for the purpose of ensuring that the aforesaid directions given by the Court are carried out fully and effectively and he shall submit an Inspection Report to this Court on/or before the 15th of every month.

70. PROVIDING OF STATISTICAL INFORMATION TO THE STATE LAW COMMISSION CONCERNING THE ESTABLISHMENT OF DIVISIONAL COURT.

C.L.No.41/ Dated: August: 3, 1996

A proposal of the establishment of divisional court is pending with the State Law Commission, Uttar Pradesh. It is proposed that the establishment of such courts will improve the court management and judicial administration.

The State Law Commission requires certain statistical informations on the matters relating to the establishment of divisional courts, the information will be required from the district Courts.

The Hon'ble court has directed that on receiving of such requirements from the State Law Commission the required information may be provided to the State Law Commission at the earliest.

I am, therefore, to request you that aforesaid directions of the Hon'ble court be complied without fail.

71. STATISTICAL INFORMATION REGRDING JUDGE STRENGTH INSTITUTION, PENDENCY AND DISPOSAL OF CASES IN SUBORDINATE COURTS AS PER THE PROFORMA

C.L.No.28/ Admin.A-3 Dated: Allahabad: July 29, 1998

I am directed to send herewith a copy of letter No.FNJPC/DCJS/8/98, Dated June 24, 1998 along with preformed annexed therewith, sent by Member-Secretary, first National Judicial pay commission, 1st floor, city civil court complex, Annexe, central college road Bangalore, on the subject noted above and to request you kindly to furnish the information asked for there in, the enclosed proforma attached with the aforesaid letter within 15 days from the receipt of the letter so that it may be submitted to the member- Secretary of the First National Judicial pay commission as desired.

72. ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) ACT, 1981 AND ESSENTIAL COMMODITIES ORDINANCE 1998 HAVE BECOME IN EFFECTIVE FROM 31.3.1997 AND 8.7.1998

C.L.No.5/Admin.A.3dated: 30 March, 1999.

I am directed to refer the letter no.Bha.Sa.64/29-7-98—102/98, dated 3.10.1998 of Sri Prabhat Chandra Chaturevedi, Secretary Government of U.P. addressed to all the District Magistrates of the State (copy enclosed), on the above subject, and to say that on consideration of the matter court has been pleased to order that being the provision of Essential Commodities (Special Provisions) Act, 1981, read with Essential Commodities Ordinance 1998 in effective by virtue of non extension of power the section6 (e) of UP. General Clause Act, 1904 provides that the cases in which cognizance have been taken shall continue to be tried by the Special Judge.

I am further directed to say that so far as new cases, which have arisen out of essential commodities Act 1995 after 8.7.1998, cognizance shall be taken as per the provision of said act by Magistrate having Jurisdiction of the cases.

73. MINIMIZING THE POSSIBILITIES OF LEAKAGE AND BREAKAGE OF SAMPLES OF FOOD ARTICLES DRAWN UNDER P.F.A. ACT AND RULES

C.L.No.19 dated: August: 19, 1999

Director General, Health Services, New Delhi has brought to the notice of Hon'ble Court that Central Food Laboratories (CFL] has been experiencing difficulty in the analysis of samples received from various trying courts. Samples of milk, ice-candy and ice-cream have been found to be improperly sealed which has resulted in leakage/evaporation of the contents in the sample bottles. Evaporation of water in the milk or ice-candy samples has caused increase in the fat or solids-non fat content of the samples, thereby giving discrepancies in the results reported by Public Analysts and CFL. Further difficulty has also been felt by CFL that broken sample bottles are being sent by trying courts.

I am, therefore desired to inform you that it be brought to the notice of all the trying courts/ Magistrates to ensure that (i) sample bottles/containers be packed, fastened and sealed properly, (ii) in case of liquid samples a mark be made on the sample bottle to

indicate the volume of the sample contained in the bottle, (iii) exact volume of sample taken in the bottle be indicated and (iv) while forwarding the samples to Central Food Laboratories safe transportation of the samples be ensured.

74. FURNISHING OF STATEMENT OF CASES PENDING UNDER THE UTTAR PRADESH PUBLIC EXAMINTION (PREVENTION OF UNFAIR MEANS) ACT, 1998

C.L. No. 26/VII-d-108, Dated: 2nd August, 2001

In the meeting of the State Legal Services Authority it has been decided that statement of cases registered under U.P. Public Examination (Prevention of Unfair Means) Act, 1998pending in different Magisterial Courts be obtained and placed in the next meeting of the Authority.

I am, therefore, to request you kindly to send the statement of the cases registered under U.P. Public Examination (Prevention of Unfair Means) Act, 1998 pending in different Magisterial Courts to the Court treating it as MOST URGENT and information should be sent through FAX immediately.

(i) Code of Criminal Procedure (Amendment) Act, 2005 & 2006

C.L. No. 49/2006: Dated 15.11.2006

The government of India has introduced amendments in Sections 1, 20, 24, 29, 53, 82, 102, 110, 122, 176, 195, 202, 206, 223, 228, 260, 292, 293, 320, 340, 356, 258, 377, 378, 389, , 428, 438, 436, 437, 446, 459 and in First and Second Schedules of the Code of Criminal Procedure, 1973 besides inserting new sections 25A, 50A, 53A, 54A, 164A, 291A, 311A, 436A, 441 and new Chapter XXIA in the Principal Act. The insertions of Sections 153-A, 174A, 195A & 229-A have also been made in the Indian penal Court, 1860 and an amendment has been introduced in Sections 154 of the Indian Evidence Act, 1877, vide Amending Acts and Notifications published in Gazette of India noted in the margin.

1. The Code of Criminal Procedure (Amendment) Act, 2005 (published in Gazette Extraordinary Pat II – Section 1 dated 23rd June, 2005.
2. The Code of Criminal procedure (Amendment) Act, 2006 (Amendment) Act, 2005 (published in Gazette Extraordinary Part II – Section 1 dated 5th June, 2005
3. Notification dated 21.06.2006 giving effect to the provisions of the Code of Criminal Procedure (Amendment) Act, 2005, (published in Gazette Extraordinary Part-II – Section 3-Sub Section (ii) dated 21st June, 2006.
4. The Criminal Law (Amendment) Act, 2005 (Extraordinary Part-II-Section 1 dated 12th June, 2006.
5. Two Notifications dated 12.04.2006 and 03.07.2006 giving effect to the provisions of the Criminal law (Amendment) Act 2005 (published in Gazette Extraordinary Part-II, Section 3 – Sub section
6. (ii) dated 12th April, 2006 and (Extraordinary Part-II, Section 3 – Sub-section (ii) dated 3rd July, 2006.

Therefore, while enclosing herewith one copy each of the amending acts and the notifications, I am directed to request you to kindly bring the Amendments to the Notice of all the Judicial Officers of the Judgeship working under your supervisory control for their information and compliance in letter and spirit.

75. 69TH REPORT OF THE DEPARTMENT RELATED PARLIAMENTARY STANDING COMMITTEE ON HOME AFFAIRS ON THE ACTION TAKEN BY GOVERNMENT ON THE 61ST REPORT OF THE COMMITTEE ON THE DEMAND FOR GRANTS OF DEPTT. OF JUSTICE FOR THE YEAR 2000-2001

C.L. No. 36 Dated: 12th October, 2001

I am directed to request you that the Parliamentary Standing Committee in its 69th report has called for action taken by the Government in 61st report.

In the above report, the committee directs "the Department to furnish to it a brief statistical analysis of pendency of cases (court-wise/age-wise) to have a clear picture at a glance and also details of feedback from the concerned State Government /UTS /High Courts as to when they would begin proceedings to close cases involving minor offences pending for two years and more/ disposal of case of under trials who are languishing in various jails in the country."

In the above context to facilitate the reply to the committee, you are requested to indicate the action taken on the closure of cases involving minor offences pending for two years and more as well as report/statement on disposal of cases of under trials who are languishing in jail in your Judgeship. The information may be sent to the Court within a week from the receipt of this letter so that the same be submitted to the Parliamentary Standing Committee in time.

(i) Sending of timely information of arrest, detention, conviction and release of the Members of Parliament and Members of Legislative Assembly to the Speaker.

C.L. No. 14407/VIII-2-24/Admin. (F-II) Dated: 28the September, 2002

I am directed to invite your kind attention to Court's circular letter dated 29.7.98 wherein it was impressed upon that the information of arrest, detention, conviction and release of Member of Parliament and Member of Legislative Assembly may be sent to the Speaker concerned timely.

It has come to the notice of the Court that the direction contained in Court's circular letter No. 12012/VIII-e-24/Admin.(f), dated 29.7.98 are not being complied with strictly by the Presiding Officer working under you.

I am, therefore, to request you kindly to impress upon all the Presiding Officers to follow the directions contained in circular letter cited above may be complied with concerning information regarding arrest, detention, conviction and release of M.Ps. and M.L.As. to the Speaker concerned timely.

76. ASSIGNMENT OF THE WORK OF COMMITTAL OF CASES AND REMAND/BAIL BY MAGISTRATE LOCALLY PERTAINING TO JURISDICTION OF OUTLYING COURTS IN ALL SESSIONS DIVISIONS IN THE STATE OF U.P.

C.L.No.19/ 2006/ Dated Allahabad: May 10th May, 2006

I am directed to say that after consideration of larger interest of society and efficient functioning of the criminal Judicial Apparatus .the Hon'ble court has been pleased to resolve as follows:-

i. The committal and remand/bail work in sessions triable cases should not be assigned to the outlying court where there is no sub-Jail.

ii. The work of committal of cases and remand/bail for offences punishable under section 302,304,304-B and 396 I.P.C. and under the N.D.P.S. Act should be retained at the District Headquarter.

iii. Committal and remand/bail of the offences of lesser gravity (other than Section 302,304,304-B and 396 I.P.C. and under the N.D.P.S. Act,) triable by the court of sessions may be assigned to the outlying courts where there is sub jail.

iv. A sub-copying section should be made functional under the senior-most judicial officer of the outlying court for copying case diary/document in respect of cases, committal proceeding of which to be handled there.

v. The scheme of assignment of committal and remand/bail work, as proposed here in above, in some measure should be kept flexible in case some modification is required, keeping in view the condition of a particular district. In that eventuality, the District Judge may approach the High court setting out the detailed exceptional and special reasons seeking modification in the above scheme for his district.

vi. Such request of the District Judge concerned should be jointly examined by the Hon'ble Administrative Judge of that district and another Hon'ble Judge of the Administrative Committee, to be nominated by Hon'ble the Chief Justice. The report should then be placed befor the Administrative Committee for appropriate orders as may be suggested by such two Hon'ble Judges.

I am, therefore, to request you kindly to bring this fact to the notice of all the Judicial Officers posted in your judgeship and ensure the compliance strictly.

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CHAPTER - XII

JUDICIAL-MISCELLANEOUS

1. TRANSFER OF CASES

(i) Regular cases

C.L. No. 51 dated 23rd September, 1960

Appeals from the orders and sentences of the Assistant Sessions Judges should ordinarily be heard by Sessions Judges themselves and not transferred to Additional Sessions Judges.

G.L. No. 42 dated 3rd November, 1932

The instructions given below apply to additional courts other than those, which have been working regularly and are more or less in the nature of permanent courts or additional courts created for the trial of particular cases.

There is a tendency in subordinate courts to postpone complicated cases and to take up the disposal of such cases as are short or convenient and when an additional court is created such old and complicated cases are often transferred to it in order to give relief to the permanent court. The Presiding Officers of such additional courts are generally less experienced than those of permanent courts, and such an arrangement is not satisfactory, and is disapproved by the High Court.

C.L. No. 100-B dated 12th September, 1952

Stayed cases should not be transferred to additional courts of Civil Judges or Munsifs. Old cases should be retained on the file of permanent courts and only fresh institutions should be transferred to additional courts for disposal.

C.L. No. 43/IV-g-27 dated 13th April, 1979

The court has noticed that cases below Rs. 10,000/- in valuation are still pending in the courts of Civil Judges and have not been transferred to the courts of Munsifs who have been conferred with the powers to try such cases. Though the principle that cases should normally be tried by the lowest court competent to try them cannot be given the shape of a peremptory rule, the same cannot be ignored. It does not only save the time of court of the higher jurisdiction for doing more important work but it also safeguards the right of the litigants of having their first appeal heard and decided by the appellate court of their respective districts. The above principle should always be kept in mind while making distribution of the work in the district.

G.L. No. 9/B-9 dated 1st May, 1941

In transferring criminal cases, the practice of transferring only difficult and complicated cases of the permanent judge's own file or lengthy and involved appeals is to be deprecated. The Court is unwilling to lay down any hard and fast rule which might inconvenience Sessions Judges in their discretion to transfer either cases from their own file or new institutions to the additional courts, but the Court insists that Sessions Judges must not place an unfair burden upon additional courts by giving to them only difficult and complicated work. The Court suggests as a broad principle to be followed that unless

there are strong reasons to the contrary, there should be an equal distribution between the permanent court and the temporary court of difficult and easy, long and short cases. The Sessions Judge can easily satisfy himself from the calendar or from glance through the committal order and the Magistrate's estimate of the number of days likely to be taken in the hearing whether a case is likely to be long and difficult, or short and easy. It appears to the Court that certain Sessions Judges transfer cases as the result of a policy of showing a good disposal in their own courts with a comparatively low disposal in the courts of Additional Sessions Judges. The Court considers this to be bad administrative policy and will make comment to that effect in future in the personal files of the judges concerned.

No. 55/2007Admn. (G). Allahabad Dated: 13.12.2007.

The Hon'ble Court has taken serious note of the Magistrate Courts not observing the provision as laid down in Rule 21 of the General Rules (Criminal), Sub Clause (ii) of which provides that in case of transfer of a criminal case from the court of one Magistrate to another magistrate a new serial and a number shall be given showing the new number in the numerator and the old number in the denominator. The non-observance of this rule has resulted in difficult to ascertain as to how old a particular case has become due the said case not being decided by a particular court. Therefore, I have been directed to say that every court of a magistrate shall ensure strict compliance of the Rule 21 of the General Rules (Criminal) with all seriousness without fail.

I am to say further that kindly bring the contents of this circular Letter to notice of all the magistrates working under your administrative control for strict compliance.

C.L. No. 71/VII-h-13 dated 11th June, 1952

All Sessions Judges should transfer a sufficient number of civil and criminal appeals to temporary courts of Additional District Judges so that if for some reason sessions trial cannot be proceeded with they may have some other work to fall back upon. Ordinarily at least 50 criminal and civil appeals should be pending before an Additional District Judge. If necessary, they should on days the work in the temporary courts falls short also transfer to the temporary court any work available, which it is competent to try so that there may be no waste of time.

C.L. No. 65/VIII-h/37/D R(S) dated 12th October, 1982

The cases pending in vacant court of Civil Judge, should be transferred to different courts of Additional District and Sessions Judges, District Judge and to the court of other Civil Judge, if any, posted in the judgeship.

C.L. No. 4/Admn.(A) dated 17th August, 1976

It invites attention to clause 53 added to Section 4 of the U.P. General Clauses Act by Act No. 54 of 1975 according to which any reference to the "District Judge" has to be construed as including a reference to the "Additional District Judge". This being the position of the revisions filed before the District Judges can always be transferred to and heard and disposed of by the Additional District Judges.

C.L. No. 163/IV-h-19/Admn.(A) dated 16th October, 1976

Only civil work should be allotted to some of the Additional District Judges and only criminal work to rest of the Additional District Judges, depending on the pendency of civil and criminal work in the judgeship. The changeover from civil to criminal and vice-versa will be made yearly.

C.L. No. 63/IV h-14 dated 12th June, 1979

In future Sessions Judges should see that criminal revisions and equally distributed for hearing in the file of Sessions Judges and Additional Sessions Judges.

C.L. No. 108-B dated 17th October, 1952

Jail appeals need quick disposal and should normally not be transferred by Sessions Judges to other courts.

C.L. No. 2041-B dated 2nd June, 1912

It should be clearly understood that extra officers are deputed to assist in the disposal of work in those exceptional circumstances where arrears and institutions have accumulated to such an extent as to make the reduction of work impossible by the efforts of the ordinary staff. The posting of an extra officer is not therefore to be made the opportunity for a permanent man to proceed on leave. This nullifies the whole object of the creation of the additional post. Nor is it conducive to the expeditious dispatch of work that the new officer should have made over to him old or part-heard cases, and this practice where it exists should be discontinued. Additional staff can be best employed in hearing appeals, whenever the officer is empowered to do this work, and in taking up new cases as they arise. This results in a minimum dislocation of work and enables the permanent staff to dispose of all its arrears.

C.L. No. 67/VIII-b-13 dated 12th August, 1968

In transferring cases, the District Judges should exercise their discretion in such a manner as courts, which are already burdened, should not be burdened further. Courts meant for doing civil work should primarily do civil work and criminal work should be transferred to such court only when there is not enough civil work to keep them fully occupied. Haphazard transfer of criminal work results in dislocation of civil work. It is highly improper on the part of a District Judge to avoid doing civil work, which is equally important.

C.L. No. 44/VIII-a-14 dated 22nd March, 1971

Bail and transfer applications should invariably be taken up by the Sessions Judge himself unless for special reasons he is unable to do so. In case the bail applications are entrusted to Additional or Assistant Sessions Judges, the record should be maintained by the sessions clerk of the Sessions Judge, so that responsibility can be fixed on one official for not pointing out that an earlier application has already been rejected. Every application for bail must clearly indicate whether it is the first bail application or not and if not, what order was passed on the earlier application.

C.L. No. 22/VIII-a-14 dated 8th February, 1971

In order to prevent the possibility of corruption and also to avoid unnecessary complaints, the Sessions Judges should themselves transfer sessions trials, appeals, revisions, etc. to the various courts. They should, as far as possible, themselves entertain bail applications.

C.L. No. 73/VIII-a-14 dated 29th October, 1948

All sessions trials triable by Assistant Sessions Judges should ordinarily be transferred to their file on receipt of the calendar and the record.

C.L. No. 24/VII-a-14 dated 27th March, 1965

Instructions contained in Court's C.L. no. 73/VIII-a-14, dated October 20, 1948, be strictly complied with and the case in which the maximum sentence provided by the I.P.C. is imprisonment for life or imprisonment for a term exceeding ten years, should not be transferred to Assistant Sessions Judges.

C.L. No. 58/VII-b-7 dated 18th July, 1956

In districts where there is a large institution of cases under sections 302, 396 and 397 it is advantageous to transfer cases under sections 304 and 395 to Assistant Sessions Judges. Before a case under section 304 is transferred, District Judges should see that the accused has really been charged under that section, and that there is no likelihood of the charge being altered into one under section 302, I.P.C.

C.L. No. 80/VIII-a-14 dated 25th November, 1949

For the time an Additional Sessions Judge is posted at the station, very few sessions trials at the most, two or three a month for each Judge should be transferred to the file of Assistant Sessions Judges working under the District Judge so that they may be able to devote a greater part of their time to civil work.

(ii) Numbering of cases

C.L. No. 1578/44 dated 15th May, 1912

The number on a suit transferred from one court to another should not be altered.

The following is the correct procedure in these cases:

A case is instituted, say, in the court of the Munsif of Muhammadabad and on institution is marked:

MUNSIF OF MUHAMMADABAD
NO. 10 OF 1919
A v. X

It remains in that court till, say, issues have been struck and is then transferred to the court of the Munsif of Azamgarh. On reaching that court it will be entered in the register on the date of receipt as an entry after the last entry in the register, but instead of getting a serial number it will be entered as-

and this will be the inscription on the papers following:

It will go into the record room when completed as a complete record of the court of the Munsif of Azamgarh but the record-keeper will on examination place it in the basta of the Munsif of Muhammadabad according to the date of institution, making an entry in the list of the fact of transfer of the case to the court of Munsif Azamgarh.

C.L. No. 93/VIIIb-48 dated 30th August, 1952

Cases received on transfer should, therefore, after decision be placed in the basta of cases of the court in which they were originally instituted.

C.L. No. 101 dated 23rd September, 1969

It is not necessary to re-enter the original suits on retransfer to the parent courts in Register No. 3 and an entry to this effect in the remarks columns against the original entry alone would serve the purpose.

(iii) Transfer of part-heard cases

C.L. No. 2889/67-II dated 5th July, 1913

Whenever a judicial officer is transferred in a local arrangement, the District Judge should arrange that the officer keep on his file cases in which he has recorded evidence. This can be affected by recording an order transferring such cases to his file.

C.L. No. 67/VII-c-22 dated 16th November, 1967

A court declared to be a "District Court" by Government in Judicial Department Miscellaneous notification no. 2207/VII-664-55, dated October 11, 1956, as amended from time to time, cannot be said to be subordinate to another "District Court" and, therefore, cases under the Hindu Marriage Act, 1955 cannot be transferred by the District Judges from one such court to another.

(iv) Central Administrative Tribunal

C.L. No. 79/VII f-238 dated 30th November, 1985

Since under the provisions of section 29(1) of the Administrative Tribunals Act, 1985 every suit or other proceedings relating to "service matters" as defined in clause (q) of section 3 of the said Act shall stand transferred to the Central Administrative Tribunal, Allahabad on the 1st day of November, 1985 as notified by the Central Government, the District Judges should make, as and when demanded by the Tribunal, immediate arrangements for transferring all the cases pending in their judgeships relating to service matters of the persons covered by the Act.

C.L. No. 15/VII f-238 dated 3rd March, 1986

The District Judges should keep in readiness a list of cases to be transferred to the Central Administrative Tribunal, Allahabad in quadruplicate with complete index of files to be handed over to the Tribunal as and when demanded by it and to send a copy of each

of the lists to the Tribunal under advice to the Principal Bench of the Tribunal at New Delhi.

C.L. No. 9/VII F-238 dated 6th February, 1987

The jurisdiction of the Central Administrative Tribunal has been extended to the cases relating to Council of Scientific and Industrial Research. The District Judges are therefore requested to sort out the cases relating to above mentioned society and make proper arrangement for their transfer to the Central Administrative Tribunal, Allahabad.

C.L. No. 71/VII f-238 dated 29th October, 1986

The jurisdiction of the Central Administrative Tribunal has been extended under the Notification No. A-11019/16/86-AT dated 2nd May, 1986 issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Government of India, so as to bring following corporations, or societies and other authorities within the purview of section 14 of the Administrative Tribunals Act, 1985 (Act No. 13 of 1985) :

1.	Central Board of Trustees constituted under the Employees Provident Funds and Miscellaneous Provisions Act, 1952	Statutory body
2.	Employees' State Insurance Corporation	Corporation
3.	Central Board for Workers' Education	Registered society
4.	National Labour Institute	Registered society
5.	National Council of Safety in Mines, Dhanbad	Registered society

District Judges should sort out cases relating to such corporations, societies and other authorities as are mentioned in the schedule to the enclosed notification and make proper arrangement for their transfer to the Central Administrative Tribunal, Allahabad.

C.L. No. 91/VII f-238/Admn. (G) dated 17th December, 1987

The jurisdiction of the Central Administrative Tribunal has been extended under the Notification Nos. A-11019/97/86-AT, dated 6.2.1987 and A-11019/13/87-AT, dated 20.4.1987, issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Government of India, New Delhi, so as to bring the cases relating to the "Central Social Welfare Board" and "Indian Council of Agricultural Research" given in the said notification within the purview of sub-section (2) of section 14 of Administrative Tribunals Act, 1985 (13 of 1985) by amending its G.S.R. No. 730(E), dated May 2, 1986 under the provision of sub-section (3) of Section 14 of the said Act.

The District Judges should sort out cases relating to above-mentioned society and an authority controlled by the Government, and make proper arrangement for their transfer to the Central Administrative Tribunal, Allahabad.

(v) To railway claims tribunal

C.L. No. 84/VII f-88 dated 1st December, 1989

The Central Government have established a railway claims tribunal with effect from 8.11.1989. In Uttar Pradesh, two benches of the said tribunal have been established,

one at Gorakhpur and the other at Lucknow. The jurisdiction of these two benches is as given below:-

GORAKHPUR : Districts of Gorakhpur, Deoria, Ballia, Ghazipur, Azamgarh, Mau, Basti, Sidharth Nagar, Mirzapur, Sonbhadra (Robertsganj), Jaunpur, Faizabad, Gonda, Bahraich, Sultanpur, Pratapgarh, Lakhimpur Kheri, Allahabad, Varanasi, Bareilly, Sitapur, Pilibhit, Nainital, Shahjahanpur, Budaun and Hardoi.

LUCKNOW : All Districts of Uttar Pradesh, except those mentioned above.

Entertaining proceeding of any railway matter of the nature as defined in section 19 of the Railways Claims Tribunal Act, 1987, be stopped by the courts concerned in all judgeships with effect from 8.11.1989.

All such pending proceedings (other than appeals) may be transferred to the Railway Claims Tribunal, Gorakhpur Bench, or Lucknow Bench, according to their jurisdiction, for disposal in terms of section 24 of the aforesaid Act, as early as possible sending simultaneously a list of such cases to the concerned Railway Claims Tribunal, Gorakhpur Bench, or Lucknow Bench, as the case may be for information.

(vi) Pollution cases

C.L. No. 41/Admn. (A) dated 9th September, 1988

All cases pending in the judgeship under Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, should be transferred to the special court of Judicial Magistrate First-Class, Lucknow.

(vii) Calculation of duration of case

G.L. No. 2893/67-4 dated 24th August, 1916

The duration of the case when restored to its former number, either by an order of the original court or by an order of the appellate court, will be calculated from the date of original institution up to the date of decision.

These cases should be and are generally entered in red ink. It is not difficult therefore, to recognize them. The court concerned can in the column of remarks show what period has been occupied in the hearing and decision of the application for restoration or the period which intervened between the institution of the appeal and the order restoring the case or the period from the date the first decision to the date of filing the application for restoration. These periods may be deducted from the total duration.

As regards duration, a similar rule is to be observed in cases transferred. The duration will be calculated from the date of original institution up to the date of decision.

C.L. No. 49/ 2000/Admn.A-3 Dated: 1st November, 2000

(viii) Regarding transfer of pending cases pertaining to New districts from other districts to new district.

I am directed to say that after a consideration of the matter regarding transfer of pending cases, pertaining to new district from parent Districts to newly created districts, Courts has been pleased to observe that except part heard cases pertaining to new

districts, the other pending cases relating to newly created districts be transferred to newly created Districts and the old circular letter No 42/1D/Admin A-3 dated 25.09.1997 In this respect has been recalled

Necessary steps in the matter be taken accordingly.

2. DISTRIBUTION OF WORK BY C.J.Ms.

(i) Amongst Judicial Magistrates

C.L. No. 3/Admn.(B) dated 18th March, 1971

Under section 190* Criminal Procedure Code distribution of work among the Judicial Magistrates should be done by the Chief Judicial Magistrate who may, in his turn, consult the Sessions Judge in this behalf.

C.L. No. 124/Admn.(B) dated 30th September, 1975

The Chief Judicial Magistrates are required to act under the general supervision of the District and Sessions Judges even for the purposes of sub-section (2) of section 15 of Criminal Procedure Code.

C.L. No. 73/Admn. (A) dated 19th May, 1976

The Chief Judicial Magistrates should take necessary steps for transferring cases under special and local Acts to the Executive Magistrates, if not already done.

C.L. No. 4/Admn. (A) dated 21st January, 1987

The District Judges are requested to issue suitable directions to the Chief Judicial Magistrates with regard to distribution of work under local and special Acts amongst Executive Magistrates conferred with powers of Special Judicial Magistrates Ist Class, by the Court.

(ii) Distribution between C.J.M. and A.C.J.M.

C.L. No. 198/Admn. (A) dated 10th December, 1976

The Chief Judicial Magistrates will as far as possible, assign half the officers to be inspected by him and the rest by the Additional Chief Judicial Magistrates. The inspection notes of the District Judges/Chief Judicial Magistrates/Additional Chief Judicial Magistrates will be sent to the successor inspecting officer. Henceforth all the District Judges will also inspect the criminal work of the Judicial Magistrates and Munsif-Magistrates in addition to civil work.

Jail inspections will be made by the Additional Chief Judicial Magistrates only.

Correspondence work, compliance of High Court orders etc. and collection of statements will remain with the Chief Judicial Magistrates.

Any distribution of work among the Judicial Magistrates and the Additional Chief Judicial Magistrates or any change made therein by the Chief Judicial Magistrates will have the prior approval of the District Judge.

* NOTE: It should be Section '15'.

(iii) Conferment of powers

C.L. No. 17/Admn. (B) dated 28th January, 1975 read with

C.L. No. 44 dated 9th April, 1975

The Court has conferred powers of Judicial Magistrate second class on the Executive Magistrate mentioned in the Court's notification No. 1/Admn.(B) dated January 10, 1975, in addition to their own duties subject to the following conditions :-

They shall work under the supervision of the Sessions Judge and Chief Judicial Magistrate and shall do such work as may be assigned to them.

They shall comply with the instructions issued by the High Court and if work is not done properly by them, the High Court will withdraw the powers so conferred.

They shall fix certain days in the week for judicial work and on those days, they shall sit in court throughout the day and dispose of the criminal work. Absence from duty on such day may be condoned only in case of maintaining law and order situation and for no other reasons.

C.L. No. 52/Admn. (A) dated 23rd April, 1976

The aforesaid directions shall be applicable to all the Executive Magistrates who have so far been appointed as Special Judicial Magistrates u/s. 13 Criminal Procedure Code or who may be appointed as such subsequently.

C.L. No. 102/VIb-11 dated 9th June, 1976

The Executive Magistrates who have been conferred powers of Magistrates First Class will be given cases under special and local Acts. While doing this work they will be under the judicial control of the District Judge although the administrative control on them will be of the District Magistrates. A list of cases under special and local Acts, which would normally merit a sentence of fine, only may, therefore, be prepared and kept ready so that as soon as appropriate arrangements are made the selected cases may immediately be transferred to the Executive Magistrates.

(iv) Administrative control over Additional Chief Metropolitan Magistrates/ Additional Chief Judicial Magistrates

C.L. No. 51/Xa-9/Admn. (A) Dated August 1, 1991

I am directed to refer to Court's C.L.No. 124/Admn. (D), dated 30.9.1975 and C.L. No. 198/Admn. (A), dated 10.12.1976, on the above subject, and to say that on a consideration of the matter, the Court has further decided that Additional Chief Metropolitan Magistrates and the Additional Chief Judicial Magistrates are subordinate to the Chief Metropolitan Magistrate/Chief Judicial Magistrate subject to the general supervision and overall administrative control of the Sessions Judge.

I am, therefore, to request you kindly to bring in the notice of all Magistrates working under your supervision, the content of this letter for their information and future guidance.

3. DIARY OF PRESIDING OFFICER

(i) Proforma

C.L. No. 189/VIIIb-121 dated 25th November, 1976

It invites attention to rule 5-B and rule 11-A of General Rules (Criminal) regarding maintenance of a court diary by the presiding officers and a register of processes issued in criminal matters respectively in the prescribed proforma.

All the courts are directed to maintain a court diary in the proforma given in Annexure-1 and a register of processes in the proforma given in Annexure-II.

As modified by C.L. No. 6/VIIIb-121 dated 7th January, 1977

ANNEXURE 'I'

Court diary

Case No. and date of institution	The number of times already adjourned			Particulars			Purpose	Rough estimate	Remarks
	At the instance of prosecution/ complainant (P)/(C)	At the instance of Defence (D)	For other reasons (O)	P.S.	Section	Name of parties			
1	2	3	4	5	6	7	8	9	10

(Note: Outcome of the case and in the event of adjournment, the adjourned dates, shall also be noted in the remarks column)

ANNEXURE II

REGISTER OF PROCESSES ISSUED IN CRIMINAL MATTERS

Particulars of cases	Date of order for issue of process	Date of despatch of process from court	No. and description of processes with names	Initials with date of police or other officials receiving processes	Name of Thana or Distt. to which process sent	Date fixed for return	Actual date of return	Remarks
1	2	3	4	5	6	7	8	9

C.L. No. 131/VIIIb-121 dated 21st November, 1978, and

C.L. No. 45/VIIIb-121 Admn. (G) (8) dated 20th July, 1983

The court diaries shall be maintained by the presiding officers of the courts in their own handwriting and all the columns of the said diary including columns 2A, 2B and 2C relating to adjournments are also to be filled up by the presiding officers themselves.

C.L. No. 56/VIII-b-121 dated 6th July, 1973

Presiding Officers should avoid ambiguity while making entries in their diary and should clearly mention the purpose for which the case is fixed on a particular date in the purpose column. Vague words like P.H. and F.H. should not be used and the purpose shown in the diary should tally with the business done on a particular date. "Remarks column" should indicate the outcome of the case, the number of witnesses examined, the

number of pages in which the evidence has been recorded and the date to which the case has been adjourned. The memorandum book and the reader's diary should also be maintained in the like manner.

(ii) Arrangement of cases

G.L. No. 11/VIII-b-121 dated 16th August, 1952

The diary should be so arranged that the oldest cases appear on the top and later ones are entered lower down on the page. This can be easily done if the top portion of the space allotted to a particular day is reserved for entering the oldest cases fixed for hearing on that day, the middle portion being similarly reserved for later cases and bottom portion for the more recent ones. It is considered that if the diary is maintained in the manner indicated above and the cases are taken up in the order in which they appear in the diary, the disposal of older cases will be expedited.

(iii) Weekly cause list

C.L. No. 31 dated 7th March, 1952

A list in the form subjoined, of cases including criminal cases, if any, fixed for hearing during the following week prepared in legible Hindi and signed by the Munsarim of the court should be posted on the last working day of the week in some conspicuous place of every court house. In the preparation of such list, precedence should be given to cases, which are part heard or have previously been adjourned, and the order in which cases are entered should not be departed from without the express order of the Presiding Judge of the court.

Space should be left in the list at the head of the entries for each day for the subsequent insertion if necessary, of adjourned cases.

In the fourth column should be noted against each case the purpose for which it is to be laid before the court; whether, for instance, for settlement of issues or for final disposal or for delivery of judgment.

DATE, MONTH AND YEAR

Number and description of cases	Name of parties	Name of parties' lawyers	Purpose

(iv) Providing the copy of the Case Diary or and other information in respect of the investigation to the accused person in criminal cases.

C.L. No. 29 /2005 Dated 26th September, 2005

Upon consideration of issue regarding supply of the copy of the case diary or any other information in respect of the investigation in criminal cases, the Hon'ble Court (Hon'ble Dr. Justcie B.D, Chauhan and Hon'ble Mr. Justice Arun Tandon) in criminal Misc. Writ petition No. 5840 of 2005- Mukesh & ors. Vs. State of U.P. & others, while concluding that an accused person or his agent cannot ask for supply of the copy of the case diary, has provided that the accused are not entitled to seek the copy of the statement of any witness recorded under Section 161 Cr. P.C. or any other part of the evidence collected by the investigating Officer prior to reaching the stage of filing the charge sheet. The accused cannot ask for the copy of the case diary at any stage. He is entitled

only for receiving the copy of the documents, which are being relied by the prosecution against him.

As applications for providing copy are often filed in the Courts below every day, I am directed to transmit herewith a copy of judgment and order dated 03.06.2005 aforedetailed, with request that the contents of and direction in the judgment and order be kindly brought to the notice of all judicial Officers in the judiciary under your administrative control, for their information and guidance.

(v) Maintenance of court diaries by the Presiding Officers of the Subordinate Courts in their own handwriting.

C.L. No. 40 Dated: 12th October, 2004

In continuation of Court's Circular letter No. 131/VIIIb-121, dated November 21, 1978 and Circular Letter No. 45/VIIIb-121, dated July 20, 1983 on the above subject, I am directed to say that inspite of clear directions issued by the Court, the Presiding Officers of the Subordinate Courts are still not maintaining the court diaries in their own handwriting and also the columns of the said diary including column nos. 2A, 2B and 2C relating to adjournments, are not being filled in by the Presiding Officer themselves. Upon consideration of the matter, the Hon'ble Court has taken this lapse very seriously and has desired that the compliance of the directions as contained in the aforementioned circular letters be now ensured.

I am, therefore, directed to request you kindly to draw the attention of all Judicial Officers working under your administrative control and they be required to ensure strict compliance of the above directions faithfully and punctually.

4. ADJOURNMENT OF CASES

(i) How to minimise

C.L. No. 22/VIII-b-13 dated 28th March, 1949 and

C.L. No. 61/VIII-h-13 dated 29th May, 1972

It has been found that Presiding Officers do not exercise proper discretion in granting adjournments. Adjournments are very often granted as a matter of course on flimsy grounds. This should be avoided and the cause list so adjusted as not to admit adjournment of a case more than once for want of time.

C.L. No. 22/VIII-h-13 dated 18th March, 1949

If the pending file is heavy or is such that the cases are not likely to be fixed for hearing within three months, presiding officer may leave fresh cases without date after having framed issues therein. The records of such cases should be kept in a separate box or compartment of an almirah in chronological order till it is possible to fix a date therein within a period of three months.

C.L. No. 19/VIII h-10 dated 27th February, 1956

The correct procedure is that if a date for disposal of a sessions trial is not available within the next two months or a date for final disposal of a suit is not available within the next three months, no date should be fixed at all.

G.L. No. 73/VIII a-14 dated 29th October, 1948 read with

G.L. No. 7/VIII a-14 dated 12th February, 1949

If the criminal work is heavy, all working days should be devoted to sessions cases and criminal appeals in which accused persons are in jail. Saturdays may, however be excluded if required for miscellaneous work.

C.E. No. 39/VII-d-102 dated 18th March, 1971

A case should be dismissed in absentia, as far as possible, only when the same has been listed peremptorily twice.

G.L. No. 12/VIII-b-13 dated 15th September, 1951

When a presiding officer takes short leave, he should, so far as practicable, take care to adjourn beforehand the cases fixed for hearing during the period when he would be absent on leave and to give timely information thereof to counsel for the parties and, where possible, also to parties themselves and their witnesses. In criminal cases such information should, where practicable, also be given to jurors or assessors. Where there may be difficulty in giving information to any counsel for the parties owing to his absence from the station or for some other cause, such information may usefully be sent also to the Bar Association concerned.

G.L. No. 4311/67-8 dated 22nd December, 1916

In fixing adjournments dates courts should see-

1. that cases are adjourned to dates on which there is a reasonable hope of their being heard;
2. that strict precedence is given to adjourned cases;
3. that the adjourned cases are heard *de die in diem* until completed; and
4. that if a case is decided either ex parte or in default restoration be not granted except for sufficient cause shown to the satisfaction of the court.

G.L. No. 50 dated 17th August, 1948

An effort should always be made to bring old cases to as speedy a decision as possible. Whenever old cases have to be adjourned, they should be adjourned to nearer dates. In case they are already booked with later cases, the later cases should be adjourned to give preference to older ones.

It is expected that a careful fixing of the cause list may not lead to such frequent adjournments. The practice of allowing long interval to intervene between the close of evidence and the hearing of arguments should also be avoided.

C.L. No. 3/VIII h-13 dated 16th January, 1980

The courts should be strict in the matter of granting adjournment of cases for filing written statements.

C.L. No. 67 dated 28th October, 1964

Presiding Officers should follow the instructions contained in rule 81 of Chapter III of General Rules, (Civil), 1957, Volume I which requires that a Judge before beginning his work for the day should go through the cause list, dispose of all

uncontested work first and then begin the contested work. It is, therefore, desirable that in cases where adjournment is unavoidable orders for postponement, if practicable, should be passed in the early hours of the day so as to avoid harassment or hardship to the parties and the witnesses. In cases in which the parties do not put in adjournment applications in the early hours and such applications are presented only when the case is called or in cases in which the litigant does not contact his counsel well before the court hours and the counsel being busy in other courts is not able even to draft adjournment applications in the early hours, order of adjournment may be passed as soon as such applications are presented.

C.L. No. 76 dated 15th May, 1971

Presiding Officers should, as far as possible, first take up cases for settlement of issues and then the cases for interlocutory order. The cases for final hearing, i.e. for recording evidence and hearing arguments should be taken thereafter. To minimise harassment and inconvenience to the litigants due to frequent adjournments of cases at the fag end of the day, the presiding officers should ascertain in the early hours of the day as to which case would occupy him throughout the day and which cases cannot be reached. Accordingly, the later ones including criminal cases can be adjourned in the early hour of the day. This practice also will considerably help the presiding officers to regulate his diary, have full control over the pending files, thereby avoiding complaints of corruption, etc. from public.

C.L. No. 42/VIII b-181 dated 26th September, 1979

The District Judges should see that henceforth, strict compliance of the instructions of the above noted Courts circular letters may be done by all the officers concerned working under them, so that the litigants are not detained in court's for unduly long hours unless necessary.

C.L. No. 112/VIII b-181 dated 26th September, 1979

In spite of the above C.Ls., it has come to the notice of the court that cause list of the subordinate courts is still over crowded and the litigants have to wait for the whole day at great personal inconvenience and loss of personal work. The District Judges should see that henceforth, strict compliance of the instructions of the above noted Court's circular letters is done by all the officers concerned so that the litigants are not detained in courts for unduly long hours unless necessary.

C.L. No. 55/VIII b-13 dated 19th April, 1971 and

C.L. No. 74/VIII-h dated 17th May, 1974

To avoid unnecessary adjournments, a Magistrate should not fix more than four criminal cases per day for recording of full evidence of the prosecution or the recording of defence witnesses and arguments. A few part heard cases in which one or two witnesses have to be examined may be listed for the days along with miscellaneous cases. While fixing dates for the recording of evidence the Magistrates should earmark the first date for the recording of total prosecution evidence and then they should adjourn the case to another date for the recording of total defence evidence and arguments.

C.L. No. 152/VIII-b-13 dated 28th September, 1974

Attention is drawn to general instructions contained in Court's circular letter no. 55/VIII-b-13, dated April, 19, 1971, for recording of full evidence and arguments in cases fixed before the Magistrates for the day. The same should be strictly followed with regard to summary trials as well. No piece-meal evidence should be recorded in such (summary) trials.

Attention is also drawn to the second proviso to sub-section (2) of section 309, Criminal Procedure Code 1973 and explanation No. 2 below the aforesaid section. Adjournment should, as far as possible, be refused in summary trials also. If, however adjournment is granted, the party applying for the same should be taxed with costs sufficient to compensate the other party and his witnesses.

C.L. No. 23/IV-g-64 dated 12th May, 1967

In order to avoid adjournments and to ensure attendance of witnesses on the dates fixed, adequate time should always be allowed for service of summons on witnesses in cases under the Prevention of Corruption Act.

C.L. No. 75/VII-b-68 dated 15th May, 1971

Above instruction should be strictly followed by all the courts including the Magistrate. If necessary urgent reminders by wireless should be issued and it should be ensured that the messages are transmitted, if possible, six days before the commencement of the trial to enable the head of department to spare the officer to appear in court on the date fixed.

C.L. No. 121 dated 25th September, 1971

Presiding Officers should make a note in the daily sitting register about the time wasted in a case on account of non-appearance of witnesses. (Copy of this C.L. endorsed also to District Magistrates and Superintendents of Police in the State under C.E. no. 122 of date).

G.L. No. 73/VIII-a-14 dated 29th October, 1948

Part-heard sessions cases should ordinarily be accommodated within the cause list already fixed and if necessary by adjourning or dislocating temporarily other sessions cases preferably other than murder cases.

Sessions Judge should be strict in granting adjournment and should ordinarily record the statements of all the witnesses present.

C.L. No. 42/VIII-b-13 dated 31st March, 1952

With a view to secure speedy disposal of criminal appeals whenever a criminal appeal has to be adjourned say more than once or twice on account of sessions cases or some other work, efforts should be made to fix a special date for its hearing so that it may not have to be adjourned over again for a similar reason.

C.L. No. 49/VII-b-68 dated 3rd April, 1971

To avoid unnecessary adjournments of sessions trials and consequential appearance of the police witnesses and Magistrates transferred to other stations, affidavits

of formal witnesses should be filed along with the charge sheet or before the committing Magistrate or soon after its committal to the court of session as provided u/s. 296 of the Code of Criminal Procedure.

No. 73/2007Admn.(G). Allahabad Dated: 13.12.2007

A catena of Circular letters have already been issued by the court noted in the margin in respect of providing guidelines for granting adjournments prohibiting adjournments on flimsy grounds and in old cases but this malady is still persisting . The Hon'ble Court has viewed with seriousness the granting of adjournments in Cases wherein the witnesses are present in Court even then the Presiding officers proceed to grant adjournments liberally.

1.C.L.No.1 of 1976 dt.14th January,1976.
2.C.L.No. 38/98 dated 20.8.1998.
3.Court's Letter no. 2586/2004 dated 19th February 2004.

Therefore, in continuation of the Circular letters noted in the margin, I am directed to say that in all such cases where witnesses are present in a Court the adjournment shall be granted only for extremely unavoidable reasons.

(ii) Accommodating lawyers

G.L. No. 41/44-31 dated 25th November, 1930 read with

G.L. No. 3/44-7 dated 29th January, 1938

Although the view taken by the High Court is that the rights of clients and the convenience of courts take precedence over the convenience of counsel who have voluntarily assumed political duties, yet it is of opinion that some concession of a very limited character might reasonably be allowed during the period that the budget is under discussion and that dates in cases in which legal practitioners who are also members of the legislative bodies appear may not unnecessarily be fixed during that period if the court is in no way hampered by this concession.

As regards adjournment of cases, an adjournment may, subject to the discretion of the presiding officer, be granted if two conditions are satisfied. The first is the personal assent of the parties and the second that such adjournment will not delay or hamper the work of the court.

C.L. No. 118/VII b-14 dated 13th November, 1972

Except in very exceptional circumstances the members of the Bar Council, who seek adjournment of their cases on the ground of attending the meeting of the Bar Council, may be accommodated to enable them to attend such meeting on the date fixed therefore.

(iii) Entries of adjournments

C.L. No. 6 dated 19th August, 1905

When a date has been fixed by the Court for the settlement of issues in or for the hearing of a suit, all adjournments after the date, for whatever reason they may be made, must be counted for the purpose of column no. 24 of register in form no. 67 (register of original suits disposed of) of the General Rules (Civil), 1957. The practice of some courts

of not counting adjournments because summonses have not been served on the parties or their witnesses, or because the parties applied for an adjournment, or because the court was unable to take up the case must be discontinued.

When the evidence in a case is heard *de die in diem,* and the hearing lasts over more than one day, such hearing, though it lasts over several days, is to be considered and entered as one hearing. The case will not be considered as adjourned until the court passes on from such continuous hearing to take up another case. But it must be distinctly understood that when a case has once been taken up the hearing of that case and of that case alone, must be continued until the evidence of all the witnesses in attendance has been recorded.

5. PREPARATION OF ORDER SHEETS

G.L. No. 887/44-28 dated 3rd March, 1914

District Judges shall take steps to ensure that the orders on order sheets are written in a clear and legible hand.

If the ahalmad and court reader cannot write legible, they should not be promoted.

C.L. No. 825/44 dated 5th March, 1913

Whenever an original public record is sent for the reason for the order should invariably be entered in the order sheet of the case.

C.L. No. 71/VIII-b-49 dated 18th July, 1961

It would be sufficient compliance of rule 151(5) of General Rules (Civil), if the date of admission of the first sheet of the Hindi order sheet and the English notes and the last sheet thereof are mentioned in the General Index instead of entering every leaf.

Chapter III, Rule 85(1) and (2)

C.E. No. 39/VII-d-102 dated 18th March, 1971

The judge's notes should be so prepared as to give a fair idea of the progress of the case from the date of its first hearing to its decision without reference to the individual papers on the record. They should, inter alia, contain-

(a) statement of parties or their counsel recorded at any stage of hearing, to clarify the pleadings or for any other purpose;
(b) names of parties or counsel present on the date of hearing;
(c) nature of application and the orders passed thereon;
(d) directions of the court on all-important matters coming up before it.

C.L. No. 64/VIII g-23 dated 9th June, 1987

All the readers are directed to mention the names of the counsel appearing in and arguing each case on behalf of the parties in the order-sheet to ensure an accurate record of the proceedings.

Pleaders to sign order sheet

G.L. No. 19/67 dated 1st May, 1929

Orders fixing dates or adjourned dates for hearing or directing anything to be done by the parties or their pleaders shall be signed immediately by the parties or their pleaders.

6. PREPARATION, PRESERVATION AND DESTRUCTION OF RECORDS

(i) Paging and maintenance of record

C.L. No. 3/VIII h-21-51 dated 11th January, 1951

Papers in the lower court files used to be arranged and numbered from right to left obviously, because the papers in the files used to be Urdu. But now since the court language is Hindi the papers in the files should be numbered from left to right. No change need be made in pending cases.

C.L. No. 10 dated 21st March, 1967

Assistants concerned should take care and precaution while stitching the records so that original documents like sale deeds, mortgage deeds, etc. forming part of the record are not torn, mutilated or damaged in any way.

C.L. No. 42/VII-d-65 dated 18th March, 1971

Instructions regarding proper maintenance of records as contained in Chapters V and VII of General Rules (Civil) and Chapters IV and XI of General Rules (Criminal) should strictly be followed.

C.L. No. 85/VIII b-37 dated 9th December, 1985

Attention of all the presiding officers is invited to the provisions of rule 4 and rule 13 of order XIII, Civil Procedure Code as well as to the provision of rule 57, General Rules (Civil), 1957. These provisions as to the endorsement and marking of documents must be strictly followed by the trial courts, while preparing records of the civil and criminal cases.

The trial courts must exercise greater care in regard to the maintenance of the records.

(*ii) Small Cause cases transferred and tried as regular suits*

C.L. No. 81/VIII b-65 dated 25th July, 1952

When a small cause court case is transferred to another court and tried as a regular suit, files B, C and D should be prepared as is done in other regular suits. But when the records of such cases are consigned to the record room, they may be kept in the bastas of small cause court cases to enable them to get more easily traced and to avoid the confusion that may result from there being two regular suits bearing one and the same number.

The period of destruction of such files should be the same as for those of regular suits, viz. twenty years for file B, fifteen years for file C and three years for file D. To prevent the possibility of file B of such cases being wrongly weeded out before the due date, a label containing the date of destruction of each file in bold letters should be affixed to the wrapper of each such record.

C.E. No. 70/VIII b-65 dated 31st October, 1966

As provided in rule 192 of the General Rules (Civil), 1957, Volume I, the Panchayat Raj Act cases should be treated as miscellaneous judicial cases for the purposes of arrangement, preservation and destruction of records and the weeding of records of such cases may, therefore, be done in accordance with the provisions relating to miscellaneous judicial cases.

C.L. No. 22/VIII b-65 dated 1st April, 1983

District Judges should see that after receipt of the notice issued by the Court under rule 1 of Chapter XII of the Rules of Court, 1952, Volume I, about the admission of appeal or revision, the lower court records of such cases are maintained intact till such time as such appeals or revisions are finally disposed of by the court. A practical method may be that after admission of the appeal under order 41 rule 13 of the Code of Civil Procedure, 1908, the pendency of the appeal should be prominently noted on the file cover of the record, so that 'C' and 'D' files may not be weeded out, even though the period for maintaining 'C' and 'D' files in usual course has expired.

C.L. No. 2/VIII b-65 dated 2nd January, 1984

The District Judge should see that strict compliance of the provisions of First and Second proviso to sub-rule (6) of rule 196 of the General Rules (Civil), 1957, Volume I, is done by the presiding officers of the courts, with regard to maintenance of file 'C' and 'D' of the lower courts records.

(iii) Records of petty criminal cases

C.L. No. 68/IV b-36 dated 1st April, 1977

The records of petty cases involving punishment not exceeding two years shall not be consigned in the record room and shall instead be weeded out by the court itself after the expiry of the period for filing appeal or revision if provided under the statutes and in case of an appeal or revision having been filed, after its disposal, in accordance with the periods for weeding mentioned in the rules.

C.L. No. 28/VIII b-65 dated 15th February, 1977

Weeding of files and papers should be done properly and strictly in accordance with the rules so that shortage of space in the record room may not be felt.

(iv) Classification of files in Hindi: 'A', 'B', 'C' and 'D'

C.L. No. 129/VIII-b-53 dated 13th December, 1952

The letters *'क', 'ख', 'ग',* etc. should be used in place of letters 'A', 'B', 'C', etc., or (in Urdu), etc. with reference to the files on the record of a case.

The directions do not imply a general permission to the use of the letters *'क', 'ख', 'ग',* etc. for the letters 'A', 'B', 'C', etc. at the other places.

(v) Preservation of freedom movement records

C.L. No. 74/X-e-3 dated 22nd December, 1954 read with

G.O. No. 5477-XXV-CX-278-1950 dated 1st December, 1954

Proviso (II to rule 118) of Chapter XII General Rules (Criminal), 1957,* gives ample discretion to the District Judges and District Magistrates to order the preservation of any records permanently and hence all judicial records in criminal cases connected with the freedom movement in India and having a historical value should be retained permanently, and in case of any doubt about the historical value of any record, the matter should be referred direct to the State Government for orders.

(vi) Records of dissolution of Muslim Marriages

C.L. No. 16/VIIIb-65 dated 11th February, 1970

Records in suits relating to dissolution of marriages under the Mohammadan Law should be classified and prepared strictly in accordance with rule 152(a) of the General Rules (Civil), 1957, Volume I.

(vii) Weeding out of the records of cases in the subordinate courts.

C.L. No. 38 /2000: Dated: 11th July 2000

In continuation of the court's C.L. No.2/VIIIb-65, dated January 2, 1994 on the above subject. I am directed to say that it has come to the notice of the Court that the provisions of first and Second proviso of Sub-Rule (6) of Rule 196 of the General Rule (Civil) 1957, Volume I and Rule 118 of chapter XII of General Rules (Criminal) are not being strictly complied with and the records of the cases are weeded out despite having knowledge of filing of an appeal by the appellant against their conviction.

It is, therefore, requested that in the cases of convictions, if you get on information with regard to preference of an appeal by the convicted accused persons no records are to be weeded out.

The above instructions may kindly be brought to the notice of all concern working under your administrative control for guidance and strict compliance in future.

(viii) To ensure strict compliance of orders of the Court passed in Government Appeal No. 185 of 2000- State of U.P. vs. Kartar Singh and others.

C.L. No. 25/2003 Dated 3rd July, 2003

While enclosing herewith a copy of the orders dated 27.3.2003 passed by the Hon'ble Court (Hon'ble Mr. Justice S.K. Agrawal and Hon'ble Mr. Justice R.S. Tripathi) in Government Appeal No. 185 of 2000 State of U.P. Vs. Kartaar Singh and other, I am directed to say that any record required by the District Magistrate shall only be supplied to a responsible officer of the District Magistracy and the record shall not be sent simply on requisitions of the District Magistrates unless a responsible officer attends the concerned Court for this purpose with the requisition slip.

I am further directed to say that the record so sent to the District Magistracy be returned to the concerned court immediately after the purpose is over.

I am also to add that while receiving the record it be ensured that the same is authentic and intact.

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* Note: Now 1977 vide notification no. 504/Vb-13 dated 5.11.83.

(ix) To ensure strict compliance of the Courts direction regarding proper maintenance of the record for the movement of the files in Government Appeal.

C.L. No. 40/2003 Dated: 27th September, 2003

The Hon'ble Court (Hon'ble S.K. Agarwal, Judge and Hon'ble V.S. Bajpai, Judge) in Govt. Appeal 389 of 2000- State vs. Ajab Singh and others has observed with concern that the records are handed over to the District Magistrates without proper entry into the dispatch register this is a serious lapse in maintenance of the records which are valuables security and in future for such lapses stern action shall be taken, proper record be maintained for the movement of the files in Govt. Appeal. Any instruction received from this court summoning the respondents in Government Appeals or Bail their record shall be entered in separate register and the record of such Government Appeals be retained until they are summoned by this Court. They should not be weeded out on expiry of three years. The direction of this Court for execution of bailable warrant shall be treated, as intimation to the District Courts is this regard. Whenever any such bailable warrant is received the record be so segregated and they should be maintained separately and securely.

I am, therefore, directed to send herewith a copy of the order dated 23.7.2003 passed by Hon'ble Court in Government Appeal No. 389 of 2000- State Vs. Ajab Singh and others for your guidance and strict compliance in continuation of the Court's earlier circular letter No. 25/2003, dated 31.7.2003.

C.L. No.47 Dated: 22nd November, 2004

I am directed to say that the Museum of Court Records and Archives in the Allahabad High Court which contains a large number of old and rare documents of archival and historical Importance useful for research scholars, besides being archival treasure and a source of inspiration to young generation of lawyers is being recognized. In this connection, such documents lying in the records of subordinate courts and other officer relevant for judicial records are to be considered for being requisitioned and scientifically preserved and secured in the Museum of the Court.

I am, therefore, to request you to kindly select old and rare documents in record rooms, which in your opinion may be suitable for being included in the items to be preserved and kept in the Courts Museum and to send a list of such documents with brief description of their contents to this Court for perusal and orders of Hon'ble Museum Committee.

Compliance of the direction passed by Hon'ble Court in Criminal Appeal No. 1800 of 1982 about reconstruction of records.

C.L. No. 12/2009/Admin. 'G-II': Dated: April 9, 2009

While passing judgment and order in Criminal Appeal No. 1800 of 1982 – Ganga Singh and others v. State of U.P., the Hon'ble Court has been pleased to observe that-

> "……..District Judges to initiate an enquiry about the destruction of the records in violation of rules as soon as information is received and also to inform the Police Stations concerned to preserve the records (i.e. case diary, G.D. etc.) with

it. The District Judge concerned should also initiate the process of getting the reconstruction of the records done even without awaiting the order of the High Court as that would be in compliance with the letter and spirit of the directions of the Supreme Court as held in the case of State of U.P. v. Abhai Raj Singh (AIR 2004 SC 3235). Communication should be sent immediately to the High Court and the registry should list the case immediately and also place the matter before the concerned Bench so that steps are taken for monitoring the reconstruction of the records. Furthermore, an attempt should be made to punish the guilty officials, who are responsible for the destruction/removal/weeding out of the record and if necessary, criminal proceedings may also be initiated against them in the said cases. If reconstruction of the record is not possible in a particular case, it may be possible to get retrial ordered as directed by the Apex Court in Abhai Raj's case (supra) if the time period elapsed is not inordinately long and the basic documents are available."

I am, therefore, directed to send herewith a copy of judgment and order aforesaid with the request to kindly circulate the same among all the Judicial Officers under your supervision and control for their guidance and compliance.

I am further directed to request you to furnish the details of such cases in which records are missing and weeded out in violation of the Rules.

To overcome the problem arising due to destruction or loss of original record.

C.L. No. 14/2009/Admin. 'G-II': Dated: April 9, 2009

It has come to the notice of Hon'ble Court that in many cases of heinous crimes, original records have been lost or weeded out in the lower courts even during the pendency of government appeals/criminal revisions before the High Court. In such circumstances, the accused is the direct beneficiary of the destruction or loss of original record.

In this regard, the Hon'ble Court has been pleased to direct that on receipt of intimation from this Hon'ble Court about the pendency of Government appeal, criminal appeal or revision, the original record related thereto shall be segregated and safely kept apart for being transmitted to this Hon'ble Court as and when required.

I am, further directed to request you that details of such segregated records be entered in a separate bound register to be placed before the District Judges Officer In charge Record Room in the first week of the month invariably.

I am also to add kindly to ensure strict compliance of the above directions.

7. REQUISITION OF RECORDS

(i) from revenue court

G.L. No. 1/67-1 dated 9th January, 1942

Civil courts should send court fee label of Re. 1 realized under rules 207 and 234 of General Rules (Civil), 1957, to the Collector's record keeper, while requisitioning revenue court records as required by paragraph 1288(2) of the Manual of the Revenue Department, U.P.

(ii) from Registrar, Joint Stock Companies

G.L. No. 34/XVIII-70 dated 3rd May, 1948

Where secondary evidence of public documents forming part of the permanent records maintained in the office of the Joint Stock Companies, U.P., is admissible in evidence, the summoning of the original records in the first instance may be dispensed with and the parties directed to file their certified copies. Wherever the examination of the original document is necessary, it may be summoned for production before the court through a clerk of the office of the Registrar, Joint Companies, and returned, if possible, the same day. If however, the retention of the original record for a longer period is necessary for the proper decision of the case, courts can retain the original record in their safe custody, but as soon as the original record is not required it should be returned to the Registrar, Joint Stock Companies, without any further delay.

(iii) From a Panchayati Adalat

G.L. No. 34/VII f-100 dated 27th March, 1953 read with U.P. Govt.

G.O. No. 170/VII dated 7th March, 1953

In accordance with rule 246 of the Panchayat Raj Rules, Panchayati Adalats will now directly send the required records, of a case, suit or proceeding to a higher court.

C.L. No. 62/VIII h-17 dated 8th May, 1952 read with

G.O. No. 6013/VI dated 22nd April, 1952

In accordance with rule 128-A of the Panchayat Raj Rules where the records are called for by a superior court at the instance of any party, the presiding officer shall direct the applicant to deposit a fee of Rs. 1.50 inclusive of money order charges for this purpose and shall send this amount to the Sarpanch of the Panchayati Adalat, who shall then send the required record, but where the court sends for the record of its own motion the record shall be sent to it at the cost of Panchayati Adalat, within a week of the receipt of the requisition.

C.L. No. 102/VIII h-17 dated 6th June, 1977

The courts while requisitioning records in connection with applications under Section 85 and 89 of the Panchayat Raj Act, send the requisition letter and fee to the District Panchayat Raj Officer, instead of the Sarpanch of Nyaya Panchayat concerned, which procedure is inconsistent with the provisions of rule 128 A of the Panchayat Raj Rules. All the presiding officers are directed to comply with the provision of rule 128-A of the Panchayat Raj Rules, in future.

C.L. No. 52/VII f-III dated 28th April, 1961

The record of Nyaya Panchayat may be returned by the courts hearing revision without any delay and requisitions for the records of Nyaya Panchayat may be sent in duplicate.

(iv) Police papers

C.E. No. 98 dated 18th September, 1969

While requisitioning the police papers, a request should be made to send them in sealed covers and papers should be opened when required and resealed in the presence of the Presiding Officers.

(v) From High Court at Allahabad

G.L. No. 1946 dated 11th May, 1925

In cases where a record is sent for under Chapter VIII, rule 215 of the General Rules (Civil), 1957 in connection with an appeal to the High Court, other than an appeal arising out of execution proceedings, the record referred to in Chapter VIII rule 215 should be understood as meaning Part I of the record prepared under Chapter V, rule 151.

C.L. No. 37 dated 21st July, 1960

In order to avoid delay in dispatch of records requisitioned by this Court and to enable District Judges to exercise effective supervision over their office in this behalf the following procedure should be strictly followed:

(1) All requisitions marked urgent and records summoned on applications for bail must be complied within twenty-four hours of the receipt of the requisition.

(2) All other requisitions must be complied within ten days of their receipt.

(3) A register should be maintained in the office of the District Judge showing-

- (a) the date of receipt of the requisition,
- (b) the date of dispatch of the record, and
- (c) the reasons for the delay in dispatch.

The Court will hold District Judges personally responsible for any unexplained delay in the dispatch of records.

C.L. No. 4/VIII-74 dated 16th January, 1965

In all cases where the requisition is returned without compliance, reasons for non-compliance should invariably be noted in brief in the remarks column of the register of requisitions in Form no. 24.

C.E. No. 134/VIII a-41 dated 31st August, 1974

While dispatching records of criminal cases to the Court the following instructions should invariably be followed-

(1) The files of each case should be stitched together alongwith police papers.

(2) The envelope of every file and police papers should bear the number and year of the case allotted by the Court so that it may be placed on the relevant record without any difficulty and waste of time.

(3) Every record should be accompanied by a forwarding letter in Form no. 24 indicating correctly the enclosures sent therewith so that it may be convenient to check up the number of files received in the office of the Court.

C.L. No. 90 dated 17th August, 1972

The District Judges should keep an eye on the despatch of record in criminal cases and see that no delay occurs in the dispatch of records to this Court.

C.L. No. 137/VIII g-34 dated 24th August, 1976

In future, if the records of cases are received in the subordinate courts without copy of judgment or order of this Court and copy of the decree is not sent within a reasonable time from the court, the matter should be brought to the notice of the Registrar of the Court by name.

(vi) From other High Courts

G.L. No. 18/161-27 dated 30th March, 1937

The provisions of Chapter VIII, rule 205 of the General Rules (Civil), 1957, require that requisitions by civil courts for records of courts subordinate to other High Courts should not be sent directly but should be forwarded through the High Court. It is understood that similar restrictions are also imposed by rules or circular orders of other High Courts. No record should, therefore, be sent by any court in compliance with a requisition received directly from a civil court situate beyond the jurisdiction of the High Court and such a requisition should be returned with the request that it should be sent through the High Court.

G.L. No. 48/161-27(1) dated 3rd August, 1937

Requisitions for records from a civil court subordinate to another High Court, should invariably be sent in English in Form no. 21, General Rules (Civil), 1957.

To ensure dispatch of Lower Court Record requisitioned by the Hon'ble Court within a week.

C.L. No. 13/2009/Admin. 'G-II': Dated: April 9, 2009

It has come to the notice of Hon'ble Court that delay is being caused in sending the lower court record as requisitioned by the Hon'ble Court causing much inconvenience to the Hon'ble Court.

I am, therefore, directed to request you that as and when any lower court record is requisitioned, the same be kindly dispatched provided to the Hon'ble Court within a week.

I am also to add that the contents of the circular letter be kindly brought to the notice of all concerned in the Judgeship for strict compliance of the directions of the Hon'ble Court.

(vii) Procedure of dispatch of records

C.L. No. 27/46-54-252 dated 3rd September, 1940

(A) Each record should be carefully packed in brown paper and labeled with the description of the case.

(B) Records of civil and criminal cases should not be sent together, that is to say, civil records should not be included in the same parcel that contains criminal records, and *vice versa*.

C.L. No. 107/VIII a-76 dated 28th September, 1978

It is the duty of the District Judge and the officers working under him, to see that the rules and directions regarding dispatch of records are strictly followed by all concerned and those found at fault are suitably dealt with.

(C) The records should always be accompanied by a list as required by rule 218(3) of Chapter VIII of the General Rules (Civil), 1957.

C.L. No.. 66/X f-34 dated 16th October, 1950

C.L. No. 71/IX-f dated 17th October, 1950 and

C.L. No. 111 dated 16th December, 1957

When any records or material exhibits are sent by rail, the railway receipt should invariably be sent to the consignee under registered cover followed by intimation of dispatch of the railway receipt through ordinary post. Enquiry should be made from the court to which the parcel has been sent if acknowledgement of its receipt is not received within a fortnight of the date of dispatch.

(viii) Records sent out on requisition

In appeal or revision against interlocutory orders

C.L. No. 89/VIII-c-40 dated 12th October, 1959

Officers presiding over subordinate courts should make a note of all the records sent out to the Court in connection with an appeal or revision against an interlocutory order.

They should write to the Court whenever any such record is not returned within four months of its receipt in the High Court.

In other cases

C.L. No. 24/VIII b-70 dated 27th February, 1952

Whenever the complete record of a case is transmitted to any court on requisition or otherwise a fresh order sheet should be opened and the requisition slips, if any, should be kept along with it. The requisitioning court should be periodically requested to return the record, if no longer required. The issue of such reminders should be noted on the order sheet.

C.L. No. 10/VIII-g-34 dated 18th January, 1952 read with

C.L. No. 22 dated 6th March, 1959

Presiding officers of subordinate courts should not keep quiet after having once despatched the record to the Court. After ascertaining from their own office from the office of the District Judge and from the record room whether or not the record has been received back, they should keep on enquiring from the Court, say once in every six months, when the record may be expected to be returned.

The District Judges should also see that when a record is received back in their office, necessary information of its receipt is promptly sent to the court concerned.

C.L. No. 131/VIII-b-70 dated 16th December, 1952

Quarterly list of requisitioned records should contain particulars of all records which have been requisitioned by various courts and which have not yet been received back in the record room.

When such quarterly list is received back in the record room from the court to which it was sent, it is very necessary that the record keeper should check up the correctness of the report made by the court concerned in respect of each and every case entered in the list. In case any report is found to be incorrect, it should immediately be brought to the notice of the sadar munsarim, who should take such steps as may be considered necessary.

8. RETURN OF RECORDS

C.L. No. 21/VIII g-34 dated 2nd February , 1977

In future, proper entries in the relevant column of the register of requisitions (Form No. 24) should be made immediately after the records have been received from the High Court or any other superior court after disposal of the case.

C.L. No. 12 dated 16th December, 1902

The attention of all District Judges and Magistrates is invited to the necessity of dealing with greater promptitude with requisitions demanding the return of records.

Where an order has been issued by the High Court directing the performance of a specific act, if the direction cannot be immediately complied with the reason for non-compliance should be promptly intimated.

Return of record of execution proceedings

G.L. No. 2714/44-21(b) dated 5th July, 1915

Rule 151(7), Chapter V of the General Rules (Civil), 1957, requires that when a decree has been sent for execution under section 39 of the Code of Civil Procedure, the court to which such decree is sent shall, when it certifies to the court which sent the decree the fact of the execution of, or the circumstances attending a failure to execution of decree, transmit to the court which sent the decree the record of the execution proceedings. This procedure should only be followed in the case of courts subordinate to this High Court.

In the case of decrees transferred for execution from courts in other States, the records of the execution proceedings should be retained and filed in the court concerned in this State, the result of the proceedings merely being certified to the other court as required by section 41.

G.L. No. 30-67-8 dated 22nd August, 1931

When a court orders that certain documents should not be returned without special permission they should either be kept with the record or preferably in safe custody elsewhere after a note has been made on the general index to that effect. The court should

also inform the officer-in-charge of the record room who shall maintain a list of such documents and put it up before the court whenever any application for the return of such document is made.

C.L. No. 100-B dated 12th September, 1952

Records of cases of the courts of Additional Munsifs in which proceedings have been stayed under the orders of the higher courts and which are not likely to be proceeded till the stay order is discharged should be sent back to the permanent court from which the case was transferred.

C.L. No. 44/VIII-h-17 dated 4th May, 1956

The records requisitioned from the Nyaya Panchayats shall be returned by the High Court direct to the Nyaya Panchayats concerned and not through the District Panchayat Officers.

C.L. No. 17/VII f-III dated 12th March, 1964

A copy of the judgment in a revision against the judgment or order of a Nyaya Panchayat should invariably be sent to the Nyaya Panchayat concerned along with the record of the case and that all correspondence with the Nyaya Panchayats should be made in Hindi.

C. L. No. 19 /2007: Admin 'G' Dated 11 May, 2007.

The Hon'ble Supreme Court of India, New Delhi in order to streamline the procedure and for ensuring safe return of the Original Records has been pleased to direct Vide C.L. No. F.l/Judi./OR/2007, dated Feb. 2, 2007 as under:-

(A) After disposal of the case, the concerned Judicial Section, while sending certified copy of the Order/Decree to the concerned Court or Authority, will also request them to depute a Special Messenger to take back the Original Record. A copy of the letter will be endorsed to Section V/II or II-A, as the case may be, for necessary action.

(B) Section-V/II or II-A will ensure that all the Original Records are returned promptly to the concerned High Court/ Tribunal/ Lower Court/ Authority through the Special Messenger so deputed for the purpose after verifying his identity and noting down particulars of the record In the forwarding letter and getting It signed from the Messenger .

In partial modification of above, the Hon'ble Supreme Court of India, New Delhi vide Hon'ble Supreme Court of India, New Delhi vide Circular Letter No. F .2/Judl./OR/2007, dated 21st Feb., 2007 has been pleased to direct as under:-

> "…..After disposal of the case, the Original Record pertaining to High Courts in the far off places i.e. Kerala, Madras, Karnataka, Andhra Pradesh, Guwahati, Orissa, Bombay, Calcutta Patna, Jammu and Kashmir, Gujarat, Jharkhand and Sikkim be sent by Registered Post/Insured parcel. However, the Assistant Registrar In-charge of the Section responsible for sending back the record, shall cause to verify that the Original Records are as per the index and that the Records are

properly packed, strapped, laminated and sealed before giving it for dispatch. In the letter returning the original records, the concerned section will also request the Registrar of the High Court concerned to get the records, on Its receipt, opened, checked and detailed in the presence of an Officer not below the rank of an Assistant Registrar of the High Court and to acknowledge receipt of the Original Records sent from this Hon'ble Court within three days of receipt of record. On receipt of such acknowledgement, the same shall be kept In the respective case file. If no acknowledgement Is obtained within two weeks of dispatch of record the concerned Assistant Registrar shall bring It to the notice of concerned Joint Registrar / Deputy Registrar, In writing, who shall pursue the matter with the concerned High Court till the acknowledgement is received and will bring the discrepancy/ non-receipt of record, if any, to the notice of his Registrar

While enclosing herewith a copy *each* of the Hon'ble Supreme Court's Circular Letters referred to above, I am directed to request you to kind ensure strict compliance of the directions as contained in the circular letters by all the concerned in the Judgeship under your supervisory control.

9. CONSIGNMENT OF RECORD TO RECORD ROOM

C.L. No. 43/VIII b-60-51 dated 4th May, 1951

All decided cases should be consigned to the record room on or before the date fixed under rule 181 of Chapter VII of General Rules (Civil), 1957* and rule 108, Chapter XI of General Rules (Criminal), 1957, for the purpose and not on any subsequent date even if the prescribed date falls on a holiday.

(i) In appeals

C.L. No. 297/44-5 dated 23rd January, 1913

The certified copy of the judgment and decree should be sent to the court, which passed the decree, but the record should ordinarily go to the record room. The court, which passed the decree, shall, after considering the judgment and the decree send them to the record keeper to be filed.

Following the same procedure, this Court will send the record to the District Judge to be filed in the record room and a certified copy of the judgment and decree to the court, which passed the decree.

(ii) Of execution files relating to cases decided by Registrar, Co-operative Societies

G.L. No. 2499/44-3(8) dated 12th September, 1918

When an application for enforcement of a decision of the Registrar of Co-operative Societies or an award of Arbitrators appointed by him has been disposed of, the file will be consigned to the record room with other applications after the manner of civil appeals [Chapter VII, rules 179 and 180 of the General Rules (Civil), 1957].

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* NOTE: Now 1977 vide notification no. 504/Vb-13 dated 5.11.87.

(iii) Of Panchayat Adalat decrees executed and revisions against decrees and judgments of such courts decided by Munsif's Court

C.L. No. 69/VII f-110 dated 25th June, 1951

The execution records of decrees passed by Panchayati Adalats and executed by a Munsif should be consigned to the record room of the Panchayati Adalat and not to civil court record room.

C.L. No. 31/VIII f-110 dated 14th May, 1954

Record of revisions decided by Munsif against the judgment and decree of Panchayati Adalats should be consigned to the civil court record room and an information only sent to the Panchayati Adalat concerned.

(iv) Of cases under the Zamindari Abolition and Land Reforms Act transferred to civil court for decision

C.L. No. 112/VIIf-162 dated 12th November, 1953

The intention of the provision contained in section 222(4) of the U.P. Zamindari Abolition and Land Reforms Act, 1951, seems to be that the case be transferred for disposal to the civil court; the record of such cases after decision should not be sent to the revenue court but consigned to the record room of the civil court.

C.L. No. 93/VIII b-63 dated 12th October, 1961

For consignment purposes, the records of appeals under section 50 of the U.P. Zamindari Abolition and Land Reforms Act may be treated as revenue appeals.

C.L. No. 93/VIII b-63 dated 12th October, 1961

For statistical purposes, appeals under section 50 of the U.P. Zamindari Abolition and Land Reforms Act should be treated as civil appeals.

(v) Of cases under U.P. Imposition of Ceiling and Land Holdings Act

C.L.No.43/VIII-b-63 dated 27th July, 1963

All appeals under U.P. Imposition of Ceiling and Land Holdings Act, 1961, should be treated as revenue appeals for the purposes of consignment of their records in the Record Room and the procedure prescribed in rule 192(2) of General Rules (Civil) should be followed.

(vi) Of cases decided by Munsif-Magistrates

C.E.No.44 dated 21st April, 1969

Referring to rule 108 of General Rules (Criminal), 1957*, it has been directed that the records of cases decided by Munsifs working as Magistrates, like records of cases decided by other magistrates, be consigned to the judicial record room of the collectorate.

* NOTE: Now 1977 vide notification no. 504/vb-13 dated 5.11.83

(vii) All registers to be filled up to the last page before consignment to record room.

G.L.No.3609/67-3, dated 30th August, 1915

The words "after completion" occurring in Chapter VII, rule 195 of General Rules (Civil), 1957, indicate that each register should be filed up to the last page and as such no register should be sent to record room with blank pages.

(viii) Consignment of records to High Court

C.L. No. 51/Vlllb-65/Admn.'G' dated May 24, 1994

I am directed to say that the Court has noticed that in a good number of cases report is submitted by the District Judges concerned about records having been lost and the process of reconstruction started as provided under Rule 216 of General Rules (Civil), 1957 Vol. I. On account of non availability of records while bearing appeals in Civil as well as Criminal matters and due to non materialization of reconstruction proceedings prayer is made that the appeal be allowed or the accused be acquitted as the case may be. This practice has not been appreciated by the Court. There are also instances when a through checking of the bundles in the Record Room is made, not only the present missing file is traced out but records lost previously are searched out during such checking. The existing rules also give emphasis on preservation of records in a suitable manner so that it may be available if and when needed. It was also the past practice that during the summer vacation, the staffs willing and surplus are asked to make physical verification of the records reported to be lost, but later on, this practice seems to be have been discontinued. Considering this aspect and to ensure availability of records, the Court has decided that henceforth the Summer Vacation 1994 the District Judges shall direct the officer-in-charge of the record room to detain sufficient staff in the Judgeship and such staff under the supervision of officer-in-charge record room, shall perform physical verification of the bundles to find out whether the records are kept in correct racks and in correct bundles so as to trace the records which are requisitioned by the High Court at present or in past.

I am, therefore, to request you kindly to direct the officer-in-charge of the record-room to follow the instructions given above and a progress report be sent to the Court after each summer vacation justifying the exercise as required under Rule 215 of General Rule (Civil), 1957, Volume I.

(ix) Weeding out of the records of cases in the Subordinate courts.

C.L. No. 9/2003: VIIIb-65 Dated: 4th March, 2003

The Hon'ble Court has expressed its concern that the provisions as contained in First & Second proviso of sub Rule (6) of Rule 196 of the General Rules (Civil) 1957, Volume I and Rule 118 of Chapter XII of General Rules (Criminal) 1977, are not being followed in letter and spirit and the records of the cases are weeded out despite clear directions of the Court as contained in C.L. No. 22/VIIIb-65, dated 1.4.83, C.L. No. 2/VIIIb-65, dated January 2,1984 and C.L. No. 38/2000, dated 11.8.2000 issued in this regard.

I am, therefore, directed to request you kindly to ensure strict compliance of the provisions as contained in the aforesaid rules of General Rules (Civil) 1957, & General Rules (Criminal) 1977 and also bring the contents of this circular letter to the notice of all concerned working under your administrative control.

10. HISTORIC OR ANTIQUE RECORD

G.L. No 2970/180-2(1), dated 31st August, 1917

Rule 4 and 6 of Order XIII of the Code of Civil Procedure, 1908, require certain particulars to be endorsed by the court on documents, produced as evidence in a suit. Occasionally, though rarely, documents are produced which are of great historic or antiquarian value, such as old sanads or grants, and it is obvious that such documents may be seriously injured by the usual endorsement.

The court before which it is produced should make every possible endeavour to prevent its being defaced by endorsement and exhibit marks or by having the seal of the court impressed upon it. Some means of avoiding such disfigurement will probably suggest itself to the presiding judge. The parties will probably agree to a photographic copy being substituted for the original, or the document may be enclosed in a sealed cover, or kept in a locked and sealed box, the necessary particulars being endorsed on the outside. If other means fail, careful measures should be taken for the safe custody of the document pending instructions from higher authority.

C.L.No.62/Xc-3 dated 14th September, 1949

It sometimes happens that in the course of a judicial proceeding a record of historical interest and importance is filed in evidence. When this happens the keeper of records at the headquarters of the Director of Education, Allahabad, should be informed of it without delay so that he may take a photograph thereof if he so wishes.

(i) Case properties of historical and scientific importance may be sent to the Police Science Museum, Hyderabad

C.L. No. 10/VIIIa-88/A-3: Dated 26th February, 1998

I am directed to say that for imparting basic and in-service training to the I.P.S. Probationers, Senior Police officers from different States, Central Police Organizations and Officers from other countries, Govt. of India have set up Police Science Museum in Sardar Ballabh Bhai Patel National Police Academy, Hyderabad. The said Museum is desired to be equipped with the objects of historical and scientific importance. All criminal courts after the conclusion of trial may make an order for the disposal of property having historical and scientific importance, by way of sending them to Police Science Museum for the purpose of preservation.

I am further directed to say that while delivering the judgment of acquittal or conviction, the courts shall also make it clear that disposal of the material exhibits shall not be made in any manner till to the expiry of the period of appeal. If appeal is filed the disposal of such material exhibits shall depend upon the directions of the appellate court.

11. REMOVAL OF RECORDS FROM COURT

G.L.No.4053/2C-2 (1) dated 18th December, 1920 read with

C.L.No.29/2-A dated 30th March, 1951

Rule 9, Chapter I of the General Rules (Civil), 1957, must be strictly enforced. All subordinate officials are strictly prohibited from removing records from the precincts of the court and any one breaking the rule will be severely punished.

If necessary the office may be opened on a Sunday or other holiday but in no case shall any judicial or departmental record be removed from the court buildings.

12. LOSS OF DOCUMENTS

C.L.No. 108-C dated 16th December, 1959

Frequent loss of papers from record indicates slackness on the part of the officials dealing with records. District Judges and Presiding Officers should, therefore, take proper measures to act as a check against such losses.

Effective steps should be taken to enforce strict supervision against negligence or dereliction of duty on the part of the officials dealing with records. The officer-in-charge of the record room should also be directed to make surprise inspection of the record room and see that the relevant rules and orders are strictly being followed.

G.L.No.4/VIIIa-88, dated 31st January, 1955

All material documents on the record of a criminal case should be deposited in the Malkhana, or in the Treasury or in the safe of the District Registrar or kept in a steel almirah or with the Presiding Officer themselves.

With a view to ensure responsibility, being fixed for loss of record during taking over or making over charge by assistants the following procedure should be adopted:

(i) The assistants proposed to be transferred should be given information of the proposed transfer at least one week earlier of the actual date of transfer.

(ii) They should prepare a list of records in their possession with the help of the registers maintained. Records requisitioned from the court or record room should also be included in the list.

(iii) At the time of making/taking over the successor should physically check the records with that list and sign it in lieu of receipt. That receipt should be countersigned by the Munsarim of the court concerned under whom the transferred assistant had been working before his transfer.

(iv) Three copies of such list should be prepared. One copy should remain with the Munsarim of the court concerned, one copy with the transferred assistant and one with the successor.

In case of transfer of an assistant record keeper or librarian, the rules prescribed for movement of records and books, as the case may be, should be strictly followed.

C.L.No. 116/c dated 5th August, 1974 read with

C.L. No.41/4C dated 22nd June, 1964

In case of loss of record or any paper thereof, the official having custody of the record should in the first instance be held responsible and if after a detailed enquiry a more serious case is made out, instead of an entry in the character roll, departmental action or criminal prosecution can take place.

C.L.No.41/4c dated 22nd June, 1964

It is not only very necessary to comply strictly with the directions contained in C.L. No. 108-c, dated December 16, 1959, but also to award adequate punishment to the official or officials found guilty of loss of record. The punishment awarded should be commensurate with the gravity of such omissions or commissions. The punishment awarded, keeping in view these instructions, should invariably be reported to the Court.

C.L. No. 19/ Budget dated 4th February, 1978

For the loss of the papers from the records of subordinate courts, adequate punishment is not being meted out by the District Judges to the delinquent officials. A mere adverse entry in the record of service of the delinquent official is no corrective. Punishment, which may have a deterrent effect, is required to be inflicted on the delinquent official to stop frequent recurrence in future.

In order to avoid loss of judicial records while being transmitted from district courts to High Court, the District Judge should see that courier of record is a responsible permanent employee of his court with at least 5 years' of service and no record should be transmitted to the High Court through persons in temporary service.

13. APPLICATIONS

(i) Through post

C.L.No.1 dated 22nd January, 1895

The following papers may be received or sent through Post Office, namely:-

(1) Application for copy sent by an applicant prepaid and accompanied, when necessary, by stamp papers, on which the copy is to be made.
(2) Copy ready for delivery, when the applicant is not present and has paid for the transmission of such copy by registered post.
(3) Stamp paper returned when application for copy has been refused.
(4) Notice to withdraw deposits.
(5) Notice to parties to withdraw sums held by the Nazir, such as unexpended diet money of witnesses, etc.
(6) Intimation that an application has been shelved (dakhil daftar).
(7) Intimation in any case of the receipt of money for payment to any person.
(8) Application from a judgment- debtor to know how much is due from him.
(9) The reply to such an application.

(10) Intimation to auction- purchaser, decree-holder or judgment- debtor of the date fixed for delivery of possession, when an addressed letter has been left for the purpose.

(11) Intimation of the result of a suit or application when the party has applied that the result should be so communicated to him, and has left an addressed letter for the purpose.

Guardianship certificates

C.L. No. 80/IV-g-17 dated 18th August, 1953

(Under a registered cover at the request and expense of the party, the postal receipt being retained on the file of the case).

(ii) Execution of an order of Registrar, Co-operative Societies, etc.

G.L.No.2499/44-3 (8) dated 12th September, 1918

When an application for the enforcement of a decision of the Registrar of Co-operative Societies or an award of arbitrators appointed by him is filed in a court having jurisdiction to entertain the same, an entry of the application shall be made in a register kept in Form No.68.

(iii) Final decree

G.L.No. 1885/67-5 dated 25th March, 1927

Applications under Order XXXIV, rule 5 must be treated as applications in suit and must be noted in the register of regular suits.

The correct procedure to be followed when such applications are filed is for the court to send for the record of the original suit, to enter the application in the index of Part I and to proceed with the application as in continuation of the original suit.

(iv) Review application

G.L.No.9/35-a-9 dated 25th March, 1943 as amended by

G.L.No.5/VII-d-III dated 14th October, 1954

An application for review under rule 2 of Order XLVII of the Code of Civil Procedure should be made only to the Judge who passed the decree or made the order sought to be reviewed. What is meant by this rule is that the application mentioned in the rule can be made to the court so long as the same Judge is the presiding officer of the court; the rule does not mean that the application should be personally presented by the applicant himself.

(v) Presentation, disposal of application

G.L.No.4/Ve-58 dated 27th January, 1949

On coming to court, the presiding officer should first take up applications and pass orders thereon, and no application should be taken after the fixed hour except those in which limitation may be expiring.

C.L. No. 15/VII-b-6 dated 23rd January, 1952

All presiding officers should pass clear orders directing that all interlocutory applications filed in court or presented to the Munsarim, should be put up before them for orders without avoidable delay along with the office report and relevant papers. Presiding Officers should further see that orders on these applications are issued promptly by the office.

C.L.No. 94/V/b-47 dated 22nd July, 1975

Presiding officers should fix hours for entertaining applications and disposing them off and such timing should invariably be adhered to. They should also keep in mind that no application, as far as possible, is disposed of in chambers.

C.L.No.45/VIIIb-6 dated 13th July, 1984

All the presiding officers should strictly comply with the provisions of rule 17 and 32 of General Rules (Civil) and instructions contained in above noted C.Ls. with regard to the presentation and disposal of applications in the subordinate courts. Hence-forth, the applications should invariably be entertained at the time fixed by the District Judge and be disposed of by an order passed in court as soon as they are presented, as required by the aforesaid rules and instructions of the Court.

(vi) Application under section 340 Cr.P.C.

C.L.No.17/VII-b-45 dated 4th February, 1952

Application under section 476 (new section 340, etc.) of the Code of Criminal Procedure should invariably be registered as a separate case and separate file, complete in all respects, should be prepared in each case.

14. COURT FEES AND STAMPS

(i) Affixation and cancellation

G.L.No. 2874 dated 12th August, 1911

District Judges should impress on all the courts subordinate to them necessity of attention to be paid to the under mentioned matters and should themselves look into them while inspecting courts.

(1) Stamps affixed in all pending cases shall be punched and no record shall be deposited in the record room with unpunched stamps.

(2) The following documents are often received unstamped and should be specially attended to-

(a) second or subsequent application to summon a witness,

(b) application for examining a witness not summoned through court,

(c) application to call for a record,

(d) application to adjourn a case.

(3) Number of words should invariably be noted upon certified copies.

(4) The court-fee registers prescribed by the High Court should be properly maintained.

(5) The rules about the least number of stamps to be affixed to instruments under section 21(f) of the Court Fees Act (rules 20, 21 and 108 of the Stamp Rules- Stamp Manual) should be observed.

(6) Papers filed in a case, especially applications to summon witnesses, should always be entered in the flysheet.

(7) Printed lists of process fees shall be exposed to view in courts as required by section 20(d) of the Court Fees Act.

(8) The register of process fees must show that fees for summoning defendants and for issue of notices under rule 3, Order XXXII of the Code of Civil Procedure have been paid.

G.L.No. 31/180-4(10) dated 17th November, 1928

District Judges should issue strict instructions to all courts in their judgeship as to the necessity of a very careful scrutiny by the clerks concerned of all documents liable to stamp duty.

G.L. No.72/47-1141 dated 4th August, 1976

The High Court has, in a stamp reference in first appeal no. 62 of 1952, upheld the report of the Chief Inspector of Stamps that a document not stamped in accordance with the provisions of rule 24 of the Stamps Manual is not properly stamped. All presiding officers of civil court are, therefore, directed to see that the provisions of the rule are strictly complied with unless a certificate is furnished to show that the requisite stamps were not available at the time.

The provisions of rule 23 of the Stamps Manual should also be similarly complied with.

C.L.No. 33 dated 18th March, 1961

In order to prevent fraudulent reuse of court fee and copy stamps the provisions contained in rules 384, 386, 387 and 389 General Rules (Civil) 1957, Volume I, should be strictly followed by all the courts. Besides the rules the instructions contained in the Board of Revenue C.L. No. 16/Stamps-693-G, dated November 19, 1960 should also be followed.

C.L.No.130/VIIIb-151 dated 21st November, 1978

Extreme care should be taken to check the records that forged court fee stamps are not being used. If any instance of the use of forged court fee stamps comes to light, immediate necessary action as the situation demands and is deemed essential and proper should be taken in the matter.

C.L.No.63/VIIIb-151 dated 8th October, 1982

Absence of Ashok Pillar Watermark or any other required watermark in the court fee stamp can establish it to be forged. This can be detected by seeing the stamps under the sun as Ashok Pillar Watermarks will not be visible in the forged stamps.

Punching of second punch hold on stamps

G.L.No. 39/44-40(8) dated 3rd December, 1929

Rule 191, Chapter VII of the General Rules (Civil), 1957, is practically a replica of rule 259, Chapter VIII of the Stamps Manual. It is intended to ensure that the record – keeper or one of his assistants should personally see every court-fee label. He has to see that it is properly defaced to ensure that it cannot be fraudulently utilized a second time and also that the proper court fee has been paid. The mere punching of a second hole is not all; it is the dating of each document, which ensures its inspection by the record room staff. The date on the document should not be stamped, but should be made by the record – keeper in his own handwriting. All record –keepers should be warned that they are personally responsible for strictly complying with the rule in question.

C.L.No.15/Stamps 947/G dated 21st May, 1963 read with

C.E.No. 50/VIIId-149 dated 21st August, 1963

In order to prevent reuse of court fee stamps the attention of all the presiding officers, is invited to section 30 of the Court Fees Act and rules 252 to 261 of the Stamps Rules which lay down that no document shall be filed or acted upon in any court or office until the stamps affixed thereto have been cancelled and they are also required to pay personal attention to see that strict compliance of the aforesaid provisions of law is made by the presiding officers of courts and the officials concerned. Failure to punch and cancel stamps should be taken serious notice of and suitable action should be taken against the negligent officials.

Folios and adhesive court-fee labels

C.L.No.109/VIII-149 dated 22nd October, 1952

In court fee stamps bearing the design of Ashoka Pillar, the top of the Pillar should be punched for purposes of cancellation under section 30 of the Court fees Act.

G.L.No.52/86 dated 7th December, 1933 read with

Board of Revenue letter No.3594/S-258-c dated 15th November, 1933

G.L.No. 31/86 dated 28th May, 1934 modified by
C.L.No. 35-56-1 dated 2nd June, 1934 and
C.L.No.71-180-34(1) dated 18th July, 1936 and
C.L.No.5/8 b-82 dated 8th January, 1952

Only one kind of copy folio of the value of Re.0.25 is printed in this State and adhesive court fee labels of certain denominations are surcharged with the words "For copies only" so that extra payment may be made by means of such labels.

The amendment of rule 257 of the U.P. Stamp Rules, 1942, made under Finance Department notification no. S-458/X-504-48, dated the 21st February, 1951 published in Uttar Pradesh Gazette, part I, dated the 2nd March, 1951 necessitating the cancellation and punching of copy labels as soon as they are filed in any court or office does not apply to copy folios and copy labels affixed thereto which are filed with applications for copies.

They should, therefore, be punched at the time of issue of copy and that where an application for copy is rejected such copy folios and labels should be returned to the party concerned unpunched.

Court fee labels surcharged "For copies only" may be accepted to complete the payment for copies issued on copy folios but they should not be affixed to the copy folio until there is a certainty that the copy will be granted.

In the case of loose copy labels filed in order to make up the copying fee in certain cases, the amended rule shall apply and such labels shall be punched as soon as they are filed. In case they have to be returned on account of the application for copy being rejected, or for some other reason, the party concerned can, under para 1357 of the Revenue Manual, claim a refund of the value of such labels after deduction of 6 n.p (Re.0.06) in a rupee or fraction thereof. The cancellation order should be written in red ink "Cancelled". This is to ensure that the labels are not used again.

In affixing the labels, care must be taken to ensure that the head on the label is nearest the edge of the folio. This is to ensure that no written or typed matter is defaced if the label is punched. In no circumstances should an adhesive stamp be affixed in the centre of the folio.

Cancellation of impressed stamps

G.L.No. 12/VIII-b-149 dated 13th April, 1949

Impressed stamps on probate, letters of administration, certificates, or copies should not be punched when probate, letters of administration, certificates and copies are issued. They may, however, be defaced by the use of a rubber stamp mentioned in rule 254 of the Stamp Rules as provided in rule 252(b) of the said rules.

No court-fees payable under rule 159(i) General Rules (Civil)

C.L.No.18/67-1(8) dated 24th April, 1939

No duty under the Stamp Act or the Court Fees Act is payable in respect of a copy filed under rule 159(i) of General Rules (Civil), 1957.

C.L.No.45/VIII-b-151 dated 23rd May, 1973

Directions contained in letter no. 3/Stamps-978(2), dated February 19, 1973, of the Inspector General of Stamps may be strictly followed so that use of forged court fee stamps or fraudulent reuse thereof may be prevented.

(ii) Deficiency

C.L.No. 22/180-20(5) dated 2nd March, 1936

It is the duty of the presiding officer of each court to take proper steps to ensure that the inspection note of the Inspector of Stamps is laid before him without delay.

C.L.No. 27/VII-f-26 dated 10th March, 1953

Attention of all presiding officers is invited to the mandatory nature of the provisions contained in sub-section (3) of section 6 of the Court Fees Act, 1870 according to which the question as to deficiency in court-fee raised by Inspector of Stamps has to be decided by the court before proceeding further with the case.

It was brought to the notice of the Court in some cases that the reports of the Inspectors of Stamps were misplaced or lost by the negligence of the staff and in others, they were not brought to the notice of the presiding officers at all.

C.L.No.119/X-e-10 dated 17th December, 1953

Presiding officers should, therefore, take immediate action on the reports received from the Inspectors of Offices or Stamps on question of deficiency in Stamp Duty and report their decision in the matter to the District Judge within three months. They should also check from time to time if any such reports are pending in the office, and take proper action against the officials who fail to put up the same before them in time.

C.L.No.45 dated 12th August, 1964

District Judges should see that prompt attention is paid to the disposal of the reports of the Inspector of Stamps and the action taken thereon intimated to the Chief Inspector of Stamps. The report should be disposed of before deciding the case.

It is also added that a register in the form already prescribed under this Circular Letter to indicate the progress of each case is maintained in each court and should be checked by the presiding officers from time to time.

G.L.No.2/180-1 (2) dated 2nd March, 1931

When during the course of his inspection an Inspector of Stamps reports a deficiency in court-fee, in any case, it should be considered by the presiding officer and if the report is found to be correct, prompt and effective steps should be taken to recover the deficiency from the party concerned. The court will find the inherent power of review or the power under section 28 of the Court Fees Act as sufficient for the purpose in most cases. The question whether the court can exercise these powers in a case after the question of proper court fees has been decided and has become final between the parties under section 12(1) of the Court Fees Act, is not free from difficulty. It is perhaps arguable that the order is not final against the State. It is suggested that when a court finds, on the report of the Inspector of stamps, that its decision regarding court-fees was wrong it may consider the desirability of reviewing the order and recovering the court-fee properly payable.

G.L.No.36/180-20 (12) dated 8th April, 1936 read with

Board of Revenue letter No.1718 Stamps 674-B-5 dated 6th March, 1936

All subordinate courts should impound every unstamped or under stamped document brought to their notice by an Inspector of Stamps or otherwise, deal with it under section 35 or 38(2) of the Stamps Act, as the case may be, and not return it without any action, to the person presenting it.

C.L.No.38/X-e-10 dated 23rd April, 1956

Presiding officers should see that deficiently stamped documents are not accepted in future.

In compromised cases

G.L.No.22/180-20(5) dated 2nd March, 1936

It is an erroneous idea that the deficiencies of court-fees should not be realized in cases, which are compromised on the ground that since the parties have compromised, they are not liable to further fees. The court should refuse to pass an order on the basis of the compromise unless there is a properly stamped plaint.

Report of Inspector not accepted

C.L.No.64/VII-f-26 dated 7th August, 1956,

C.L.No.41/VII-f-26 dated 23rd July, 1963,

C.L.No.87/VII-f-26 dated 31st May, 1971

In every case in which the report of the inspecting officer referred to in section 6(3) of the Court Fees Act is not accepted a copy of the findings together with a copy of the plaint should invariably be sent to the Chief Inspector of Stamps so that he may be in a position to take action under section 6-B (1) of the Act within the period prescribed for the same.

C.L.No.41/VII-f-26 dated 23rd July, 1963 read with

C.L.No.87/VII-f-26 dated 31st May, 1971

The mandatory provisions of section 6(6) of the Court Fees Act, 1870, should be strictly followed. A copy of the plaint or memorandum of appeal, as the case may be, should invariably be sent along with a copy of the findings to the Chief Inspector of Stamps in cases in which the report of the Inspecting officer is not accepted.

C.L.No.74 dated 1st August, 1958

District Judges should give their personal attention and see that the courts in their judgeship invariably comply with these directions.

(iii) Use of forged stamps

C.L.No. 36/VIIIb-151/Admn. (G) dated March 21, 1990

I am directed to refer to Court's Circular Letter No. 20/VIIIb-151, Admn. (G), dated February 13, 1980, on the above subject and to say that it has come to the notice of the Court that the provisions of Chapter VIII of the U.P. Stamp Rules, 1942 in respect of cancellation of court fee stamps and those contained in Rules 191, 384 and 385 of the General Rules (Civil) 1957, are not faithfully performed by all concerned making a room for use of those stamps again.

I am therefore, to request you kindly to direct all concerned to strictly follow the instruction as contained in the Court's C.L. No. 20/VIIIb-151, dated February 13, 1980.

You are further requested to pay personal attention to see that the instructions contained in regard to cancellation of Court Fees stamps are being complied with by all concerned strictly.

Kindly, bring the contents of this C.L. to the notice of all concerned.

(iv) अधिवक्ता कल्याणकारी टिकटों के फर्जी एवं विक्रय पर रोक लगाये एवं ऐसे लोगों के विरूद्ध कठोर दण्डात्मक कार्यवाही करने के सम्बन्ध में।

न्याय अनुभाग-7 (कल्याण निधि) सं0-137/सात-न्याय-7-155/90टी0सी0 , दिनांक फरवरी, 2000 उपर्युक्त विषय पर बार कॉसिल आफ उत्तर प्रदेश 19 महर्षि दयानन्द मार्ग इलाहाबाद के पत्र दिनांक 6.12.1999 तथा शासन के पत्र संख्या-2129/सात-न्याय-7-99-155/90टी0सी0 दिनांक 3.01.2000 (प्रतिलिपि सुलभ संदर्भ हेतु संलग्न) करते हुए मुझे यह कहने का निदेश हुआ है कि उपर्युक्त आदेशों के निर्गत होने के उपरान्त ही कतिपय जनपदों में कतिपय स्टाम्प वैडरों द्वारा अधिवक्ता कल्याकारी स्टाम्पों का मुद्रण एवं विक्रय किया जा रहा है। जिससे शासकीय राजस्व की आय में कमी हो रही है।

अतः अनुरोध है कि कृपया अपने मण्डल में फर्जी स्टाम्प मुद्रण एवं बिक्री रोकने के संबंध में प्रभावी कार्यवाही तथा दोषी व्यक्तियों के विरूद्ध कटोर दण्डात्मक कार्यवाही करने एवं कृत कार्यवाही से शासन को अवगत करने का कष्ट करें। इस सम्बन्ध में शीघ्रता अपेक्षित है।

(v) For taking punitive action against the persons indulging in printing and selling forged U.P. Advocates Welfare stamps.

C.L. No. 26/ VII f-249 Dated: 18th June, 2000

I am directed to enclose herewith a copy of Government letter No.137/SAT-Nyaya-155/90 T.C. dated February 2000 on the above subject wherein, it has been stated that in some districts stamps vendors are indulging in printing and selling forged 'Advocates welfare Stamps' causing loss to the State revenue /benevolent fund meant for Advocates.

I am, therefore, to request you kindly to see that the forged 'Advocates Welfare Stamps' are not issued and in cases any such instance comes to your knowledge appropriate action be taken in the matter.

C.L. No. 8/VIIIb-149 Dated: 13th February, 2001

Hon'ble court has observed with concern that court fee labels and stamps on papers filed in courts remain unpunched and uncancelled despite issuance of various circular letters inviting attention to the provision embodied in section 30 of the court Fee Act and Rules 252 to 261 of the U.P. Stamp Rules, 1942. It is an obligation under the Rules that no document shall be filed or acted upon in any Court or Office until the Stamps affixed thereto have been punched/cancelled. The negligence in punching papers and stamps may give opportunity to unscrupulous person to reuse them by otherwise means causing loss of revenue to Government. Such negligence on the part of officials is not only serious but gives opportunity for the misuse of those Stamps. In order to guard against such malpractice in past, directions by means of Circular letters were issued for strict compliance of the aforesaid provision of law.

You are, therefore, requested to ensure strict compliance of the provision of law in the matter of punching and cancelling Court Fee labels. Failure to punch and cancel stamps by the office also should be taken seriously and suitable action be taken against the negligent officials.

(vi) Non-compliance of the provisions contained in Section 35, 38(2), 40 and 47A of Indian Stamp Act, 1899.

C.L. No. 37/VIIf-98 Dated: 19th October, 2001

The Government have intimated with concern that the provisions as contained in Section 35, 38(8), 49 and 47A of Indian stamp Act, 1899 are not being complied with strictly by the concerned Public Officers causing huge loss to the Government revenue.

I am, therefore, desired to send herewith a copy of Government letter no. Ka/Ni-5-4306/11-2001-500(35)/98 dated July 12, 2001 along with its enclosures and to request you to kindly ensure compliance of the provisions as contained in Section 35,38(8), 40 and 47A of Indian Stamp Act, 1899, strictly and contents of the Government letter, aforesaid, be brought to the notice of the concerned Judicial Officers of your Judgeship.

15. HEARING OF CASES

(i) de die in diem

G.L.No.878-67/9 dated 3rd April, 1917

The practice of hearing one or two witnesses a day in long cases instead of hearing the case *de die in diem* till finished cannot be too strongly deprecated and notice will be taken of Civil Judges and Munsifs who adhere to this antiquated and most objectionable practice.

The following instructions should be borne in mind:

Where a case promises to be a long one, the cause list for a day or two should be cleared and the time devoted entirely to the hearing of the case *de die in diem*. In the case of Civil Judges there is no objection to a certain number of appeals being added so as to allow for a break down, as appeals can be heard on an adjourned date without inconvenience of a serious nature to the parties concerned.

Similarly, if on a date fixed in accordance with this letter a breakdown for any reason occurs, a munsif can always inspect his office and take up miscellaneous work, which does not require the fixing of an actual date.

C.L.No. 9/Admn.(B) dated 30th November, 1971

The habit of taking up more than one case at a time by the Magistrates – one by the Magistrate himself and the other either by the reader or ahalmad or by both – is highly improper and the Court view such lapses with great concern. Those found acting in such improper manner shall be severely dealt with. The District Judges should make occasional surprise visits and any irregularity brought to their notice should be promptly dealt with.

(ii) Verification of security bonds

G.L.No. 2/45-6(4) dated 11th May, 1928

Whenever a bond comes before a court for verification the presiding officer should direct his attention to the important point of ascertaining whether the executants of the bond (in the case of his being a Hindu) is a member of a joint Hindu family. If the answer is in the affirmative, the next point to ascertain is whether the property hypothecated is joint family property, in which case it would be inadequate by way of security, as raising the question of legal necessity. Only after informing himself on these

points the presiding officer should report to the High Court as to sufficiency or otherwise of the security.

G.L. No.3/45-3 dated 11th January, 1929

District Judges should give special directions to all courts in their jurisdiction to treat all applications for verification of security bonds as urgent.

C.L. No.1416/67-5 dated 10th April, 1913

In every case, in which a security bond is sent down for verification by the alleged executants and for a report as to the sufficiency of the security offered, notice should invariably be sent to the other side to appear and take any objection, if they so desire. The order sheet of the case should have a note that this has been done and also whether any one appeared. If any objection is taken, note of this and of the court's decision on the objection should appear on the order sheet.

(iii) Revenue references

C.L.No.3 dated 10th January, 1957

The following procedure should be followed by a court, whether civil or revenue, when referring an issue to another court or when returning an issue with its own finding to another court:

(1) A date should be fixed by the court referring an issue or returning an issue with its finding for appearance of the parties in the other court, the fact should be noted in the order sheet and signatures of the parties present should be taken on the order sheet in token of their being informed of it.

(2) The date should be selected with regard to the time the record is likely to take to reach the other court. If the record is to be sent to the other court through the District Judge stationed at another place, more time should be allowed than otherwise.

(3) If the proceedings in the court referring an issue, or deciding an issue, have been ex-parte against any defendant, the fact should be noted in the order sheet of the date on which the issue is referred or is returned with the finding, so that the other court may know that the proceedings are ex-parte against the defendant and may not spend time in serving a notice upon him for appearance before it.

(4) The court to which an issue is referred, or to which an issue is returned with the finding, must call out the case on the date fixed by the other court, take attendance of the parties and fix another date for the hearing if it has no time to hear it on that date.

(iv) Civil cases against state

C.E. No.35 dated 3rd April, 1969

As envisaged under G.O. no. B-382/VH-b-1005-68, dated February, 28,1969 copies of notices, narrative, District Government Counsel's opinion, certificates of means, plaints or draft pleadings, i.e., draft, written statements and connected papers should be sent to Government in duplicate in each case.

(v) Election petitions

C.L. No.18/IVg-4 dated 12th March, 1954

Judicial officers appointed Election Tribunals for decision of election petitions filed in respect of general elections to the Municipal Boards, Notified Area Committees and Town Area Committees, may be asked to give preference to the disposal of election petition over other cases, but the dates in election cases should, as far as possible, be so fixed as not to disturb the dates fixed for the hearing of murder cases.

(vi) Jail premises

C.L. No.18/Admn.(A) dated 27th January, 1976

District Judges have discretion to permit Sessions Judges or Magistrates to hold their courts at or near jail premises for hearing of bail application under D.I.R. or for enquiring into or trying such cases on the condition that-

(a) the place selected for holding the court is one to which the public generally have access, so far as the same can conveniently contain them as provided under section 327, Cr.P.C.

(b) the executive authorities provide a car or jeep for the transport of the judge or Magistrate and his staff.

District Judges have further discretion to permit Magistrates to hold mobile courts for dealing with petty offences on the spot. The Magistrates holding such courts are not to do any case in which he has personally witnessed the event. Overall supervision is of the District Judge who should see that no individual Magistrate does this work for any length of time. Provision of suitable separate transport, free of cost, to the Magistrate and his staff is the responsibility of the Municipal or State authorities, but the Magistrates holding such courts will not be treated as on deputation.

16. AFFIDAVITS

C.L.No.1799 dated 10th June, 1909

Rules in Chapter IV of Rules of Court, 1952, deal with affidavits and should in all cases be properly observed.

Particular attention should be paid to the following matter:

(1) As directed by rule 8, affidavits should be divided into paragraphs, which shall be numbered consecutively, and each paragraph should, as nearly as may be, confine to a distinct portion of the subject.

(2) When the deponent speaks to matters within his own knowledge, he must do so directly and positively in manner contained in rule II.

(3) When the deponent speaks to matters not within his personal knowledge, the fact should always be stated in the manner prescribed in rule 12.

C.L. No.110/VII-f-98 dated 2nd September, 1971

Affidavits filed by or on behalf of the Government come within the purview of proviso (i) to clause (bb) of section 3 of the Stamp Act and as such are exempt from stamp duty.

Verification

C.L.No. 23 dated 21st March, 1970

The preamble to the Code of Civil Procedure says that the Code consolidates and amends the laws relating to the procedure of the courts of civil judicature. It, therefore, follows that the authority to verify affidavits by the oath commissioners appointed under section 139 of the Code is confined to proceedings before court of civil judicature alone, and oath commissioners appointed under section 139 of the Code of Civil Procedure should not verify affidavits which are filed before administrative bodies or other authorities which are not courts of civil judicature.

C.L.No.139/VII-d-27 dated 9th September, 1974

Oath commissioners appointed under the General Rules (Civil) 1957, Volume I be also appointed for purposes of section 297, Cr.P.C., 1973 and affidavits sworn before an oath commissioner appointed by the Sessions Judge could be used before any court.

C.L.No.84 dated 31st May 1976

The Magistrates should not themselves verify the affidavits filed in support of bail application. They should be verified only by the oath commissioners.

C.L.No.23/VII-d-27 dated 26th March, 1954

All affidavits filed in subordinate courts must be properly sworn and verified. The provisions of the rule contained in order XIX of Schedule I of the Code of Civil Procedure as amended by this Court (particularly rule 11-A) should be strictly complied with.

Scrutiny

C.L.No.825/44 dated 5th March, 1915

Courts and Munsarims are expected to scrutinize carefully all affidavits filed under rule 46 General Rules (Civil), 1957, and to see that they are in accordance with the Code of Civil Procedure (order XIX rules 3 to 15). If in error, they should be returned for amendment before any order for production is passed upon them.

Particular attention is drawn to order XII, rule 2 especially to that portion of it which relates to costs.

C. L. No. 5/2007, Dated 20th February 2007

The Hon'ble Court while communicating its disapproval of the practice of applicants moving the Hon'ble Court straightaway without even availing of the provision under Section 227 of Cr.P.C. by passing the trial Courts, has held such practice to be wholly unwholesome and has been pleased to observe as under in Judgement and order dated 19.12.2006 passed in Criminal Misc. Application No. 8495 of 2003 Smt. Santosh Poonia v. State of U.P. and others–

> "We fully endorse the fears and apprehensions of the learned counsel but we cannot demand clairvoyance from Judicial Officers. The only thing which a judicial officer can do and should do in these matters is to examine the whole episode in the proper perspective keeping in mind

the possibility of the apprehensions propounded by the learned counsel for the applicant as above and give the matter a searching probe in order to find out whether the complaint is a cover for a retaliatory action or there is real and genuine substance in the same. Cases where superior officers and subordinate employees are involved should, therefore, be closely examined at the initial level and the entire conspectus of circumstances should be visualized and mere formality of witnesses being available should not always be considered sufficient if the circumstances indicate otherwise. Such matters should not be examined in the same manner as other ordinary criminal cases and should be given deeper probe."

Therefore, while enclosing a copy of the above judgement and Order, I am directed to request you to kind ensure strict compliance of the above quoted directions of the Hon'ble Court circulating the copy of the same among the Judicial Officers under your administrative control in right earnest.

17. WITNESSES

(i) Oath

C.L.No.86/VII-f-75 dated 23rd August, 1978

Under Section 6 of the Oaths Act, 1969 all oaths and affirmations made under section 4 shall be administered according to such one of the forms given in the Schedule as may be appropriate to the circumstances of the case; nevertheless section 6 of the Act gives a discretion to the court to allow a witness to give evidence on such oath or affirmation as may be prevalent in or binding to the class to which he belongs.

(ii) Diet money

C.L.No.2403 dated 7th August, 1895

When a civil court in an enquiry under section 476 (old) and section 340 (new) of the Code of Criminal Procedure with respect to an offence against the public justice summons and examines witnesses, they should get their expenses just as if they were witnesses summoned in a criminal trial.

C.L.No.41/VIII-d-6 dated 4th May, 1956

The rules framed by the State Government under section 544 (new section 312) of Criminal Procedure Code regulating the payment of expenses to complainants and witnesses attending criminal courts, have been reproduced as Appendix I of the General Rules (Criminal) 1957*, rule 8(5) of these rules provides that witnesses following any profession such as medicine or law shall receive a special allowance according to circumstances and usage of courts. It is merely illustrative. There is no bar to the payment of such allowance to witnesses other than those following the medical or legal profession. Presiding Officers have full discretion to allow the claims of other categories of witnesses as well.

* NOTE: Now 1977 vide notification no.504/Vb-13 dated 5.11.83

C.L.No.80/VIII-d-6 dated 14th July, 1979

Those retired officers whose substantive pay was rupees one thousand or above at the time of their retirement be treated in the category of first class witnesses for purposes of payment of diet money and travelling allowance under Rule 8 of Appendix 'I' of General Rules Criminal, 1957.*

To employees of Government of India

C.L.No. 90 dated 8th September, 1958

A person employed in the Government of India, Indian Railways or the Indian Audit and Accounts Service summoned to give evidence of facts which came to his knowledge in the discharge of his public duties or to produce official documents in a suit in which the Government is not a party will be paid travelling expenses etc., by the courts at the rates admissible to him for a journey on tour. The amount shall be assessed on the basis of a certificate showing the rate of travelling and daily allowances admissible, such a certificate being produced by the official summoned duly signed by his controlling officer. If the official is his own controlling officer, the certificate will be signed by him as such.

C.L.No.59 dated 17th September, 1964

Under the revised instruction contained in Government of India, Ministry of Finance (Department of Expenditure) letter no. 5(59) E 1V (b) 63, no travelling allowance is to be paid by the courts direct to the Central Government servants summoned by them to produce official documents or to give evidence in their official capacity in civil cases to which Government is not a party. Instead the amount due may be remitted to the Central Government (the Ministry/Department/ Office to which the Government servant summoned belongs).

C.L.No.53/VIII-d-9 dated 5th May, 1972

In criminal cases to which state is a party, a government servant giving evidence regarding facts of which he has official knowledge, will, on production of certificate of attendance issued by the summoning court, be paid travelling allowance by the government under whom he is serving.

In criminal cases to which state is not a party the government servant shall be paid by the summoning court according to rules of travelling allowance applicable to him and the charges will be borne by the Central Government or the State Government according as the court is situate in a Union Territory or the State of U.P. In order to enable the court to assess the amount admissible, the government servant will carry to the court a certificate duly signed by his Controlling Officer showing the rates of travelling and daily allowances admissible to him on tour. If he is himself, his Controlling Officer the certificate will be signed by him.

When a government servant serving in a commercial department or when any other official is summoned to give evidence as a technical or expert witness, the pay of the government servant concerned for the period of his absence from his headquarters

and travelling allowance and other expenses due to him will first be borne by the Government under whom he is serving and subsequently be recovered from the Central Government or the Government of U.P. according as the court in which the officer is summoned is situate in a Union Territory or in the State of Uttar Pradesh.

C.L.No.9/VIII-d-9 dated 21st January, 1957

The amounts payable as subsistence allowance or compensation for court attendance to government servants who are subject to the Payment of Wages Act, 1936, should be deposited by the courts themselves into the treasury to the credit of the departments concerned. As such employees of the Government of India Press, Aligarh, summoned by a court for giving evidence in a case should be issued formal court attendance certificate and the amount of diet money credited in the accounts of the Government of India Press, Aligarh, adjustable with the Pay and Accounts Officer, Ministry of W.H. and S., New Delhi, under the head "Pay and Accounts Officer Suspense".

To employees of the Insurance Corporation

C.L.No.66 dated 7th November, 1960

Whenever employees of the Life Insurance Corporation of India are called upon to give evidence in criminal courts in their private capacity, the travelling expenses and other allowances admissible to ordinary citizens under the rules should be paid to them by courts concerned and certificates of attendance should not be issued to such employees.

(iii) Accounting of payments

C.L. No. 102/VIIIb-108 dated 1st December, 1959

Monies received for payment to witnesses as diet money and travelling allowances should not be entered in the public account every day.

Such Monies may be utilized for payment to witnesses as and when required during the month and only the balance at the end of the month deposited in the public account.

C.L. No.100/VIII e-52 dated 28th July, 1971

Under rule 8(3) (a) of Appendix I of General Rules (Criminal) diet money is permissible not only for the days of actual detention in court but also for the time occupied in the journeys to and from the court and the officer ordering payment of diet money is authorized to determine the number of days which should be allowed for the journey to and from the court.

C.L.No.129/X b-2, (J.O.) dated 18th December, 1972

Diet money, etc., relating to the courts of the Chief Judicial Magistrates and judicial officers* should be paid from the head "21-Administration of Justice-non-Plan-F-Criminal Courts"**

* NOTE: Now Judicial Magistrates.
** NOTE: Now changed to 2014

C.L.No.75/VIII a-53 dated 27th November, 1948

When daily payment is made to a witness entries in Form no. 18 of the General Rules (Criminal), 1957,*** should be made on the date of his arrival (provided it be a date fixed for the hearing of the case), whether the case be or be not heard on the date of arrival.

The entries relating to witnesses who attend court on several dates should not be made at one and the same place irrespective of the date on which they attend. The entries should, on the other hand, be made date-wise, but in order that the register may indicate at a glance whether a witness has or has not appeared in the same case on a previous date as well, subsequent entries relating to the same witness in column I should be made in red ink.

C.E.No.88/VIIId-6 dated 25th August, 1970

All criminal courts working under the District Judges must invariably use Form nos. 18 and 19, General Rules (Criminal) for register of witnesses and payment order respectively.

C.L.No.3/VIIIa-52 dated 6th January, 1966

According to provisions of rule 169 of the General Rules (Criminal), 1957* the register of witnesses should be maintained in Form no. 18 by the Reader or an official of the court and not by the Court Moharrir and the names of all the witnesses, whether examined or discharged without examination, should be entered therein irrespective of the payment of allowances and also without taking into consideration that it is police case or not. In the case of the witnesses to whom the court does not order expenses to be paid, a line is to be drawn through columns 12 to 20 of the register. It is also added that the drawal of expenses of the witnesses to be paid in police cases from the account of the police office and not the Court Nazir in accordance with the instructions contained in para 3 of the Government Order no. 916/O & M, dated March 26, 1956, does not warrant a deviation from the procedure indicated in the preceding paragraphs.

(iv) Examination of witnesses

C.L.No.179/VIII-h-2 dated 9th November, 1976

The presiding officers should see and ensure that while examining or cross examining a witness, the counsel should not stand in the vicinity of witness, but at a distance; and until witness boxes are constructed, the witnesses may be allowed to stand in the accused's box.

G.L.No.2311/47-1(3) dated 6th August, 1919

The letter noted in the bloc calls attention to the way in which courts allow the cross-examination of a witness to be carried on to what may be termed "scandalous length" and the inability or unwillingness of courts to disallow of their own motion, examination or cross-examination on irrelevant matters. The High Court fears that judicial officers do not sufficiently examine the record before they enter upon the

*** NOTE: Now 1977 vide notication 504/Vb-13 dated 5.11.1983
* Note : Now 1977 vide notification 504/Vb-13 dated 5.11.1983

examination of witnesses. If courts themselves are not satisfied as to what is relevant and what is not relevant matter in a suit, they will find it difficult to keep a proper control upon this matter. Reams of paper and much valuable time are wasted simply because a court is timorous about stopping vakils from asking questions on what is really not relevant to a case.

Attention is also called to the desirability of taking as conclusive (save as excepted by section 153 of the Indian Evidence Act, 1872), the answer of a witness upon a question put as to credit only, and not treating the mere making of the suggestion involved in the question as indicating any foundation for it.

The Indian Evidence Act contains ample provisions regarding the examination and cross-examination of witnesses. The Presiding Officer should refresh his memory concerning these important matters Cross-examination on immaterial and irrelevant matters, or a needlessly lengthy cross-examination on relevant matters, is improper.

District Judges, when making an inspection, should take out records and point out to presiding officers if they find that errors have been committed in this direction and indicate to them how the cross-examination in a particular case should have been directed.

A Civil Judge who wanders off into irrelevant matters is unfit for the duties of a District Judge.

Subordinate courts should be firm in disallowing irrelevant and improper questions and if counsels do not abstain from putting them should note on the record the fact that counsel here entered upon irrelevant or improper cross-examination and the court refused to put it upon the record.

G.L.No.13/67-4 dated 4th April, 1932

The character of witness should not be assailed and aspersions made against him by a court in its judgment without allowing an opportunity to the witness to meet and explain what is in the Judge's mind against him. It is the plain duty of a Judge not to leave such questions in the air and then introduce them suddenly into his judgment.

(v) Fees

Payable by a party to finger print expert

C.L.No. 9 dated 24th May, 1909 modified in accordance with para 82(b)(8) and 60 of Finger Print Manual (Also see amendment no.1)

A fee of Rs. 15 per case, if the number of impressions to be compared is five or less; of Rs. 3 for every additional impression, of Rs. 3 for every impression photographed, subject to a minimum of Rs. 10 per case, have been fixed as fees to be paid by the party at whose instance a reference is made to the Finger Prints Bureau for an opinion. Should the party desire to summon an expert to give evidence, he should be required to pay a further fee of Rs. 20, Rs. 30 or Rs.40 according as the expert concerned is of the rank of a sub-inspector, Inspector or Deputy Superintendent of Police, besides travelling allowance.

All applications should be addressed to the Deputy Superintendent of Police, Finger Print Bureau, Criminal Investigation Department, U.P., Lucknow.

C.L.No.3175-17 dated 24th September, 1912, as modified by Amendment no. 1 to Finger Print Manual

The above fees including traveling allowance, should be paid into the local treasury for credit to head "XVII-A-Police Fees, Fines and Forfeitures, other fees, fines, etc." in the police budget, the treasury receipt being sent along with the exhibits, to the filed at the Bureau. The fact should also be mentioned in the letter forwarding the exhibits for expert opinion.

Payable to Central Forensic Science Laboratory

C.E. No.108/VIIb-53/9 dated 17th December, 1968

According to G.O.No. 3518/6-827-1968, dated November 14, 1968, from Under Secretary, U.P. Government, the fees for examination of exhibits sent to Central Forensic Science Laboratory, Calcutta, are to be paid in the treasury under the head "XIX Police (Central)" at Rs. 15 per exhibit and copy of the treasury challan should accompany the articles required for examination.

Process Fee

G.L.No.19/35(a)-5(1) dated 30th May, 1930 read with
G.L.No. 48/35(a)-4(22) dated 4th May, 1936

Under rule 8, Order XVI, First Schedule to the Code of Civil Procedure in cases where service of summons is made by a party or his agent no process fee should be charged. A note should be kept in each court of the number of processes served by parties themselves and these figures should be totaled and mentioned in the annual report.

The courts should take steps to ensure that the witnesses summoned are protected against loss by the failure of the party summoning them to pay their legitimate expenses.

It is the clear duty of a court before summoning a witness to see that the necessary expenses to secure his attendance have been deposited in court, otherwise the court will not be in a position to proceed against him for non-attendance as laid down in rule 12 of Order XVI of the Code of Civil Procedure "Dasti" summonses have, however, been permitted for the convenience of the parties, and there will be no objection if on the summons a condition is attached that the witness need not attend unless he has received his expenses.

The responsibility would thus be thrown on the party of bringing his witness. The court would only intervene if the witness received his expenses and then did not answer the summons.

G.L.No.15 dated 2nd March, 1933

The process fee, in cases, which are sent by civil courts to revenue courts for deciding an issue, should be realized at the rate of Rs.1.25 per four defendants or less.

Payment of fee to a Medical Officer of Government

G.L.No.18/46-75(a) dated 29th June, 1931 read with

G.O.No.93/V-339 dated 16th January, 1931

When the State requires either a medical examination or technical evidence of a medical nature, whether for the prosecution or the defence in a criminal case, it is the duty of medical officers of Government to carry out the examination or to give the evidence needed without remuneration. Similarly, fees cannot be claimed by medical officers when a person is sent to them for examination in order to ascertain his age or to find out whether his injuries are simple or grievous and so determined whether a case is cognizable or non –cognizable or for some other similar purpose. When a court or a police officer, sends a person for examination by a medical officer, he should at the same time clearly explain the object of such examination unless special reason exist rendering this undesirable.

When private persons, for their own purpose wish to have a medical examination performed or medical evidence given on their behalf, the medical officer concerned is entitled to his fees.

Fees for audit of accounts of Official Receivers

G.L.No.14/1671-(14) dated 9th May, 1941

All insolvency Judges should see that payment of audit fee at the sanctioned rates is duly provided for in the case of all insolvent estates the account of which are still running.

Fees payable to Registered Accountants

G.L.No.38/180-33(2) dated 5th December, 1941 read with

G.O.No.1986/VIII-531-1941 dated 10th November, 1941

It is suggested that for expert evidence by registered accountants payment should be made on a scale of fees ranging between Rs. 50 and Rs.150, according to the professional standing of the witness for each day spent in attendance or travelling.

Payment of fee to State Counsel

C.L.No.26/71 dated 10th February, 1971

For awarding fee to the State Counsel, the instructions contained in paragraph 161 of L.R. Manual should be strictly followed. The presiding officers should also ensure that-

(1) they give prior notice to the State Counsel of the time when the case in which he is to appear will be taken up by them;

(2) If there is not full day's work for a State Counsel the work should be so adjusted as not to exceed half days's fee;

(3) they so arrange their work as not to necessitate payment of double fee in any case whatsoever.

In order to obviate payment of full day's fee to more than one State Counsel for the same day, the presiding officers should avoid, as far as possible to allow a sessions trial to remain part heard.

Certification of fees by legal practitioner

G.L.No.25/67-5 dated 7th October, 1944

It is not open to counsel who receives an annual honorarium retainer to certify as fees in a case either the whole or any part of that retainer.

18. EVIDENCE

(i) Expert opinion

G.L.No.3209/47-25 (1) dated 1st October, 1923

When a judicial authority considers a second opinion on a disputed finger print necessary the case should be referred to an expert from another finger print bureau.

C.L.No.60/b-39 dated 5th October, 1966

All presiding officers should see that the writs of commission issued to the District Judge, Lucknow, for taking statement of the Finger Print Expert, Lucknow, are in order and contain all the essential papers, so that unnecessary delay in executing the Commissions may be avoided.

(ii) Examination of transferred government servants

C.L.No.128/VII-b-68 dated 16th December, 1972

While fixing dates in criminal cases particularly in the courts of the Magistrates it should be borne in mind that the dates for the evidence of magistrates, doctors, and be borne other government servants, who are witnesses but have been transferred to other stations, should be so adjusted that their evidence is recorded in as many cases as possible on one and the same date or on two or more consecutive dates. The sessions clerk or the ahalmad may check from the dealing clerks of other courts as to when a particular magistrate, etc. is coming in that court for evidence. The request, if any made by such witnesses for recording their evidence on one of the several dates (with small gaps) fixed in various cases at a particular station should also be considered favourably. If such a witness does not appear in obedience to court's process, the last summons before issuing a warrant be issued through the immediate controlling officer of the witness and it should be made clear that if the witness does not appear a warrant would be issued. Finally if a warrant is issued a copy thereof may be endorsed to the authority through which the last summons was issued.

C.L.No.5/VIIb-68 dated 22nd January, 1987

The evidence of a judicial officer is normally of formal nature only, and it may not be necessary to summon a judicial officer for giving evidence.

Hence, summonses for judicial officers should be issued only when it is absolutely necessary.

C.E.No.17/VIIb-32 dated 28th February, 1963

Sessions courts should not detain the Magistrates unnecessarily and record their evidence on the date they are summoned.

C.L.No.89/VIII-h-13 dated 5th/6th May, 1974

Strict compliance of the aforesaid instructions as also the instructions contained in Government Circular Letter No.7216/11(2)-73, dated January 1, 1974, in the matter of adjournment of cases and fixing dates for the examination of government servants coming from distant places especially from hill areas be made.

(iii) Script of evidence

G.L.No.8/X-e-5 dated 11th August, 1951

Presiding officers will be guided solely by the provisions of the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1973, bearing in mind the fact that the language of all subordinate courts now is Hindi written in Devanagri script.

G.L.No. 19/x-e and 20/x-e-5 dated 16th October, 1951

Where the translation or transliteration in Hindi of any English technical term used by a witness in the course of his statements is likely to cause confusion or difficulty in understanding the correct import of such term, courts should, while recording the deposition of such witness in Hindi, also put down within brackets against such translation or transliteration the actual English term used by him in his evidence.

C.L.No.4/IV-h-19 dated 17th January, 1972

It is the personal responsibility of the Sessions Judge to see that the record of evidence is kept legibly and in very correct manner. Legible writing is enjoined by rule 53 of General Rules (Criminal) also.

C.L.No.35 dated 12th April, 1968

With a view to facilitate reference of a particular portion of the deposition by the advocate during arguments, the deposition should be recorded in proper paragraphs and such paragraphs should be serially numbered.

C.L.No.63/VIII-b-32 dated 13th October, 1966

Instructions contained in C.L.No.42/VII-b-32, dated May 4, 1951 are withdrawn because of deletion of rule 14(1) and amendment of rule 8 of Order XVIII C.P.C.

In criminal cases, however, under section 275, Cr.P.C., it is open to the Presiding Officer to record evidence in his own hand or have it recorded from his dictation in open court, or cause the same to be recorded in his presence and hearing under his personal direction and superintendence. If the evidence is not taken down in own hand or from dictation in open court, it is open for the presiding officer to record in his own hand a memorandum of substance of evidence and in that case he has also to give the reasons of his inability to do so.

C.L.No.31/VII-b-32 dated 30th March, 1951

The letter noted in the bloc contains similar directions with respect to the memorandum of the substance of the evidence in criminal cases with reference to the provisions of section 275 of the Code of Criminal Procedure.

C.L.No.138/IV-f-46 dated 7th September, 1974

Judicial Officers and Judicial Magistrates should strictly follow the provisions of law while recording evidence in civil and criminal cases respectively in accordance with rules 5 and 8 of Order XVIII, C.P.C. and section 275 and 276 of the Code of Criminal Procedure, 1973

C.L.No.44/IV-h-36 dated 8th March, 1977

The Munsif-Magistrates and the Judicial Magistrates should, either themselves type evidence on the typewriters or record the evidence in their own handwriting.

C.L.No.33/IV f-46/84 dated 8th May, 1984

The provisions of the rules regarding recording of evidence in civil and criminal cases are not being observed by some of the presiding officers of the subordinate courts. The normal practice has deteriorated to recording of statement by the reader while presiding officer is busy in hearing arguments. This practice is in contravention of imperative legal requirement as enjoined in rules 5 and 8 of Order XVIII, C.P.C. and sections 275 and 276 Cr.P.C., 1973.

Attention of all the Presiding Officers is invited to the aforesaid provisions of law in regard to the recording of evidence in civil and criminal cases. These provisions must be strictly followed in recording evidence.

(iv) Medical experts

C.L.No.144/VIII-b-52 dated 17th September, 1974

Injuries should invariably be noted in detail while recording the depositions of medical experts examined by the defense in the subordinate courts.

(v) Recording of evidence by commissioner

G.L.No.5686/44-22(5) dated 21st December, 1925

The definition of a court in section 3 of the Indian Evidence Act includes commissioners appointed to record evidence under Order XXVI of the Code of Civil Procedure. Such commissioners ought to exercise the powers of a court in disallowing irrelevant and improper questions. Such powers should be exercised with discretion and where there is room for doubt a commissioner will be well advised to note the objection and record the question and answer leaving it to the court, which issued the commission to decide on its relevancy. But where a question is clearly irrelevant or offends against the provisions of sections 142, 148, 149, 151 or 152 or similar provision of law, the commissioner himself may disallow it.

C.L.No.112 dated 5th December, 1958

A lawyer when appointed to examine witnesses on commission should give timely notice to the witness of the date, time and place fixed for the execution of the

commission either by the issue of summons in the ordinary manner or by means of a letter sent by registered post acknowledgement due. In case the witness is a government servant, information should be sent to him through the head of his department. In all cases, the convenience of the witness should as much be taken into account as the convenience of the parties before the commission is executed.

(vi) Documentary evidence

G.L.No.1/67-2 dated 17th January, 1930 with relevant abstracts from

G.L.No.3652/44-21 dated 4th July, 1922 and

C.L.No.92/VII-d-121 dated 23rd August, 1952

Attention is invited to instructions reproduced below and contained in General Letter no. 3652/44-21, dated the 4th July, 1921:

(1) Order XIII, rule 1 sub-rule (i) requires that all documents upon which the parties or their pleaders intend to rely, and which are in their possession or power shall be produced at the first hearing of the suit, and rule 2 lays down that no such documents shall be received at any subsequent stage of the proceedings except for good cause shown and for reasons to be recorded by the court. For the purposes of rule 1, a certified copy of a public document is a document 'in the powers' of a party. Document produced for the cross-examination of witnesses or handed over to a witness merely to refresh his memory do not fall within this rule.

(2) A form for the list of documents mentioned in rule 1, sub-rule (ii) has been prescribed by the High Court. No document should be received unless accompanied by a list in this form and it is the duty of the court, after the document has been received, to note in the appropriate column of the form what has become of the document after its receipt by the court.

(3) A document the genuiness of which is admitted by the party against whom it is sought to be used does not require to be proved, and if admitted to be relevant and otherwise admissible should be endorsed in the manner prescribed by Order XIII, rule 4 and marked with an exhibit mark as provided by Order XIII, rule 13, presiding officers should never omit to put their signature below the exhibit mark. An entry should at the same time be made in column 3 of the list, the exhibit mark being noted in column 1.

(4) If the admissibility of a document is denied on the ground of irrelevance or for any other cause (e.g. want of registration or of proper stamp, etc.) the court should proceed at once to determine the question.

If the document is held to be admissible, it should be retained, subject to proof being given of it in cases where its genuiness has been denied. When such proof has been given the document should be admitted, endorsed and marked as directed in the preceding paragraph and a note recorded in column 3 of the list. If it is a certified copy, its admissibility should be determined in accordance with section 65 of the Indian Evidence Act, 1872. If the document is held to be irrelevant or otherwise inadmissible, it should be rejected or impounded, as the case may be.

(5) (Superseded)

(6) Documents impounded should be dealt with in accordance with Order XIII, rule 8.

(7) If the document is an entry in a letter book, or a shop book, or other account in current use or an entry in a public record, produced from a public officer, a copy of the entry certified in the manner required by law, should be substituted on the record before the book, account, or record is returned, and the necessary endorsement should be made thereon, as required by Order XIII, rule 5 of the Code.

In all cases where a document is rejected as inadmissible, it should be endorsed in the manner prescribed by Order XIII, rule 6, and returned under Order XIII, rule 7(2).

Care should be exercised in dealing with documents of historic or antiquarian value as directed in General letter no. 2977/180-2(1), dated the 31st August, 1917.

The Judge should record the admissions or denials of documents with his own hand in the English notes as directed under Order XVIII, rule 19(2).[1]The Court looks upon the proper treatment of documentary evidence in the judge's notes as an important part of the presiding officer's duty and full compliance with these instructions is expected:

(1) After a party produces his documents with a list the list and the documents should be entered at once in the general index and the English proceedings should disclose how each of the documents entered in the list has been dealt with.

The specimen below will indicate how an entry should be made in the English note regarding documents.

Documentary evidence called for-

The plaintiff tenders (say, 12) documents marked 1 to 12 in list no. (as in the general index).

The defendant tenders (say, 10) documents marked 1 to 10 in list no. (as in the general index).

Admissions and denials are endorsed on the documents.

Defendant (or pleader) admits the following documents filed by plaintiff:

(a) Nos. 1, 4, 5 and etc. in list no. (as in the general index). They are given exhibit nos….
(b) Nos…… do not require proof, and are given exhibit nos…….
(c) Nos……..are denied and require proof.
(d) Nos…….admissibility denied.

It should be particularly noted that the continuity of numbers of letters of exhibit marks required by Order XIII, rule 13, should not be broken, i.e., it should not be possible in any case that a few exhibits are marked 1 to 5 and the others 8 to 10 while there are no documents on the record with exhibit marks 6 or 7.

[1] NOTE: It should be Order XIII rule, 3A

C.L.No. 4-VII-d-121 dated 16th January, 1980

The courts should insist upon the list of documents and their production in court being made as far as possible in chronological or some other methodical order. Questions as to relevancy and the admissibility of documents should be decided as and when they arise and not left to be decided at the time of delivery of judgment.

C.L.No.22/VIII b-82 dated 28th March, 1987

Rule 259 of the General Rules (Civil) and rule 151 of the General Rules (Criminal) require that all the copies shall be certified by the copying department. To add authenticity to the photostat copies it is absolutely necessary that they should be cetified by the competent authority as envisaged in section 76 of the Indian Evidence Act, 1872. The practice to accept uncertified copies in judicial proceedings is not permissible under the law.

All the judicial officers are required to see that uncertified copies, whether photostat or otherwise must not be accepted in any case.

(vii) Official documents

G.L.No.70/180-44(3) dated 16th December, 1935

The law relating to the production of unpublished official records as evidence in court is contained in section 123, 124 and 162 of the Indian Evidence Act, 1872 (Act 1 of 1872).

The Court if it sees fit, may inspect the document unless it refers to matters of State or take other evidence to enable it to determine its admissibility. If for such a purpose it is necessary to cause any document to be translated, the court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence, and if the interpreter disobeys such direction, he shall be held to have committed an offence under section 166 of the Indian Penal Code.

For the purposes of section 123 of the expression "officer at the head of the department" may be held to mean the head of the office in whose custody the documents required by the court is, and vis-à-vis the court which demands its production, that officer should be treated as the authority to withhold or give the necessary permission.

In respect of documents emanating (1) from a higher authority, or which have formed the subject of correspondence with such higher authority or (2) from other Governments, the head of the department should obtain the consent of the Government of India through the usual official channel before agreeing to produce the documents in court, or allowing evidence based on them unless the papers are intended for publication, or are of a purely formal or routine nature, when a reference to a higher authority any be dispensed with.

In the case of papers other than those specified above, the head of the department should not allow production of the correspondence if it relates to matters which are generally regarded as confidential or a disclosure of which would in his opinion be detrimental to the public interest, or to matters which are in dispute in some other connection, or to matters which are in dispute in some other connection, or have given rise to a controversy between the Government and some other party.

In a case of doubt, the head of the department should invariably refer to the higher authority for orders.

These instructions apply as well to cases in which the Government is a party to the suit. In such cases, much will depend on the legal advice as to the value of the documents, but before they are produced in court, the considerations stated above must be borne in mind, and reference to a higher authority made, when necessary. The government servant, who is to attend a court, as a witness with official documents should, where permission under section 128 has been withheld, be given an order duly signed by the head of the department in the form given in the letter. He should produce it when he is called upon to give his evidence, and should explain that he is not at liberty to produce the document before the court, or to give any evidence derived from them. He should, however, take with him the papers, which he has been summoned to produce.

The head of the department should abstain from entering into correspondence with the presiding officer of the court concerned in regard to the grounds on which the documents have been called for. He should obey the court's orders and should appear personally, or arrange for the appearance of another officer in court with the documents, and act as indicated above and produce the certificate if he claims privilege.

C.L.No.49/VIII-d-8 dated 4th April, 1952

If only the production of a document or formal proof of a routine letter and the signatures fixed thereon is required, the choice of the agency through which it should be produced or formally proved may be left to the head of the office. If for any reasons the personal testimony of any particular officer is required, the propriety of his examination on commission may be considered before a summons is issued.

C.L.No.44/VIII-d-8/Admn.(G) dated 26th July, 1989

It invites attention of all the presiding officers to the aforesaid circular letter for strict compliance.

C.L.No.121/VIII-h-28 dated 9th December, 1952

Whenever any party wishes to summon a document from a government office or department or to have a summons issued to a high government officer or a member of the Government, it should be carefully scrutinized by the munsarim and if necessary, also by the presiding officer of the court before it is issued and in no case should summons be issued to a higher government officer or a member of the Government without the orders of the presiding officer of the court.

C.L.No.121/VIII-h-28 dated 9th December, 1952

When a document is summoned from the custody of the Government the summons should be issued to the Secretary of the relative department and if it cannot be ascertained to which department the document relates, the summons should be addressed to the Chief Secretary with sufficient particulars of the document required.

C.L.No.49/VIII-d-8 dated 4th April, 1952

The personal appearance of Gazetted Officers of the Accountant General's office should be dispensed with unless necessary in the interest of justice.

The tracing of number of vouchers of a past period is not an easy task and courts may also consider the possibility of reducing so far as may be practicable, the number of vouchers or other documents summoned from the said office in any particular case.

C.L.No.44/VIII-d-8/Admn.(G) dated 26th July, 1989

It invites attention of all the presiding officers to the aforesaid circular letter for strict compliance.

C.L.No.24/VII-b-92 dated 14th April, 1955 as amended by

C.L.No.32 dated 18th July, 1967

Under departmental rules the Accountant General, Uttar Pradesh, Allahabad is required to keep Photostat copies of vouchers or other documents required to be produced in a court of law which are liable to be impounded under the powers vested in the court under section 104 of the Criminal Procedure Code.

The preparation of photostat copies will have to be done at Delhi where necessary equipment has been provided by the department. When calling for vouchers or other documents a clear one and a half months notice should be given to the above office.

C.L.No.77/VIII-h-28 dated 11th August, 1953

Section 57(7) of the Indian Evidence Act provides that the court shall take judicial notice of the accession to office, names titles, functions, and signatures of the persons filling for the time being any public office in any State if the fact of their appointment to such office is notified in the official Gazette. As such, officers of Government should not be summoned merely to prove these facts.

C.L.No.40/X-d a-12 dated 2nd June, 1955

Original agreements respecting the accession of the former Indian states to the Dominion of India and their merger or integration into new political units being agreements made by the Government of the Dominion of India concerning the affairs of State are acts of the Sovereign authority and are, therefore, public documents within clause 1(i) of section 74 of the Indian Evidence Act, 1872. They are printed in the "White paper on Indian States" a publication purporting to be printed by order of the Central Government- which is admissible in proof of the documents under section 78(1) of the Act. They can also be proved as provided in section 77 by the production of certified copies granted under section 76. It should not, therefore, ordinarily be necessary for the courts to require production of these original documents.

Issue of summons for the production of such original documents except in very special circumstances should, therefore, be avoided.

(viii) Evidence after the report of the Amin

G.L.No. 2235/67-3 dated 17th August, 1918

The Privy Council in the case, Girish Chander Lahiri versus Shoshi Shikhareswar Roy (ILR, XXVII, Cal. 951), deals with the discretion of the court in declining to take evidence after the report of an Amin and appointment of Commissioners under rule 9, Order XXVI of the Code of Civil Procedure.

(ix) Non compliance of the provisions of Rules in regard to recoding of evidence in Civil and Criminal Cases by the Presiding Officers of the Subordinate Courts.

C.L. No. 38 Dated: 12.10.2004

In continuation of Court's Circular Letter No. 138/IV-f-46 dated 7th September, 1974 Circular Letter No. 44/IV-h-36 dated 8th March, 1977 and Circular Letter No.33/IVf-46/84 dated 8th May, 1984 on the above subject, I am directed to say that it has been brought to the notice of the Court that the provisions of the rules regarding recording of evidence in civil and criminal cases are not being observed by some of the Presiding Officers of the Subordinate Courts. The normal practice has deteriorated to recording of statements by the Reader/Ahalmed while Presiding Officer keeps himself busy in other matters. Upon consideration of the matter, the Hon'ble Court has taken this lapse very seriously and has desired that the compliance of the directions as contained in the aforementioned circular letters be now ensured.

I am', therefore, directed to request you kindly to draw the attention of all Judicial Officers working under your administrative control and they be required to ensure strict compliance of the rules and provision of law while recoding evidence in civil and criminal cases, faithfully and punctually.

19. JUDGMENTS

(i) Recording and pronouncement

G.L.No. 14 dated 22nd December, 1904

In miscellaneous proceedings as well as in suits and appeals, judgment must not only be pronounced in open court, but also dated and signed in open court at the time when it is pronounced and before the decree or order in pursuance of such judgments is drawn up.

G.L.No.48/N-32 dated 17th December, 1931

Judges should rise for writing or dictating judgments in chambers during court hours only in special cases of which note must be made on the time sheet. A judge should, however, preferably retire for preparing judgments in chambers when he has risen from the court for the day. The Bar and the litigants in that case will not be inconvenienced and will know that the judge does not mean to return to courtroom and resume work.

General D.O.No.4565 dated 7th September, 1943

There can be no objection on principle to a judge, who has light work, dictating judgments in chambers during court hours, but as a rule it is only in judgeships where there are no arrears and where no additional help is required that such a practice is justifiable. If the work warrants it, and in most districts the work does warrant it, each judicial officer should put in up to seven hours work each day-five in court, and, if necessary, two out of court and long judgments should as a rule be done out of court hours. The case diary should be drawn up on this assumption.

C.L.No.38/VII-b-40 dated 24th April, 1968

Presiding officers of Sessions Courts should give their full and proper designations below their initials on judgments.

Orders passed in chambers

G.L.No.6/46 dated 15th February, 1939

Interlocutory orders passed by presiding officers in chambers are sometimes not communicated to parties or their pleaders and this result in their approaching the office for information about such orders passed in their absence and opens the door to corruption.

Whenever any judicial orders are passed in chambers, they should invariably be communicated to the parties or their pleaders and their signatures obtained on the order sheet or elsewhere where the orders are recorded.

Judgment in Hindi

C.L.No.60/X-e-5 dated 23rd April, 1974

Under section 272 of the Code of Criminal Procedure, 1973 and in super session of all existing notifications in this regard, the language of courts other than the High Court has been determined as follows:

(1) In respect of judgments and orders passed or made by a court of Magistrate in all cases in which a sentence of imprisonment for a term not exceeding one year can be passed in Hindi (in Devnagri Script);

(2) In respect of judgments and orders passed or made by any court in any case other than a case referred to in para (i) above- in Hindi (in Devnagri Script) and English;

(3) In respect of all proceedings other than judgments and orders in any court- in Hindi (in Devnagri Script).

Injuries to be reproduced

C.L.No. 13/VIb-47 dated 3rd March, 1982

The presiding officers of the criminal courts should invariably reproduce in their judgments the injuries from the injury reports of the injured persons.

(ii) Reservation of

G.L.No. 5176/167-185 dated 26th November, 1925

The court does not desire to lay down any rigid rule but in the great majority of cases in Munsifs' courts and in a considerable proportion of cases in Civil Judges' courts it should be possible to deliver judgment either on the same day on which the arguments are concluded or on the next following day. No officer should ever have more than two or at most three judgments reserved at the same time. When more than two judgments have been reserved, an officer should not ordinarily take up another case until he has written them.

C.L.No.51/VIII-h-27 dated 7th April, 1952

Whenever judgment is not delivered immediately after the termination of the trial and is reserved and delivered on a subsequent date previous notice of the date and time of the delivery of the judgement should invariably be given to the parties or their counsel as required by section 353 of the Code of Criminal Procedure.

(iii) Delay in delivery of judgments

C.L.No.106/VIII-b-132 dated 30th August, 1971

Following instructions should strictly be followed while submitting quarterly return as prescribed in rule 418 of the General Rules (Civil) 1957:

(1) Where argument is heard day after day, or arguments are heard afresh, cases in which judgments are delivered more than one month after the close of evidence, have to be entered in the quarterly return though no explanation need be furnished in the last column of the said return if the judgment is pronounced within one month of the commencement of argument, that is within one month of the first date on which the arguments were heard.

(2) On receipt of the quarterly return, the District Judge should scrutinize all cases in which judgment is delivered more than one month after the conclusion of arguments and satisfy himself that there was no unnecessary delay in the conclusion of the arguments or that arguments were heard afresh for some valid reason.

(3) While scrutinizing the quarterly statement, the District Judge, should also scrutinize those cases where it appears that there has been unreasonable time lag between the close of evidence and the conclusion of arguments. In such cases, he can note his comments and, if necessary, obtain the explanation of the officer also.

(iv) Judgments by Sessions Judges

C.L.No.12/74 dated 12th February, 1974

Sessions Judges should give their judgments independently without any apprehension in their mind of its being upheld or reversed by the Court in appeal.

C.L.No.C-4/88 dated 14th January, 1988

Attention of all the judicial officers is drawn to the Court's judgment in Civil Miscellaneous Writ Petition No. 4404 of 1987, S.K.Bhatt, Civil Judge, versus II Additional District Judge and others (1987 A.L.R. 368) regarding maintenance of dignity, decorum and restraint in passing strictures while writing judgment.

C.L.No.96/VII b-47 dated 14th September, 1978

The Sessions Judges are directed to henceforth mention specifically whether or not the persons convicted were on bail during their trial in the operative portion of their judgements.

C.L.No.60/IV h-36 dated 22nd March, 1977

The appellate courts judgments should contain summary of the points, which have been argued, and the findings thereon and also mention that no other point has been urged before them.

(v) Appellate judgments to be sent to lower courts

C.L.No.297/44-5 dated 23rd January, 1913

With reference to Order XLI, rule 37 of the Code of Civil Procedure, certified copies of the judgment and the decree should be sent to the court, which passed the decree, but the record should ordinarily go to the record-room. The court, which passed the decree, shall after considering the judgment and the decree send them to the record-keeper to be filed.

Following the same procedure, this court will send the record to the District Judge to be deposited in the record room and certified copies of the judgment and the decree to the court, which passed the decree.

C..L.No.137/VIII g-34 dated 24th August, 1976

If the records of cases are received in the subordinate courts without copy of judgment or order of the court and copy of the decree is not sent within a reasonable time from the court, the matter should be brought to the notice of the Registrar of the Court by name.

C.L.No.113/VIII-b-236 dated 15th/17th November, 1951

The register in Form no. 32, General Rules (Civil), 1957 should be maintained in the prescribed form and copies of appellate judgment and decrees should be certified to the trial court concerned within fourteen days of the delivery of judgment or the signing of the decree as the case may be.

C.L.No.99/VIII-b-236 dated 13th September, 1972

Copies of appellate judgment should invariably be sent to the officers concerned for their perusal so that the officer may know whether any appeal was preferred against his decision and, if so, with what result.

G.L.No. 2395 dated 25th June, 1925

Owing to the transfer of judicial officers, it frequently happens that such officers never see the judgment of the appellate court in cases decided by them and do not even know the result of appeals from their decisions. Therefore, where the officer who decided a case has been transferred to another district, the copy of the appellate judgment which is sent down to the court below under Order XLI rule 37, of the Code of Civil Procedure shall be sent for perusal of the officer who decided the case before being filed with the record. This will only involve a delay of a few days and will save the necessity of preparing a fresh copy. Where the appellate judgment is one requiring immediate action, e.g., in the case of a remand, necessary notices will issue before the judgment is sent to the officer concerned. It will also be open to District Judge in any particular case to have an extra copy prepared and sent to such officer instead of the copy received from the appellate court. These orders will apply to all appellate judgments whether passed by this

Court or by a District or Civil Judge. The copy will be sent through the District Judge under whom the officer may be serving at the time.

C.L.No.47/VIII-233 dated 4th April, 1952

A register in the form appended to the letter noted in the bloc should be maintained in all appellate criminal courts. The Munsarim should occasionally check this register to ensure that copies of judgments are actually certified to trial courts without avoidable delay.

(vi) In Panchayat revisions

G.L.No.2/VIII-f-110 dated 4th February, 1952

Magistrates should attach sufficient importance to a thorough sifting of the points urged before them in the revisions filed on behalf of persons affected by orders of the Panchayati Adalat. In the interest of the successful working of the Panchayati Adalats, it is essential that they should give more detailed reasons in their orders or judgments. If they were to take pains over their judgments or orders the work of the High Court, too, would be facilitated.

C.L.No.49/VI-f-111 dated 4th June, 1965

A full copy of the order of transfer passed under section 85 of the Panchayati Raj Act should invariably be sent to the Nyaya Panchayat concerned for its benefit.

(vii) Correct citations

C.L.No.36/IV-h-35 dated 11th April, 1956 read with

C.L.No.105/IVh-35 dated 3rd December, 1956

Judicial Officers should give correct citations of reported cases in their judgments. The proper way to do this is to state the names of parties first followed by the citation within brackets as indicated below:

"[State of Bombay v. United Motors; (1955) S.C.R. 1069]"

(viii) Aspersions against witnesses

G.L.No. 13/67-4 dated 4th April, 1932

The character of a witness is at times assailed and aspersions made against him by courts in their judgments without allowing an opportunity to the witnesses concerned to meet and explain what is in the judge's mind against him. The courts at times mislead themselves by omitting to ask witnesses questions on what they deem to be matters of importance and then make observations on such matters in the judgment. It is the duty of a judge not to leave such questions in the air and then introduce them suddenly into his judgment.

Relevant extracts from certain judgments bearing on this matter will be found attached to the General Letter.

(ix) Criticisms

G.L.No.91/2 (A) 7 dated 10th November, 1936

The following remarks were made by the Court in the course of a judgment in a criminal appeal:

"In conclusion we should like to make some general remarks. We notice from time to time that officers presiding in Civil and Criminal courts take it upon themselves to express criticism upon matters with which they have no concern. This is a practice of which we wish to express our disapproval. Courts are constituted to decide the issues, which are before them, and presiding officers should confine themselves strictly to those issues. It may sometime be necessary for a court in order to decide an issue to make adverse comments about the conduct of some person in connection with a case but such comments should be confined within the narrowest limits and should be expressed in measured language. Courts should remember the elementary principle of justice that nobody should be convicted unless he has had an opportunity to be heard. They should also remember that they are appointed for a specific purpose and that it is not their function to set themselves up as general critics about matters, which may incidentally come to their notice.

(x) Presence of accused necessary

C.L.No.6 dated 7th March, 1952

Where the accused is on bail the Sessions Judge should so far as possible require his personal attendance on the dates of hearing of the appeal.

If the judgment is not delivered on the date on which arguments are concluded, the Sessions Judge may fix a date for the delivery of judgment and require the personal attendance of the accused also on the date.

If for any reason judgment is delivered in the absence of the appellant and requires that he should surrender to his bail, the Sessions Judge should satisfy himself that a copy of the judgment or order has been certified to the trial court without delay for compliance and that it has been informed of the fact that the appellant has not yet surrendered. The Sessions Judge should also satisfy himself that the orders passed by him have in every case been duly complied with.

C.L.No.68/VIII-a dated 11th May, 1971

Instructions contained in C.L.No. 32/VIII-a, dated March 8, 1952, regarding delay in delivery of judgment in criminal cases shall be applicable to the courts of the Chief Judicial Magistrates and Munsif Magistrates also with effect from June 1, 1971.

(xi) To be typed in triplicate

C.L.No.8/X-a-14 dated 18th January, 1954

All judgments in Sessions cases, Civil Appeals and Criminal Appeals, prepared by stenographer should, as far as possible, be typed in quadruplicate. In Sessions cases out of the three spare copies, one may be sent to the District Magistrate and another to the High Court along with the monthly sessions statement while the third spare copy should be reserved for use in the copying office. In appeals (both civil and criminal) one

of the spare copies may be sent to the lower court for information as required under the rules, the remaining two copies being reserved for the copying office.

C.L.No.14/X-a-14 dated 3rd March, 1964

The judgment in civil and criminal appeals should be typed out by the stenographers in triplicate instead of in quadruplicate and out the two spare copies of the judgment one may be sent to lower court for information required under the rules and other copy kept reserved for the copying department. This copy may be indexed and kept in a separate cover captioned "For Copying Department" along with the record and on receipt of an application for copy; it may be handed over to the copying department for being issued after making a note to the effect on the index (C.L.No.8/X-a-14 dated January 18, 1954, modified).

C.L.No.54/Ve-47 dated 26th August, 1983

The courts of the Munsif-Magistrates who have been provided with stenographers should see that at least three copies of judgments are prepared and kept in file.

(xii) Preservation of judgments involving government servant

C.L.No. 81 dated 7th September, 1957

If requested by the District Magistrates, judgments in criminal cases, appeals and revisions involving government servants may be retained for periods longer than five years as prescribed under rule 118 of the General Rules (Criminal), 1957.*

(xiii) Facility for reporting

C.L.No.12/IX-f-4 dated 20th January, 1956

Such accredited representatives of newspapers, whose names have been approved of by the District Judge should, at the discretion of the presiding officers concerned, be given facilities for reporting contemporaneous cases, i.e., to say, cases which are wanted by them for current publication.

They should be allowed to see the judgments on the date of delivery for the purpose of reproduction in newspapers without comments. Permission should only be given for taking down notes from judgments and not to make verbatim copies.

20. LEGAL AID

C.L.No.34/VII-d-108 (Admn.)(F) dated 16th May, 1984

The work relating to the legal aid schemes should be done outside court hours and if any camps are organized, they should be organized on non-working days. It was also indicated that the officers and the staff attending the legal aid camps would not be treated as on duty so as to entitle them to any traveling or daily allowances or compensatory leave. Obviously, therefore, the officers could take part in the legal aid programme according to the directions of the District Judge and if any camps were held outside the headquarters, the expenses on traveling and daily allowance could be borne not by the Court but by the Legal Aid and Advice Board.

* NOTE: Now 1977 vide notification no.504/Vb-13 dated 5.11.83

The reconciliation of disputes is done by the members of the committee, which includes lawyers and social workers. The judicial officers should not take active part in reconciliation of disputes but there is no objection to their otherwise taking part under the guidance of the District Judge and in advising and guiding suitably the members of the committee in the performance of their functions. The judicial officers who have original territorial jurisdiction in the area where a camp is held should not be associated with the camp activities and assistance may be had from other judicial officers.

An officer of the rank of Munsif-Magistrate/Judicial Magistrate or Chief Judicial Magistrate to be nominated by the District Judge is supposed to be the member-secretary of the District Legal Aid Committee. His functions are mainly of administrative nature and he too need not come in direct touch with litigants much less in the matter of reconciliation of disputes.

The District Judges may make available a room or other improvised accommodation in their buildings for establishing a legal aid office where certain members of the committee and the staff of the legal aid office may sit and transact their business.

C.L.No. 28/VII-d/108-admn.(F) dated 3rd June, 1985

In the capacity of Chairman of the District Legal Aid Committee, District Judges are supposed to take active interest in implementing the scheme of legal aid. In case any guidance or advise in implementing the scheme is needed, they may seek necessary guidance and advice from the U.P. Legal Aid and Advice Board, 510, Jawahar Bhawan, Lucknow, under intimation to the Court.

C.L.No.81/VII-d-108/LAAB/LA dated 4th December, 1987

The District Judges should send the monthly progress reports in the requisite proforma to Executive Chairman, U.P. Legal Aid and Advice Board, 510, Jawahar Bhawan, Lucknow on the first day of the following month positively.

Circular Orders of the High Court

PROFORMA

STATISTICAL INFORMATION WITH REGARD TO IMPLEMENTATION OF LEGAL AID PROGRAMME IN THE DISTRICT OF ……..FOR THE MONTH OF ……..

<table>
<tr><td colspan="8">1. LEGAL AID</td></tr>
<tr><td colspan="2">No. of Applications pending on the 1st of the month</td><td colspan="3">No of applications received during the month</td><td colspan="2">No of applications disposed of</td><td>Balance carried forward</td></tr>
<tr><td colspan="8">2. BREAK UP OF BENEFICIARIES</td></tr>
<tr><td>SC</td><td>ST</td><td>BC</td><td>WOMEN</td><td>CHILDREN</td><td>OTHERS</td><td colspan="2">TOTAL</td></tr>
<tr><td colspan="8">3. NO OF LEGAL AID CAMPS HELD AND CASES DISPOSED OF</td></tr>
<tr><td colspan="2">No. of camps</td><td colspan="2">Persons benefitted</td><td>Cases decided</td><td colspan="2">MACT cases decided</td><td>Compensation awarded</td></tr>
</table>

4. LOK ADALATS, if any, held. If so, number of cases settled and compensation awarded (in MACT cases etc.)

No of Lok adalats	Cases settled	Persons benefitted	MACT cases settled	Compensation awarded

5. PARA-LEGAL-Training Programme, if any, held
6. Legal Literacy Programme (If conducted)
7. Expenditure incurred during the month Rs. ……

C.L.No.1/VII-d-108/LAAB/LA/Admn. (G) dated 11th January, 1988

The legal aid programmes are run by the Government and the judiciary as Government sponsored programmes, which have got a statutory base by the passing of the Legal Services Authorities Act, 1987. The District Judge, who is ex-officio chairman of the District Legal Aid Committee in his district, has to organise legal aid camps and lok adalats some times at the headquarters of the district and sometimes at Tahsil or block headquarters. To assess its suitability, he has to visit the proposed venue of the lok adalat in anticipation and then on the date of the lok adalat he has to go there for supervising the affairs. Since the District Judges have not been provided with staff car at government expense and they are also the presidents of Legal Aid Committees, they are empowered to undertake journey by the staff car in connection with legal aid programmes like lok adalats and bear the expenses of petrol from the legal aid budget placed at their disposal by the board.

C.L.No.35/VII d-108/LAAB/LA dated 21st June, 1989

In cases a civil court employee is detained for doing work in connection with legal aid camps and lok adalats, he shall be entitled to the travelling and daily allowance or compensatory leave in lieu thereof. It is also made clear that the expenses of traveling and daily allowance shall be borne out of the budget placed at the disposal of District Judge by the U.P. Legal Aid and Advice Board and not by the Court.

(i) Legal Aid Programme

C.L.No. 7/VIId-108/LAAB/LA/Admn. (G) dated 2 February, 1990

In continuation of Court's Circular Letter No. 35/VIId-108/LAAB/LA, dated June 21, 1989, on the above subject, I am directed to say that with regard to implementation of Legal Aid Programmes in the judgeship, the Court has been pleased to order that the District Judges of Mirzapur, Dehradun and Lakhimpur Kheri and the Judicial Officers working as Member Secretary, District Legal Aid Committee and any other officer deputed by the concerned District Judge may participate in the Legal Aid Programme /Para Legal Training Course. The dates on which they are out in connection with the said programmes/training will be exempt from the quota of work and they will be entitled to usual allowance, if any from the funds provided by the Legal Aid Board.

The contents of the above Circular Letter may kindly be brought to the notice of all concerned.

(ii) Legal Aid Programme & Lok Adalats

C.L.No. 80/VII d-108/LAAB/LA dated August 17, 1990

I am directed to say that the Government of U.P. vide its Office Memorandum No. 1593/VII-Aa-Nya-748/83, dated April 24, 1990, on the expiry of the term of Mr. Justice R.C. Deo Sharma (Retired), Executive Chairman. U.P. Legal Aid & Advice Board has appointed Mr. Justice B.L. Loomba (Retired) as Executive Chairman of the said Board for a period of 3 years from the date of taking over charge.

On his assuming charge as such Executive Chairman has thanked all of you for your co-operation as the President, District Legal Aid Committees and has desired to emphasis upon the importance and need of the Legal Aid Programme specially the Lok Adalats which forum acts as a supplement to the Courts to dispose of a large number of cases through persuasion and compromise.

I am therefore, to say that you as President, District Legal Aid Committee will adopt a positive outlook on the advice the directions issued by the Executive Chairman in connection with Legal Aid and Lok Adalats.

(iii) Service of Notice of Lok Adalat

C.L.No. 26 dated May 21, 1996

I have been directed to say that attention is not paid for service of notice regarding Lok Adalat. The Court has taken a serious view of the matter.

You are, therefore, requested to take personal attention in the matter and see that notices are served and returned before the date fixed for the Lok Adalat.

(iv) मोटर दुर्घटना प्रतिकर सम्बन्धी वादों का लोक अदालत के माध्यम से निस्तारण।

परिपत्र सं0:28/सात डी-108/ प्रशासकीय (जी-2) दिनांक, 10 मई, 1993 (लोक अदालत)

मुझे उपर्युक्त विषयक न्यायालय के परिपत्र संख्या 45/सात डी-108 (लोक अदालत) प्रशासकीय (छ) दिनांक 27 अगस्त, 1992 के अनुक्रम में शासन के पत्र संख्या 5460/30-5-91/61 एम/81 दिनांक 2 नवम्बर, 1992 की प्रति आपको आवश्यक कार्यवाही हेतु भेजने का निदेश हुआ है।

मोटर दुर्घटना प्रतिकर संबंधी बादें को लोक अदालतों के माध्यम से निस्तारण।

मुख्य सचिव, उत्तर प्रदेश शासन।

शासकीय पत्र संख्या :- 5460/30-5-91-61 एम/81, परिवहन अनुभाग-3 दिनांक 2 नबम्बर, 1992

भारत के संवैधानिक प्राविधान (अनुच्छेद 39-क) के अनुपालन में शासन वर्ष 1981 से राज्य में कानूनी सहायता और परामर्श बोर्ड की स्थापना की गई है तथा इस कार्यक्रम की एपेक्स बाडी के मुख्य संरक्षक भारत के मुख्य न्यायाधीश हैं। उक्त बोर्ड के अधीन विगत पॉच वर्षों में करीब 1100 से अधिक लोक अदालतों का आयोजन किया गया है। इन लोक अदालतों के माध्यम से मोटर दुर्घटना प्रतिकर संबंधी वादों के निस्तारण को प्राथमिकता दी जाती है।

2- मोटर दुर्घटना प्रतिकर संबंधी वादों में से लगभग 10,000 वादों का निस्तारण अभी तक लोक अदालतों के माध्यम से किया गया है व रू0 28 करोड़ से अधिक की धनराशि प्रतिकर के रूप में पीड़ित परिवादों को दिलाई गई हैं। मोटर दुर्घटना प्रतिकर संबंधी लंबित वादों के शीघ्र निस्तारण के लिये उक्त बोर्ड द्वारा विभिन्न बीमा कम्पनियों से अपेक्षित सहयोग प्राप्त किया जा रहा है और इन कम्पनियों के अधिकारियों की बैठक सामान्य रूप से प्रत्येक दो माह मे आयोजित की जाती है।

3- राज्य सरकार के वाहनों का थर्ड पार्टी बीमा नहीं कराया जाता है और यदि किसी सरकारी वाहन से दुर्घटना होने से किसी व्यक्ति की मृत्यु हो जाती है अथवा वह गंभीर रूप से घायल हो जाता है तो पीड़ित परिवार द्वारा प्रतिकर का वाद शासन तथा संबंधित विभाग के विरूद्ध दायर किया जाता है। ऐसे मामलों को शासन अथवा विभाग से अपेक्षित सहयोग प्राप्त न होने के कारण यह वाद मात्र प्रतिकर के लिये लम्बी अवधि तक लंबित रहते हैं और अन्त में न्यायालय द्वारा इन मुकदमों के निस्तारित होने पर आदेशों के लागू किये जाने की कार्यवाही होती है। इससे एक ओर दुर्घटना से प्रभावित परिवार को सामयिक मदद नही मिल पाती साथ ही शासन के लिए भी असमंजस पूर्ण स्थिति उत्पन्न होती है।

4- मोटर दुर्घटना प्रतिकर से संबंधित वादों को लोक अदालतो के माध्यम से निस्तारित कराया जाना इसलिए और भी उचित है क्योंकि लोक अदालतों द्वारा वादों का निस्तारण शीघ्र हो जाता है तथा निर्धारित की गई प्रतिकर की धनराशि अन्य न्यायालयों की अपेक्षा कम होती है। इस प्रकार शासकीय धन की बचत के साथ-साथ अधिकारियों तथा कर्मचारियों के समय की भी बचत होगी। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय ने प्रतिकर के भुगतान के विषय में समय-समय पर सिद्धान्त प्रतिपादित किये हैं। उक्त मार्गदर्शन सिद्धान्तों के आधार पर प्रतिकर की धनराशि मृत्यु डिग्री आफ इन्जरी के अनुसार तय की जा सकती है। अतः इनको ध्यान में रखकर प्रतिकर की धनराशि लोक अदालत के माध्यम से तय कर पीड़ित परिवादों को दी जा सकती है।

5- मुझे यह कहने का निदेश हुआ है कि कृपया अपने अधीनस्थ अधिकारियों को इस आशय के निर्देश देने का कष्ट करें कि जिन विभागों में संबंधित वाहनों से हुई दुर्घटना प्रतिकर के वाद चल रहे हैं अथवा उनके विरूद्ध माननीय उच्च न्यायालय में अपील लंबित हो, उनमें शासकीय अधीवक्ता से आवश्यकतानुसार परामर्श लेकर व प्रारम्भिक छानबीन करके बोर्ड/जिला सीमा को यह अवगत करा दें कि वह ऐसे वादों अपीलों को लांक अदालतों के माध्यम से निस्तारित कराये जाने के लिए सहमत हैं।

(v) Organistion of Lok Adalat.

C.L. No. 54 / Dated: 21st September, 1996

Hon'ble the Chief Justice has decided that the organising of Lok Adalats be systematized and Lok Adalat be held requlary. Accordingly, it is directed that on 2.10.96 Lok Adalats be held in High Court, Allahabad, its Lucknow Bench and in all the districts of the State of Uttar Pradesh . Thereafter the Lok Adalat be held at the end of avery fortnight during the holiday regularly without fail.

All the arrangements for organizing Lok Adalat on 2.10.96 and thereafter made immediately. The progress report of the Lok Adalat be sent to the Court regularly.

(vi) Constitution of state Legal Services authority and District Legal Services authorities

C.L. No. 64/VIId-108/Admn. Dated: 20th, 21st November, 1996

I am sending herewith a copy of the D.O.No. PS(R)/57/1996 dated November 2, 1996 with the request that cooperation be extended to the Principal secretary Judicial and L.R. in the above matter.

Dear Sri Khem Karan,

Kindly refer to your D.O. 1/p.3/L.R./1996 dated August 30, 1996 and D.O. No. 23/Sat-Nayaya-Ka-Ni.1-96 dated October 30, 1996 regarding constitution of State Legal Services Authority, District Legal Services Authorities and Taluka Legal Service Committee.

You are requested to suggest the names for consideration of Hon'ble the Chief Justice for recommending nomination of members by the Governor for the State Legal Services Authority and District Legal Services Authorities. In doing so, you may consult

the Chairman, U.P. Legal Aid and Advice Board, the District Judges and the District Magistrates of the respective districts. The suggestions may be sent as early as possible so that the authorities may constituted without any delay.

Your
Sincerely,
(N.S. Gahlot)

(vii) Organization of Lok Adalat in the districts.

C.L. No. 71 Dated: 13th December, 1996

On the above subject, I have been directed to enclose the copy of the letter received from Hon'ble executive Chairman, NLSA and to obtain requisite information and views by an early date.

I am, therefore, to request you that kindly send the required information contained in the letter latest by 1.1.1997.

Dear Brother Chief Justice,

Kindly refer to may letter dated 19th September, 1996 informing that NALSA and the Department of Legal Affairs, Ministry of Law & justice, with the concurrence of the Chief Justice of India as its Patron-in-Chief have decided to organize Lok Adalats in a systematic way at the end of every fortnight or during intervening holiday in all the courts in the country including the High Court and eliciting support to the movement.

Dr. V.K. Agrawal, Union Law Secretary vide his letter dated 6th September, 1996, requested all the District & Sessions Judges-cum-/Chairmen, District Legal Services Authorities/ Legal Aid Committees to ensure that at least one Lok Adalat is organized in every district on 2nd October, 1996 throughout the country and thereafter as many Lok Adalat as may be possible during the months of October, November and December, 1996. It was desired that at least one Lok Adalat may be organized every week preferably on Saturday and/or Sunday.

The Lok Adalat Movement has been inaugurated by the Prime Minister of India at New Delhi Courts, Patiala House on 2nd October, 1996.

Our appeal has mixed response. Of late, representations have been received that holding Lok Adalts on every Saturday and/or Sunday or fortnightly is beset with difficulties and tends to hamper the judicial work of the judicial officers charged with the responsibility of holding Lok Adalats.

The case has been reviewed in consultation with the Chief Justice of India. It has been decided that Lok Adalat Movement which has been provided a statutory base with the enforcement of Legal Services Authorities Act has to be a continuous and on-going legal aid programme. But care must be taken that the Lok Adalats are organized in a systematic way and only when sufficient number of cases are available for being placed before the Lok Adalat. It is, therefore, suggested that the Lok Adalats may be organized not on Weekly of fortnightly basis, as indicated earlier, but after a gap of 4-6 weeks when sufficient number of cases become available for being referred to the Lok Adalats.

Needless to emphasise that due care has to be taken that social justice through Lok Adalats is dispensed with in accordance with the principles of equity and natural justice without diluting the quality of justice.

As regards release of matching grant-in-aid of Rs. 3,000/- per Lok Adalat, we shall make all possible endeavours to honour the commitment made. To enable us to make assessments of the financial requirement, I would request you to favour us with the number of Lok Adalts organized on 2nd October, 1996 in various districts and also your jurisdiction with performance results and also the time scheduled for Lok Adalats to be organized in future. On receipt of the requisite information, instructions for release of the matching grant-in-aid would be issued and it would be ensured that the amount of the grant-in-aid is made available to the State Legal Services Authorities/ State Legal Aid & Advice Board expeditiously for disbursement to the respective Districts for proper and effective implementation of the Lok Adalat Programme throughout the country.

(viii) Output of Disposal of cases in Lok Adalats

C.L. No. 4. Dated: 13th February, 1997

It has come the to the notices of the Hon'ble Court that output of disposal of cases in Lok Adalats is not appreciable and two to fifteen cases at times are being disposed in Lok Adalats at many places.

Hon'ble Court after examining the situation has taken a decision that the Judicial Officers may continue efforts for settlement of cases and their disposal through conciliation. Thereafter, Lok Adalats be held on such dates in which appreciable numbers of cases are there for holding the Lok Adalats.

Therefore, it has been decided that Lok Adalats be organized when appreciable number of cases for disposal are available.

I am therefore, directed to request you to kindly bring to the notice of all the Judicial officers sub-ordinate to the Hon'ble High Court for strict compliance of the instructions relating to the holding of the Lok Adalats in future.

(ix) Orders issued in the matter of State Legal Services Authority.

C.L. No. 24/Admin 'G' Dated: 13th June, 1997

The Sate Legal Services Authority has been constituted in the State of Uttar Pradesh. A Notification to this effect has been issued.

I am enclosing the copies of the office order issued by the Special Secretary and Legal Remembrancer for your information.

I am, therefore, to request you that the office order issued by the Special Secretary Law be brought to the knowledge of all the Judicial Officers and Specially the Secretary and staff of District Legal Services Authority and Taluka Legal Services Committee.

(x) Celebration of 'Legal Aid Day' on 9th November 1998.

C.L. No. 55/ Dated: 2nd November, 1998

I am desired to inform you that 9th November, 1998 shall be celebrated as 'Legal Aid Day' by the District Legal Services Authority. Comprehensive instructions have

already been sent by the State Legal Services Authority through there Letter No.31/SLSA/267-98 dated October 23, 1998.

You are, therefore, requested to celebrate ' Legal Aid Day' on 9th November, 1998 keeping in view the instructions of the State Legal Services Authority in this regard.

(xi) Disposal of cases through Lok Adalats.

C.L. No. 31/VII-d/108 Dated: 23rd December, 1999

The disposal of cases through Lok Adalats was reviewed in the meeting of the State Legal Services Authority, Hon'ble the Chief Justice (The patron in Chief of the State Legal Services Authority) has shown his concern and observed that a large number of litigant in the State feel handicapped in the pursuit of justice on account of poverty, illiteracy, social backwardness, or other disabilities. The goal set out under Article 39 A of the Constitution of India cannot be achieved unless the District Judiciary is involved in Legal Aid Programme and every Judicial Officer in the District helps to instill in the mind of the poor and weak the confidence that our administration of justice is committed to ensure evenhanded justice for all. In the past, the graph with regard to the holding of Lok Adalat and disposal of cases presented a very discouraging situation.

I am, therefore, directed to request you to take the following measures:

(I) Every Judicial Officer should take care of the poor litigants who appear to be handicapped or at a disadvantageous and their matters be referred for Legal Aid facilities.

(II) Well structured and broad based legal aid programme should be taken U.P. and every judicial officer should be associated with the programme.

(III) Legal Aid programme must be strictly supervised by the District officer so that good quality and competent legal aid can be ensured.

(xii) Establishment of Lok Adalats in hills and other newly created districts on permanent basis.

C.L. No. 12/VIId-108 Dated 17th February, 2000

In continuation of the circular letter No.10/VII-108 dated May 4, 1999 I am to inform you that with a view to provide additional forum to the Litigants for redressal of their disputes, Hon'ble Court keeping in view the provisions of Section 19(2), (3) and (4) of the Legal Service Authorities Act, 1987 has decided to establish the permanent and continuous Lok Adalats. Following measures are required to be adopted in the District Nanital, Almora, Pithoragarh, Dehradun, Pauri, Tehri, Chamoli, Uttarkashi, Udamshing Nagar. Ambedkar Nagar, Auraiya, Baghpat, Balrampur, Chandauli, Chhatrapati Shauji Mahraj Nagar, Gautambuddha Nagar, Hathras, Jyitiba Phule Nagar, Kannauj, Shrawasti:

(a) The bench of permanent Lok Adalat comprising of District Judge/Civil Judge (Sr. Division/Civil Judge (Jr, Division) and one person having qualification as prescribed in Rule 17 of the U.P. State Legal Services Authority Rules 1996 shall be made by the District Judge keeping in view the nature of cases.

(b) In case of any difficulty the District Judge shall seek direction from the Court.

You are, therefore, requested to carry out the aforesaid directions so as to establish the permanent Lok Adalat expeditiously.

(xiii) Preparation of decree in the cases decided by the Lok Adalat and authentication of the copy of Award.

C.L. No. 16/VIID-108 Dated: 19 April 2000

I am directed to say on the above subject that U.P. State Legal Services Authority has made a reference to the Court on the Queries received by them from some of the districts as to who shall draw the decree in consonance with the award given in Lok Adalats and also as to who will certify the copy of the award to be issued for execution.

In this connection aid can be have from the provisions of the Legal Services Authorities Act [Section 21 (2)] and also from the Code of Civil Procedure [Order XX]. Award given by the Lok Adalat is not required to be expressed by way of drawing a separate decree.

I am, therefore, to point out that there is no necessity for drawing formal expression of the decision made by the Lok Adalat. Further, for the issuance of copy of the order, normal procedure for copy shall be applied as if the order has been passed by the Civil Court.

(xiv) Referring the maximum number of Government cases to the Lok Adalats

C.L. No. 21/ VIId-108 Dated: 22nd May, 2000

I am directed to enclose herewith a copy of Government letter No.108/VII-Nyays (Ka.Ni.)-2000-60/90 dated 10.4.200 regarding expeditious disposal of the cases in cases in large number from Lok Adalats and to say that Government have expressed its concern over not referring sufficient number of Government cases to the Lo0k Adalats in view of the Fact that there is heavy pendency of such cases.

I am, therefore, to request to you kindly to invite attention of the Revenue department and other department to get their cases resolved through Lok Adalats.

C.L. No. 48/VIId-108 Dated: 20th October, 2000

Hon'ble Court has observed with concern that the courts dockets are overcrowded resulting in inordinate delay in the disposal of case. Delay breeds litigation as many litigants come to court with untenable claims in the found hope of securing an undeserved interim order and then enjoying the fruits thereof for years on end. As a poor litigant has no capacity to wait indefinitely, courts should try to assist him to have his dispute resolved through the instrumentally of the Lok-Adalatas. In this regard, November 9, 2000 shall be celebrated as "Legal Services Day" by the District Legal Services Authority. On that day in each district, Lok Adalat shall be organized to ensure large disposal of cases. Following measures are to be taken at your level:

(i) A broad-based Legal Aid Programme should be taken Uttar Pradesh on that day, including Legal Literacy Camps.

(ii) Efforts should be made for ensuring large disposal of cases.

You are, therefore, requested to implement the aforesaid objectives in a suitable and befitting manner for achieving the purpose.

C.L. No. 3 Dated 16th January, 2001

"Free Legal Aid" to poor persons and persons of limited means is a service, which a welfare State owes to its citizens. The preamble to the Legal Services Authorities Act, 1987 also lays emphasis on the competent legal services to the eligible. Equal access to law for the rich and poor alike is essential to provide adequate legal advice and legal representation to all those threatened as to their life, liberty, property or reputation who are not able to pay for it. But on account of various reasons, the aided persons getting legal aid through Legal Services Authorities and committees carry an impression that legal assistance being provided to them is no match to that which a person with resources can arrange. Many times litigants with less efficient legal assistance are put to disadvantage in Courts of law and face enormous difficulties in pursuit of justice. Hon'ble Court has also noticed that sacred obligation of the State is to provide legal aid to all those who are not able to pay for it as, at best, being carried out in the State to a limited extent only because of the engagement of inexperienced lawyers for the said purpose. It is also necessary to understand the full implication of the principle of equality in the eye of law and equal protection of the law in the context of "Legal Aid" for indigent litigants, may in practice, be deprived of adequate legal advice either due to indigence or due to the appointment of cheap and consequently an inexperienced lawyers, whereas the State or the other authority who would probably be able to pay more, may engage a senior member of the bar and thus again an unfair advantage over the former. This practical difficulty cannot, therefore, be disassociated from the question of adequate remuneration for the services rendered. Hon'ble Court desires that this imbalance between the qualities of legal assistance must go at the earliest.

I am further to add that in spite of various legislations, social reforms, legal awareness, women in the State continue to suffer injustice. They very often face embarrassment and humiliation when they are asked to discuss their personal problems with counsel from the opposite gender. Law alone is not sufficient to stamp out this menace from our society. Hon'ble Court desires that as far as possible legal matters pertaining to women should be entrusted to lady advocates so that an effective and meaningful interaction takes place between the counsel and aided person to secure justice.

I am, therefore, desired to bring to your notice that panel of legal aid counsel should be compressed and better emoluments should be offered so that more talented and experienced counsel join that panel and help in providing legal aid to the poor, backward, downtrodden and to women.

C. L. No. 4/2007: 20th February, 2007

The Hon'ble Court expressing anguish over the appalling state of affairs in the matter of non registration of the complaints at the police stations in the matters of the children being reported missing by their hapless indigent parents/persons while issuing various directions to the police authorities inter alia to ensure lodging of F.I.R. In all such

reported matters has also been pleased to pass the following orders in the Criminal Misc. Writ petition No.15630 of 2006 -Vishnu Dayal Sharma Vs. State of U.P. and others on 02.01.2007-

> "The District Judges of all the districts may issue directions to the legal aid committees to ensure that lawyers providing legal aid are present at S.S.P./S.P./C.O.'s offices to help such indigent and resource less persons who approach these offices."

Therefore, while enclosing a copy of the order of Hon'ble Court passed in the above Writ Petition, I am directed to request you to kindly ensure compliance of the said directions at your end in letter and spirit.

C. L. No. 11/2007 Dated: 14.3.2007

In continuation of the earlier circular letter no. 4/2007 dated 20.2.2007 issued in compliance of the direction given by the Hon'ble Court in Criminal Misc. Writ Petition No. 15630 of 2006- Vishnu Dayal Sharma Vs. State of U.P. and others, I have been directed to communicate that the Hon'ble Court has been pleased to pass following order in furtherance of earlier directions:

"In addition to our earlier direction the district judges to provide legal aid lawyers at the S.S.P./S.P./C.O. levels, as special cells for missing children are to be constituted in each district as per the DGP's circular dated 10.1.2007, it is directed that legal aid lawyers may be provided at the aforesaid special cells. The district judges should monitor or get monitored the quality of legal aid being provided by the duly appointed lawyers and their regularity in attending the said offices. The district Judges concerned may also apprise this Court of any difficulty that they may face in implementing this direction for providing legal aid. They may also suggest other areas of social concern for providing legal aid to the unnerved, resource less persons needing legal aid so that this Court may co-ordinate this activity and issue appropriate directions wherever possible.

We direct that the monthly report of the special cell and the DIG (Region) and I.G. (Zone) about missing children be placed before the district level monitoring committee comprising the District Judge, D.M., S.S.P. etc. in the monthly meeting for effective co-ordination with the district judiciary and for appropriate directions. The Registry may take early action on directions (6) and (7)."

While enclosing herewith a copy of the above orders of Hon'ble Court, I am directed to request you kindly ensure strict compliance of the directions quoted hereinabove and to kindly send progress report in respect of the difficulties, if any, which might be faced in carrying out the above directions as also your valuable suggestions about the other areas where legal aid may be extended to the un-served resource less persons, to the Court at the earliest.

C. L. No. 13/2007 Dated: 2 April, 2007

With reference to the Court's earlier Circular Letter No.412007 dated 20.02.2007 and 'No. 11/2007 dated 14.03.2007 regarding Criminal Misc. Writ Petition No.15630 of 2006 -Vishnu Dayal Sharma Vs. State of U.P. and others, I am directed to say that the compliance report in respect of the directions given by the Hon'ble Court in the above mentioned Criminal Misc. Writ Petition No.15630 of 2006- Vishnu Dayal Sharma Vs.

State of U.P. have not been received so far. The same be furnished without any further delay to the Hon'ble Court latest by 25.04.2007 as they are to be placed before Hon'ble Court on the next date of hearing on 10.05.2007.

Kindly treat this matter as most urgent.

C. L N0. 29/2s007 Dated: 29 August, 2007

In continuation of the court's earlier circular letters No. 4/2007, dated 20.2.2007 and 11/2007, dated 14.3.2007 issued in compliance of the directions given by the Hon'ble Court in Criminal Misc. Writ Petition No. 15630 of 2006- Vishnu Dayal Sharma Vs. State of U.P. and others, I am directed to communicate you that the Hon'ble Court has been pleased to pass following orders dated 10.5.2007 in furtherance of earlier directions:

> "…..the District Judge to submit information to this court in tabular form in addition to any detailed information which they may like to furnish the table should contain the following columns and entries: viz. district, complainant (with name and address), name of missing child, date of lodging of F.I.R., name of Counsel who provided legal aid, regularity of attendance by lawyer, dt. of placing/ matter before Monitoring Committee in monthly meeting difficulties/problems, and additional suggestions, dt. of publication of information about missing child, medium (i.e. radio, T.V. or newspaper), number of children recovered in the month (dead or alive)."

While enclosing herewith a copy of the order of Hon'ble Court along with Chart in tabular form, I am to request you to kindly ensure strict compliance of the directions quoted herein as above and to kindly send compliance report in the tabular from enclosed herewith at the earliest.

(xv) Enhancement in the maximum limit of the amount to be incurred on arranging Lok Adalats

C.L. No. 40/VIId-108: dated: Allahabad: August 18, 2000

In the XI meeting of U.P. State Legal Services Authority, it was resolved that the maximum limit of expenditure on Lok Adalats be enhanced to Rs. 5000/- and under special circumstances the Executive Chairman can enhance it up to Rs.8000/-

In this regard I am directed to communicate that the maximum amount to be incurred on a Lok Adalat has been enhanced to Rs. 5000/- and under special circumstances to the extent of Rs. 8000/- with the permission of Executive Chairman, U.P. State Legal Services Authority, Lucknow.

Matter for Printing of information about free legal services on the notices/summons/warrants of the courts.

C.L. No. 35/2009/Admin. 'G-II' Allahabad; Dated: July 20, 2009

Upon consideration of the letter No. F. No. L/16/2006 – NALSA/3001 dated 5th March, 2009 of Sri G.M. Akbar Ali, the Member Secretary, National Legal Services Authority, 12/11, Jam Nagar House, Shahjahan Road, New Delhi informing about

'Resolution of Central Authorities NALSA relating to free legal services on the Notices/Summons/Warrants of the Courts.

The Hon'ble Court upon consideration of the matter has been pleased to incorporate/add after the body of Notices/Summons/Warrants in the amendments of the rules as in practice under Section 12 of the Legal Services Authorities Act, 1987 as under:-

> "You are hereby informed that the free legal services from the State Legal Services Authorities, High Court Legal Service Committees, District Legal Services Authorities and Taluka Legal Services Committees, as per eligibility criteria, are available to you and in case you are eligible and desire to avail of the free legal services, you may contact any of the above legal Services Authorities/Committees."

Therefore, I am directed to request you to kindly print the information in the Notices/Summons/Warrants as desired and to bring the Amendment/contents of this Circular Letter to all the Judicial Officers under your administration control for their guidance and strict compliance.

21. COURT SEAL

High Court Seal

C.L.No.3442/DR (J) IX C-7 dated 14th September, 1989

The seal of the Court presently in use has become completely worn out and blurred. A new seal will, therefore, be brought in use with effect from 3.10.1989 in place of the old Seal. An impression of the new seal is as indicated below:

Seal for subordinate magistrates' courts

C.L.No.100/VIII-a-1 dated 7th November, 1961

All magisterial courts doing criminal work are required to get the seals, for use in their courts and the courts subordinate to them, prepared according to the form and dimensions of the seals given in the specimens sent with the Circular Letter.

Court Seal for Munsif Magistrates.

C.L.No.94/IX-g-12 dated 12th September, 1969

For Munsifs invested with magisterial powers, a separate seal having the inscription "Munsif-Magistrate" having the design and shape of the seal of Munsif as given in Appendix 23 of G.R. (Civil) read with rule 649 thereof has been prescribed. It has to be prepared locally.

Use of rubber stamps

G.L.No.44/D dated 7th November, 1932

The rubber stamps may be used by ministerial officers for routine orders.

C.L. No. 41/IXe-7/ (Admin. F)/ Dated 18th August, 2000

Use of embossing seal of the Court.

I am directed to inform you that the seat of the Court presently in use has been completely worn-out and blurred; Hon'ble Court has now adopted embossing seal, which would be placed at the blue sticker affixed on certified copy of the order/judgment prepared by the Copying Department. If the certified copy is of two pages or more, in that even beneath the sticker the end portion of the thread, stitching the copy of the order/judgment shall be kept. The sample of the embossing seal of the High Court is also placed at the bottom of this circular. All the embossing seal shall come into use w.e.f. 1.9.2000. Repeat that certified copy/judgment issued on or after 1.9.2000, bearing embossing seal at the blue colour sticker shall be given recognition.

C.L. No. 6/2001 Dated: 7th February, 2001

(i) Prohibition of use of rubber seals by the Judicial Officers in respect of the orders proposed to be passed.

During proceedings of Criminal Misc. Application No. 6499 of 2000, Hon'ble Court has observed that a peculiar procedure is being adopted by the presiding officers that instead of the orders being written either by the presiding officer himself or by the Reader on his direction, a rubber seal is being used. This is also against the provision of section 18 of Chapter I of General Rules (Civil), 1957.

I am, therefore, required to request you kindly to direct all the Judicial Officers of your Judgeship to write the judicial orders either by themselves or on their direction by the Reader and no rubber seal shall be used in respect of the orders proposed to be passed henceforth.

22. USE OF OFFICIAL FORMS

G.L.No.15/44-4 (12) dated 9th May, 1930

Rules 511 and 519 of Chapter XX of the General Rules (Civil), 1957, do not allow any forms other than those printed at the Government Press to be used or accepted by civil courts subordinate to the High Court.

23. CASTE NOT TO BE MENTIONED

C.L.No. 47/V-c-132-49 dated 29th July, 1949

Except in certain specified cases the practice of specifying case in judicial forms and registers in the subordinate courts is to be discontinued.

The column of caste should, therefore, be cancelled from all forms and registers, civil or criminal, wherever it exists.

24. HINDI EDITION OF CENTRAL ACTS.

C.L.No.50 X-e-5 dated 23rd April, 1970

Whenever necessary, only the Hindi translations of Central Acts authenticated under clause (a) of sub-section (i) of section 5 of the Official Language Act, 1963, which are available with the Manager of Publication, Government of India, Civil Lines, Delhi should be used.

25. REGISTER OF MISCELLANEOUS REPORTS AND PROCEEDINGS

C.L.No.90/VIII-a-1 dated 4th June, 1971

A register in Form no. 12, as required under rule 164 of the General Rules (Criminal), 1957,* should be maintained in the court of the Judicial Magistrates for miscellaneous reports and proceedings.

26. WATER-MARKED PAPER

G.L.No. 17 dated 22nd March, 1933

Rule 25, chapter III of the General Rules (Civil), 1957, Volume 1, regarding the use of Government watermarked paper in judicial proceedings, refers to all pleadings, applications and petitions of whatsoever nature filed in the course of civil judicial proceedings. Besides these papers, there are numerous other papers, which are filed in civil courts by parties. Of these, the memorandum of appeal is really a petition of appeal and a cross-objection stands on the same footing. These are to be written on Government watermarked paper, but other papers need only be written on good durable paper.

27. DISPOSAL OF GOLD

C.E. No. 74/VII-f-193 dated 12th November, 1965

The presiding officers of civil and criminal courts should follow strictly the instruction contained in the Government of India, Ministry of Finance Circular Letter no. Gold 26/65 dated 27th May, 1965 and Circular Letter no. Gold 16/65 (F.No.28/7/63-GC.-1) dated March 26, 1965, copies sent with this C.E.

28. ADMINISTRATION OF PROPERTY: FOREIGN SUBJECTS DYING INTESTAE

C.L.No.45/VIII-f-1 dated 15th July, 1966

In accordance with Government of India notification dated December, 30, 1965, where a subject of a State specified in the schedule annexed hereto dies in the territories to which the Administrator General Act, 1963 (45 of 1963) extends and it appears that no one in the said territories other than the Administrator General, is entitled to apply to the court for letters of administration of the estate of the deceased, letters of administration shall, on the application to such court of any Consular officer of such State be granted to such Consular Officer on such terms and conditions as the court may, subject to the following rules, think fit to impose, namely:-

(i) Where the deceased has not left in India any known heirs or testamentary executors by him appointed, the local authorities, if any, in possession of the property of the deceased, shall at once communicate the circumstances to the nearest consular Officer of the State of which the deceased was a subject in order that the necessary information may be immediately forwarded to the persons interested.

* NOTE: Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

(ii) Such Consular Officer shall have the right to appear personally or by delegate, in all proceedings on behalf of the absent heirs or creditors of the deceased until they are otherwise represented.

SCHEDULE

Afghanistan
Argentine
Czechoslovakia
Denmark
Iran
Iraq
Poland
United State of America

29. PRESERVATION OF EXHIBITS

(i) Compliance of the Provision of Section 294 (1) of the Code of Criminal Procedure.

C.L.No. 37/VIIIa-88/Admn. (G) dated, April 12, 1994

I am directed to say that while deciding Government Criminal appeal No. 1548 of 1978- State v. Smt. Barfi and others connected with Criminal Revision No. 643 of 1978- Shyam Sunder Sharma v. State of U.P. and others, a Division Bench of the Court has directed as follows:-

1. A strict observance of the requirement of Section 294(1) of Code of Criminal Procedure be made before entering into recording of oral evidence.
2. While delivering a judgment either of conviction or acquittal, the trial courts instead of ordering material exhibits to be destroyed after the expiry of period of appeal, should direct it to be preserved till the disposal of appeal.
3. The District and Sessions Judges shall be kept informed by the High Court on an appeal being filed or admitted to the trial court to preserve such of material exhibit as may be deemed necessary.

I am further to say that the aforesaid observation of the Hon'ble Court be also read in connection with preservation of exhibits and retention of case diaries till disposal of appeals.

I am, therefore, to request you kindly to impress upon all the Sessions/Assistant Sessions Judge working under you supervision to note the contents of this letter for necessary action and future guidance in that regard.

30. PROPER USE OF APPELLATION BY JUDICIAL OFFICERS

(i) while exercising civil and criminal powers

C.L. No. 43/IVg-27/Admn. (A) dated 8 November, 1995

I am directed to refer to Court's Notification No.C-394/JR(S)/95, dated 21-5-1995 and Court's circular letter No. 50/IVg-27, dated 21-5-1994, on the above subject,

and to say that it has been brought to the notice of the Court that the erroneous practice of using appellation of Additional Chief Judicial Magistrate functioning as Civil Judge or vice-versa is being followed by certain officers which is very ante-thesis to the directions contained in the aforesaid circular letter issued by this Court.

I am, therefore, directed to say that in the above conspectus it seems desirable that the Judicial Officers be directed to use proper appellation while exercising power of Civil and Criminal Courts as the case may be.

I am, therefore, to request you kindly to draw the attention of all the officers working under you to comply with the direction contained in C.L.No. 50/IVg-27, dated 21-5-1995 and to use proper appellation while exercising powers of Civil or Criminal Courts.

31. REPLY OF ENQUIRIES

(i) Reply of enquiries made from the Hon'ble Court

C.L. No: 30/dated August 3, 1995

It has come to the knowledge of the Hon'ble Court that office of the Hon'ble Court does not reply to the enquiry made by the Subordinate Court in the matter of cases in which the proceedings have been stayed by the Hon'ble High Court or other superior courts. The Hon'ble Court has taken a serious view of the situation. In order to resolve it, it has been decided that if the replies are not received from the Deputy Registrar concerned them the matter be reported to the Addl. Registrar (Listing) by means of D.O. Letter so that the enquiries may not remain unreplied. Besides it, the matter may also be brought to the notice of the Registrar against the delinquent official, if needed.

32. ADMINISTRATIVE CONFERENCE, 1997

C.L. No. 49/IVh-36/Admn. 'G'- B Dated: 12th November, 1997

Heavy pendency of the cases, coupled with other problems of the subordinate Courts which are impediments in the timely disposal of cases in subordinate courts is causing concern in the Hon'ble Court. With the result, the Hon'ble Court has taken a decision to convene a Administrative conference on 6th and 7th December, 1997 at Allahabad of all the District & Sessions Judges.

As per convention, the matters relating to Administrative conference are earmarked by the High Court considering problems and difficulties, which are brought to the notice of the High Court from time to time for eradication by respective District Judges. An agenda an item is being enclosed along with this letter to you with the request that the suggestions on the points included in the Agenda should be sent up to 27th November, 1997 positively.

The Hon'ble Court has further directed you to furnish the following statement within the prescribed time:

(i) Statement of all types of civil and criminal cases with year wise breaks up of each court.

(ii) List of 50 old cases pending in each court and the reasons for such pendency in nutshell be also specified against the entry of each case.

(iii) Loss of working days for the last three years and the reasons for the same.

(iv) What is the sanctioned strength of the judgeship and how many courts are vacant and since when.

(v) What are the suggestions for ensuring proper and effective judicial process in the administration of justice. What amendments in the circular letters are proposed.

(vi) How many part heard cases are pending in each court and since when. What are the reasons of keeping those cases part heard.

I am, therefore, to request you while treating it as most urgent, please send the reply to the Court through special messenger up to 27th November, 1997

ADMINISTRATIVE CONFERENCE, 1997

ADMINISTRATIVE SIDE – I

ITEM NO. 1 –

STRIKE BY LAWYERS

In recent time lawyers have adopted a very strange and unjustified attitude of boycotting the courts working (popularly known as strike) for indefinite period irrespective of the seriousness of their grievance. In the rarest of the rare case, the lawyers have boycotted the courts working in the past. Lawyers strike is attracting attention of many conscious people who are interested in preserving dignity of the judiciary and its independence. Many concerns are worried about the courts' boycotting more particularly because of the problem of the backlog of the cases and this problem is increasing day by day. Lacs of cases are pending in the subordinate courts with many uncertain ties. Hon'ble court in Civil Misc. Writ Petition No. 33778 of 1997, Manoj Kumar and Others v. Civil Judge (JD) Deoria and others, has also given directions to the effect that "Before parting with this case, we would like to mention that it is deeply regrettable and highly objectionable that there are strikes in district courts in U.P. on flimsy and frivolous pretexts, and some District Courts function only for about 60 or 70 days in a year. This is a shocking state of affairs, and will no longer be tolerated by this court. The judiciary and bar are both accountable to the public and they must behave in a responsible manner so that cases are decided quickly and then thus faith of the public in the judiciary is maintained. Surely, the public has a right to expect this from us. We, therefore, issue a general mandamus to all the judicial officers in all district courts in U.P. that if the lawyers go on strike the judicial officers must, despite the strike of the lawyers, sit in court and pass order in cases before them even in the absence of the counsel. If the lawyers disturb the functioning of the court, the District Judge shall contact the police, the police will give all protection to the judges, and the cases will not be adjourned merely because of the lawyers' strike. People in this state are fed up with lawyers' strikes and this state of affairs must now end. The lawyers must realize that litigants, witnesses, etc. often come from distant places at heavy expenses and it is most improper that they have to go away because of strikes by lawyers. "The judiciary exists for the people and

not for lawyers or judges". It is suggested that optimum care should be taken to ensure that the judicial time is not wasted on account of the strike or abstaining from the court by the lawyers. The courts should continuously function and no credit in the quantum of work fixed by the Hon'ble Court shall be given to the Presiding Officer on account of such strikes.

What are your suggestions in this regards ?

ITEM No. 2 –

SETTING UP OF SPECIAL COURTS AT REGIONAL BASIS TO TRY THE CIVIL AND CRIMINAL CASES INVOLVING THE MEMBERS OF LEGAL PROFESSIONS

These days it is felt that where the lawyer is personally involved in the cases, it becomes difficult for the Presiding Officer to proceed with those cases. When they do not get favour from the court, they start creating problems to the Presiding Officers and he is put to piquant situation. It is not difficult for them by exerting their influence or threat to distort the course of justice and obtain unjustified relief in their favour, or to have undeserved penalties imposed on his part. It is some time talked about that the law in the statute book totally different from them than law in action. With the result, the presiding officers are avoiding to make disposal of the cases in which lawyers are involved. It has been suggested that at zonal level, special courts should be created so that working of present hierarchical mechanism is improved and the best quality of justice at the least cost is given to the litigant public in the shortest possible time.

What are your suggestions in this regard ?

ITEM No. 3.

APPOINTMENT OF DISTRICT REGISTRAR

Some District Judges have expressed that at VIP stations; there must be either District Registrar or Protocol Officer for taking care of visiting dignitaries. It has also been expressed that in the administration one or the other officer has been designated as ADM/SDM (VIP). On the same pattern, one Judicial Officer should be designated for VIP duties. Since there is arithmetical increase in the pendency of cases in each district and so it is difficult to spare any Judicial Officer for VIP duty. Under such circumstances for the proper and smooth working of the judgeship, post of District Registrar be created and his duties may also be earmarked for the purpose of administration and other duties such as making the cases ripe for hearing.

What are your suggestions in this regard ?

ITEM NO. 4

MAXIMUM USE OF LIBRARY

Thrust has been given by Hon'ble Supreme Court in All India Judges Association case that judicial officer must be provided working library at their residence. This was made with a view to keep the judicial officer abreast with the latest law and new dimensions taking place in the field of law. Subordinate judiciary is not merely greater power but also greater awareness of the law. It has become necessary that the subordinate

judiciary is made to realize that the greater mission of rendering justice cannot be fulfilled unless it is made constantly aware with the statutes and the latest pronouncements being made by the Hon'ble Supreme Court and High Courts. Library facilities are available in the district courts. It is also suggested that the post of Librarian be sanctioned in each district and the District Judge should ensure that the journals are circulated amongst the officers regularly so that they may be acquainted with the latest law being propounded by various courts. Library research, which seems still to constitute the back bone of research in law, has its own significance.

What measures do you suggest in this regard ?

ITEM NO. 5 –

FREQUENT BREAK DOWN OF ELECTRIC SUPPLY

These days the electric supply in the State all the district is very erratic and at times electricity is not available for 4-5 hours a day during court hours. In the old buildings, the ventilation is so inadequate that the rooms became dark when the electricity supply is disturbed. In the new court buildings, also, it is so suffocating in summer and so dark in winter that judicial work is difficult to be performed. It is necessary to provide sufficient number of generators to maintain electricity supply in the buildings.

What measures do you propose in this behalf ?

ITEM NO.6 -

SAFETY AND SECURITY OF COURT BUILDINGS

The sanctioned posts of Chaukidars in the district courts are inadequate. A single chaukidar in the whole campus in the dark hours without any weapon is incapable to resist the unauthorized entry in the night and prevent theft of government property from the campus and sometimes the lock breaking. It has been suggested that at least one Chaukidar for each building complex be sanctioned.

What measures do you propose in above behalf ?

ITEM NO. 7 –

SECURITY ARRANGEMENT FOR JUDICIAL OFFICERS

The different sections of people with which a Presiding Officer of a court of law in the district has to deal have become aggressive in their behaviour and un-reasonable it their approach. The lawyers resort to frequent strikes boycotts and demonstrations against the Presiding Officers. The staff is also somewhat indiscipline. An unfavourable order in the case represented by an unruly advocate leads to misbehaviour on his part and creation of ugly scene in the court. Personal risk to the Presiding Officer is created frequently in maintaining the dignity of the court and in controlling the unruly elements. It is considered necessary that there should be posting of sufficient police force in the court campus and the District Judge should have control over the same.

What measures have already been taken ?

ITEM NO. 8 –

PROVISIONS OR IDENTITY CARDS TO CIVIL COURT STAFF AND WEARING BADGES BY REGISTERED CLERKS OF ADVOCATES.

For better identification and for enforcing better behaviour from the civil courts staff it is suggested that each of them should have an identity card and the registered clerks of the advocates should wear badges. The provision of issue identity card is already in force and its making compulsory may be considered. The wearing of badges by the registered clerks of the advocates may facilitate their identification.

What are your views in this regard ?

ITEM NO. 9 –

CIVIL WORK SHOULD CONTINUE TO BE DONE DURING THE MONTH OF JUNE

Civil work should continue to be done even during summer and winter holidays, as the case may be. There is heavy back-log of cases in subordinate courts. There is demand of swift and timely decision. It is high time that Bench and Bar concede for lessening the number of holidays taking it as a challenge to the Judiciary in an all-out effort to avoid delay. We should agree to minimize the holidays to about 85 days per year including the Sunday. There should be only one vacation of about 3 weeks in a year and this could be as per the choice of the Hon'ble Courts so that the same could be availed as per the importance of the festivals in the State. For unforeseen events like death or otherwise of highest judicial personalities of the State, condolence should be permitted only at 3.30 P.M. so that the day's work is not affected.

What are your suggestions in this regard ?

ADMINISTRATIVE SIDE-II

1. APPOINMENT OF ACCOUNTS OFFICER TO KEEP WATCH ON ACCOUNT MATTERS

The account work in almost all the Judgeships has increased tremendously owing to much greater number of class III and IV employees. To keep the account work up to date and correct and for its periodical checking, it is essential that an accounts officer be posted in each Judgeship.

What do you propose in this behalf ?

2. SUPPLY OF PRINTED FORMS/STATIONARY IN THE JUDGESHIP

Sellable as well as non-sellable prescribed forms of warrant's, notices, decrees, formal orders, registers etc. are not in requisite supply to the districts. This creates problems in the working and hampers efficiency. It has been suggested that the Government and the printing press should be made to realise the problem or arrangement of local printing be made.

What are your suggestions?

3. RESIDENTIAL AND NON-RESIDENTIAL BUILDING:

Constriction of Civil Court building is new a plan subject. Matching Grant in the proportion 2:2 is given by the Government of India. Thrust throughout is made to compete the new building as for as possible within the time frames as is to avoid any escalation in the prices. It can be possible only when the attention is given by the District Judge and the officer in charge of the building so appointed by the District Judge. Care is required to be taken at every stage i.e. from the time of acquiring of land and getting the building completed within the stipulated period. Maintenance grant for the repairs of building is also required to be utilized properly. But some time it is felt that construction agencies are not taking proper interest because of their pre-occupation in-other work, with the result progress in the building is adversely affected.

What are your suggestions in this regard ?

4. INSPECTION OF VARIOUS COURTS AND OFFICES:

Hon'ble Court has time and again observed that inspections made by the District Judge and the Presiding Officers are not searching. It is stereo type. The District Judges have to look into as to what are the reasons, which persuaded the presiding officer not to make disposal of old cases. What steps have been taken by him in ensuring the speedy disposal of those old cases. Further, why the officer has given preference to new cases.

What measures in this regard do you suggest ?

5. GRANT OF EARNED LEAVE AND ENCASHMENT OF LEAVE, MEDICAL LEAVE, G.P.F., WITHDRAWALS, G.P.F. ADVANCES, HOUSE BUILDING ADVANCES AND CAR/SCOOTER ADVANCES TO THE JUDICIAL OFFICERS BY THE DISTRICT JUDGES:

It has been mentioned that it takes a very long time in receiving sanctions in the aforesaid matters from the Hon'ble High Court. It has been suggested that if the authority for such sanction is given to the District Judge, there is no likelihood of its mis-use and it would facilitate the working.

What are your suggestions to this matter?

6. PENSION AND PAYMENT OF GRATUITY AND PROVIDENT FUND

Various references are received that matters concerning pensionary benefits are not timely attended, at the district level, with the result much inconvenience is caused to the officers/officials. Necessary papers in this regard should be processed well in time and sent to appropriate authority as per instructions so that the retiremental benefits are made available to the official/officer concerned.

What are your suggestions in this regard ?

7. INCOME FROM COURT COMPOUND

It has been mentioned that in almost all the Judgeships annual income from the court compound reaches more than 1 lack rupees. Despite that due to paucity of funds, improvement in the court compound is not possible. It is suggested that the District

Judges be given discretion to utilize the aforesaid income for improvement in the court compound without prior approval of the Hon'ble Court.

What are your suggestions in this behalf ?

8. TRAINING PROGRAMME FOR CLASS III EMPLOYEES

The work in the courts has increased tremendously. There is variety of work in different sections. Untrained employees are not able to cope with the work. This results in disturbances in the working the courts. It has been suggested that a regular scheme of training of class III employees be chalked out.

What do you propose in this behalf.?

9. ORDERS AS TO CLOSURE OF COURTS AND OFFICES ON SAD DEMISE OF AN EMPLOYEE OF CIVIL COURTS

It has been mentioned that a difficult situation arises when a member of the staff dies and the other members the staff went to participate in his funeral when the courts are functioning on such occasion. It also generates bitterness on the part of the staff. It has been suggested that on such occasions the District Judge should have authority to permit few members of the staff to attend the last rites even during court hours.

What are your suggestions in this regard ?

10. PURCHASE OF BOOKS

The existing practice is that the books for the judgeship library are purchased without considering the local requirement. The publishers also manipulate old additions with new titles. It is suggested that the District Judge should be able to select the books.

Please give your views.

11. SHORTAGE OF STAFF

It has been mentioned that for various jobs no posts are sanctioned in the Judgeships. There is no independent post for a Librarian, Inspection Clerk etc. and the employees have to be withdrawn for these jobs from other offices. This results in shortage of staff in such other offices. It is also mentioned that due to increase in work additional staff has to be posted in the Nazarat, in the account section and in the courts and the offices. This again causes shortage of staff at the places from where it is withdrawn. It is suggested that norms of staff mentioned in the D.O. Letter No. 5662/7-HC 711/85 dated 2nd November, 1989 of Sri K.L. Sharma (Hon'ble Mr. Justice, retired) who had headed the government committee for fixing the norms of the staff in the civil courts be enforced and additional posts be sanctioned accordingly for smooth functioning in the civil courts.

What are your suggestions in this regard ?

ADMINISTRATIVE SIDE-III

1. COMPUTERISATION

Computerisation of the subordinate courts is suggested with a view to (a) streamline functioning of the lower courts, (b) to make the whole system transparent that information regarding the cases pending in the courts may be available to the end users i.e. the litigants at the nearest possible place of his/her home town. Further, the uses of the computers on the following fields are also suggested:

i) Budget and accounts
ii) Personal information, character roll, service books of the officials maintained in the district courts,
iii) Nazarat working.
iv) Library, stationary and record books (civil and criminal)
v) Copying department.
vi) Various statements prepared by the district courts.
vii) Feeding of date regarding various cases filed and pending in the district courts.
viii) Feeding of F.I.R. receipts, charge sheets and committal cases.
ix) Automatic preparation of day-to-day cause list.
x) Feeding of orders, judgments, and issuance of the certified copies through computer.
xi) Preparation of various statistical statements of various mature of cases filed and pending in each court, disposal by individual officer etc.

What are your suggestions ?

2. With a view to provide residence to all the judicial officers, policy to provide tube wells in the colony have been made but in absence of operator, it is difficult to operate that tube well properly. Identical is the position of Mali, Sweeper and Chaukidar. It is essential for proper maintenance of building and to provide best services to Judicial Officer. It is suggested that posts of Tube well operator, Mali and Sweeper be sanctioned for such residential buildings.

What are your suggestions ?

3. ESTABLISHMENT OF FAMILY COURTS IN EACH DISTRICT:

It has been mentioned that matrimonial cases in various Districts continue to linger for over five years; it is not in interest of the society and the litigants. It is proposed that family court be established in each district and 3 or 4 family courts in kaval towns.

What are your views in this regard ?

4. TELEPHONE FACILITY TO ALL JUDICIAL OFFICERS

It is mentioned that these days every officer needs a telephone at his residence. It is proposed that every Judicial Officer be provided with a telephone at his residence.

What are your views in this regard ?

5. RENT FREE RESIDENTAL ACCOMMDATION TO THE JUDICIAL OFFICERS

It is mentioned that in pursuance of the judgment of the Hon'ble Court in the case of All India Judicial Service Association, the Punjab and Haryana Governments are providing rent-free residential accommodation to the Judicial Officers and Rajasthan Government has issued an order that the Government will pay to the Judicial Officers for

their residential accommodation if they are not provided with government accommodation. It is proposed that in U.P. also the Judicial Officers be provided with rent-free residential accommodation.

What are your views in this regard ?

CIVIL SIDE

1. ALITERNATIVE MODES AND FORUM FOR DISPUTE RESOLUTION (LOK ADALAT)

Our subordinate Courts are over-burdened with pending cases. The situation is that cases sometimes hang on for 14 or 15 years. Thus in the State, out emphasis has to be, to get the disposal of a large number of cases through Lok Adalat and legal aid camp. The cases, which are to be taken in Lok Adalat, may pertain to Civil, revenue and compoundable criminal disputes, matrimonial, M.A.C.T. cases and labour disputes. Further as the State/District level authorities have already been constituted in the State, we would also suggest that preventive legal aid service programme should also be introduced in which (i) to held the legal aid camps and Lok Adalat in rural areas as well as in poor areas of the cities for carrying legal service to the door-steps of the people and bring about their settlements of the disputes (ii) creation of the legal awareness among the people in regard to the rights and benefits conferred upon them by the social welfare laws as well as by social and economic rescue programmes initiated through administrative measures, (iii) mobilization of law teachers and students in the service of the weaker sections of the community by opening legal aid clinics in the Universities and law Colleges, (iv) promoting public interest litigation with a view to vindicating the rights of the poor and (v) there should be an intensive programme of providing training to paralegals.

What are your Suggestions?

2. CIVIL AND CRIMINAL JUSTICE ARE ON TRIAL

What is important is to have a legal procedure that will help to arrive at the truth and a decision based on that will not offend fair play and justice. This would necessarily mean a great deal of changes in the Indian Evidence Act, Civil Procedure Code, Criminal Procedure Code. These three laws are archaic as all eminent jurists and our lawmakers would concede. If the common man's confidence in the legal system is to be restored, a major surgical operation of all crime preventive laws, whether substantive or procedural, is unavoidable. Besides the right to a speedy trial, trusting the police, concern for the victim of crime are some other important aspects, which deserve the prompt attention of all concern with the administration of justice.

What amendments would you propose so as to ensure proper functioning of the judicial process in a short period?

3. RESOLVING SHOULD BE MADE BEFORE THE COMMENCEMENT OF TRIAL

Resolving the dispute by reconciliating the party by making maximum use of the provision of order 32-A Rule 3(1) and 4 of Code of Civil Procedure should be encouraged as far as possible.

What do you propose in this behalf ?

4. EVIDENCE WHICH IS PERMISSIBLE TO BE TAKEN ON AFFIDAVIT SHOULD BE ENCOURAGED

Provision of order 19 of C.P.C. should be more really made so that examination of witnesses in the court be avoided to save the time of the court,

What are your suggestions ?

5. WRITTEN ARGUMENT

Written statement should also be taken which may save the Court's time but has not been adopted by the presiding officers in general. What handicaps they are noticing in not insisting upon the written argument.

What measures are required to be taken in this direction ?

6. ADJOURNMENT

It has been mentioned that prescribed procedure does not permit adjournment on the ground of non- preparation of case by the lawyers or engagement elsewhere. But in practice, it is difficult to refuse such adjournments. It is suggested that Judicial Officers should make efforts that Court proceedings are not protracted. Further, such procedure should be adopted by the presiding officer, which is consistent with reality, and there should be limited adjournments so that presiding officer may save embarrassment of refusal.

What are your views/suggestions in this matter?

7. EXPEDITIOUS DISPOSAL OF EXECUTION CASES

Execution applications must be disposed of within six months.

Suggestions if any.

8. TRIAL IF COMMENCES SHOULD BE CONCLUDED IN SHORTEST

Keeping the cases part heard for unduly long period and inordinate delay in pronouncing the judgments are matters of criticism. Demeanour of the witnesses and the correct appreciation of statement given by the witness can be made if the case are taken in continuity and concluded at the earliest possible time.

9. MAKING OF COPIES OF ORDERS AND THE JUDGEMENTS EXPEDITIOUSLY

Copying Departments are said to be over burdened because of inadequate staff. It is suggested that to avoid inordinate delay in furnishing certified copies of the judgments/orders etc. a copy should be taken out by the PA/Stenographer to be presented in the copying Department for the purpose of giving certified copy whenever necessary.

What are your suggestions?

10. APPLICATION OF COUPANS INSTEAD OF CASH PAYMENT COPIES OF DEPOSITION

It has been mentioned that cash payment in court may create misunderstanding in the minds of litigants and may also afford opportunity to unscrupulous readers. It is suggested that the coupons for the copies be issued against cash by the Nazarat.

What are your views/suggestions in the matter ?

11. SERVICE OF SUMMONS THROUGH REGISTERED POST

It has been mentioned that these days substituted service by the process servers has become of doubtful nature. It is suggested that the provision be made for service of summons through registered post acknowledgement due and in case the registered article is returned unserved, service by publication in newspaper by resorted to in order to save time and harassment of litigants.

What are your views/suggestions in the matter?

12. **REVISION OF VARIOUS FEES**

It has been mentioned that process fee, adjournment fee, proclamation fee etc. were prescribed long ago and they have become insufficient at present. It is suggested that fees in general be revised.

What are your views/suggestions in the matter?

13. **NOTICE OF APPEAL, REVIEW OR REVISION**

It has been mentioned that when notice of appeal or review or revision is given to the advocates who represented the opposite party in the trial court, the advocate declines and pleads that he has no instructions. It is suggested that the provisions be made to make the notice binding on such advocate.

What are you view /suggestions in the matter?

CRIMINAL SIDE

1. SERVICE OF SUMMONS IN THE CRIMINAL CASES:

Most of the Criminal Courts are facing this difficulty. Because of this difficulty, the Criminal Courts are not able to function property. The problem of service of summons is twofold. Firstly, the service of summons is affected upon the accused persons. When the accused do not appear, then search for his surety starts. Secondly, service of summons upon the witnesses.

Presently the service of summons is done by the police personnel. The police personnel do not undertake the duties, as the law requires. Processes issued by the Courts are not returned by the police and dates after dates are given by the courts for the service of summons. This problem is further aggravated by the fact then the difference arises in

between the court officials and the police personnel's about the issue of the summons. At number of times, the police personnel's complain that the summonses were not given to them and the official says that the summonses were given to him. The police due to other multi-duties is not able to comply with the directions of the Courts. It is a matter of common experience that the pairokars who come to attend the courts issue roo-ba-kar to the witnesses and they file a copy of roo-ba-kar on the date of hearing. In fact, the service of summons is further dependent upon the issue of the summons. The court officials who are duty bound to issue the summons, are not issuing the summons. It is also mentioned that the summons to the police personnels are left with the Head Moharrir. Further action thereon is never taken. Neither the police personnels nor the witnesses are in attendance at the time when the case is called out. Thus, the problem of service of summons upon the accused and the witnesses is one of the problems, which is affecting the administration of criminal justice.

What are your suggestions for ensuring service of summons?

2. ATTENDANCE OF THE FORMAL WITNESSES DURING TRIAL

Due to delay in trials, the former witnesses such as Investigating Officers and doctors are transferred from the place of their posting and they do not come to depose in cases in which their evidence is required. Absence of these witnesses results in delay in disposal of the cases.

Suggest ways in the light of the latest pronouncements.

3. INVESTIGATION OF THE OFFENCES BY THE POLICE

As it is known to all the administration of criminal justice is the responsibility of the State. Trial begins either on submission of charge sheet or on a complaint. In police challani cases investigation is done by the police officers. The fate of the case depends upon the quality of investigation done by the police personnels. In fact, in most of the cases, the fate of the case is decided by the Investigating officer and trial remains a formality. There is no authority to restrain the police personnels from performing the duties assigned to them unlawfully. Investigating officers repeatedly commit such glaring errors, which resulted in the acquittal of the cases, and the said errors were caused by them deliberately. In cases, which are false, and are of no evidence, charge sheets are submitted. Whereas the cases in which material evidence is available final reports are submitted in, a manner that the culprit may be benefitted, even if the court takes cognizance of the case. The responsibility of acquittals is shared by the courts and the real architect remains behind the scene.

Propose measures to cheek it.

4. CUSTODY AND DISPOSAL OF CASE PROPERTIES

From time immemorial, the police department is keeping the case properties with them. This gives them the double benefit. Firstly, in cases where they do not want to produce case property they do not produce it. After the culmination of trial the disposal of the case property is not done. It is also at times observed by the court that case property is planted in some other cases. Though it is impressed upon the arresting officers that case property be brought along with the accused at the time of obtaining remands but it is not done.

Some steps be proposed to check this problem so that the correlated problem of false implication may be checked.

Suggestions ?

5. REPORTS OF CHEMICAL ANALYSTS, BALLISTIC EXPERTS AND OTHER EXPERTS

Criminal trials at times are delayed due to non-submission of reports of chemical analysts, ballistic experts and other experts. The Investigating Officers are responsible for sending the properties for examination by the experts. At times, it is sent by sufficient delay. Even if the properties are sent at early dates, the reports are not received because of the heavy pendency with the laboratories. The trials are delayed. One of the important aspects of this problem is, cases relating to food adulteration and the cases relating to N.D.P.S. Act in which the accused seldom gets bail. In food adulteration cases, courts do not see that the property which being sent to the analysts for analysis is at times deficient and is sent in a manner that it may not reach to the analysts in proper form. The seals are not seen. The bottles are not properly packed and they are broken in the transit and the contents leak out. The result of this that the accused is benefitted and he is not legally dealt with.

What are your suggestions in the regard ?

6. SUPPLY OF COPIES OF STATEMENT AND WITNESSES, DOCUMENTS RELIEF BY THE PROSECUTORS

In most of the districts the trials of the accused is delayed because of the non-supply of the copies to the accused within a reasonable time. The copyists posted in the districts either are not working sincerely or not able to deal with the heavy pendency. Formerly, the burden of providing the copies to the accused was with the police department. The copies were provided invariably by the police department within a month. It was solely due to the fact that quota of providing words by a copyist was not prevalent in the police department. Whenever pendency in Copying department increased, some additional hands were brought in to deal with the situation and things were made normal. Since the judicial department has taken over the burden of Copying Department, it has not only become unmanageable but also problematic.

What measures do you suggest in this regard ?

7. PROBLEM OF FILING FAKE SURETIES AND FALSE STATUS VERIFICATION BY THE LAWYERS

In the present, criminal courts are faced with typical problems. One such problem, which can be identified, is filing of the fake sureties by the accused, released on bail. The problem further becomes grave when the Advocates insist that since they are certifying the status and addresses of the accused and sureties, and so it should be accepted. When the courts refuse to acknowledge, it results in boycott, strikes and other administrative problems Advocates' Act prohibits an Advocates from giving such certificates in contravention of the provision of the Advocates' Act. Few Presiding Officers in order to gain popularity accept the surety bonds on the plea that when the trial will come for hearing they will not be the Presiding Officers of the Courts.

Suggest measures to check this problem.

8. CHECK OF THE SUBMISSION OF FORGED AND FABRICATED ORDERS OF THE HIGH COURT IN THE SUBORDINATE COURTS

Recently the submission of forged and fabricated orders not passed by the High Court and Supreme Court has flooded the subordinate courts. The persons who are not able to get relief from the courts because of the tough legal position obtained in relief from the subordinate courts by filing the copy of the fake orders, which have not been issued by the Courts.

Suggest measures to stop the filing of such orders.

9. PROBLEM OF BAIL BONDS

In the criminal courts, bail is granted to the accused before the charge sheet is filed. After the submission of the charge sheet, the bail bonds are not made part of the record. When accused jumps the bail and search for the bail bond is made usually report is submitted that bail bonds are not available.

Suggest ways to check this problem.

10. REVIW OF THE SYSTEM OF DEPOSIT OF FINE BY CRIMINAL COURTS

Formerly each criminal court used to deposit the fine imposed by it in the treasury a passbook was maintained in every criminal courts. The advantage of this system was that fine was sent to the exchequer soon. After its realization and the Presiding Officer knew that, the fine has been deposited. After the change in the system, a new system was evolved and the criminal courts were asked to send the fine realized to the Nazarat. From Nazarat the fine was sent to the Bank for deposit. The court feels the difficulty in knowing the actual number of voucher by which fine is deposited. At times, the actual numbers etc. are not given by the Nazarat.

Can the proposal of reverting back to the old system be considered?

Amended circular letter issued in the Administrative Conference held in December, 1997

C.L. No. 56 Dated: 5th November, 1998

Circular letters were issued by the High Court to execute the decision taken in the Administrative Conference of the District Judges held in December, 1997.

It has come to the notice of the Court that Judicial Officers are giving mandatory import to those instructions incorporated in the said circular letters.

The circular letters are issued for guidance of the Presiding Officers of the courts and are not intended to curtail the judicial discretion vested in the Court.

The modified circular letters are also being enclosed for information and compliance by all the Presiding Officers.

I am, therefore, directed to communicate you the directions of the High Court for compliance.

33. OPTIONS FOR THE PROPOSED STATE OF UTTARANCHAL STATE

C.L. No. 43/DR(S)/2000, Dated: 2nd September, 2000

I am directed to draw your attention towards the part VIII of U.P. Re-organization Act, 2000 and to request you kindly to obtain option on the proforma annexed herewith from Judicial Officers posted in the districts for serving in the proposed State of Uttaranchal.

The options received from the officers may please be sent so as to reach Court latest by 30.09.2000.

PROFORMA FOR OPTIONS IN THE CADRE OF PROPOSED UTTARANCHAL STATE

1.	NAME OF JUDGSHIP/ DEPUTATION TO THE POST	----------
2.	NAME OF THE OFFICER	----------
3.	POST HELD AT PRESENT	----------
4.	HOME TOWN OF THE OFFICER	----------
5.	DATE OF BIRTH	----------
6.	BIRTH PLACE	----------
7.	DATE OF JOINING:	
	(a) U.P. Nyayik Seva	----------
	(b) U.P. Higher Judicial Services (Whether by Promotion or by direct Recruitment)	----------
8.	WILLINGNESS FOR ABSORPION IN ANANOGOUS CASRE IN UTTARANCHAL STATE	YES/N0 ----------
9.	WILLINGNESS TO WORK ON DEPUTATION IN UTTARANCHAL STATE	YES/NO ----------

DATED: SEPTEMBER 2000. ----------

SIGNATURE OF THE OFFICER

34. DISOPOSAL OF CASES BY THE FAST TRACK COURTS

C.L. No. 28/F.T.C (Cell) Dated: 15th September, 2004

In continuation of Court's Endorsement No. 114/D.R. (S)/2001 dated 15.05.2001, C.L. No. 24/J.R. (I) dated 25.07.2001, C.L. No. 27/J.R. (I) dated 03.08.2002, C.L. No. 41/2003 dated 29.10.2003 and Letter No. 66/D.R. (S) dated 01.03.2004 on the above subject, I am directed to say that on consideration, the Court has been pleased to resolve that such Officer of the Fast Track Court on being short of work should inform the District Judge. In that case the District Judge concerned is authorized to allot them such other, work as he deems fit. The standard of disposal regarding cases transferred to such Fast Track Court would be the same as is applicable to the officers of the regular Court.

I am therefore, to request you that the above decision of Hon'ble Court be complied with and be informed to concerned officers accordingly.

35. STRICT COMPLIANCE OF THE DIRECTIONS PASSED BY THE COURT IN CRIMINAL CONTEMPT NO. 33 OF 1999 – STATE OF U.P. vs. SRI SHASHI KUMAR TYAGI

C.L. No. 42/2004 Dated: 14th October, 2004

In Criminal Contempt No. 33 of 1999- State of U.P. Vs. Sri Shashi Kumar Tyagi, the Hon'ble Court (Hon'ble M. Katju, A.C.J. and Hon'ble S. Ambwani, Judge) has taken a serious view of the matter and expressed its concern wherein the Advocate Sri Shashi Kumar Tyagi has been found guilty of gross contempt on account of behaving in a most improper manner in the court of III Addl. Civil Judge, (J.D), Ghaziabad, which was also most unbecoming of an Advocate and resultantly the Court has awarded punishment prohibiting him to enter the court compound of District Court, Ghaziabad for one year.

I am, therefore, directed by the Court to send herewith a copy of the order dated 11.10.2004 passed by the Court in Criminal Contempt No. 33 of 1999- State of U.P. vs. Sri Shashi Kumar Tyagi for your information and strict compliance.

(See for judgment – 2004 (50) ACC 815)

C.L. No. 37/2006; Dated 10th August, 2006

The State Government of Uttar Pradesh vide letter No. 122/VI-Ma-2/2005, dated 01.08.2005 have intimated that reply in response to the notice(s) issued by the State Human Rights Commission is not sent within the time prescribed by the head of the departments concerned causing great concern to the Commission. The Government have further intimated that the Human Rights Commission is of the opinion that before passing interim aid related orders, the reply of the notices issued to the Government are not provided in time, therefore, the Commission is constrained to pass exparte orders without taking cognizance of the State Government. Sometimes, it has been found that replies of the notices issued by the Commission are not sent by the head of the departments concerned but by their subordinates, which is not proper.

Therefore, while enclosing herewith a copy each of the Government letter no. Adhi-2804/VII-Nyaya-1-2005-215/2002, dated August 31, 2005 and letter No. 122/VI-Ma-2/2005, dated 01.08.2005, I am directed to say that contents of the letter be gone through unerringly and necessary action in compliance be ensured.

35-A. (I) The Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009).

(II) The notification giving enforcement to the provisions of the Code of Criminal Procedure (Amendment) Act, 2008 except sections 5, 6 and 21(b).

(III) the notification for giving enforcement to the provisions of Sections 5, 6 and 21(b) of the Code of Criminal Procedure (Amendment) Act, 2008.

(IV) The Code of Criminal Procedure (Amendment) Act, 2010 (41 of 2010)

(V) The notification for giving enforcement to the provisions of the Code of Criminal Procedure (Amendment) Act, 2010.

No.1949/Admin. G-II dated 01.02.2011

I am directed to send herewith copy of letter No. 2/1/2010-Judl. Cell of Sri J.L. Chugh, Joint Secretary (Judl.), Ministry of Home Affairs, Government of India and copies of above noted Gazette notifications for information and necessary action.

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CHAPTER - XIII

LEGAL PRACTITIONERS

1. ENROLMENT OF MUKHTARS AS ADVOCATES

C.L. No. 36/VII-f-187 dated 4th May, 1965

According to sections, 24 and 29 of the Advocates Act, 1961 and the rules framed by the State Bar Council under section 24 of the said Act a Mukhtar should not ordinarily be certified to be fit for enrolment as an Advocate. In extraordinary cases, however, where the District Judge is satisfied that by reason of special ability, command on the relevant language and knowledge of the law a particular person is capable of ably conducting cases even in the High Court and the Supreme Court, he may give the necessary certificate while sending the application to the State Bar Council.

C.L. No. 4/25f Admn. (D) dated 11th January, 1979

It invites attention to section 55 of the Advocates Act, 1961, which provides that, notwithstanding anything contained in this Act, every pleader or vakil practicing as such immediately before the date on which Chapter IV of the Act (which deals with rights to practice and came into force on June 1, 1969) comes into force, by virtue of the provisions of the Legal Practitioners Act, 1879, if he does not elect to be, or is not qualified to be enrolled as an Advocate under the Advocates Act, 1961 shall, notwithstanding the repeal of the relevant provisions of the Legal Practitioners Act, 1879 continue to enjoy the same rights as respects practice in any court or before any authority or person and shall be subject to the disciplinary jurisdiction of the same authority which be enjoyed or, as the case may be, to which he was subject immediately before the said date.

In view of the above provision a pleader or a vakil, who was not practicing immediately before the commencement of Chapter IV of the Advocates Act, 1961 will not be entitled to practice as a pleader or a vakil thereafter.

2. MISCONDUCT

G.L. No. 22 dated 18th June, 1930

(i) Legal Practitioner not to absent himself from court

The letters noted in the bloc invites attention to a Resolution of the High Court, dated 17th June, 1930, pointing out that a member of the legal profession is guilty of an unprofessional act if he breaks his contract with his client and does not appear in court on any day as a protest against certain political or administrative action of the Government, the appropriate punishment for which is, at the least, suspension from practice for a considerable period.

If any lawyer breaks his contract with his client and fails to present himself in court because he disapproves of some action of the Government or for any other allied irrelevant and improper reason, such lawyer will be called upon to show cause why he should not be removed from the roll or suspended from practice.

G.L. No. 16/67-7 dated 5th April, 1939

All judicial officers are requested to inform the High Court of any instance of this species of professional misconduct for appropriate action.

There have been occasions where individual lawyers or bar association have decided to boycott a court or a particular presiding officer on account of some grievance real or alleged.

The principle set forth in the Resolution indicated above also apply to a boycott of this nature and any instance of this species of professional misconduct will lead to disciplinary action against those concerned.

C. L. No.72/2007Admin (G): Dated: 13.12.2007.

The incidents of strike or boycotts of courts by the lawyers have remained unabated despite a number of Circular letters having been issued in the past by the Hon'ble Court directing the judicial officers to continue to work on dias even if there is a call of strike. Viewing this problem with seriousness in a bid to put a check on this trend the Hon'ble Court has desired that a copy of judgment passed in a case wherein the learned counsel did not appear before court without justifiable cause and the court proceeded to pronounce the judgment recording it's finding, may be forwarded to the Bar Council of U.P. for appropriate action against the defaulting counsel treating his conduct to fall in the category of misconduct

Therefore, I am directed to request you that in all such cases where the the presiding officer is of the view that the absence of the counsel in a particular case is deliberate with a view to obstructing the dispensation of justice and he proceeds to decide the case recording a finding in the judgment to that effect, treating such act of the counsel to be misconduct, a copy of the judgment may be sent to the Bar Counsel of U.P. for necessary action against the concerned counsel.

I am, further to add that kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control for strict compliance.

(ii) Conviction of Legal practitioners to be reported

G.L. no. 78/67-8 dated 3rd September, 1936

When any advocate, pleader or mukhtar is convicted of any criminal offence, the court concerned shall forthwith and without delay report the fact to the High Court, without reference to the question whether an appeal has or has not been filed. A copy of the judgment delivered in the case shall be forwarded with the report. If an appeal is filed, that fact shall be reported to the High Court immediately and when the judgment in appeal is delivered, a copy of it shall also be forwarded.

(iii) Certifying honorarium as fees

G.L. No. 25/67-5 dated 7th October, 1944

It is not open to a counsel who receives an annual honorarium or retainer to certify as fees in a case either the whole or any part of that retainer and if he does, so it will amount to an act of professional misconduct.

3. OBLIGATIONS

(i) Legal practitioners to peruse draft decree and correct errors

G.L. No. 2760/45-36 dated 23rd June, 1914

The duty of counsel after the preparation of decree is indicated in Order XX, rule 21 of the Code of Civil Procedure, 1908. A notice is posted up stating that the draft decree is ready. District Judges should take steps to impress on all legal practitioners in their judgeship that this is done with a view to enabling them to peruse the draft and correct errors where they occur and they should not neglect to carry out this obvious duty.

(ii) Smoking and chewing of betel nuts in courts

G.L. No. 12/67-4(1) dated 23rd April, 1942

The Court takes exception to smoking and the chewing of betel- nuts either by presiding officer or by counsel appearing before them in court, during the hearing of cases.

(iii) Legal practitioners in subordinate courts to inform clients of the necessity of filing copy of 1st court's judgment with second appeal

G.L. No. 24/25 dated 5th April, 1948 read with

C.L. No. 78/VIII-C-21-49 dated 24th November, 1949 and

C.L. No. 79/VIII-C-21/49 dated 24th November, 1949

The provisions of rule 8, Chapter IX of Rules of Court, 1952, are not strictly complied with at the time of presentation of the memorandum of appeal and this mostly due to the clients being not informed by their local counsel about the necessity of filing a copy of the first court's judgment along with second appeal. This leads to inconvenience and delay in the admission of appeals.

District Judges should bring the provisions of the rule to the notice of members of the Bar in their judgeship in order to avoid the possibility of any such omission.

(iv) Form of Dress or Robes to be worn by Advocates

C.L. No. 46/Admin. 'G' Section D

It has come to the notice of the Court that a number of persons, affianced in the profession of Law, while appearing as Advocate, in the subordinate courts, do not observe the form of Dress or Robes to be worn by Advocates and required by the Bar Council of India Rules, 1975 in Chapter (IV), Part (VI) and notified by Rule 615 of the General Rules (Civil), 1957.

As has already been stressed by the G.L. No. 23/4513, dated 19th August, 1941, the wearing of proper dress in court is mandatory and it is the duty of the District & Sessions Judges as well each presiding Officer to see that not only they are themselves dressed in prescription with the Rule 615 of the General Rules (Civil), 1957 but to make sure that provisions in Rule 615, cited below, are conscientiously followed, in letter and spirit, by every Advocate, Pleader, and Vakil.

Rules 615 of the General Rules (Civil), 1957 read as under:

All presiding officers of sessions and civil courts and pleaders appearing before them shall wear a buttoned up coat, achkan or sherwani of a black colour. They may wear an open neck coat of the same colour instead, but if they are not entitled to use bands, they shall wear a black tie with it. During the summer, the colour need not be black and a coat, achkan or sherwani of a light colour may be worn. With the coast, trousers and with the achkan or sherwani chooridar pyjama or trousers shall be worn. Ladies appearing before the civil courts as pleaders shall wear a black or a white sari and blouse.

They shall also wear distinctive costumes as indicated below-

(i)	Presiding Officers	:	A gown made after the pattern of Queen's Counsel's gown of black silk or stuff, with bands;
(ii)	Advocates	:	A gown similar to a barrister's gown with bands; and
(iii)	Pleaders and Vakils	:	A gown similar to the gown worn by presiding officers, but without sleeves and bands.

If it is desired to wear a headdress, a turban may be worn.

The Bar Council of India Rules, 1975, which have been made under Section 49(i) (gg) of the Advocates Act in Chapter IV, Part VI also lay down the form of dresses or Robes to be put on by Advocates and the same, for handiness, is quoted below:

"Advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunal or Authorities shall wear the following as part of their dress, which shall be sober and dignified.

1. **Advocates:**

(a) a black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates' Gowns,

or

(b) black open breast coat, white shirt, white-collar, stiff or soft, and white bands with Advocates' Gowns.

In either case wear-long trousers (while, black striped or grey) or Dhoti excluding Jeans.

Provided further that in courts other than the Supreme Court High Courts, District Courts or City Civil Courts, a black tie may be worn instead of bands.

2. **Lady Advocates:** Lady Advocates may wear either the dress prescribed in sub rule (b) or the following:-

(a) Black sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates' gowns.

(b) Sarees or long skirts (white or black or any mellow or subdued colour without any print or design) or flare (white, black or black striped or gray) or Punjabi dress churidar-kurta or salawar-kurta with or without dupatta (white or black) or traditional dress with black coat and bands.

3. Wearing of Advocates' gown shall be optional except when appearing in the Supreme Court or in the High Court.

4. Except Supreme Courts and High Court during summer, wearing of black coat is not mandatory."

The Bar Council of Uttar Pradesh for removal of doubts has recently passed resolution on 12.08.2006 as follows:

> "In the change brought about in the Dress Rules, there appears to be some confusion in so far as the Sub Courts are concerned. For removal of any doubt it is clarified that so far as the courts other than Supreme Court and High Court are concerned during summer while wearing black coat is not mandatory, the advocates may appear in white shirt with black, white striped or gray pant with black tie or band and collar."

Therefore, I am directed to request you to kindly inform all the judicial officers, Advocates, Pleaders & Vakils in the judgeship under your administrative control and they be asked for strictly following the dress code for abstemiousness and self-respect.

(v) Clients' monies and the identification of sureties

G.L. No. 13/67-4 dated 4th April, 1932

Some lawyers are not alive to their obligation in dealing with money received from their clients. As observed in [*]Miscellaneous Case No. 46 of 1932, the plain and simple rule, which they ought most implicitly to obey, is that once the lawyer has got the money of his client in his hands he should disburden himself of it as soon as possible.

Their attention is further drawn to the decision in [*]Miscellaneous Case No. 72 of 1932. In that case, a pleader guaranteed the ability of a surety to pay a certain sum of money without in fact having any personal knowledge of him. The accused absconded and when efforts were made to realize the money from the surety, it was found that he was practically penniless. The pleader admitted that he had no personal Knowledge but was misled by the information received from his clerk and the clerk of another lawyer. This case is of importance as it emphasises that a lawyer may find himself in an unpleasant situation owing to lack of appreciation of responsibility in a professional matter without being actually guilty of any act involving moral turpitude.

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[*] Copy forwarded with G.L. noted on in the bloc

4. CONDUCT OF PERSONAL CASES BY LEGAL PRACTITIONERS

G.L. No. 2599/45 dated 6th May, 1927

When a Lawyer appears in a case in which he has any personal interest, he must not attend court in robes to argue the case. His position in such a case is that of any other member of the public. He may draft plaints, written statements, affidavits applications and other legal documents on his own behalf, but they must be signed as coming from a litigant "in person", and not as coming from a legal practitioner. In the event of his success in any action, he cannot recover from the opposite party any costs other than and beyond those awarded to a litigant member of the public who has conducted his own case.

5. ADVOCATE WELFARE FUND (AMENDMENT) ACT, 1988– IMPLEMENTATION

(i) Implementation of the provisions of the U.P. Advocates welfare Fund (Amendment) Act, 1988

C.L. No. 76/VIIf-249/Admn. (G) dated: July 28, 1990

I am directed to send herewith a copy of Government letter No. 48/VII-Ka-Ni-302/75, dated February 28, 1990, on the above subject, and to say that the contents of the said letter may kindly be brought to the notice of all concerned for compliance.

उ0प्र0 अधिवक्ता कल्याण निधि (संशोधन) अधिनियम, 1988 में किये गये प्राविधानों के कार्यान्वयन के सम्बन्ध में।

शासकीय पत्र सं0 48/सात-क-लि0 302/75 न्याय (कल्याण निधि) अनुभाग, दिनांक 28 फरवरी, 1990

मुझे आपका ध्यान उत्तर प्रदेश अधिवक्ता कल्याण निधि संशोधन अधिनियम 1988 की धारा 9(1) की ओर आकर्षित करने का निर्देश हुआ है जिसमें यह प्राविधान किया गया है कि "योजना का प्रत्येक सदस्य अपने द्वारा स्वीकृत वकालतनामा पर, उच्च न्यायालय या अधिकरण में या किसी अन्य प्राधिकारी या व्यक्ति को दाखिल किये जाने वाले वकालतनामा की स्थिति में पाँच रूपये के और किसी अन्य स्थिति में दो रूपये के मूल्य का कल्याणकारी स्टाम्प लगायेगा और कोई न्यायालय अधिकरण प्राधिकारी या व्यक्ति एसे सदस्य के पक्ष में कोई वकालतनामा ग्रहण नहीं करेगा जब तक कि उस पर तत्समय प्रवृत किसी अन्य विधि के अधीन अपेक्षित किसी स्टाम्प के अतिरिक्त ऐसा स्टाम्प न लगा हो"। शासन के संज्ञान में यह तथ्य आया है कि उक्त अधिनियम में किये गये इस प्राविधान का परिपालन सम्बन्धित अधिवक्ताओं द्वारा पूर्ण रूप से नहीं किया जा रहा है। अतः शासन ने यह निर्णय लिया है कि आप कृपया यह सुनिश्चित करने हेतु अपने अधीनस्थ न्यायालयों को निर्देशित कर दें कि न्यायालय में दाखिल होने वाले प्रत्येक वकालतनामें पर निर्धारित मूल्य के कल्याणकारी टिकट सम्बन्धित अधिवक्ताओं द्वारा अवश्य ही लगाये जायें। यदि न्यायालय में दाखिल होने वाले किसी वकालतनामें पर कल्याणकारी स्टाम्प न लगा हो और अधिवक्ता अपने को निधि का सदस्य नही बताए तब सम्बन्धित अधिवक्ता से उसी वकालतनामें पर इस आशय का एक लिखित व हस्ताक्षरित प्रमाण-पत्र ले लें कि वह उक्त योजना का सदस्य नहीं है। यदि स्थिति इसके विपरीत हो तो निर्धारित मूल्य का कल्याणकारी स्टाम्प उस वकालतनामें पर लगाने के बाद ही उसे स्वीकार किया जाय।

कृपया उपरोक्त आदेशों का कड़ाई से परिपालन सुनिश्चित करने का कष्ट करें।

(ii) Affixation of Advocate Welfare Stamp on Vakalatnama

C.L. No. 1/VIIf Dated: January 8, 1999

Uttar Pradesh Advocates Welfare Fund (Amendment) (Second) Ordinance 1998 (U.P. Ordinance No.14 of 1998) has been promulgated vide notification No. 1880 (2) XVII-V-1-2 (KA) 20-1998 dated 15.10.1998. The provisions of the aforesaid Ordinance

have also come into force from 3.12.1998 vide Notification No.1053/VII-Nyay-7-127/90 dated 31.10.1998.

By virtue of amendment in Section 2 of Uttar Pradesh Advocates Welfare Fund Act, 1974 every Advocate is now required to affix on every Vakalatnama accepted by him a Welfare Stamp of the Value of Rs.5/- and no Court, Tribunal, Authority or person shall receive any Vakalatnama in favour of such Advocate unless it is so stamped in addition to any stamp required under any other law for the time being in force. Further, the deficiency of Welfare Stamp in the Vakalatnama already filed in the pending cases shall also be made good.

I am desired to inform you that the provisions of the Ordinance should be strictly followed and the Vakalatnama unless bears the Welfare Stamp of Rs.5/- should not be accepted.

(iii) Affixation of new Advocates Welfare Stamp on Vakalatnama from 1.5.2001.

C.L. No. 16/VIIf-249 Dated: 30.04.2001

I am directed to send herewith a copy of Government letter No. 611/VII-Nyay-7-2001, dated April 20, 2001 along with specimen copy of the new stamp of Advocates Welfare Stamp and to inform you that the Govt. have issued new Advocates Welfare Stamp which is to be used from 1.5.2001 by the Advocates on every Vakalatnama accepted by them.

I am, therefore, further directed to request you that the Government order aforesaid, be strictly followed and Vakalatnama bearing only the new advocates Welfare Stamp should be accepted.

(iv) उत्तर प्रदेश अधिवक्ता कल्याण निधि अधिनियम 1974 के अन्तर्गत नये अधिवक्ता कल्याणकारी स्टाम्पों का प्रचलन।

न्याय अनुभाग-7 (कल्याण निधि) : दिनांक 20 अप्रैल, 2001

उपर्युक्त विषय के संदर्भ में मुझे आप को यह अवगत कराने का निर्देश हुआ है कि उत्तर प्रदेश अधिवक्ता कृल्याण निधि अधिनियम 1974 (यथासंशोधित) की धारा-9 में की गयी अपेक्षानुसार अधिवक्ता कल्याणकारी स्टाम्प किसी भी अधिवक्ता द्वारा दाखिल किये गये वकालतनामों पर लगाया जाना आवश्यक है। इन स्टाम्पों के वितरण व बिक्री की व्यवस्था उसी प्रकार की है जिस प्रकार कोर्ट फीस के स्टाम्पों की बिक्री व वितरण की व्यवस्था की जाती है। वर्तमान समय में जो अधिवक्ता कल्याणकारी स्टाम्प प्रयोग में लाये जा रहे हैं उनका प्रचलन बन्द करके उनके स्थान पर दिनांक 1.5. 2001 से नये स्टाम्प जारी करने का निर्णय लिया गया है। इन स्टाम्पों की बिक्री व वितरण के सम्बन्ध में शासनादेश संख्या 535/सात-न्याय-7-9/2001, दिनांक 19 अप्रैल, 2001 द्वारा विस्तृत निर्देश जारी किये जा चुके हैं। दिनांक 1. 5.2001 से प्रचलित किये जाने वाले नये स्टाम्प का नमूना इस पत्र के साथ संलग्न है।

2- *इस संबंध में शासन द्वारा यह निर्णय लिया गया है कि नये जारी होने वाले स्टाम्पों की आपूर्ति नोडल प्वाइन्ट के कोषागारों को दिनांक 25.4.2001 तक सुनिश्चित कर ली जाय और प्रत्येक जिले के कोषागार उक्त नोडल प्वाइन्ट के कोषागारों से अपनी-अपनी आवश्यकतानुसार दिनांक 1.5.2001 के पूर्व समचित मात्रा में स्टाम्प प्राप्त कर लें। दिनांक 1. 5.2001 से समस्त पुराने स्टाम्पों का प्रचलन बन्दकर दिया जाय और उनकी बिक्री न की जाय। जिन स्टाम्प वेण्डरों के पास पुराने स्टाम्प उपलब्ध है वे उन स्टाम्पों को उक्त दिनांक 1.5.2001 की तिथि से 3 दिन के अन्दर अर्थात् दिनांक 4.5.2001 तक संबंधित कोषागार/उप कोषागार में जमा कर दें। संबंधित कोषागार/उप कोषागार के प्रभारी अधिकारी वापस प्राप्त ऐसे पुराने स्टाम्पों की जॉच कर ऐसे स्टाम्प पत्र जो फर्जी न हों शासन के न्याय अनुभाग-7/न्यासी समिति*

को दिनांक 20.5.2001 तक उपलब्ध करा दे। इस सम्बन्ध में संबंधित प्रभारी अधिकारी निम्न सामग्री भी उपलब्ध करायेंगे :-

(क) इस आशय का प्रमाण पत्र कि शासन को भेजे जाने वाले पुराने कल्याणकारी स्टाम्प फर्जी नहीं है।

(ख) प्रत्येक स्टाम्प वेण्डर के पुराने कल्याणकारी स्टाम्प अलग अलग पैकेट में प्रत्येक पैकेट पर स्टाम्प वेण्डर का नाम, पता एवं अनुज्ञप्ति संख्या को स्टाम्पों की संख्या एवं उनके मूल्य अंकित किये जाये।

(ग) एक संक्षिप्त विवरण जिसमें स्टाम्प वेण्डर का नाम, प्रत्येक वेण्डर द्वारा वापस किये गये स्टाम्पों की संख्या एवं उनके मूल्य तथा वापस किये जाने वाले कुल पुराने कल्याणकारी स्टाम्पो की संख्या एवं मूल्य।

3- *यदि कोषागार/उप कोषागार के प्रभारी अधिकारी द्वारा जांचोपरान्त यह पाया जाता है कि किसी स्टाम्प वेण्डर द्वारा वापस किये गये पुराने कल्याणकारी स्टाम्प में से कुछ या कुल स्टाम्प फर्जी हैं तो ऐसे स्टाम्प वेण्डरों को भविष्य में नये कल्याणकारी स्टाम्प बिक्री के लिए उपलब्ध न कराये जायॅ तथा ऐसे स्टाम्प वेण्डरों के खिलाफ दण्डात्मक कार्यवाही भी की जाय।*

4- *दिनांक 20.5.2001 के बाद पुराने कल्याणकारी स्टाम्पों को शासन/न्यासी समिति द्वारा स्वीकार नहीं किया जायेगा।*

5- *पुराने कल्याणकारी स्टाम्पों की जॉच शासन स्तर पर की जायेगी तथा जो स्टाम्प सही पाये जायेंगे उनके सममूल्य के नये कल्याण्कारी स्टाम्प संबंधित स्टाम्प वेण्डर को निर्गत करने के निर्देश प्रमुख सचिव न्याय/सदस्य सचिव, न्यासी समिति द्वारा लिया जायेगा एवं तद्नुसार निर्देश संबंधित कोषागार/उप कोषागार को दिया जायेगा जो उन निर्देशों का अनुपालन सुनिश्ति करायेगें।*

6- *कोषागार/उप कोषागार में उपलब्ध ऐसे सभी पुराने कल्याणकारी स्टाम्प जो स्टाम्प वेण्डरों को निर्गत नहीं किये गये उन्हें दिनांक 5.5.2001 तक भस्मीभूत कर दिया जाय और भस्मीभूत किये गये ऐसे पुराने कल्याणकारी स्टाम्पों की संख्या व उनके मूल्य की सूचना प्रमुख सचिव न्याय तथा सदस्य सचिव न्यासी समिति को दिनांक 10.5.2001 तक अवश्य दे दिया जाय।*

7- *यदि दिनांक 1.5.2001 को अथवा उसके बाद कोई व्यक्ति पुराने स्टाम्पों की बिक्री या प्रयोग करते हुए पाया जाय तो उसके विरूद्ध दण्डात्मक कार्यवाही करने हेतु आवश्यक कदम उठाये जाये।*

8- *कृपया उपरोक्तानुसार कार्यवाही करते हुए नये जारी होने वाले स्टाम्पों के रंग, आकार व प्रकार से अपने अधीनस्थ सभी संबंधित व्यक्तियों को अवगत कराते हुए इसे व्यापक रूप से प्रचारित व प्रसारित करने का कष्ट करे।*

(v) To ensure strict compliance of the provisions as contained in Section 12 of the U.P. Advocates Welfare fund (Amendment) Act, 1999 (U.P. Act No. 3 of 1999)

C.L. No. 43/VIIf-249, Dated: 10th December, 2002

In continuation of the Court's C.L. No. 1/VIIf-249, dated 8.1.1999, I am directed to say that as per the provisions contained in Section 12 of the U.P. Advocates Welfare Fund (Amendment) Act, 1999 (U.P. Act No. 3 of 1999) where an Advocate has filed Act Vakalatnama in a case before commencement of this Act and continues to appear, act or plead in that case in pursuance of such Vakalatnama, after such commencement he shall file a welfare Stamp through an application on or before the first date of hearing of that case.

In this regard, I am further directed to say that the Advocates Welfare Stamp may be supplied on watermark paper, which would not require any court fee.

You are, therefore, requested to kindly bring the contents of this circular letter to the notice of all the concerned in your Judgeship for strict compliance of the aforesaid statutory provision.

(vi) Order Dated 17.01.2003 of Hon'ble Court passed in Criminal Contempt No. 25 of 1999- In Re Sri Shitla Prasad Mishra and 22 other Advocates of Civil Court, Allahabad.

C.L. No. 7/2003 Dated: 28th February, 2003

In Criminal Contempt No. 25 of 1999- In Re Sri Shitla Prasad Mishra & 22 other Advocates of Civil Court, Allahabad, the Hon'ble Court has observed with concern that a large number of incidents are coming to the notice of the Court about hooliganism of the lawyers of the district courts in the State and the times has now come to take strong action in the matter and to put down this hooliganism. The Hon'ble Court, is therefore, of the view that this kind of hooliganism will not be tolerated by this Court and whoever indulges in such activities shall be given harsh punishment.

The Hon'ble Court has further observed that if the lawyers have any grievance against any particular Judge of the district court, it is always open to them to approach the District Judge or the Administrative Judge of the respective district and if they have any grievance against the District Judge, they can approach the Administrative Judge or Hon'ble the Chief Justice, but it is not open to them to take law into their own hands and misbehave with the Judge and indulge in hooliganism. The Court will not tolerate infringement of its authority by lawyers who misbehave with the Judges or interfere with the judicial process.

I am, therefore, directed by the Court to send a copy of the judgment passed by this Court in Criminal contempt No. 25/99 for your information and necessary action.

[For Judgement see 2003 All.L.J. 1592(F.B.)]

(vii) Affixation of Advocates Welfare Stamp of Rs.10/- on each Vakalatnama by the Advocates

C.L. No. 42/VIIf-249, Dated: 12th December, 2003

Under the Gazette Notification No. 853 (2) /VII-V-1-2(KA)-17-2003, Dated July 11, 2003, the Govt. of Uttar Pradesh has made some amendments in Section 9 of Uttar Pradesh Advocates Welfare Fund Act, 1974 with effect from 11.07.2003.

Now, by virtue of the ordinance (Uttar Pradesh Welfare Fund (Amendment) Ordinance, 2003) every Advocates is required to affix on every Vakalatnama a Welfare Stamp of Rs. 10/- in place of Rs. 5/- and where in any case the Welfare Stamp referred to in sub-section (1) of the aforesaid Ordinance is not affixed on the Vakalatnama or is not filed by any Advocate the Court shall not permit such Advocate for further proceedings in that case.

I am, therefore, directed to send herewith a copy of Government Notification No. 853(2)/VII-V-1-2 (KA) -17-2003, dated July 11, 2003 alongwith the copy of the Ordinance, aforesaid with the request to kindly ensure strict compliance of the provisions as contained in the Ordinance and to kindly bring the contents of the circular letter to the

notice of all the Judicial Officers as well as to all concerned in your Sessions Division for strict compliance.

(viii) Affixation of Advocates Welfare Stamp of Rs. 10/- on each Vakalatnama.

C.L. No. 4/2005: VIIf-249: Dated: 22nd January, 2005

By virtue of the Uttar Pradesh Advocate's Welfare Fund Act, 1974 and the U.P. Advocates Social Security Fund Scheme Rules, 1989, it has been made mandatory that every Advocate is required to affix on the Vakalatnama accepted by him a Welfare Stamp of Rs. 10/- and if it is not so stamped no Court, Tribunal or Authority shall receive it. Thereafter, in accordance with these provisions The Hon'ble Court issued marginally noted Circular letters to all the District Judges, Subordinate to the Court for strict compliance.

C.L. No.1/VIIf-249, dated Jan. 8, 1999

G.L. No.10239/VIIf-249, dated Aug.10, 2001

C.L. No. 43/VIIf-249, dated Dec. 10, 2002

C.L. No. 42/VIIf-249, dated Dec. 12, 2003

Recently, the Bar Council of Uttar Pradesh, Allahabad has brought to the notice of the Hon'ble Court that in many districts, the Advocate's Welfare Stamp is not being affixed on the Vakalatnama accepted by the Advocates.

I am, therefore, again directed to request you kindly to ensure compliance of the provision as contained in the U.P. Advocates Welfare Fund Act, 1974 and U.P. Advocates Social Security Fund Scheme Rules 1989 as well as the directions contained in the marginally noted Circular letters issued by the Hon'ble Court in this regard.

Kindly bring the contents of this Circular letter to the notice of all the Judicial Officers and other concerned for strict compliance.

(ix) For taking punitive action against the persons indulging in Printing and selling forged U. P. advocates welfare stamps.

C.L.No.26/VIIf-249: Dated: 18th June, 2000

I am directed to enclose herewith a copy of Government letter No-137 /SAT-Nyaya-155/90 T.C. dated February 2000 on the above subject wherein it has been stated that in some districts stamps vendors are indulging in printing and selling forged "Advocates Welfare Stamps" causing loss to the state revenue/benevolent fund meant for advocates.

I am, therefore, to request you kindly to see that the forged 'Advocates Welfare Stamps' are not issued and in cases any such instance comes to your knowledge appropriate action be taken in the matter.

अधिवक्ता कल्याणकारी टिकटों के फर्जी मुद्रण एवं विक्रय पर रोक लगाये एवं ऐसे लोगो के विरूद्ध कठोर दण्डात्मक कार्यवाही करने के सम्बन्ध में ।

न्याय अनुभाग-7 कल्याणनिधि संख्या-137/सात-न्याय-7-155/90टी.सी0 लखनऊः फरवरी 2000

उपर्युक्त विषय पर बार कौंसिल ऑफ उत्तर प्रदेश 19 महर्षि दयानन्द मार्ग इलाहाबाद के पत्र दिनांक 6-12-99 तथा शासन के पत्र सं 2129/ सात-न्याय- 7-99-155/90 टी.सी. दिनॉक 3-1-2000 प्रतिलिपि सुलभ सदर्भ हेतु

सलंग्न करते हुये मुझे ये कहने का निर्देश हुआ है कि उपर्युक्त आदेशो के निर्गत होने के उपरान्त भी कतिपय जनपदों में कतिपय स्टाम्प वैडरों द्वारा फर्जी अधिवक्ता कल्याणकारी स्टाम्पों का मुद्रण एवं विक्रय किया जा रहा है । जिससे शासकीय राजस्व की आय में क्षति हो रही है।

अतः अनुरोध है कि कृपया अपने मण्डल में फर्जी स्टाम्प मुद्रण एवं बिक्री रोकने के सम्बंध में प्रभावी कार्यवाही तथा दोषी व्यक्तियों के विरूद्व कठोर दण्डात्मक कार्यवाही करने एवं कृत कार्यवाही से शासन को अवगत कराने का कष्ट करें । इस सम्बंध में शीघ्रता अपेक्षित है ।

6. FILING OF VAKALATNAMA BY ADVOCATES

(i) Filing of Vakalatnama by Advocates appearing before the Courts

C.L.No. 53/VIIf-187/Admn. (G), dated September 28, 1992

I am directed to enclose herewith a copy of letter No. 7552/1992 dated August 1, 1992 from the Secretary, Bar Council of Uttar Pradesh, Allahabad, on the above subject, and to request you kindly to bring the contents of this letter's enclosure to the notice of all the advocates practicing in the judgeship and the other concerned for strict compliance.

पत्र संख्या 7552/1992, बार कौंसिल आफ उत्तर प्रदेश, दिनांक 1 अगस्त, 1992

बार कौंसिल आफ उत्तर प्रदेश की गत बैठक दिनांक 4 जुलाई, 1992 में पारित प्रस्ताव की निम्नलिखित प्रतिलिपि आपकी सेवा में समुचित कार्यवाही हेतु प्रेषित किया जाता है:-

''निश्चय किया गया कि उच्च न्यायालय के माननीय मुख्य न्यायाधीश महोदय से अनुरोध किया जाय कि वे जनपद न्यायाधीशों एवं अधीनस्थ न्यायालयों को निर्देश जारी करें कि वकालतनामें पर अधिवक्ता का नाम, पंजीकरण संख्या एवं पंजीकरण तिथि का उल्लेख आवश्यक है ताकि फर्जी व्यक्तियों को वकालत करने से रोका जा सके।

जनपद न्यायाधीशों को प्रतिलिपि इस आशय से भेजी जाय कि अनुपालन सुनिश्चित करें।''

C.L.No.42/VIIf-249, dated

उपरोक्त प्रस्तावानुसार आपसे अनुरोध किया जाता है कि कृपया जनपद न्यायाधीशों एवं अधीनस्थ समस्त न्यायालयों को निर्देश जारी करने की कृपा करें कि प्रत्येक अधिवक्ता वकालतनामें पर अपने नाम के साथ पंजीकरण संख्या एवं पंजीकरण तिथि का उल्लेख अवश्य अनिवार्य रूप से करें ताकि वकालत व्यवसाय में रत फर्जी व्यक्तियों को वकालत व्यवसाय से प्रतिबन्धित किया जा सके।

C.L. No. 47/VII-F-187/Admin (G) Sec. Dated: 4th November, 1997

It has come to the notice of the court that sometimes Vakalatnama on behalf of clients in subordinate Courts are not filed by genuine Advocates.

The Vakalatnama may be general, but it confers vice authority upon the lawyer. Instances have come to the notice of Bar Council that even persons who are not enrolled as Advocates are filing Vakalatnama and putting appearance in the court. In case such misrepresentation and fraud are not checked and is permitted to continue, it would cause irreparable loss to the litigant public. This malignancy is to be checked and for that purpose, the registration number/enrollment No. and full name of the Advocate must necessarily be specified on the Vakalatnama so as to establish the identity of the Advocate.

In order to avoid aforesaid misuse of Vakalatnama by unauthorized persons, the court has been pleased to direct you as provided in rule 550 (1) of General Rule (Civil),

the presiding officers should call for the certificate of enrolment are otherwise satisfy himself of the fact of enrolment of the person appearing as an Advocate.

The aforesaid direction may be complied with meticulously.

Compliance of direction in order dated 3.3.2006 in Civil Misc. Writ Petition No. 12458 of 2006- Purshottam Giri Vs. Deputy Director Consolidation, Bulandshahr and others.

C.L. No. 20/2006: Admin 'G' Dated: 29th May, 2006

The Hon'ble Court while dealing with particulars in Vakalatnama filed by the advocates, has noticed that generally the Vakalatnama filed by the advocates do not contain all requisite details as provided by rules and resolution dated 10.12.1989 passed by the Bar Council taking cognizance of the fact that unscrupulous elements can be seen to be playing tricks with the Courts bringing disrepute to the judiciary as well as to the dignity of the lawyers community. Therefore, while enclosing herewith a copy of order dated 3.3.2006 in Civil Misc. Writ Petition No. 12458 of 2006- Purshottam Giri Vs. Deputy Director Consolidation, Bulandshahr and others, I am directed to request that the contents of and directions in the order dated 3.3.2006 aforesaid, be unerringly gone though all the way for ensuring strict compliance by all concerned under your administrative control.

7. PAYMENT OF FEES TO THE ADVOCATES ENGAGED BY THE GOVERNMENT

Regarding payment of fees to the Advocates engaged by the government in the subordinate court

C.L.No. 43/Admn.(F) dated 17th August, 1992

I am directed to send herewith a copy of government letter No. 478/VII-Nyay-3 (Niyuktiyan/85/90) dated 25th of June, 1991 together with its enclosure for immediate compliance and necessary action.

अधीनस्थ न्यायालयों के समक्ष शासन द्वारा आबद्ध किये गये शासकीय अधिवक्ताओं की फीस का भुगतान।

शासनादेश संख्या : 478/सात - न्याय -3 (नियुक्तियॉं)/85/90, दिनांक 25 जून, 1991

उपर्युक्त विषयक शासनादेश संख्या डी-4972/सात-न्याय-3-85/90 दिनांक 29 दिसम्बर, 1990 की ओर आपका ध्यान आकृष्ट करते हुए मुझे यह कहने का निदेश हुआ है कि उक्त शासनादेश के अन्तर्गत उच्च न्यायालय ताकि समस्त अधीनस्थ न्यायालयों के समक्ष आबद्ध किये गये शासकीय अधिवक्ताओं को शासन के विरूद्ध अथवा शासन द्वारा दायर सभी प्रकार के मुकदमों में शासन की ओर से की गयी पैरवी के लिए दिनांक 1 जनवरी, 1991 से दैनिक फीस का निर्धारण किया गया था जिसके अनुसार बहस करने/साक्ष्य लिखाने के समय के आधार पर फीस अनुमन्य की गयी। शासनादेश संख्या डी-723-सात-न्याय-3-85/90, दिनांक 22 मार्च, 1991 द्वारा स्पष्टीकरण भेजा गया था। इन दोनों शासनादेशों की प्रति सुविधा हेतु एतद संलग्न है।

2- *शासन के संज्ञान में यह बात आई है कि जनपदों के अधीनस्थ न्यायालयों में शासकीय अधिवक्ताओं द्वारा किये गये कार्य में लगे समय का सत्यापन पीठासीन अधीकारियों द्वारा ठीक ढंग से नहीं किया जा रहा है जबकि वास्वविक रूप से न्यायालय में कार्य अवधि तीन घण्टे से बहुत कम है परन्तु शासन को प्रत्येक अधिवक्ता को प्रति कार्य दिवस बहस/साक्ष्य हेतु पूरे दिन की फीस का भुगतान करना पड़ रहा है जिससे राज्यकोष पर अत्यधिक व्यय भार हो रहा है। यह स्थिति खेदजनक है।*

3- *अतएव आपसे यह अनुरोध करने का निदेश हुआ है कि कृपया राज्य में माननीय उच्च न्यायालय के अधीन समस्त न्यायिक अधिकारियों को निर्देशित करने की कृपा करें कि यदि माननीय उच्च न्यायालय को आपत्ति न हो तो कृपया वह शासकीय अधिवक्ताओं द्वारा किये गये कार्य में वास्तविक रूप से लगे समय का सत्यापन ही करने का कष्ट करें, ताकि शासकीय अधिवक्ताओं को अनुमन्य फीस का भुगतान किया जा सके।*

उच्च न्यायालय तथा अधीनस्थ न्यायालयों के समक्ष शासन द्वारा आबद्ध किए गये शासकीय अधिवक्ताओं की फीस का निर्धारण।

शासनादेश संख्या डी-4972/सात-न्याय-3-85/90 दिनांक 29 दिसम्बर, 1990

1- संख्या डी- 1788/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
2- संख्या डी- 1789/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
3- संख्या डी- 1790/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
4- संख्या डी- 1791/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
5- संख्या डी- 1792/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
6- संख्या डी- 1793/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
7- संख्या डी- 1794/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
8- संख्या डी- 1796/सात-वि.मं. 30/89 दिनांक 30 जून, 1989
9- संख्या डी- 1797/सात-वि.मं. 30/89 दिनांक 30 जून, 1989

उपर्युक्त विषय पर आपके विस्तृत प्रस्ताव दिनांक 3 अक्टूबर, 1990 के संदर्भ में मुझे यह कहने का निर्देश हुआ है कि पार्श्वांकित शासनादेशों से पूर्व प्रभावी समस्त शासनादेशो को पूर्णतः निरस्त करते हुए श्री राज्यपाल महोदय सहर्ष स्वीकृति प्रदान करते हैं कि शासन द्वारा उच्च न्यायालय तथा समस्त अधीनस्थ न्यायालयों के समक्ष आवद्ध किये गये समस्त शासकीय अधिवक्ताओं को शासन के विरूद्ध अथवा शासन द्वारा दायर सभी प्रकार के मुकदमों में शासन की ओर से की गई पैरवी के लिए 1 जनवरी, 1991 से निम्नलिखित फीस की दरों से उनके फीस के बिलों का भुगतान किया जायेगाः-

उच्च न्यायालय

<u>रिटेनरशिप</u>

(1)	*मुख्य स्थायी अधिवक्ता/लोक अभियोजक*	*रू0 1,500/- प्रतिमाह*
(2)	*अपर मुख्य स्थायी अधिवक्ता/अपर लोक अभियोजक (श्रेणी-1)*	*रू0 1,250/- प्रतिमाह*
(3)	*स्थाई अधिवक्ता/अपर लोक अभियोजक (श्रेणी-2)*	*रू0 1,000/- प्रतिमाह*

<u>ड्राफ्टिंग</u>

(1)	*वाद/अपील/पुनरीक्षण/रिट-शपथ-पत्र सहित*	*रू0 150/- प्रति केस*
(2)	*शपथ पत्र/प्रतिशपथ पत्र/रिज्वाइन्डर शपथ-पत्र*	*रू0 75/- प्रति केस*
(3)	*समान प्रकृति के मामलों में सामूहिक शपथ-पत्र*	*रू0 500/- (अधिकतम फीस)*

<u>बहस</u>

(1)	*मुख्य स्थायी अधिवक्ता/अपर मुख्य स्थायी अधिवक्ता/ लोक अभियोजक/लोक अभियोजक (श्रेणी-1) विशेष अधिवक्ता/एमिकस क्यूरी अधिवक्ताः-*	
	(1) तीन घण्टे या उससे अधिक	*रू0 300/-*
	(2) तीन घण्टे से कम	*रू0 150/-*
(2)	*स्थायी अधिवक्ता/ अपर लोक अभियोजक(श्रेणी-2)*	
	(1) तीन घण्टे या उससे अधिक	*रू0 300/-*
	(2) तीन घण्टे से कम	*रू0 150/-*

<u>जिला न्यायालय</u>

दीवानी, राजस्व, फौजदारी तथा अरबन सीलिंग (भूमि अर्जन)

<u>रिटेनर</u>

1-	*जिला शासकीय अधिवक्ता*	*रू0 1,000/- प्रतिमाह*
2-	*अपर जिला शासकीय अधिवक्ता*	*रू0 800/- प्रतिमाह*

3-	सहायक जिला शासकीय अधिवक्ता			रू0 700/- प्रतिमाह
4-	उप जिला शासकीय अधिवक्ता			रू0 600/- प्रतिमाह

ड्राफ्टिंग

(1)	वाद/प्रार्थना-पत्र/अपील/पुनरीक्षण			रू0 100/- प्रति केस
(2)	लिखित विवरण-पत्र			रू0 50/- प्रति केस

बहस

(1)	जिला शासकीय अधिवक्ता	(1)	तीन घण्टे या उससे अधिक	रू0 250/-
		(2)	तीन घण्टे से कम	रू0 125/-
(2)	अपर/सहायक जिला शासकीय अधिवक्ता/विशेष अधिवक्ता एमिकस क्यूरी अधिवक्ता	(1)	तीन घण्टे या उससे अधिक	रू0 225/-
		(2)	तीन घण्टे से कम	रू0 115/-
(3)	उप जिला शासकीय अधिवक्ता	(1)	तीन घण्टे या उससे अधिक	रू0 200/-
		(2)	तीन घण्टे से कम	रू0 100/-

2- इस सम्बन्ध में होने वाला व्यय चालू वित्तीय वर्ष 1990-91 के आय-व्ययक अनुदान संख्या 42 के अधीन लेखा "शीर्षक-2014 - न्याय प्रशासन - आयोजनेत्तर -114 कानूनी सलाहकार परिषदें - 02" विधि परामर्शी तथा सहकारी अधिवक्ता की सुसंगत ईकाइयों के नामें डाला जायेगा और अनुदान की सम्पूर्ण बचतं से वहन किया जायेगा।

3- यह आदेश वित्त विभाग के अशासकीय संख्या -ई-9-1147-दस-90 दिनांक 29 दिसम्बर, 1990 में प्राप्त उनकी सहमति से जारी किये जा रहे हैं।

शासनादेश संख्या डी-4972/सात-न्याय-3-85/90 दिनांक 29 दिसम्बर, 1990 के संबंध में स्पष्टीकरण।

शासनादेश संख्या डी 723-सात- न्याय-3-85/90 दिनांक मार्च 22, 1991

शासनादेश संख्या -डी-3972/सात-न्याय-3-85/90 दिनांक 29.12.1990 में राज्य सरकार द्वारा आबद्ध किये गये सभी स्तरों के सरकारी अधिवक्ताओं की फीस की नई दरें एक जनवरी 1991 से लागू की गयी हैं। प्रदेश के अनेक जिलाधिकारियों ने कई प्रकार की जिज्ञासायें शासन को सन्दर्भित की हैं। इन सब सन्दर्भों पर शासन द्वारा विचारोपरान्त निम्नलिखित निर्णय लिये गये हैंः-

(1) बहस के लिए जो फीस की दरें निर्धारित की गयी हैं उन्हीं दरों पर समय की शर्त के अधीन साक्ष्य लेखबद्ध कराने के लिए भी फीस का भुगतान किया जाय।

(2) ड्राफ्टिंग कार्य के लिए जिसमें प्रार्थना-पत्र का उल्लेख संदर्भित शासनादेश में किया गया है वह केवल उसी प्रार्थना-पत्र से है जो किसी विधि के अधीन दावा या अपील या निगरानी के रूप में मान्य हो। अन्य किसी भी प्रकार के प्रार्थना पत्र के ड्राफ्टिंग के लिए कोई फीस अनुमन्य नही होगी।

(3) किसी भी सरकारी अधिवक्ता को कोई क्लेर्कल (लिपिकीय) शुल्क अलग से अनुमन्य नही होगा, क्योंकि उनको (अधिवक्ताओं की) देय फीस में इसे सम्मिलित माना गया है।

(4) जमानत संबंधी प्रार्थना पत्रों/एडमीशन पर की गयी बहस में कुल अवधि के लिए बहस हेतु निर्धारित फीस देय होगी।

(5) केवल राज्य सरकार द्वारा आबद्ध किये गये सरकारी अधिवक्ताओं को सन्दर्भित शासनादेश में निर्धारित फीस अनुमन्य होगी।

(6) विशेष अधिवक्ता को कोई रिटेनर फीस देय नहीं होगी और केवल बहस/साक्ष्य/ड्राफ्टिंग के लिए निर्धारित फीस अनुमन्य होगी।

(7) राज्य सरकार द्वारा आबद्ध किये गये सरकारी अधिवक्ता (विशेष अधिवक्ता को छोड़कर) को मासिक रिटनर फीस देय होगी।

2- *अतः मुझे यह कहने का निदेश हआ है कि उपर्लिखित निर्णयानुसार शासनादेश संख्या -डी-4972/सात-न्याय-3-85/90 दिनांक 29 दिसम्बर, 1990 में निर्धारित फीस की दरों पर भुगतान को सही ढंग से सुनिश्चित किया जाये।*

3-*यह आदेश वित्त विभाग की अशासकीय संख्या-ई-9-310/दस-91 दिनांक 22.3.91 में प्राप्त सहमति से जारी किये जा रहे हैं।*

8. STRIKE BOYCOTTING OF COURTS BY THE LAWYERS

(i) Concerning Strike or boycotting of Courts by the lawyers of the Judgeship

C.L.No. 112/Admn. 'G'/dated November 23, 1994

I am directed to say that in the event of lawyers abstaining from appearing in Court, going on strike or boycotting courts the Presiding Officers, as far as possible, sit in court and dispose of matters listed before them in accordance with law.

I am further to ask you kindly to submit a Special report on the work done in all the courts in your Sessions Division on the day which lawyers abstained from appearing in court.

The instruction aforesaid may kindly be brought to the notice of all the Presiding Officers working under you for information and compliance.

(ii) Re : Lawyers abstaining from appearing in Court

C.L.No. 126/Admn. (G) dated December 9, 1994

Keeping in view the interests of the litigants and the heavy pendency of work in the subordinate courts, the Hon'ble Chief Justice and Judges have been pleased to direct that in the event of lawyers abstaining from appearing in Court, going on strike or boycotting courts, the Presiding Officers are required, as far as possible, to sit in Court and dispose of matters listed before them in accordance with law.

The Hon'ble Judges have further been pleased to direct that cases be listed for hearing on all working days regardless of the call by the members of the Bar to go on strike or to boycott courts.

It has further been directed that the District Judge shall submit a special report on the work done in all the courts in the Sessions Division on the day on which lawyers abstain from appearing in Court.

(iii) Compliance of order of Hon'ble Supreme Court of India dated 11.1.1994 in writ petition (Civil) Nos. 821 of 1990 and 320 of 1993

C.L. No. 61/LC/1296/ dated July 21, 1994

I am directed to send herewith a copy of judgment of Hon'ble Supreme Court of India dated 11.1.1994 passed by a Bench consisting of Hon'ble Mr. Justice A.M.Ahmadi, Hon'ble Mr. Justice M.M. Punchhi, Hon'ble Mr. Justice N.P. Singh, with a copy of writ petition Nos. 821/90 and 320/93 along with Public Notice and to request you to place the notice and other connected papers on your respective Notice Board for information to Bar Association and response, if any, to the petition, should be forwarded to the Registrar (Judicial) Hon'ble Supreme Court of India, New Delhi, through the President of Bar

Association who will collect and collate the same and forward the same with short synopsis of the point raised.

WRIT PETITIONS (CIVIL) NOS.821/90 & 320/93

(Under Article 32 of the Constitution of India)

Common Cause, a Registered Society v. Union of India

I am directed to forward herewith for your information, necessary action and compliance a certified copy of the Order of the Supreme Court as contained in the Record of Proceedings of the Court dated 11th January, 1994 passed in the Writ Petitions above-mentioned.

In view of the said Order, I am forwarding herewith 4 copies of the Public Notice issued under Order 1, Rule 8 of the Code of Civil Procedure and to request you to kindly place the said notice on the Notice Boards for the information of the Members of the Bar.

You are further requested to kindly send the copies of the said Order and the Public Notice to all the State Bar Councils and Bar Associations in the subordinate Courts falling under your High Court's Jurisdiction. You are also requested to forward the response, if any, to the Registrar (Judicial) of this Court received by you through the President of the High Court Bar Association who will collect and collate the same and forward the same with a short synopsis of the points raised.

I am also to inform you that the Public Notice pursuant to the Order of the Court will be published shortly in the News Papers viz. "Indian Express" (all Editions) and “Hindustan Times" (all Editions) and the date of publication will be intimated to you later on.

Please acknowledge receipt and carry out the directions as contained in the said Order.

W.P. (Civil) Nos. 821/90 and 320/93
Common Cause A Registered Society v. Union of India

ORDER

This petition, brought under Article 32 of the Constitution, raises vital issues in regard to the duties and obligations of the members of the legal profession relating to the judicial system in general and the litigating public in particular and seeks the Court's intervention to arrest the harm allegedly caused to the image and dignity of the judiciary and the interest of the litigants on account of the members of the Bar proceeding on strike from time to time in different parts of the country. The petitioner contends that the lawyers constitute the intelligentsia of the country and their striking court work on one pretext or the other, sometimes on trivial matters, thereby paralyzing the judicial system results in untold misery to the litigants both in terms of avoidable harassment and expenses, striking work, contends the petitioner, lawyers fail in their professional duty to appear and conduct cases for which they are engaged and paid and thereby interfere with the course of justice. Since litigants have a fundamental right to speedy justice as observed in Husainara Khatoon *v.* State of Bihar (AIR 1979 SC 1360) it is essential that cases must proceed when they appear on board and should not ordinarily be adjourned on account of the absence of the lawyers unless there are cogent reasons to do so. If cases

get adjourned time and again due to cessation of work by lawyers, it will in the result in erosion of faith in the justice delivery system, which will harm the image and dignity of the Court as well. On this refrain, the petitioner has sought certain directives from this Court as enumerated in paragraph 15 of the petition. These include laying down of guidelines, standards of professional conduct and permitting non-lawyers to appear as provided by Section 32 of the Advocates Act, 1961.

Besides the Union of India and the Attorney General of India, the Bar Council of India and the Bar Association of Delhi, New Delhi and the High Court of Delhi as well as the Bar Association of India are made parties to the petition. However, since the malice of strikes is spread all over the country and is more pronounced in the subordinate courts, it was thought desirable to issue a public notice in the nature of a notice under Order 1, Rule 8, Civil Procedure Code, so that the opinion of a cross section of the members of the profession would be available. That would also make this petition representative in character and any order made therein should be binding on all concerned. Since the Bar Association of India is already, a party it would ordinarily have sufficed but Mr. Nariman fairly stated that it is desirable that every Bar Association should have notice of the present proceedings before further action is taken. Of course, the carriage of proceedings will have to be in the hands of a few only as will be determined by the Court hereafter.

In view of the above we direct a public notice in the nature of one under Order 1, Rule 8, C.P .C. to issue intimating all concerned and in particular the Bar Association and State Bar Council all over the country of the pendency of the present petition. Copies of the notice will be sent to the Registrars of all High Courts to place them on their notice boards for the information of the members of the Bar. Response, if any, to the petition should be forwarded to the Registrar (Judicial) of this Court through the President of the High Court Bar Association who will collect and collate the same and forward the same with a short synopsis of the points raised. This should be done not later than ten weeks from the date of publication of the notice in the press. Notices may be printed in English newspapers with circulation all over India as may be determined by the Registrar General of this Court. The expenses for the notice will be borne by the Supreme Court Registry.

Let the matter be called on three weeks after the period of ten weeks allowed earlier has elapsed.

Copies of notices may also be given to counsel who have entered appearance, if demanded.

PUBLIC NOTICE
(Under Order 1, Rule 8, C.P.C.) Writ Petition (Civil) No.821 of 1990
(Under Article 32 of the Constitution of India)
Common Cause A Registered Society v. Union of India
And
Writ Petition (Civil) No.320 of 1993
(Under Article 32 of the Constitution of India)
Sri Sunil Gupta v. State of Uttar Pradesh & Ors.

Whereas writ petitions above mentioned have been brought under Article 32 of the Constitution of India raising vital issues in regard to the duties and obligations of the

members of the legal profession relating to the judicial system in general and the litigating public in particular.

AND whereas the petitioners seek the court's intervention to arrest the harm allegedly caused to the image and dignity of the judiciary and the interest of the litigants on account of the members of the Bar proceeding on strike from time to time in different parts of the country.

AND whereas the lawyers constitute the intelligentsia of the country and their striking Court work on one pretext or the other, sometimes on trivial matters, thereby paralyzing the judicial system, results in untold misery to the litigants in terms of both avoidable harassment and expenses.

AND whereas by the striking work, the lawyers fail in their professional duty to appear and conduct cases for which they are engaged and paid and thereby interfere with the course of justice.

AND whereas by the litigants have a fundamental right to speedy justice as observed in Hussainara Khatoon v. State of Bihar (AIR 1979 SC 1360)

AND whereas it is essential that cases must proceed when they appear on board and should not ordinarily be adjourned on account of the absence of the lawyers unless there are cogent reasons to do so.

AND whereas if cases get adjourned time and again due to cessation of work by lawyers, it will in the end result in erosion of faith in the justice delivery system, which will harm the image and dignity of the Court as well.

AND whereas on this refrain the petitioners have sought certain directives from this Court as enumerated in paragraph 15 of the writ petition No.821 of 1990 including laying down of guidelines, standards of professional conduct and permitting non-lawyers to appear as provided by Section 32 of the Advocates Act, 1961.

AND whereas the said Writ petitions came up for hearing before this Court on the 11th day of January, 1994 when the court was pleased to direct issue of a public notice in the nature of a notice under Order 1, Rule 8 of the Civil Procedure Code to all concerned so that opinion of a cross section of the members of the profession would be available and would also make the petitions representative in character and any order made therein should be binding on all concerned.

Notice is hereby given to all concerned that:

1. The writ petitions above mentioned will be listed before the Court for hearing on the 6th day of September, 1994 and will be taken by the Court on that day or on any other subsequent date at 10.30 o'clock in the forenoon or so soon thereafter as may be convenient to the Court.

2. The 'responses', if any, to this notice should be sent not later than ten weeks from the date of publication of the notice to the President of the respective High Court Bar Associations who will collect and collate and forward the same with a short synopsis (in English) of the points raised to the Registrar (Judicial) of the Supreme Court of India, New Delhi, with seven extra copies for use of the Court.

3. The responses should be in English, but if any response is in a language other than English, it shall be accompanied by a translation thereof in English.

(iv) Intimation to the Chairman Bar Council, Uttar Pradesh, whenever Advocates resort to boycott or strike.

C.L. No. 20/IIIb-36/Admn. 'G' dated May 9, 1995

I am directed to say that whenever the Advocates resort to boycott or strike the same shall also be intimated to the Chairman, Uttar Pradesh, Bar Council immediately under intimation to the High Court.

No. 32 /2006/Admin 'G': Dated: 7.8. 2006.

The Bar Council of India, New Delhi has apprised to the Court that at its meeting held on 8th and 9th April, 2006 considered the mode of addressing Judges of the Supreme Court, High Court and Subordinate Courts and passed Resolution No. 58/2006.

In this, regard, I am directed to send herewith a copy of letter no. STBC (Cir .) No. 15/2006, dated 13.06.2006 as well as letter No. STBC (Cir.) No. 11/2006, dated 20.04.2006 containing resolution no. 58/2006 referred to above for your information and to request you to kindly bring the contents of the letter as also Resolution No.5812006 to the notice of all the Judicial Officers working in the Judgeship under your supervision and control for their information.

C.L. No. 38/2006/Admn. "G", dated 19.9.2006

In modification of the Court's earlier Circular Letter Mo. 20/2006, dated 29.05.2006, I am directed to say that in furtherance while passing orders dated 25.07.2006 in Civil Misc. Writ Petition No. 12458 of 2006 in Civil Misc. Writ Petition No. 12458 of 2006. Purushlottam Giri v. Deputy Director Consolidation and others, the Hon'ble Court is of the view that to streamline the details about lawyers practicing in a district and in case of any suspicion about the veracity of details about a lawyer, the details will be docketed in a common register which is to be maintained at one place in a district which will serve as a nodal/model register to serve the requirements in a district. The Hon'ble Court has been pleased to pass the following directions in this respect:

1. The register about details of lawyers practicing in district courts shall be maintained at the end of the district Judge and the same shall be prepared under the supervision and control of the District Judge or any Additional District Judge so authorized by the District Judge.
2. Each and every practicing Advocate shall furnish requisite details about himself by means of an application duly signed by him and such details would include residential address, police station, postal address and telephone number etc. besides the authenticated copy of enrolment and the undertaking that he has not made any application anywhere else for enlisting his name in the register aforesaid except the district in which he has been practicing.
3. The District Judge shall maintain complete record on the basis of such record submitted by the Advocates as postulated in the amendment made in the relevant Rules.

4. A similar register shall be prepared and maintained in the High Court containing all requisite details as stated supra.

5. That the register so prepared shall be transmitted to the Bar Council as also to High Court for being verified and authenticated.

6. The other authorities including all the tribunals situated in a district such as Trade Tax Tribunal, Income Tax Tribunals etc. may seek authenticated details about the lawyers from the register so maintained at the end of the District Judge.

While enclosing herewith a copy of order dated 25.07.2006 in Civil Misc. Writ Petition No. 12458 of 2006 – Purushottam Giri v. Deputy Director Consolidation and others, I am directed to request that the contents of and directions in the order aforesaid, be unerringly gone through all the way for ensuring strict compliance by all concerned under your administrative control.

C. L. No. 6/2006/Admin 'G': Dated: 20th February, 2007.

In continuation of the Court's earlier Circular Letter No. 38/2006/Admin.'G', dated 19.09.2006 on the above-cited subject I am directed to say that upon consideration of the affidavit filed oh behalf of Bar Counsel, U.P., Allahabad in regard to registration of advocates on the rolls of the District Courts and the Hon'ble High Court In it's order dated 18.12.2006 in the aforesaid Writ Petition is of the view that there is no difficulty in prescribing some date for registration of Advocates practicing in different district courts including High Court in terms of guidelines contained In the order of the Court dated .25.07.2006.

The Hon’ble Court has been pleased to observe in the order mentioned herein above as under: -

> "Accordingly 31.03.2007 is fixed as the last date for furnishing requisite detail required for registration at the end of the District Judge in the case of the Advocates practising In the districts and at the end of the Registrar General in the case of the advocates practising in the High Court and Registrar, in the case of the advocates practising at Lucknow Bench of the Court attended with the proviso that no registration of any advocate shall be permissible after expiry of the aforesaid date except those advocates who are enrolled thereafter.”

I am, therefore, while enclosing herewith a copy of order dated 18.12.2006 passed in the above Writ Petition, to request you to kindly ensure strict compliance of the directions as contained therein as well as Court’s Circular Letter in the Judgeship under your supervisory control.

C.L. No. 15/Admin. (G) 12007 Allahabad Dated: 13.04.2007

In continuation of circular letter no.125/Admin./G/ dated 9th December 1994, I am directed to inform you that information regarding any serious untoward incident should be immediately brought into the notice of the Court either on phone or through FAX at once without any lapse otherwise it would be seriously dealt with.

You are, therefore, requested to ensure the compliance of this circular letter immediately without any failure.

C. No. 17/2007 Dated: 10.5.2007

The state Government of Uttar Pradesh, Lucknow has apprised the Hon'ble Court that on a review of the sale of Welfare Stamp of Rs. 10/- it has come to the notice that the provisions as contained under U.P. Advocates Welfare Fund Act, 1974 as also U.P. Advocate Social Security Fund Scheme rules, 1989 are not being complied with strictly causing loss of expected revenue while mandatory provision has been given under U.P. Advocate Welfare Act 1979 for affixation of the stamp of Rs. 10/- even in hearing of the old cases and that no head is given in this respect

Therefore, while referring Court's circular letter No. 1/VI f-249, date January 8, 1999 G.L. No. 10239/VIII f-249, dated August 10, 2001 C.L. No. 43/VIIf-249, dated Dec. 12, 2003 and C.L. No. 4/2006/VIIf-249 , dated January 22, 2005, I am directed to request you to kindly ensure strict compliance of the provisions as contained in the aforesaid act and Rules as also direction issued through the aforesaid Court's circular and general letters. a copy of the Uttar Pradesh Government letter No. 224/Seven –Nyay-7-03-155 /90TG, date March 12, 2007 is enclosed herewith for your information and necessary action.

I am also to request you to kindly bring the contents of the State Government of Uttar Pradesh, Lucknow letter dated March 12, 2007 referred to above as also the contents of the circular letter to the notice of all the judicial Officers as well as to all concerned in you Sessions Division for their information and strict compliance.

(v) Strike by Lawyers

C.L. No. 35/IIIb-36/Admin 'G' Dated: 04.10.2004

The strikes by lawyers in the District Courts in Uttar Pradesh have assumed menacing proportions. The fact that the large number of the working days in the subordinate Courts are lost in the State due to strike by lawyers has been observed with great concern.

The Supreme Court has repeatedly held that the lawyer's strikes are illegal and that effective steps should be taken to stop the growing tendency. In Pandurang Duttatravs Khandekar vs Bar Council of Maharashtra (1984) 2 SCC 556; Tahil Ram Issardas Sadaraugam vs. Ramchand Issardas Sadarangam 1993 (3) SCC 256; Common Clause Act Registered Society vs. Union of India (1995) 3 SCC 19; Sanjeev Dutta vs. Ministry of Information & Broadcasting (1995) 3 SCC 619; Indian Council of Legal Aid & Advice vs. Bar Council of India 1995 (1) SCC 732; K John Koshi v. Dr. Tarakeshwar Prasad Shaw (1998) 8 SCC 624; Mahabir Prasad Singh vs. Jacks Aviation (P) Ltd. 1999 (1) SCC 37 and Ex. Captain Harish Uppal vs. Union of India (2003) 2 SCC 45, it was held by the Supreme Court that the advocates have no right to go on strike. The courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all courts to go on with matters on their boards even in the absence of lawyers. In other words, courts must not be privy to strikes of calls for boycotts. It was held that if a lawyer, holding a Vakalatnama of a client abstains from attending court due to a strike call, he shall be personally liable to pay costs, which shall be in addition to

damages, which he might have to pay his client for loss suffered by him. Inspite of repeated pronouncements by Supreme Court, the strikes have continued unabated. The practical experience at the ground level shows that often these strikes take place in collusion with Judicial Officers.

In M/s Suresh Chandra Varshney & Co. vs. State of U.P. (Writ Petition No. 15342 of 2000 decided on 30.3.2000) this Court observed that "it has come to our notice that in about half of the District Courts in the State of U.P. the lawyer are on strike for about a month and they are not permitting any judicial authority to work. This is deeply regrettable and highly objectionable. The judiciary exists for serving the people and not for the lawyer and judges. In our view the attitude of the lawyers of the District courts and Commissionaires of U.P. who are on strike for the last about one month is most irresponsible. This act of the lawyers will no longer be tolerated by this Court, and nobody will be allowed to hold the judiciary to ransom. A division bench of this Court in Manoj Kumar vs. Civil Judge. 1997 (3) UPLBEC 1767 has held that if lawyers go on strike even then courts must sit and pass judicial orders even in absence of the lawyers, and if the functioning of the court is disturbed by anybody police help must be taken by the District Judge or other Presiding Officer. The people of the State are fed up Uttar Pradesh with lawyers' strikes and they are suffering greatly. The lawyers must understand that litigants, witnesses etc. come to court from far off places often at heavy expense but they find that the courts are closed just because the lawyers are on strike. This is most unfair to the litigants or their witnesses. We, therefore, direct the Judges of all District Courts, Commissioners, and other presiding officers of the courts or authorities where judicial or quasi-judicial work is being done that from tomorrow they must start sitting in court and start hearing the cases and pass orders even in the absence of the lawyers who are on strike. If anybody disturbs the working of the court the District judge, Collector, Commissioner or the presiding officer of the court concerned or authority shall call the police and prevent them from doing so. The lawyers must know that enough is enough.'

In Siddhartha Kumar vs. Upper Civil Judge, Ghazipur, (1998) 1 UPLBEC 587, the Division Bench observed that "Nothing more is required to be added on this score except that those Presiding Officers (though their number is very little who have developed vested interest in the strikes be delt with sternly. They became party to engineer a strike on particular days. One of us (Justice O.P. Garg), on the basis of long-standing experience of the working of the District Courts, may venture to say that some Presiding Officers become restive if for a long spell of time there is no strike. Feelers are sent to the members of the Bar to go on strike so that monotony and drudgery be broken to have a respite. The period of strike in not meant for rejoining jubilation or merry-making. Hereafter, the Presiding Officers shall not be granted any remission in their out-turn of work due to the strike by the lawyers. The period of strike days shall also be computed towards working days and the out-turn of work shall be calculated with reference to the actual working days including the strike period."

The judiciary is accountable to the public. The dispensation of justice must not stop for any reason. The strikes by lawyers have lowered the image of the judiciary in the eyes of the public. The Supreme Court has held that right to speedy justice is included in Article 21 of the Constitution of India. In A.R. Antulay vs. R.S Nayak, (1992) 1 SCC 225

and Raj Deo Sharma vs. State of Bihar, (1998) 7 SCC 507, it was held that the litigant has a right to speedy justice. The lawyers' strike, however, are denying these rights to the citizen in the State.

In the State of U.P., the lawyers resort to strike for the most flimsy reasons. Often these strikes are case specific actions. Where a group of lawyers either do not want the case to be taken up or desire a particular matter to be adjourned. In most of the Districts, the strike is virtually institutionalized. The District Judges accept the resolutions of the Bar Associations, as a matter of course, and circulate them amongst the Judicial Officers. This virtually amounts to collaborating with the lawyers in closing the Courts and avoiding judicial works. This Court has issued circulars on various occasions, directing that the Court should not accept the resolutions of strikes by lawyers and must discharge their judicial work. It is, however, seen that inspite of following directives of the Court, the Judicial Officers rise on the small pretext and on a simple request made by the lawyers that they are on strike and neglect judicial work.

In Monoj Kumar vs. Civil Judge, Deoria (Writ Petition No. 33778 of 1997 decided on 10.10.1997) the Division Bench observed that "Before parting with this case, we would like to mention that it is deeply regrettable and highly objectionable that there are strikes in District Courts in U.P. on flimsy and frivolous pretexts, and some District Courts function only for about 60 or 70 days in a year. This is a shocking state of affairs, and will no longer be tolerated by this Court. The judiciary and bar are both accountable to the public and they must behave in a responsible manner so that cases are decided quickly and thus the faith of the public in the judiciary is maintained. Surely, the public has right to expect this from us. We therefore, issue a general mandamus to all the judicial officers in all District Courts in U.P. that if the lawyers go on strike the judicial officers must, despite the strike of lawyers, sit in court and pass orders in cases before them even in the absence of the counsels. If the lawyers disturb the functioning of the Court, the District Judge shall contact the police, the police will give all protection to the judges, and the cases will not be adjourned merely because of the lawyers' strike. People in the State are fed up with lawyers' strikes and this state of affairs must now end. The lawyers must realize that litigants, witnesses, etc, often come from distant places at heavy expense and it is most improper that they have to go away because of strikes by lawyers. The judiciary exists for the people and not for lawyers of judges"

No one has right to obstruct the administration of justice. Extraordinary situation demands extraordinary measures to be taken. Where the fundamental rights of the citizens are being grossly violated, the High Court as a guardian of Subordinate Courts and as a protector of rights of the citizens would not sit quite and allow the situation to deteriorate. It is necessary that very strong measures should be taken to stop the growing tendency of the strikes. The Court now feels that the time has come to take immediate effective and strong steps, to remedy the situation and, therefore, the Court has resolved that in order to curve the tendencies of strike by lawyers following steps/measures be taken:-

1. The Subordinate Courts shall not take cognizance of any resolution passed by the Bar Associations to strike, and to stop judicial work. The District Judge concerned shall not entertain or circulated any such resolutions amongst the Judicial Officers in his judgeship.

2. The Judicial Officers must strictly adhere to Court hours. They shall perform the entire judicial work on the dais, and shall not accept any request to rise, or to stop judicial work on the request of lawyers or litigants. In case lawyers do not attend to work the judicial officers shall proceed to work in the following manner:-

   A. Where the parties are willing they shall be heard personally and necessary orders shall be passed in requiring no further evidence.

   B. In matters fixed for evidence parties shall be allowed to file documents and do examinations/cross examination of witnesses, if so desire.

   C. In revisions, review appeals (Civil and Criminal both), bails and urgent applications, the orders should be passed on merits of the case.

   D. In criminal trials of the courts of Session or Magistrate the witnesses in attendance should be examined by the public prosecutor/ prosecuting officer as the case be, giving an option to the accused to either cross examine the witnesses himself or bear the expenses for recalling of the witnesses, for cross examination on the date(s) next to be fixed.

3. The District judges shall submit weekly reports to the Court, with regard to any incident, which may take place in the judgeship with compliance report of these directives.

4. In case any lawyer or group of lawyers or litigants, creates indiscipline in the Court or try to obstruct court proceedings. The Judicial Officer concerned should immediately inform the District Judge, who shall immediately arrange for the police force and restore the functioning of the court. In case, any damage is caused to the records or the court property. The District Judge shall immediately get the First Information Report of the incident lodged.

5. The District Judges shall arrange for adequate police force, to be kept in reserve in the judgeship, to be deployed for protection of the judicial officers and the court property.

6. The District Judge should inform the names of the persons involved in disrupting the court proceeding to the High Court forthwith.

7. The Judicial Officers shall not perform any judicial work in their chambers.

I am to add that the entire contents of the circular letter be brought to notice of all the Judicial Officers as also the Bar Associations in your Judgeship for strict compliance and vigil be kept by you for strict compliance of the directions in the circular letter.

Court's concern over the strike of lawyers in the Subordinate Court.

C.L. No. 10/2009/IIIb-36/Admin 'G', Dated: April 7, 2009

Upon consideration of the matters pertaining to strike of lawyers in the Subordinate Court, the Hon'ble Court while taking serious view of such strikes

has been pleased to direct that stern action be taken against the strikers and at the same time efforts should be made to look into their genuine grievances.

I am, therefore, in continuation of the Court's C.L. No. 112/Admin 'G' dated: Nov. 23, 1994, C.L. No. 126/Admin 'G' dated: Dec. 9, 1994, C.L. No. 20/IIIb-36/Admin 'G', dated: May 9, 1995, C.L. No. 35/IIIb-36/Admin 'G', dated: 04.10.2004, directed to request you to kindly ensure compliance of the directions as contained in the circular letter.

8-A: **Form of Dress or Robes to be worn by Advocates.**

C.L. No. 33/2009/Admin. 'G-II': Dated: July 16, 2009

In partial modification of the Circular Letter No. 46 Admin. 'G' Section dated 30.10.2007 on the above subject, I am directed to convey the following directions of the Hon'ble Court for strict compliance:-

The High Court in exercise of powers under Section 34(1) framed Rule 12 prescribing advocates' dress code for appearance in the High Court and subordinate courts. Rule 12 is to the following effect:

12. **Advocate, appearing before the Court shall wear the following dress:**

1. Advocate other than lady advocate;
   (a) Black buttoned up coat chapkan, Achakan or Sherwani, Barrister's gown and bands or
   (b) Black open collar coat, white shirt, white collar, stiff or soft, with Barrister's gown and bands.
2. Lady Advocates:-
   Regional dress of subdued colours with Barrister's gown and bands."

Use of the word "shall" in Rule 12 leads no room for doubt about the mandatory nature of the provisions making it compulsory for the advocates to wear prescribed dress. In this regard it may also be mentioned that the High Court under powers of superintendence under Article 227 of the Constitution and under section 122 of the Code of the Civil Procedure has also laid down the dress for the appearance of the advocates in courts under Rule 615 of the General Rules (Civil) as under:-

Rule 615 of the General Rules (Civil), 1957 read as under:-

All presiding officers of sessions and civil courts and pleaders appearing before them shall wear a buttoned up coat, achkan or sherwani of a black colour. They may wear an open neck coat of the same colour instead, but it they are not entitled to use bands, they shall wear a black tie with it. During the summer, the colour need not be black and a coat, achkan or sherwani of a light colour may be worn. With the coat, trousers and with the achkan or sherwani, chooridar pyjama or trousers shall be worn. Ladies appearing before the civil courts as pleaders shall wear a black or a white sari and blouse.

They shall also wear distinctive as costumes as indicated below:-

(i) Presiding Officers	:a gown made after the pattern of Queen's Counsel's gown of black silk or stuff with bands.
(ii) Advocates	:a gown similar to a barrister's gown with bands and
(iii) Pleaders and Vakils	:a gown similar to the gown worn by Presiding Officers but without sleeves and bands.

It is desired to wear a headdress, a turban may be worn.

Therefore,, I am directed to request you to kindly inform all the Judicial Officers, Advocates, Pleaders & Vakils in the Judgeship under your administrative control and they be asked for strictly following the dress code for abstemiousness and self-respect.

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CHAPTER – XIV

DISTRICT COURT COMPUTERISATION

1. FACILITY OF COMPUTER CORRESPONDENCE THROUGH NIC FOR ALL THE DISTRICT HEADQUARTERS OF THE STATE

C.L. No. 19/95 Dated 8 May, 1995

The Computer Center of the High Court has been connected with the NICNET i.e. the National Network of the National Informatics Center (NIC). It has made us capable of transmitting messages through Electronic Mail Services to you. This facility is available at your end through your district centers of the NIC. For collecting and delivering the messages and replies, Hon'ble the Chief Justice has been pleased to direct that a clerk be deputed on the regular basis by District Judges at their local centers of the NIC. The State Informatics Officer, Lucknow, Dr. Rakesh Goel has permitted the use of this facility by you and has issued necessary directions to the district centers of NIC in U.P. You may kindly bring it to the notice of the local officer of the NIC and take their help in establishing communication through NICNET.

I am, therefore, directed to request you to kindly depute one clerk at the local center of the NIC of your district situated in Collectorate compound on the regular basis, under intimation to the local officer of NIC to collect the messages regularly. You are also requested to transmit your messages through the local center of the NIC to High Court, (in addition to the normal mode of communication). Inter district communication is also possible through NICNET and it should be availed of as and when required.

2. PROJECT REPORT PREPARED BY NIC

C.L. No. 34/96 Dated 16th July, 1996

National Informatics Center, a Central Government Organisation working under the Planning Department of Govt. of India has undertaken the job of computerization of the courts all over the country. It has a local centre in each district of the state and it is located in the collectorate compound or somewhere near it. The purpose of the computerization of courts has two objectives. Firstly to streamline and simplify the functioning of the registries of the Supreme Court of India, High Courts and Lower Courts in the country. Secondly, to make the whole system transparent an information be available to the end user i.e. the litigant at the nearest possible place of his/her hometown. For achieving these two objectives, the National Informatics Centre has prepared a phased plan. The project report relating to it is being enclosed herewith for your detailed information and co-operation with the officers of NIC.

Hon'ble the Chief Justice of India has desired that the computerization work of the courts be taken on top priority and the NIC should be given all necessary help to establish various systems in subordinate courts and its linking with the High Court and the Supreme Court. Here I may mention you that the NIC aims at solving your local problems relating to fresh filing of cases, the pending cases, the administrative matters, library, record room and other matters on a uniform pattern throughout the state so that the computerized systems of one place may be inter-linked with the other and they be

compatible to each other. This would also help the compilation of the statistical data of the entire state at one place. This on the one hand, would increase your administrative grip on day-to-day affairs and on the other hand, the High Court and the Supreme Court will be automatically appraised of all the developments taking place at the lowest cadre of the judiciary. This would also bring efficiency and transparency in the system.

I am, therefore, directed to request you that full co-operation be extended to the officers on National Informatics Centre as and when they contact you. If you are personally very busy and find it difficult to supervise, you may depute an officer specifically to monitor the progress and streamline the things.

3. DISTRICT COURT COMPUTERIZATION

C.L. No. 12/ 2002 (Computer) Dated 21st March, 2002

As you are aware, the project of that the District Court Computerisation is being given top priority by the Hon'ble Court and under the project, some terminals have been installed at the Centralised Computer Centre where the work on administrative and judicial sides is to be started without any further delay.

With the facility of Video Conferencing through DAMA (RAS) V-SAT available in Collectorate office of each District the E-Mail and Internet facility in the District Courts is being provided by the NIC through satellite which will not only speed up the access to E-Mail and Internet facility directly through satellite but also make available a number of legal fields and websites to the Judicial Officers through the Internet. This facility has been made available at the Centralised Computer and Server installed at the Centralised Computer Centre in each District.

The work of preparing various statements on the prescribed proforma and other Judicial and Administrative work is also being taken up in some Districts and in others, it is to be started very shortly. Training to the Court officials is also being provided by the District Informatics Officers. All this work is being done at the Centralised Computer Centre where the Centralised Computer and Server machine is installed under the umbrella of properly tested earthling. It will not only be inconvenient to shift the machine from the Centralised Computer Centre to some other place- may that be chamber of the District Judge/any other Judicial Officer- but also not advisable to shift it for safety and security purpose. Conduction of Judicial/Administrative work at the Centralised Computer Centre will also be seriously affected, if the Centralised Computer and Server are shifted therefrom.

The Hon'ble Court, therefore, directs that the Main Computer and Server machine shall not be shifted from the Centralised Computer Centre to any other place without prior permission of the Hon'ble Court.

4- डेमिस्ट साफ्टवेयर डाटा कलेक्शन फार्म 'ए' एवं 'बी' पर सूचना उपलब्ध करने विषयक।

नियुक्ति अनुभाग- 4 लखनऊः दिनांक : 15 अप्रैल, 2002

उपर्युक्त संबंध में मुझे आपसे यह कहने का निर्देश हुआ है कि निर्धारित संलग्न प्रपत्र पर समस्त सिविल जज (जू0डि0) की सूचनाये एकत्र की जानी है तथा प्राप्त सूचनाओं की प्रगति/अधावधिक स्थिति के सम्बन्ध में मुख्य सचिव महोदय की अध्यक्षता में दिनांक 17-4-2002 को एक समीक्षा बैठक आहूत की गई है।

इस सम्बन्ध में फार्म 'ए' एवं 'बी' की प्रतियॉं संलग्न करते हुए मुझे वह कहने का निर्देश हुआ है कि कृपया अपेक्षित सूचनाएं उक्त प्रपत्र में तत्काल के माध्यम से शासन को उपलब्ध कराने का कष्ट करें।

5. INFORMATION OF DEMIST SOFTWARE DATA COLLECTION ON 'A' AND 'B' PROFORMAS

C.L. No. 16 /Admn. (A-3), Dated : 22nd April, 2002

I am directed to enclose herewith a copy of Government Letter No. 1076/II-4-02-22(7)/2002, dated, April 15,2002, along with it's enclosures (proformas 'A' & 'B') on the subject noted above and to say that the information asked for there-in may please be obtained from all the officers of Civil Judge, (Junior Division) cadre working under you and the same be sent to State Government under intimation to the Court.

This may please be treated as most urgent.

DATA COLLECTION FORM -A

Date……

1. Department Name……..
2. Name of Sub Department……
3. Office Address ……..

PERSONAL DETAILS (Tick on the appropriate option wherever available)

4. Payroll Employee Code…….
5. Employee Name……..
   - Last ……
   - First……
   - Middle……
6. Permanent Address……
7. Present Address……...
8. Fathers Name/ Husband Name…….
9. Mothers Name…….
10. Birth Place……..
11. Home/Town/Village…….
12. Date of Birth……
13. Sex (Male/Female)……
14. Blood Group (A-, A+, B-, B+,O-, O+, AB-, AB+)
15. Employee Class (Class I, II, III or IV)……
16. Gazetted Officer (Yes/No)……
17. Religion (Hindu, Muslim, Christian, Sikh, Jain, Buddhist any other)…
18. Other Religion (In case of any other Religion)……
19. Reservation Category: (General, Schedule Cast-A, Schedule Cast-B, Schedule Tribe, Backward Class, Backward Class Most, Backward Class Ex-servicemen, Kin of Freedom Fighter, Physically challenged (Handicap)
20. Cast Reservation (Category) (In case Reservation Category is Ex- Servicemen kin of freedom Fighter Physically challenged (Women)
21. Caste ……..
22. Height in Cms……..

23. Identification Mark……
24. Qualification…….
25. Discipline……
26. Any Other Higher Qualification…….
27. Computer Literate Yes/No

(Name & Signature of Establishment Officer)	(Name & Signature of Account Officer)	(Name & Signature of Employee)

DATA COLLECTION FORM-B

SERVICE DETAILS

Date……..(Tick on the right option, wherever available)

1. Name of Employee……..
2. Description……..
3. All India Service, State Service, (IAS, IPS, PPS, PCS-A/c, PCS /EXECUTIVE/ PCS (JUDICIARY)/PPS/PES/PMS/PSE/PDS/PTS/PSC/ (through any other commission)
4. Appointment Order
5. Date of Appointment
6. Date of Joining
7. Forenoon /Afternoon
8. Date of subordinate appointment
9. Confirmation order No.
10. Date of Confirmation
11. Pay Scale
12. Pay Scale Category (Junior Time Scale, Senior Time Scale/Junior Administrative /Grade Selection Grade Super Time Scale/others)……
13. Place of Present Posting /GO: P.Secy., H.O.D., Divisional District Project, Computer Officer, other State Government Foreign…….
14. Name of Office
15. A. Place of Posting (Domestic)

    District Tehsil
    Block Thana
    Gram Panchayat Village

    B Place of Posting (If Foreign)

    Country ……

    Assignment…….
16. Category of Employee (Contractual /Daily Wages/Regular/Work Charge/Ad-hoc)
17. Mode of Recruitment on Current Post Promotion /Regular Recruit/Short Service Commission/ Retrench Employee Reemployment.
18. In Case of Promotion from which stream…….
19. Whether on Deputation to any Department (Yes/No)……..
20. Whether Employed on Ground of being Dependant on Deceased Govt. Employee (Yes/No) …….Whether on Deputation to Any Department (Yes/No)……

21. If Yes, Name of Department/ Project …….
22. Whether on Deputation in this Department…….
23. If Yes, Name of Parent Department ……..
24. Whether on Foreign Service (Yes/No)……
25. If Yes, Name of Department/ Project……..
26. Whether on Foreign Service to this Department/Project (Yes/No)……
27. If Yes, Name of Parent Department……

(Name & Signature of Establishment Officer)	**(Name & Signature of Account Officer)**	**(Name & Signature of Employee)**

6. DISTRICT COURTS COMPUTERIZATION COMPULSORY DATA ENTRY & OPERATIONAL LEVEL TRAINING TO THE NEWLY RECRUITED CLASS-III OFFICIALS IN THE DISTRICT COURTS

C.L. No. 39/OSD/CMP, Dated: 26th September, 2003

I am directed to inform you that Hon'ble the Court has been pleased to direct that the Data Entry & Operational Level Computer Training be made compulsory for all the newly recruited/appointed Class-III Officials in the District Courts. This training will be imparted by the District Informatics Officer of your District to whom the directions have already been issued by the State Unit Headquarter of the NIC, U.P. This training is to be imparted to the officials without any delay and under intimation to the Hon'ble Court.

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