

COURT CASE MATTERS

COURT CASE MATTERS

1. Relevant Acts, Rules and Guidelines related to F&S Department

- The Essential Commodities Act, 1955.
- The WBPDS(M&C) Order, 2013.
- The WBUPDS (M&C) Order, 2013
- The National Food Security Act, 2013.
- The TPDS, (Control) Order,2015 (Present Central Control Order)
- The WBTPDS (M&C) Order, 2024.
- The West Bengal Kerosene Control Order,1968.
- The West Bengal Custom Milled Rice (Obligation & Control)Orders , 2015.
- The WBTPDS(Empanelment of flour mill & Milling of Atta / and its distributions) Guidelines, 2024.

2. Process of Court Cases

- Cases are filed either in High Court, West Bengal Administrative Tribunal, District courts;
- Order of the administrative tribunal is challenged in High court by filing WPST;
- Writ application are filed for challenging the decision of the Governments that includes arbitrary action, infringement of fundamental rights article 14 and 21;
- Mainly Writ Petition is filed against Government in the original side and appellate side,
- Appeal petition called MAT or FMAT Application, misc. application called CAN application, Contempt application called CPAN, service matter called WPST
- There are three types of cases:
 - Dispute of Service matters (filed generally in West Bengal Administrative Tribunal)
 - Dispute with private parties
 - Dispute between two government department;

3. Receiving of information about the court case by the Department/Directorate/DCF&S/ JDR/DDR/SCF&S/RO.

- Through Mail
- Through Mobile Message
- Direct Phone Call from the State Advocate or
- From Any End
- Directly forwarded by the petitioner's Advocate
- At present writs filed in the High Court is uploaded on the web site at <http://sarthac.gov.in> by the "Systemized Administration & Regulation of Tendering and Handling All Court Cases" (SARTHAC).
- SARTHAC instantly digitizes the petitions to make them available at its website and send SMS and email alerts to all the stakeholders. You can get details of Writ application, names and phone numbers of State Advocates, names and numbers of other departmental officers etc

4. Three Stages of Court Cases :

➤ CASE FILING STAGE:

- Once the writ application is filed in the court, your job is to:
 - ❖ ask for the engagement of State Advocate,
 - ❖ monitor preparation of statement of facts,
 - ❖ compilation of various document on which the case is relied upon,
 - ❖ make liaison with state Advocates.

➤ HEARING STAGE:

You need to attend the hearing of the case with all relevant documents and files as and when called for by the Ld. Government Pleader/Ld. Additional Govt. Pleader/ Ld. State Advocates.

➤ COMPLIANCE STAGE:

Once the case is disposed off you need to comply with the order of the Court as per direction issued therein in the order.

5. Your duty of dealing the court cases :

- ❖ You shall monitor and supervise the litigation of your office pending in various courts and quasi-judicial authorities and shall be responsible for active case management.
- ❖ You shall ensure that the concerned dealing assistant/ Clerk of your office keep proper records of the cases filed and that copies retained by the office are complete and tally with what has been filed in the court.
- ❖ You shall ensure that all cases (pending cases and fresh) are entered into the court case register by the concerned dealing assistant who shall regularly monitor the progress of important cases and apprise you of significant cases, including contempt cases that require any immediate intervention. You shall also pursue with concerned officials such cases, in which either undue delay or unnecessary adjournments are being sought.
- ❖ You should give top priority to contempt cases and ensure that process should be initiated immediately on receipt of notice after apprising the higher officers of such cases. If the reply is to be filed after the compliance of the orders of the Hon'ble court, then the case should be put up for necessary compliance. If any appeal is to be filed against the main case, the process of decision for same should be got taken immediately
- ❖ You shall ensure that notices u/s 80 of CPC, 1908 and such representations, complaints etc, having legal impact, cause of action, which may generate litigation, are given special attention and are responded to without delay by the concerned officials of your office.
- ❖ You shall ensure that the concerned dealing assistant prepare a comprehensive draft reply in the form of Statement of Facts or draft for appeal, as the case may be, well before the date of hearing after examining the entire relevant material including case law, instructions, rules, regulations pertaining to the case.
- ❖ You should keep the concerned authorities apprised about the court orders, directions so as to ensure their timely compliance, implementation and so as to discourage further unnecessary litigation. Accordingly, you shall ensure that the directions issued by various courts are implemented or challenged, as the case may be, within the stipulated time, so that aggrieved person is not compelled to file a contempt petition.
- ❖ You should ensure that speaking orders are passed in time wherein such directions are passed by the court. Where directions cannot be implemented in time due to any reason, time may be got extended by filing an application in the court.
- ❖ You should ensure that no case shall remained unattended, even though the Law Cell of the Department, used to forward a communication/correspondence about the new writ/O.A

etc., but as the cause of action accrues against the SCF&S/R.O., the entire responsibility/burden lies on you to defend and to send the instructions to the Ld. State Advocate.

6. Statement of Facts

- A Statement of Fact is a para-wise written reply of a writ filed in the Court. A good Statement of Fact will include a summary of the pertinent facts and legal points raised in the case. It will show the nature of the litigation, who sued whom, based on what occurrences, and what happened in the case administratively
- A ideal Statement of Facts are often conveniently summarized at the beginning. Sometimes, the best statement of the facts will be found in a dissenting or concurring opinion.
- The fact section will include the following elements:
 - A one-sentence description of the nature of the case, to serve as an introduction.
 - A statement of the relevant law, with quotation marks or underlining to draw attention to the key words or phrases that are in dispute.
 - A summary of the complaint (in a civil case) or the indictment (in a criminal case) plus relevant evidence and arguments to be presented in court to explain who did, what to, whom and why the case was thought to involve illegal conduct
 - A summary of actions taken by the authorities concerned for example: action taken against the petitioner etc.

7. Issues relating to Reasoned Orders:

- A quasi-judicial authority must record reasons in support of its conclusions. Producing well-written reasoned order is the goal of all the quasi-judicial authority. Badly written order can have significant legal consequences for both the parties, who may incur costs as a result of a need to appeal a poorly worded decision or opinion, and society as a whole, since a poorly drafted precedent may drive the law in an unanticipated and unfortunate direction or lead to increased litigation as individuals attempt to define the parameters of an ambiguous new ruling.
- The process of drafting a reasoned order begins by considering questions of scope. Not every dispute merits a fully reasoned judgment, and you must learn to differentiate between those matters that deserve a detailed legal analysis and those that do not.

8. Structure of a Reasoned Order:

➤ Orientation

Every well-reasoned decision or opinion should begin with an opening or orientation section that puts the legal and factual discussion into context and lets the reader know what is to come. The orientation section is only one or two paragraphs long and drafted in such a manner that it serves two important purposes. First, this section describes the structure of the discussion so as to give readers a roadmap of where the author is going. Second, a good orientation paragraph provides readers with sufficient information to know whether they should continue reading.

➤ Summary of Legal Issues

The second section of a reasoned decision or opinion involves a summary of the various legal issues that will be discussed in the body of the document. This section focuses exclusively on legal issues, since factual issues are considered separately. Some disputes present more than one legal issue. However, this situation is not unduly problematic, since there are a number of ways of handling these types of complex matters. Some authority present all of the potential legal issues in a single summary paragraph, while other authority split up the various issues and introduce them in separate paragraphs under topic sentences introducing individual sub-issues. Either technique is fine, so long as the approach is clear to the reader

➤ **Statement of Facts**

A well-written factual analysis is critical to a well-reasoned decision or opinion, since you need to demonstrate and discuss the interaction between the law and the facts. Therefore, you must include all the relevant facts, although you must simultaneously take care to avoid introducing any unnecessary facts, since additional elements not only slow the reader down but may cause confusion about the scope and future applicability of the legal principle enunciated in the judgment.

➤ **Analysis of the legal Issues**

The fourth section constitutes the core of a reasoned decision or opinion. This section provides a detailed analysis of the legal issues and presents the rationale for reaching the outcome in question.

➤ **Disposition**

The final section of a reasoned judgment involves the holding or disposition of the case. This section usually constitutes “a single paragraph or sentence at the end of the decision” and “is that portion of the decision that ultimately will be incorporated into the judgment.”