

## **Empanelment Of Advocates As Standing Counsel, Additional Standing Counsel And Additional Public Prosecutor In High Court Of Delhi Guidelines, 2010**

**[27 April 2010]**

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## **Empanelment Of Advocates As Standing Counsel, Additional Standing Counsel And Additional Public Prosecutor In High Court Of Delhi Guidelines, 2010**

**[27 April 2010]**

In supersession of this Department's Order no. F.5/10/91/Lit. /345 dated the 26th February, 1992, and in exercise of his executive powers, the following Guidelines are hereby made by the Lt. Governor of the National Capital Territory of Delhi, to regulate the empanelment of advocates as Standing Counsel, Additional Standing Counsel, Additional Public Prosecutors in High Court of Delhi for conducting cases of criminal nature for and on behalf of Government of National Capital Territory of Delhi, namely:-

### **1. Short Title And Commencement :-**

(1) These Guidelines may be called Empanelment of advocates as Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor in High Court of Delhi Guidelines, 2010. (2) It shall come into force from the 1st May, 2010.

## **2. In These Guidelines, Unless The Context Otherwise Requires :-**

(a) "Additional Public Prosecutor" means an advocate appointed under section 24 of the Code of Criminal Procedure, 1973 as Additional Public Prosecutor; (b) "Government" means the Lt. Governor of the National Capital Territory of Delhi; (c) "Lt. Governor" means the Lt. Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution.

## **3. Appointment And Tenure Of Additional Public Prosecutor :-**

(1) The Lt. Governor, Delhi shall, after consultation with the High Court, appoint such numbers of Additional Public Prosecutors as may be required, for conducting any prosecution, appeal or other proceeding in the High Court of Delhi on behalf of the Government of National Capital Territory of Delhi. (2) The Additional Public Prosecutor shall hold the office at the pleasure of the Lt. Governor, Delhi. (3) The appointment of Additional Public Prosecutors shall be notified in accordance with the provisions of the Code of Criminal Procedure, 1973. (4) The number of Additional Public Prosecutors shall be determined by the Government, from time to time, based on the requirement and the quantum of cases in the High Court. (5) The appointment shall be made for a period of two year, which may be extended from year to year, subject to satisfactory performance of the work of Additional Public Prosecutor, as the case may be. (6) The Additional Public Prosecutor may be removed by the appointing authority from the panel at any time without assigning any reason. The Additional Public Prosecutor may also resign from the panel and he shall cease to hold the office from the date of his resignation or the date of his removal from the panel, as the case may be. (7) In the event of submitting resignation or removal, as the case may be, the Additional Public Prosecutor shall handover the records of all cases pending with him to the Law Department which shall not assign any further work to such Additional Public Prosecutor.

## **4. Procedure For Empanelment Of Additional Public Prosecutor :-**

(1) The Law Department shall invite applications of advocates for empanelment of Additional Public Prosecutor by advertisement. The applications received shall be scrutinized by the Law Department for recommending the names of eligible advocates for

empanelment. (2) While determining the eligibility, the advocates may be short-listed and interviewed by the Law Department. The recommendations shall contain the list of suitable candidates, prepared in order of merit based on their qualifications, expertise, experience etc. (3) The list so prepared shall be put up for consideration of the Lt. Governor for appointment. (4) On receipt of the approval of the Lt. Governor, the Law Department shall notify the appointments in accordance with the sub-clause (1) and sub clause (3) of clause 3.

**5. Eligibility, Terms And Conditions For Empanelment Of Advocates As Additional Public Prosecutor :-**

(1) An advocate shall be eligible to be appointed as a Additional Public Prosecutor, only if he has been in practice as an advocate for not less than seven years. The period during which a person has been in practice, as a pleader, or has rendered service as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate. (2) The advocate must have better communication skills and knowledge of legal practice acquired over a considerable period as mentioned above and should be able to present standards of excellence. It is desirable, without being exhaustive, that the advocacy practice will demonstrate experience in arguing on appeal, a position of leadership in a specialist area of the law and experience in conducting major cases.

**6. Remuneration Payable To Additional Public Prosecutor :-**

The remuneration payable to the empanelled Additional Public Prosecutor shall be determined, from time to time, by the Government.

**7. Appointment As Standing Counsel (Criminal) And Additional Standing Counsel (Criminal) :-**

The Lt. Governor may, after consultation with High Court, appoint, any advocate fulfilling the conditions mentioned in rule 5 or any Additional Public Prosecutor as the Standing Counsel (Criminal) and, such number of Additional Public Prosecutors as Additional Standing Counsel (Criminal), as he may deem appropriate depending upon the work load as determined and recommended by the Law Department.

**8. Duties Of The Standing Counsel, Additional Standing Counsel And Additional Public Prosecutor :-**

(1) The Standing Counsel and Additional Standing Counsel shall appear before High Court of Delhi to accept the notices on behalf of the Government and the Standing Counsel shall further assign the cases to any Additional Standing Counsel and Additional Public Prosecutor. (2) If the case is decided against the Government, the concerned Additional Standing Counsel and Additional Public Prosecutor shall give opinion regarding the possibilities of challenging such decision with the grounds for such challenge to the Standing Counsel (Criminal) who shall forward the same with his own comments to the Home Department of Government, at the earliest but not exceeding ten days of the receipt of judgment. (3) The Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor as a part of their duty shall also be required to render such advice, opinion etc., as may be asked from them with regard to any pending matter or any other matter involving legal question arising out of any criminal case. (4) The Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall perform such other duties of miscellaneous legal nature which may be assigned to them by Law Department, from time to time. (5) The Standing Counsel shall be responsible for the overall supervision and monitoring of the cases involving Government and submit the weekly report to the Law Department regarding the cases decided in favour or against the Government and number of cases recommended for filing appeal or not, as the case may be, along with the reasons therefore. He shall also keep the Law Department informed of the important developments during the proceedings from time to time particularly any important direction, interim or otherwise, is given by the Court requiring compliance by the Government. (6) The Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall not disclose any information to any other person, which they have received from the Government in fiduciary relationship, when he has reasons to believe that such information may be used by any person against the Government.

## **9. Review Of Performance :-**

(1) The performance of the each Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall be assessed by the Law Department on the basis of their performance in cases conducted by them as well as the reports/comments on their working by the concerned Departments. (2) The extension of tenure on the Government panel shall be subject to the

performance of Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor and overall satisfaction of the Government. (3) The performance of Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall be reviewed every year in the month of March and the continuation of such Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor on the panel shall depend upon his performance in that particular year.

**10. Right Of Private Practice :-**

Without affecting the efficient discharge of work assigned to him by the Government, the Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor will have the right of private practice: Provided that such Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall not render opinion in or accept any case against the Government in which he is likely to be called upon to appear for or to render opinion to or which is likely to affect or lead to litigation against, the Government: Provided further that such Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall not appear against the Government in any case or represent or render opinion to any person in any matter which is in conflict with or is adverse to the interests of Government. Provided furthermore that the Standing Counsel, Additional Standing Counsel and Additional Public Prosecutor shall not get any advocate of his chamber, office, association, peer group engaged or appear in any case against Government in which he is representing the Government.

**11. Saving Of Inherent Power Of The Government :-**

(1) Nothing in these guidelines shall prevent the Government from adopting a procedure which is at variance with any of the above guidelines, if the Government, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the guidelines so laid down. (2) Nothing in these guidelines restricts the discretion of the Government to appoint from time to time other advocates, to represent it before any Court, in recognition of their extraordinary contribution in the field of law. By order and in the name of the Lt. Governor of the National Capital Territory of Delhi, Sd/- Savita Rao, Joint Secretary (Law, Jus. & L.A.).