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भारतीय राष्ट्रीय राजमार्ग प्राधिकरण  
(सड़क परिवहन और राजमार्ग मंत्रालय)  
**National Highways Authority of India**

(Ministry of Road Transport and Highways)  
जी-5 एवं 6, सेक्टर-10, द्वारका, नई दिल्ली-110075  
G-5 & 6, Sector-10, Dwarka, New Delhi-110075

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फैक्स / Fax : 91-11-25093507 / 25093514

**CIRCULAR**

NHAI/DR&A/ARB(Misc)/2011

27 Dec 2012

**Subject:- Handling of Arbitration cases by Legal and Arbitration Cell-clarifications on the role of the PD-PIU or his representative.**

In continuation to Circular of even No dated 30 Jul 2012 whereby it was intimated that in terms of the decision of the Competent Authority all Arbitration cases, henceforth, would be handled and represented by the Arbitration Cell instead of the PDs.

2. In this regard, it is clarified that all PDs shall extend full cooperation in the Arbitration matters which means that all submissions before the AT shall continue to be done by the concerned PD, in accordance with the procedure laid down below except that the Arbitral proceeding shall be attended, on regular basis, by the officers of Legal and Arbitration Cell but as and when the presence of PD/Officer of PIU is required for deposition/examination/ cross examination etc, same shall be complied with by him upon the advice given by the Arbitration Cell/Law Firm. The requirement/responsibility of PDs/Officers of PIUs in Arbitration proceedings which is not exhaustive but illustrative, is given as under.

(i) At the time of drafting of Statement of Claim (SOC)/Statement of Defence (SOD) inputs from PIU is most important and cannot be avoided as PIU is the best source who can verify the facts and provide the inputs. In substance, the PIU is required to provide comments/parawise reply to the Statement of Claim filed by the Contractor to the Law Firm/Advocate/Techno-Legal Expert so engaged for the case. In case of Counter claim, the PIU is required to provide the facts and grounds as also the quantum of the claim to be lodged against the Contractor.

(ii) The presence of the PD in all hearings is not required though participation of concerned officer from PIU who is well acquainted with the facts of the case in providing inputs and other documents to the counsel/Law Firm is imminent, for constructive hearings.

(iii) The comments/parawise reply to the Statement of Claim (SOC), is required to be provided to the counsel alongwith copy of the all the necessary documents.

(iv) Presence of PD is not necessary during the preliminary hearing i.e till completion of pleadings, miscellaneous hearings and during the Contractor's arguments. However, representative from PIU may be required at the time of NHAI's arguments or if any clarification of technical nature pertaining to facts etc are sought by the Tribunal.

(v) Presence of the concerned officer from the PIU is imperative during the arguments of NHAI as any queries raised by the Tribunal will be answered during the course of arguments itself which will eventually save unnecessary further arbitral hearings.


(vi) If Contractor is filing evidence, assistance of PIU in making interrogatories and representatives presence during the cross examination is inevitable.

(vii) Although Site visits by the Arbitral Tribunal is not generally required, however, if owing to exceptional circumstances, site visit is required, then the PIU representative shall be required to coordinate and accompany, the Members of Arbitral Tribunal and make all necessary arrangements .

(viii) The arrangements and payment for the venues shall be done by the PIU under intimation to the Legal and Arbitration Cell.

(ix) The payment to the Counsel, Arbitrators, Techno-legal Consultant etc shall be done by the PIU, under intimation to the Legal and Arbitration Cell.

3. All PDs/ROs are requested to comply with the above instructions so that Arbitration matters are handled properly both at the PIU as well as the HQ.

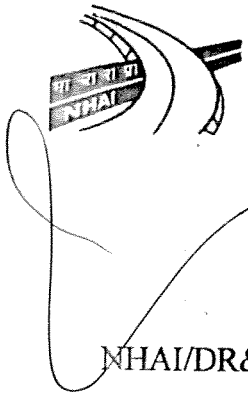
  
(PC Grover)  
CGM (Legal)

All ROs/PDs/All Division at HQs

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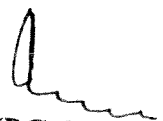
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