



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण  
(पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)  
**National Highways Authority of India**  
(Ministry of Shipping, Road Transport and Highways)  
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No. 11041/21/2002-Admn.

25.08.05

**POLICY MATTERS: ADMN/FINANCE ( 106 /2005)**

**Sub: Settlement of disputes between the Ministries/Departments or between the Public Sector Enterprises or between a Public Sector Enterprise and a Ministry/Department of the Government of India.**

A copy of O.M. No.CD-11014/3/2005-Coord. dated 1st August, 2005 from the Admn. Ministry along with a copy of Cabinet Secretariat O.M. No.1/126/14(P)/2004-LC dated 13th July, 2005, on the above mentioned subject is enclosed herewith for information and compliance.

*Jiwan Dass*  
25-08-05

(Jiwan Dass)

Deputy General Manager (Admn.)

Copy to:  
All PIUs/CMUs

Copy also to:  
All Members/CGMs  
All GMs  
PS to Chairman

Government of India  
Ministry of Shipping, Road Transport and Highways  
Department of Road Transport and Highways  
(Coordination Section)

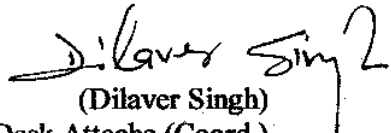
No.CD-11014/3/2005-Coord.

Dated 1<sup>st</sup> August, 2005

OFFICE MEMORANDUM

Sub: Settlement of disputes between the Ministries/Departments or between the Public Sector Enterprises or between a Public Sector Enterprise and a Ministry/Department of the Government of India.

The undersigned is directed to forward herewith a copy of OM No. 1/126/14(P)/2004-LC dated 13<sup>th</sup> July, 2005 received from Cabinet Secretariat on the above subject for information and compliance.

  
(Dilaver Singh)  
Desk Attache (Coord.)

Encl: as above.

1.DG(RD/Dir.(RT)/DS(A)/DS(P&M)

2.All CES

3.NHAI

मंत्रिमण्डल सचिवालय  
राष्ट्रपति भवन, नई दिल्ली-110004  
**CABINET SECRETARIAT**  
RASHTRAPATI BHAVAN, NEW DELHI-110004

नं० 1/126/14 (P)/2004-LC  
No.

दिनांक 3.07.2005  
Dated

**OFFICE MEMORANDUM**

**Sub: Settlement of disputes between the Ministries/Departments or between the Public Sector Enterprises or between a Public Sector Enterprise and a Ministry/Department of the Government of India.**

**Ref: In fulfillment of the Ministry of Civil Aviation's Assurance in Rajya Sabha Starred Question No. 282 answered on 21.12.2004 on a supplementary by Shri Fali S. Nariman**

The undersigned is directed to refer to this Secretariat O.M. No. 53/3/6/91-Cab. Dated 31.12.1991 and 24.1.1994 regarding setting up a Committee, in compliance of the Hon'ble Supreme Court's orders dated 11.10.1991 and 7.1.1994 in Civil Appeal Nos. 2058-59/1988 (IA Nos. 3 & 4 of 1992) between Oil & Natural Gas Commission and Collector of Central Excise, Bombay, under the control of Cabinet Secretary to ensure that no litigation reaches the Court or a Tribunal without the matter having been first examined by the Committee.

2. The instructions contained in the O.M dated 31.12.1991 inter alia, strictly prohibited litigation between Central Government Departments themselves, between a Government Department and a Central Government Public Sector Enterprise and between two Central Government Public Sector Enterprises, without the matter having been first examined by the above constituted Committee and the Committee's clearance for litigation. The detailed procedure for referring the applications for seeking clearance of the Committee before going for litigation in any Court or Tribunal has been laid down in this Secretariat OM dated 24.01.94.

3. In a supplementary to the Rajya Sabha Starred Question No. 282 answered on 21.12.2004 regarding prohibition of contract labour, Shri Fali S. Nairman, Hon'ble Member of the House mentioned that in a dispute between Airports Authority of India Limited and the Ministry of Labour, the former had filed a writ petition before the Hon'ble High Court of Delhi without seeking prior clearance of the High Power Committee functioning in the Cabinet Secretariat and the Hon'ble Member of Parliament desired that all the Departments of the Government of India be directed to seek clearance of the High Power Committee before resorting to litigation.

मंत्रिमण्डल सचिवालय  
राष्ट्रपति भवन, नई दिल्ली-110004  
**CABINET SECRETARIAT**  
RASHTRAPATI BHAVAN, NEW DELHI-110004

नं०  
No.

-2-

दिनांक  
Dated

4. In pursuance of the above-referred Rajya Sabha Assurance, and also in view of the observations made by the High Power Committee from time to time in the context of individual disputes placed before it, this is to reiterate that under the orders of the Hon'ble Supreme Court of India quoted in the Government of India orders issued in compliance thereto from time to time, referred to in the paragraph no.1 above, it is obligatory for all the Ministries/Departments/PSEs of the Government of India to ensure that no dispute between one Ministry/Department/PSEs of the Govt. of India with another travels to any Courts/Tribunals for relief/redressal/resolution without first exhausting the channel of the in-house conciliation process through the High Power Committee functioning in the Cabinet Secretariat and without obtaining prior clearance of the Committee for resorting to judicial process.

5. However, in any exceptional case, where the appeal or petition before any Court/Tribunal has been filed so as to save limitation, the appellant or the petitioner, as the case may be, shall within one month from such filing refer the matter to the High Power Committee with prior notice to the designated Under Secretary, High Power Committee in Cabinet Secretariat, authorized to receive notices/documents on their behalf. Copies of the Office Memoranda referred to in the opening paragraph of this OM are enclosed for convenience of compliance.



(Rajive Kumar)  
Joint Secretary to the Govt. of India

To,

Secretary, Department of Industrial Policy & Promotion

Secretary, Department of Legal Affairs.

Finance Secretary

Secretary, Department of Public Enterprises,

All other Secretaries and Additional Secretaries to the Govt. of India for information and necessary action.

Copy also to Director General, Standing Conference of Public Enterprises (Dr. S.M.Deewan), SCOPE Complex, 7, Lodi Road, New Delhi 110003. for issuing a general circular to the Central Govt. PSEs, under intimation to this Secretariat.



(Rajive Kumar)  
Joint Secretary to the Govt. of India

New Delhi, the 31st December, 1991.

OFFICE MEMORANDUM

**Subject:** Settlement of disputes between one Government Department and another and one Government Department and a Public Enterprises or Public Enterprise and another.

The undersigned is directed to refer to this Secretariat O.M. No. 53/3/1/84-Cab. dated 12th March, 1985 and the O.M. No. 15/9/86-BPE(FAN) dated 30-3-89 issued by the BPE on the subject (copies enclosed for ready reference) and to say that inspite of these instructions there are instances where public sector undertakings have resorted to legal proceedings instead of complying with these instructions causing avoidable embarrassment to Government. In a recent Civil Appeals case between the ONGC and the Collector of Central Excise, Bombay, Hon. Supreme Court has taken adverse notice of Public Sector Undertakings pursuing litigations in Court by spending money on fees etc., and wasting public time notwithstanding Court's repeated observations to the contrary in past cases.


2. In the aforesaid case, the Supreme Court has directed that a Committee under the control of Cabinet Secretary shall be set up to ensure that no litigation reaches the Court or a Tribunal without the matter having been first examined by the Committee.

3. Accordingly, it has been decided to constitute a Committee consisting of :

1. Cabinet Secretary.
2. Secretary, Department of Industrial Development.
3. Secretary, Department of Public Enterprises.
4. Secretary, Department of Legal Affairs.
5. Finance Secretary.
6. Secretary of the concerned Ministry/Department.

4. The instructions regarding settlement of disputes between one Government Department and another and one Government Department and a Public Enterprise and between Public Enterprises themselves as contained in this Secretariat Memo. referred to in para 1 above need to be strictly followed in all cases. If, however, no final decision can be arrived at following the said instructions, the concerned Ministry/Department or the concerned Public Sector Undertaking through their administrative Ministry/Department should refer such cases to the Cabinet Secretariat with a self-contained note for placing before the above constituted Committee for decision. Further, it has to be ensured that no litigation involving such disputes is taken up in a Court or a Tribunal without the matter having been first examined by the above constituted Committee and the Committee's clearance for litigation is obtained.

5. The foregoing instructions may be brought to the notice of all concerned for guidance and strict compliance.

  
(Deepak Das Gupta)  
Joint Secretary to the Cabinet

To

Secretary, Department of Legal Affairs.  
Secretary, Department of Industrial Development.

Finance Secretary,

Secretary, Department of Public Enterprises with the request that immediate instructions may be issued to all public sector enterprises to comply with the court's direction.

All other Secretaries/ Additional Secretaries to Government for information and necessary action.



(Deepak Das Gupta)  
Joint Secretary to the Cabinet

No. 53/3/10794-Cab.  
CABINET SECRETARIAT  
RASHTRAPATHI BHAVAN

New Delhi, the 24th January, 1994

OFFICE MEMORANDUM

Subject:- Settlement of Disputes between the Government Department and another and one Government Department and a Public Enterprises and Public Enterprises and another.

The undersigned is directed to refer to this Sectt.O.M.No.53/3/6/91-Cab. dated 31st December, 1991 whereby a Committee was constituted to give clearance to the disputes between a Government Department and another and one Government Department and a Public Sector Enterprises and Public Enterprises themselves, before these are agitated in a Court/Tribunal. The Hon. Supreme Court had an occasion to go into the working of the Committee in the Civil Appeal Nos.2058-59/ 1988 (IA Nos. 3 & 4 of 1992) between Oil & Natural Gas Commission Vs. Collector of Central Excise and has further directed vide its Order dated 7-1-1994 as follows:-

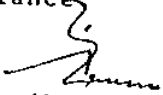
- (i) All the pending matters before any Court or Tribunal should also be subject matter of the deliberations of the Committee. All the matters pending as on 7.1.1994 either instituted by the Union of India or any of the Public Sector Undertakings, shall within one month from the said date i.e. 7.1.1994 be referred by the appellant or the petitioner, as the case may be, to the High Power Committee.
- (ii) There should be no bar to the lodgement of an appeal or petition either by the Union of India or by the Public Sector Undertakings before any Court or Tribunal, so as to save limitation. But, before such filing, every endeavour should be made to have the clearance of the Committee. However, as to what the Court or Tribunal should do if such judicial remedies are sought before such a Court or Tribunal, the Supreme Court's Order of 11th October, 1991 clarifies:-

"It shall be the obligation of every High Court and every Tribunal where such a dispute is raised hereafter to demand a clearance from the Committee in case it has not been so pleaded and in the absence of the clearance, the proceeding would not be proceeded with".

- (iii) Wherever appeals/petitions etc., are filed without the clearance of the High Power Committee, so as to save limitation, the appellant or the Petitioner, as the case may be, shall within one month from such filing, refer the matter to the High Power Committee, with prior notice to the designated authority in Cabinet Secretariat (Under Secretary (Coordination)) authorised to receive notices in that behalf. The reference shall be deemed to have been made and become effective only after the notice of the reference is lodged with the Under Secretary (Coordination) in the Cabinet Secretariat. The reference shall be deemed to be valid if made in the case of Union of India by its Secretary, in the Ministry of Finance, Department of Revenue and in the case of Public Sector Undertakings by its Chairman, Managing Director or Chief Executive, as the case may be. It is only after such reference to the Committee is made in the manner indicated that the operation of the order or proceedings under challenge, shall be suspended till the Committee resolves the dispute or gives clearance to the litigation. If the High Power Committee is unable to resolve the matter for reasons to be recorded by it, it shall grant

2. In view of the directions of the Hon. Supreme Court mentioned above, it is requested that the Ministry/Department of Government of India and Public Sector Undertakings should refer the dispute to the Committee in a self-contained note. It is also requested that while forwarding the requisite note (15 copies) to this Secretariat, the note may also be circulated to the Members of the Committee viz., Secretary, Department of Industrial Development, Secretary, Department of Public Enterprises, Secretary, Department of Legal Affairs, Finance Secretary, Secretary of the administrative Ministry/Department of Public Sector Undertakings and Chief Executive of the concerned Public Sector Undertakings viz. Public Sector Undertakings which are parties to the dispute/ or concerned in that matter.

3. The foregoing instructions may be brought to the notice of all concerned for guidance and strict compliance.

  
(B.K. Das)  
Joint Secretary


To

Secretary, Department of Legal Affairs.  
Secretary, Department of Industrial Development.  
Finance Secretary.


Secretary, Department of Public Enterprises with the request that immediate instructions may be issued to all Public Sector Enterprises to comply with the Court's direction.

  
(B.K. Das)  
Joint Secretary

All other Secretaries/Additional Secretaries to Government for information and necessary action.

  
(B.K. Das)  
Joint Secretary

Copy to Secretary-General, standing conference of Public Enterprises (Shri M.A. Hakim), SCOPE complex, 7-Lodi Road, New Delhi, with the request to inform all Public Sector Enterprises to comply with Court's direction.

  
(B.K. Das)  
Joint Secretary



IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

L. A. NOS. 1 AND 2

IN

CIVIL APPEAL NOS. 2058-59 OF 1988

M/s Oil and Natural Gas  
Commission and another

Appellant

vs.

Collector of Central Excise

... Respondent

O R D E R

We are happy to find that the Cabinet Secretary has taken the appropriate initiative as indicated in our order dated September 11, 1991 and has reported to us that the dispute between the Government Department and the Public Sector Undertaking of the Union of India has been settled. In that view of the matter no further action is necessary on the petition.

In his report the Cabinet Secretary has stated :

"I would also like to state that the Government respects the views expressed by this Honourable Court and has accepted them that public undertakings of Central Government and the Union of India should not fight their litigation in Court by spending money on fees on counsel, court fees, procedural expenses and wasting public time. It is in this context that the Cabinet Secretariat has issued instructions from time to time to all Departments of the Government of India as well as to public undertakings of the Central Government to the effect that all disputes, regardless of the

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type, should be resolved amicably by mutual consultation or through the good offices of empowered agencies of the Government or through arbitration and recourse to litigation should be eliminated."

We direct that the Government of India shall set up a Committee consisting representatives from the Ministry of Industry, the Bureau of Public Enterprises and the Ministry of Law, to monitor disputes between Ministry and Ministry of Government of India, Ministry and Public Sector Undertaking of the Government of India and Public Sector Undertakings in between themselves, to ensure that no litigation comes to Court or to a Tribunal without the matter having been first examined by the Committee and its clearance for litigation. Government may include a representative of the Ministry concerned in a specific case and one from the Ministry of Finance in the Committee. ~~Senior Officers only should be nominated so that the Committee would function with status control and discipline.~~

It shall be the obligation of every Court and every Tribunal where such a dispute is raised hereafter to demand a clearance from the Committee in case it has not been so pleaded and in the absence of the clearance, the proceedings would not be proceeded with.

~~The Committee shall function under the ultimate control of the Cabinet Secretary but his delegate may look after the~~

matters. This Court would expect a quarterly report about the functioning of this system to be furnished to the Registry beginning from 1st January, 1992.

Our direction may be communicated to every High Court for information of all the courts subordinate to them.

.....Sd/.....CJI

.....Sd/.....J.  
(P. B. Sawant)

.....Sd/.....J.  
(S. Mohan)

New Delhi,  
October 11, 1991.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
I.A. NOS. 3 & 4 OF 1992

IN

CIV. L. APPEAL NOS. 2058-59/1988

Oil & Natural Gas Commission                   ....Appellant

-Versus-

Collector of Central Excise                   ....Respondent

O R D E R

The order of this Court dated 11th October, 1991 in Civil Appeal Nos. 2058-59 of 1988 in the matter of the setting-up and functioning of the 'High Power Committee' for resolving disputes between Union of India on the one hand and its Public Sector Undertakings on the other, requires some clarifications so that some mis-conceptions arising out of the memo of the Cabinet Secretariat referred to in the course of the said order, are removed.

2. The relevant portion of the memo referred to in the course of this Court's order dated 11th October, 1991 reads:

"It is in this context that the Cabinet Secretariat has issued instructions from time to time to all Departments of the Government of India as well as to Public Undertakings of the Central Government to the effect that all disputes, regardless of the type, should be resolved amicably by mutual consultation or through the good offices of empowered agencies of the Government or through arbitration and recourse to litigation should be eliminated."

(emphasis supplied)

3. The purpose of setting up this High Power Committee was to ensure that, as far as possible, the controversies between a Ministry and a Ministry of the Government of India, a Ministry and a Public Sector Undertaking of the Government of India and between Public Sector Undertakings themselves are resolved by recourse to the High Power Committee and that time-consuming and expensive litigation is avoided.

4. There are some doubts and problems that have arisen in the working out of these arrangements which require to be clarified and some creases ironed out. Some doubts persist as to the precise import and implications of the words "and recourse to litigation

should be avoided". It is clear that the order of this Court is not to the effect that --- nor can that be done --- so far as Union of India and its statutory corporations are concerned, their statutory remedies are effaced. Indeed, the purpose of the constitution of the High Power Committee was not to take away those remedies. The relevant portion of the order reads:

"We direct that the Government of India shall set up a Committee consisting representatives from the Ministry of Industry, the Bureau of Public Enterprises and the Ministry of Law, to monitor disputes between Ministry and Ministry of Government of India, Ministry and Public Sector Undertaking of the Government of India and Public Sector Undertakings in between themselves, to ensure that no litigation comes to Court or to a Tribunal without the matter having been first examined by the Committee and its clearance for litigation. Government may include a representative of the Ministry concerned in a specific case and one from the Ministry of Finance in the Committee. Senior Officers only should be nominated so that the Committee would function with status, control and discipline.

(emphasis supplied)

It is abundantly clear that the machinery contemplated is only to ensure that no litigation comes to Court without the parties having had an opportunity of conciliation before an in-house Committee.

It is also clarified that even the pending matters before any court or tribunal should also be the subject matter of the deliberations of the High Power Committee. All the matters pending as on today either instituted by the Union of India or any of the Public Sector Undertakings shall within one month from today be referred by the appellant or the petitioner, as the case may be, to the High Power Committee. The High Power Committee will deal with these matters most expeditiously and endeavour to resolve the matters.

5. Accordingly, there should be no bar to the lodgement of an appeal or petition either by the Union of India or the Public Sector Undertakings before any court or tribunal so as to save limitation. But, before such filing every endeavour should be made to have the clearance of the High Power Committee.

However, as to what the court or tribunal should do if such judicial remedies are sought before such a court or tribunal, the order of 11th October, 1991 clarifies:-

"It shall be the obligation of every Court and every Tribunal where such a dispute is raised hereafter to demand a clearance from the Committee in case it has not been so pleaded and in the absence of the clearance, the proceedings would not be proceeded with."

6. Wherever appeals, petitions etc. are filed without the clearance of the High Power Committee so as to save limitation, the appellant or the petitioner, as the case may be, shall within a month from such filing, refer the matter to the High Power Committee, with prior notice to the Designated Authority in Cabinet Secretariat of Government of India authorised to receive notices in that behalf. Sri K.T.S. Tulsi, learned Additional Solicitor General, stated that in order to coordinate these references of the High Power Committee the Government proposes to nominate the Under Secretary (Coordination) in the Cabinet Secretariat as the nodal authority to coordinate these references. The reference shall be deemed to have been made and become effective only after a notice of the reference is lodged with the said nodal authority. The reference shall be deemed to be valid if made in the case of the Union of India by its Secretary, Ministry of Finance, Department of Revenue, and in the case of Public Sector Undertakings by its Chairman, Managing Director or Chief Executive, as the case may be. It is only after such reference to the High Power Committee is made in the manner indicated that the operation of the order or proceedings under challenge shall be suspended till the High Power Committee resolves the dispute or gives clearance to the

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litigation. If the High Power Committee is unable to resolve the matter for reasons to be recorded by it, it shall grant clearance for the litigation.

7. The High Power Committee shall submit a half yearly report --- instead of quarterly report as earlier indicated --- to this Court as to the number of matters referred to it and the manner in which they were dealt with and disposed of. The report for the half-year ended 31st December, 1993 shall be lodged before 31st January, 1994 and for every half year thereafter within one month of the expiry of the half year.

I.A. Nos. 3 & 4 stand disposed of.

This order will be read as part of and supplementary to the order dated 11th October, 1991.

*S-11-*  
.....CJI

*S-11-*  
.....J.  
(P.B. Sawant)

New Delhi;  
January 7, 1994.

*S-11-*  
.....J.  
(S. Mohan)