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WEST BENGAL SECRETARIAT MANUAL 2019



GOVERNMENT OF WEST BENGAL

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Preface

'Secretariat Instructions' of the then Government of Bengal were first published in 1912 as a part of the Rules of Business. The genesis of Secretariat Manual lied in the felt need of having a compilation of the instructions to be followed by the Secretariat Departments and the name Secretariat Manual appeared for the first time in 1941 edition. It has undergone revisions with the passage of time and the last revision was done in 2005.

Since 2005, there have been many changes in the functioning of the Government requiring modification in Secretarial Procedure. Over time, governance has witnessed a number of reforms. Introduction of e-Office in particular and IT enabled services in general has inculcated changes in office procedure. New Departments have been created and old Departments reorganised with the resultant effect of covering many new and unexplored fields under the fold of transaction of business of the Government. Therefore, there remained an imperative for a further revision of the Secretariat Manual.

This Manual codifies in a convenient form the present procedure of transaction of business of this Government, regard being given to the relevant rules and orders in force. An attempt has been made to make the manual more users friendly. It will be available online in a searchable PDF format, with a detailed table of contents and convenient navigation links. The instructions contained in the Manual are to be followed by the Secretariat Departments.

A six member committee was constituted headed by Sri Nirmalya Ghoshal, IAS, Commissioner (Home & Hill Affairs Department) to prepare the first draft of the Manual. The committee held intensive discussions with different stakeholders. Thereafter the feedback has been duly incorporated before giving the Manual a final shape.

The Personnel and Administrative Reforms (PAR) Department has taken up the responsibility of updating the Manual. Reference may be made to the PAR Department whenever a need arises for updating any provision.

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the Accountant-General, West Bengal, would be forwarded to the Finance Department for information.

5.38 All orders issued with the concurrence of the Finance Department shall quote the unofficial number of the observation of the Finance Department.

5.39 Reference to the Land and Land Reforms and Refugee Relief and Rehabilitation Department: All Departments shall consult the Land and Land Reforms and Refugee Relief and Rehabilitation Department on any proposal that involves:

5.39.1 acquisition of land;

5.39.2 change of purpose of use of land;

5.39.3 relinquishment of land;

5.39.4 proposal to transfer land to any third party;

5.39.5 settlement of land in favour of any semi-Government body;

5.39.6 long term lease;

5.39.7 concessional rates of salami and rent;

5.39.8 requisition of immovable property for temporary use;

5.39.9 transfer of land between the Central and the State Government.

5.40 All Departments shall maintain an inventory of lands received by them from L&LR Department by transfer of land on compulsory acquisition of the same, update the same regularly and supply a soft copy of the updated inventory annually to L&LR Department.

5.41 Reference to the Law Department: The administrative Departments will consult the Law Department for the following purposes:-

5.41.1 on proposals for legislation as to –

5.41.1.1 the need for the proposed legislation from a legal point of view;

5.41.1.2 the competence of the State legislature to enact the measure proposed;

5.41.1.3 the requirements of the Constitution of India as to obtaining previous sanction of the President thereto; and

5.41.1.4 the consistency of the proposed measure with the provisions of the Constitution and, in particular, with those relating to fundamental rights.

5.41.2 for the following actions regarding drafting of Bills, Ordinances and amendments to Bills –

5.41.2.1 drafting of Government Bills and Ordinances;

5.41.2.2 revision of Government Bills and Ordinances, indicating the sanctions or previous instructions, if any, required under the Constitution;

5.41.2.3 settlement of Statements of Objects and Reasons of Bills and preparation of notes on clauses of Bills, whenever necessary;

5.41.2.4 scrutiny of private member's Bills with reference to the provisions of the Constitution and re-drafting of such Bills;

- 5.41.2.5** Examination of amendments to Bills proposed for consideration in the legislature and at Select Committees thereof, with reference to the provisions of the Constitution, and drafting of new amendments.
- 5.41.3** examination of Bills as passed by the Legislature, and submission of report in regard to the grant of the Governor's assent to or the return to the Legislature for further consideration of any such Bill or in regard to the necessity of reserving the same for the consideration of the President;
- 5.41.4** settlement and advice as to the legality of Statutory notifications, rules, orders, regulations and by-laws.
- 5.42** When an administrative Department sends a draft to the Law Department for settlement, it will send with the file three spare copies of the draft and a copy of the draft in electronic form, if possible.
- 5.43** The administrative Department will forward to the Law Department within seven days from the date of issue, ten printed copies of each notification settled by them.
- 5.44** The Law Department will not ordinarily be asked to advise on :-
- 5.44.1** the construction of Statutes;
 - 5.44.2** questions of any general legal principle arising out of any case;
 - 5.44.3** cases which are connected with legal proceedings commenced or impending, or which are likely to involve any claim against the Government;
 - 5.44.4** questions connected with the practice and procedure of the courts;
 - 5.44.5** cases in which the Advocate General of West Bengal has advised; or
 - 5.44.6** cases in which the Advocate General, the Standing Counsel, the Legal Remembrancer or the Government Pleader could advise in the ordinary course of his duties, and as to which there is no special reason for referring to the Law Department.
- 5.45** **Reference to the Legal Remembrancer:** The matter on which any Department requires advice on questions relating to law or legal practice, will as a general rule be referred to the Legal Remembrancer for opinion. Such references will be made directly by the Secretary and will be accompanied by a précis of the case together with a clear statement of precise points of law or practice upon which the opinion of the Legal Remembrancer is sought for.
- 5.46** The Legal Remembrancer may consult the Advocate General when he considers it necessary to do so or when asked to do so by the Government.
- Note.*-Such advice is readily accorded and consultations are frequent. But the Legal Remembrancer's duties in this respect are not merely mechanical. The cases frequently need preparation; further information may have to be called for and, unless all that is necessary is apparent in the file, a note has to be prepared for the assistance of the Advocate General.
- 5.47** **Reference to the Advocate General:** A Minister may also refer a case to the Advocate General for his opinion or advice. While referring a case to the Advocate General, all relevant material should be available in the file which should be prepared in accordance with para 5.45.