

Government of India
Ministry of Law and Justice
(Department of Justice)

Jaisalmer House, 26-Mansingh Road,
New Delhi - 110 011.
Dated: 25.4.2017.

Subject: Minutes of the second meeting of the Task Force constituted for improving India's ranking in World Bank's performance on the parameter of Doing Business "Enforcing Contract" held on 18.4.2017.

The second meeting of the Task Force constituted for improving India's ranking in World Bank Report on Doing Business, in respect of the parameter of "Enforcing Contract" was held on 18th April, 2017 (Tuesday) at Jaisalmer House, 26-Mansingh Road, New Delhi. The minutes of the meeting are circulated to all members of the Task Force and to the officers attended the meeting, indicated with the decisions of the Task Force, actions need to be taken and by whom, for information and necessary action by all concerned.

It is requested that necessary action may please be taken by all concerned for implementing the decisions of the Task Force as per the minutes and submit an Action Taken Report in the matter by 5th May, 2017.

(C. K. Reejonia)

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Enclosures: As above.

- 27/4/17
1. Shri Ramayan Yadav, Additional Secretary, Department of Legal Affairs, Shastri Bhavan, New Delhi.
 2. Shri Ajay Kumar Lal, Joint Secretary (eCourts), Department of Justice.
 3. Shri Shailendra Singh, Joint Secretary, Department of Industrial Policy and Promotion, Udyog Bhavan, New Delhi.
 4. Secretary (Law), Government of NCT of Delhi, New Delhi.
 5. Secretary (Law), Government of Maharashtra, Mumbai.
 6. Registrar General, Bombay High Court, Mumbai.
 7. Registrar General, Delhi High Court, Delhi.
 8. Shri Dinesh Sharma, Registrar (Vigilance), Delhi High Court.
 9. Shri Arun Bhardwaj, Delhi High Court.
 10. Ms. Veena Kothavale, Additional Legal Counsel, Legislative Department, Shastri Bhavan, New Delhi.
 11. Shri Yashwant Anand Goswami, Member (Project Manager), eCommittee of Supreme Court of India, New Delhi.
 12. Shri K.S. Jayachandran, Deputy Secretary, Department of Justice.
 13. Shri Sandeep Sharma, Consultant, Department of Legal Affairs, Shastri Bhawan, New Delhi.

- Cc to:
1. Secretary, Department of Legal Affairs, Ministry of Law and Justice, Shastri Bhawan, New Delhi.
 2. Secretary, Legislative Department, Ministry of Law and Justice, Shastri Bhawan, New Delhi.

- Copy to:
- (i) PSO to Secretary (Justice)
 - (ii) Joint Secretary (GRR)

o/c

**MINUTES OF SECOND MEETING OF TASK FORCE FOR IMPROVING INDIA'S RANKING IN
WORLD BANK REPORT ON DOING BUSINESS FOR INDICATOR OF "ENFORCING
CONTRACTS" HELD ON 18TH APRIL, 2017 IN NEW DELHI**

The second meeting of the Task Force constituted by the Department of Justice for improving the performance of the 'Enforcing Contracts' parameter of Ease of Doing Business index in India was held on 18th April 2017 at 11.00 am. Shri GR Raghavender, Joint Secretary, Department of Justice welcomed all the participants and informed that Secretary (Justice) is out of station due some personal work, hence, the meeting had to be convened in her absence as the matter of reforms under Ease of Doing Business is important and need to be attended on priority. A list of participants is attached at Annexure.

2. Joint Secretary (Justice) gave a brief background by explaining that after constitution of the Task Force, the first meeting was held on 5.1.2017 under the Chairpersonship of Secretary (Justice) wherein the reforms needed to be undertaken as per requirement of World Bank were identified and indicated in the minutes of the meeting along with names of the authority responsible for undertaking the reforms and the timelines. The same was circulated to all the members of the Task Force. Each item of reforms was discussed with the participants in the meeting through a presentation made by Joint Secretary (Justice) as indicated below:

3. The matter relating to amendment in Commercial Courts Act was discussed in detail. It was informed by the representative of Department of Legal Affairs that the matter is being looked into. The representatives of both the Delhi and Bombay High Courts expressed their inability to set up Commercial Courts at District level unless amendments are made in the Act to remove proviso to Section 3 about the original jurisdiction of High Courts and removing/reducing the value of the commercial dispute given under section 2(i) of the Act. **(Action: Secretary, Department of Legal Affairs).**

4. Regarding introduction of the provision for pre-trial conference in CPC the representative of Department of Legal Affairs could not provide the status of action being taken. The representatives of High Courts were requested to consider the matter within their rule making power under the provisions of Section 89 and Orders X, XI, XII, etc. of CPC. The representative of Legislative Department informed that the recommendations of various Law Commission reports on the Alternate Dispute Resolution mechanisms and proper implementation of the civil procedural laws would assist in curtailing delays in the justice delivery system. Joint secretary (Justice) informed that a copy of the Legislative Department's letter in this regard would be forwarded to both the High Courts for implementation. The representatives of both the High Courts were also requested to consider the introduction of the pre-trial conference by issuing of practice directions in this regard by the High Court to district courts as per Section 18 of the Commercial Courts Act. **(Action: Secretary, Department of Legal Affairs).**

5. It was made clear that Mediation and Conciliation are two different things. It was agreed by the representatives of both the High Courts that court-annexed mediation is in existence presently. The Law Secretary, Delhi, informed that pre-litigation mediation centers had been established by the Law Department, Delhi that handle petty cases which may include neighbour disputes, family disputes, etc. and of the 47,000 cases referred to the centers, 17,000 cases were settled at the pre-litigation stage through mediation. Need for standalone legislation on Mediation on the lines of similar legislation in Singapore was also explored. It was observed that, according to the World Bank, financial incentives for going to mediation not only includes the refund of court fees, but also other incentives like rebate in income tax. The representative of Department of Legal Affairs was asked to take necessary steps to introduce a Standalone law to regulate pre-litigation voluntary Mediation. The representatives of the Delhi and Mumbai High Courts were requested to take measures to implement pre-litigation voluntary Mediation as per the existing provisions of the Arbitration and Conciliation Act and Section 89 of the Code of Civil Procedure, 1908 in their respective jurisdictions. **(Action: Secretary, Department of Legal Affairs and Registrar General Delhi & Mumbai High Court).**

6. When the issue of e-filing of cases was taken up for discussion, it was brought to the notice by the representatives of both the High Courts that it is being done in High Courts but not in District Courts. It was informed that it is delayed due to lack of adequate bandwidth and the Supreme Court eCommittee is examining the issue. As regards the introduction of electronic process service like electronic service of summons by District Courts the representatives of the Mumbai High Court was asked to take immediate steps similar to Delhi High Court in issuing the notification in this regard. **(Action: eCommittee of Supreme Court and Registrar General Delhi & Mumbai High Court).**

7. About adherence of provisions for grant of a limited number of adjournments by the Courts, it was informed by the representative of Delhi High Court that they had started a Zero Pendency programme in district courts in which include measures like grant of adjournments and timely delivery of judgments, etc. The representative of Bombay High Court said they cannot regulate the business of district courts, but they too have a 11 point programme on the lines of Delhi High Court Zero Pendency programme being implemented in two pilot districts of Maharashtra.

8. Regarding generation of four performance measurement reports and availability of electronic case management tools for judges and lawyers, it was agreed by the representatives of both High Courts that three performance measurement reports and six out of eight electronic case management tools for judges and five out of seven electronic case management tools for lawyers are available. Since the eCourts project is common for both Delhi and Mumbai district courts the facilities available in one city is certainly available in another city also as demonstrated by the member of eCommittee in the first meeting of the Task Force. The question is now about giving publicity to these facilities available for stakeholders. Hence, it was agreed that both the High Courts would make efforts to publicise these facilities by putting such

information on their websites and make the advocates aware of the same. (Action: Registrar General of Delhi & Mumbai High Court).

9. As regards making the respondents aware of the legal reforms introduced under the enforcing contracts parameter Joint Secretary (Justice) informed that they have already held two such meetings with various legal firms of Delhi and another meeting is scheduled on the same day at 4.30pm especially to discuss the questionnaire. Shri Shailendra Singh, JS, DIPP suggested that similar meetings with Mumbai respondents should also be held immediately. Registrar General, Mumbai High Court expressed his willingness to organise such meeting in cooperation with Department of Justice before the summer vacation of courts begin i.e. 5th May 2017. (Action: Department of Justice, Law Secretary of Govt. of Maharashtra and Registrar General of Mumbai High Court).

10. The representatives of Department of Legal Affairs, Delhi and Bombay High Courts and Department of Legal Affairs were requested to take necessary action on the following actionable points.9. The representatives of Department of legal Affairs, Delhi and Bombay High Courts and the Supreme Court eCommittee were requested to take necessary action on the following actionable points.

S. NO	ISSUES	STATUS	STEPS TO BE TAKEN	DEPARTMENT CONCERNED
1.	Operationalize dedicated commercial courts in Delhi District Court and Mumbai City Civil Court by amending the Commercial Courts Commercial Courts, Commercial Division & Commercial Appellate Division of High Courts Act, 2015.	In view of proviso to Section 3 of the Commercial Courts Act which provides that no commercial courts shall be established at District level in case of High Courts having original jurisdiction, no commercial courts have been established in Delhi & Mumbai at the district level. Further commercial divisions and commercial appellate divisions have been established in Delhi & Mumbai High Court	a) Remove the proviso to Section 3 of the Act which provides that no commercial court shall be established at the District level in case of High Courts having original jurisdiction. (b) Also consider deleting the section 2(i) of the act which defines 'specified value' in the Commercial Courts Act so as to ensure that the commercial cases of all value/lower value fall within the domain of the Act	Department of Legal Affairs

2.	<p>Introduce Pre-Trial Conference as a part of case management technique</p>	<p>There are express provisions in both Code of Civil Procedure and the Criminal Procedure Code which do relate to and are relevant in context of the pre-trial hearing/pre-trial conference. The procedures as stated under Chapters V to XVII of the Criminal Procedure Code and Order X, Order XI, Order XII of the Code of Civil Procedure relate to pre-trial conferences.</p> <p>Section 18 of the Commercial Courts Act provides for issue of practice direction by the High Court to district courts and it is interpreted that implementing Pre-Trial Conference is one of such directions</p> <p>The Law Commission of India have also in its 14th, 27th, 77th observed that proper implementation of the civil procedural laws would assist in curtailing delays in the justice delivery system. Further in its 244th Report the commission had suggested that the High Courts may update their rules to develop best practices.</p>	<p>(a) To introduce a standalone (express) provision on Pre-Trial Conference in the Commercial Courts Act.</p> <p>(b) By virtue of Section 16 read with Schedule 1 of the Commercial Court Act amendments have been made to the Code of Civil Procedure for the purpose of proceeding with cases falling within the jurisdiction of the Act. Code of Civil Procedure may be amended to introduce similar case management techniques for all civil cases.</p> <p>(c) The Delhi and Mumbai High Courts in their respective jurisdictions are empowered to frame rules and regulate the procedures by issuing notifications, circulars, etc and the High Courts may be requested to issue appropriate directions regarding practice of pre-trial conference as per Section 18 of the Commercial Courts Act and Chapters V to XVII of the Criminal Procedure Code and Order X, Order XI,</p>	<p>(a) Department of Legal Affairs</p> <p>(b) Department of Legal Affairs</p> <p>(c) Delhi High Court & Mumbai High Court</p>
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			Order XII of the Code of Civil Procedure .	
3.	Standalone law on pre-litigation Voluntary Mediation to give statutory backing to pre-litigation mediation in India	Presently mediation is referred to in the post-litigation stage under Section 89 of the Code of Civil Procedure, 1908 according to which the court may refer disputing parties to mediation to affect a compromise between the parties and shall follow the procedure specified in the Mediation Rules.	(a) A Standalone law to regulate pre-litigation voluntary Mediation at the pre-litigation stage may be introduced including financial incentives to the parties resorting to such ADR methods. (b) The Delhi and Mumbai High Courts in their respective jurisdictions are requested to take measures to implement pre-litigation voluntary Mediation as per the existing provisions of the Arbitration and Conciliation Act and Section 89 of the Code of Civil Procedure, 1908.	(a) Department of Legal Affairs (b) Delhi High Court & Mumbai High Court
4.	Ensure implementation of e-Filing and e-Summons in Delhi District Courts as well as Mumbai City Civil Courts.	(a) Delhi District Court: e-Summons facility if available in the Delhi High Court but the e-Filing facility is not present in the District Court. (b) Mumbai City Civil Courts: The facility of e-filing and e-summons are not available in the Mumbai City Civil Courts	Steps shall be taken to ensure implementation of e-filing and e-summons in the Delhi District Courts and Mumbai City Civil Courts.	Delhi & Mumbai High Courts and e-courts mission mode project
5.	Create a dedicated section on District Court website	That three out of four performance measurement reports and six out of eight electronic case management tools for judges and	Disseminate the information to all stakeholders. The High	Supreme Court eCommittee and

	<p>containing information on the availability of performance measurement reports and availability of electronic case management tools for judges and lawyers</p>	<p>five out of seven electronic case management tools for lawyers are available.</p>	<p>Courts shall publicise the information on the availability of performance management reports and electronic case management tools on their websites.</p> <p>Efforts may be made to implement other performance measurement reports and indicators under electronic case management for judges and lawyers.</p>	<p>Mumbai & Delhi High Courts</p>
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11. The meeting ended with a vote of thanks to the chair.

Annexure

List of participants of Second Meeting of Task Force held on 18th April, 2017 at 11.00 A.M. in the Conference Hall, Jaisalmer House, New Delhi.

1. Shri G.R. Raghavender, Joint Secretary, Department of Justice.
2. Shri Shailendra Singh, Joint Secretary, Department of Industrial Policy and Promotion, Udyog Bhavan, New Delhi.
3. Shri Mangesh S. Patil, Registrar General, Bombay High Court, Mumbai.
4. Shri N.J. Jamadar, Principal Secretary (Law), Government of Maharashtra.
5. Shri R.K. Chauhan, Secretary (Law), Delhi Government.
6. Shri Dinesh Sharma, Registrar (Vigilance), Delhi High Court.
7. Shri Arun Bhardwaj, Delhi High Court.
8. Ms. Veena Kothavale, Additional Legal Counsel, Legislative Department, Ministry of Law and Justice.
9. Shri C.K. Reejonja, Deputy Secretary, Department of Justice.
10. Shri K.S. Jayachandran, Deputy Secretary, Department of Justice.
11. Shri Sandeep Sharma, Consultant, Department of Legal Affairs.