

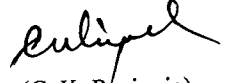
File No. N – 17/145/2014 - NM (Vol III)  
Government of India  
Ministry of Law and Justice  
(Department of Justice)  
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Jaisalmer House, 26-Mansingh Road,  
New Delhi - 110 011.  
Dated: 18<sup>th</sup> August, 2017.

**Subject: Minutes of the third 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 4.8.2017.**

The third 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 4<sup>th</sup> August, 2017 (Friday) 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 30<sup>th</sup> August, 2017.



(C. K. Reejonia)  
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Enclosures: As above.

1. Shri Shailendra Singh, Additional Secretary, Department of Industrial Policy and Promotion, Udyog Bhavan, New Delhi.
2. Shri Ramayan Yadav, Additional Secretary, Department of Legal Affairs, Shastri Bhavan, New Delhi.
3. Shri Ajay Kumar Lal, Joint Secretary (eCourts), Department of Justice.
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, New Delhi.
8. Shri Reetesh Singh, Joint Registrar, Delhi High Court, New Delhi.
9. Shri C.K. Jha, Director, Department of Industrial Policy and Promotion.
10. Shri Y. Srinivasa Rao, Deputy Legislative Counsel, Legislative Department, Shashtri 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 Amit Purohit, Consultant, Department of Industrial Policy and Promotion.
14. 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)

**MINUTES OF THIRD MEETING OF THE TASK FORCE FOR IMPROVING INDIA'S RANKING IN WORLD BANK REPORT ON DOING BUSINESS FOR INDICATOR OF "ENFORCING CONTRACTS" HELD ON 4<sup>th</sup> AUGUST, 2017 IN NEW DELHI**

The third meeting of the Task Force constituted for improving the performance of the 'Enforcing Contracts' parameter of Ease of Doing Business index in India was held on 4<sup>th</sup> August, 2017 under the Chairpersonship of Secretary (Justice). The list of the participants in the meeting is attached as **Annexure I**.

Secretary (Justice) welcomed the members of the Task Force and other officers and after introduction requested Joint Secretary (GRR) to initiate the proceedings. The Joint Secretary (NM) commenced the proceedings by indicating that definite and noticeable actions are required to be undertaken by the concerned departments to execute the necessary reforms and achieve the desired results. The matter regarding issuing practice directions by the High Court of Delhi & Bombay to initiate pre-trial conference in the commercial courts was highlighted. The Joint Secretary (NM) enquired about the status of issuing practice directions and requested the Joint Registrar (Rules) of the High Court of Delhi & Registrar General of the High Court of Bombay to issue appropriate practice directions under section 18 of the Commercial Court Act by referring to procedures under order X, XI & XII of the Code of Civil Procedure, 1908 (CPC).

The following issues/recommendations were discussed at the meeting:

**Practice Directions**

The Registrar General of the High Court of Bombay informed the other members that a letter regarding use of pre-trial procedure has been issued to the Mumbai City Civil Courts. The Registrar General was requested to provide the copy of the letter to the Department of Justice and provide the status/data on the number of cases in which the provisions of pre-trial conference have been implemented.

It was informed by the Joint Registrar (Rules) of the High Court of Delhi that the matter regarding issuing practice direction had been put up before the Hon'ble Chief Justice of High Court of Delhi and that the same is pending before the rules committee and as the matter is under

active consideration of the Rules committee the practice directions would be issued by the month of August itself.

It was suggested by JR (Rules) Delhi High Court that practice directions may be made wider and can contain that provisions/amendments made to CPC for the purpose of the Commercial Court Act should be extended to all civil cases. It was further suggested that the ambit of definition of commercial dispute may be reduced and that if such amendment can be carried out the burden on the courts would be reduced. The RG High Court of Bombay also highlighted the practical difficulties faced due to the wide ambit of definition of commercial dispute in the Commercial Court Act. It was agreed that the High Courts may inform the Department of Justice of the difficulties being faced and suggested amendments so that the same may be conveyed to the Department of legal affairs.

### **Implementation of the Commercial Courts Act**

About adherence of provisions of Commercial Courts Act in the existing commercial benches of the High Court, the members were informed that the provisions are followed and the data about commercial matters is regularly uploaded on the website. Concerns were also raised over the speedy disposal of cases in these commercial benches of the High Courts. It was therefore agreed that to review the effect of the Commercial Court Act, the High Courts shall provide comparative statistics/data of the cases filed after the enforcement of commercial court act to the old pending cases of commercial nature.

It was noted that a dedicated section should be created on the courts website to disseminate information regarding the reforms to all stakeholders. The importance of disseminating information to public and concerned stakeholders on availability of performance measurement reports and electronic case management tools through a dedicated section on the district court websites was further deliberated upon. It was agreed that a link to the National Judicial Data Grid shall be provided on the websites of the Delhi District Courts and the Mumbai City Civil Courts.

The matter relating to e-filing and e-summons was taken up to which Mr. Goswami (Member e-committee) informed the other members that the initiative of e-courts has been extended to district courts and a pilot is in process of being implemented in Mumbai City Civil Courts and

Tis Hazari Courts in Delhi. The module had been inaugurated by the Hon'ble Chief Justice of India on 22<sup>nd</sup> July. Initiatives should be undertaken to spread awareness of the paperless e-courts at the District Level.

The Registrar General of the Bombay High Court informed the members that the rules have been amended to permit electronic service of summons. The amended rules are currently pending with the Rules Committee for approval. It was submitted by the RG Bombay High Court that the process of e-summons shall be initiated within a period of two months.

The issue regarding adhering to the limitations of three adjournments mandated by CPC was also highlighted. The members were informed that a letter regarding this had been issued by the Hon'ble Minister of Law and Justice to the Chief Justice of India. It was decided that the High Courts shall regularly furnish the data/provide figures of the district courts regarding the cases which has been disposed of while adhering to the provision.

The Secretary Justice also apprised the members of the Task Force that in a meeting Chaired by MLJ it was discussed that necessary amendment to the clause related to specified value and proviso should be undertaken in the Commercial Court Act so that cases below value of Rs 1 crore are referred to district court. The RG Bombay High Court informed that while bearing in mind the study of World Bank is limited to Mumbai City Civil Courts, the amendment with regard to specified value shall be limited to city civil courts or else the purpose would not be achieved. It was agreed that the amendments to the provisions relating to specified value and proviso to Section 3 to operationalize dedicated commercial courts in Delhi District Court and Mumbai City Civil Court shall be brought keeping in view the concerns raised in the meeting herein.

The Additional Secretary suggested designating a few district courts in Delhi & Mumbai as commercial courts by their respective High Court and therefore commercial cases having value of less than one crore may be transferred to such courts. It was further suggested that all electronic processes may be first initiated and expedited by the e-committee in those designated commercial courts. It was thus agreed that a letter shall be issued to the High Court by the Department of Justice to take up this issue. It was discussed that a personal from the Department of Justice may be present when the matter is being discussed by the High Courts.

### **Alternate Dispute Resolution Mechanism**

Amendment of the Commercial Court Act to allow parties with an option of Alternate Dispute Resolution before filing the case was discussed. The concerned department for the implementation of the reforms is the Department of Legal Affairs but it was noted that no senior officer from the Department of Legal Affairs was present in the meeting and that Shri Sandeep Sharma, Legal Consultant who attended the meeting on behalf of the Department of Legal Affairs was not aware of the steps being taken by his Department in this regard, except that the issues have been taken up by the officials and discussions are being held with all stakeholders. It was agreed that the Department of Legal Affairs shall bring in the required amendment to the Commercial Court Act to allow parties an option of resorting to Alternate Dispute Resolution such as Mediation before filing of case.

It was informed by the Joint Registrar (Rules) of the Delhi High Court that pre-litigation mediation is carried out in the Delhi High Court under Part III of the Arbitration & Conciliation Act. Reference was also made to the Delhi Dispute Resolution Society which is conducting mediation at pre-litigation stage. Section 89 of the CPC and procedural aspects of referring matters to court annexed mediation was also discussed. It was agreed that data of commercial matters being settled at pre and post litigation stage through Mediation shall be provided by the Delhi & Bombay High Court and the same shall be provided on the Website of the respective courts.

When the matter relating to lack of provisions relating to ESCROW account was discussed it was brought to the notice of the members that relevant provisions exists in the CPC with regard to ESCROW account, and it was thus advised that the provisions may be reiterated and improvement may be brought in the procedures.

### **Refund of Court Fees**

The issue of the lengthy process of refund of court fees if cases are settled through mediation was highlighted. The Law Secretary informed that the process of refund is a subject matter of the collector of stamps and the same should be raised with the Revenue Secretary. The Additional

Secretary (DIPP) suggested that while raising the issue with the revenue secretary it can be recommended that the refund of court fees may be notified as right under the right of public service legislations enacted by the different states to make the same time bound. It was agreed that the matter shall be taken up by the Law Secretaries of Delhi & Maharashtra with the Revenue secretaries. Further the Secretary Justice shall raise the issue with the Chief Secretaries of the concerned states.

### **Others**

When the matter of engaging Law researchers with the District Courts was discussed, concerns over the funding were raised. It was agreed that Law researchers for courts handling matters of commercial nature may be engaged on priority basis.

To make aware of the initiatives of the Department and inform the judges of the importance of the World Bank ranking the Secretary (Justice) suggested that High Court can organize a meeting of Judicial Officers and Lawyers and an Officer from Department Of Justice can sensitize the participants on the issue.

It was suggested by the Joint Registrar Rule of the Delhi High Court that the Chief justice of the concerned High Court may also be requested introducing a module on the aspect of Ease of Doing Business in the trainings organized by the State Judicial Academies for judges and that a resource person from the Department of Justice can be engaged to inform the judicial officer of the aspects of ease of doing business. A letter shall be issued by the Department of Justice to the Chief Justice of the High Court of Delhi & Bombay in this regard.

S. No.	Reforms to be Implemented/Actionable Points	Concerned Departments
1	Issuing practice directions to initiate pre-trial conference in the commercial courts	High Court of Delhi & High Court of Bombay
2	Review the impact of Commercial Benches being constituted in the High Court of Delhi & Bombay	High Court of Delhi & High Court of Bombay
3	Disseminating information to public and concerned stakeholders on availability of electronic case management tools and performance management reports	High Court of Delhi & High Court of Bombay
4	Ensure implementation and awareness of e-Filing and eSummons in Delhi District Courts as well as Mumbai City Civil Courts.	High Court of Delhi & High Court of Bombay And Supreme Court e-committee
5	Ensure adherence to provisions for grant of limited number of adjournments	High Court of Delhi & High Court of Bombay
6	Amendment to the Commercial Court Act to allow parties with an option of Alternate Dispute Resolution or Mediation before filing of case	Department of Legal Affairs
7	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	Department of Legal Affairs
8	Expedite process of refund of court fees when cases are settled through Mediation	Law Department of Delhi & Law Department of Maharashtra
9	Engaging Law researchers with the District Courts in Delhi & Mumbai City Civil Courts	High Court of Delhi & High Court of Bombay

	handling cases of Commercial Nature	
10	Designated a few courts in Delhi & Mumbai as commercial court and implementing electronic process in such courts	High Court of Delhi & High Court of Bombay And Supreme Court committee
11	Introducing a module on the aspect of Ease of Doing Business in the trainings organized by the state judicial academies for judges	High Court of Delhi & High Court of Bombay And Department of Justice



**Annexure-I**

**List of participants of Third Meeting of Task Force held on 4th August, 2017 at 11:00 AM in the Secretary (Justice) Room, Jaisalmer House, New Delhi.**

1. Smt. Snehlata Srivastava, Secretary(Justice), Chairperson.
2. Shri Shailendra Singh, Additional Secretary, Department of Industrial Policy and Promotion.
3. Shri Ajay Kumar Lal, Joint Secretary (eCourts), Department of Justice.
4. Shri G.R. Raghavendra, Joint Secretary, Department of Justice.
5. Smt. Pushpa V. Ganediwala, Registrar General, High Court of Bombay, Maharashtra.
6. Shri Reetesh Singh, Joint Registrar, Delhi High Court, New Delhi.
7. Shri Raj Kumar Chauhan, Law Secretary, Government of Delhi, New Delhi.
8. Shri C.K. Jha, Director, Department of Industrial Policy and Promotion.
9. Shri Y. Srinivasa Rao, Deputy Legislative Counsel, Legislative Department, New Delhi.
10. Shri Yashwant Anand Goswami, Member (Project Manager), eCommittee of Supreme Court of India, New Delhi.
11. Shri C.K. Reejonia, Deputy Secretary, Department of Justice.
12. Shri Amit Purohit, Consultant, Department of Industrial Policy and Promotion.
13. Shri Sandeep Sharma, Consultant, Department of Legal Affairs.