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Government of India
Ministry of Law & Justice
Department of Justice

Jaisalmer House, 26 Mansingh Road,
New Delhi – 110011
Dated: 26.07.2021

Office Memorandum

Sub: Minutes of the Twelfth Task Force Meeting for Improving India's Ranking in World Bank Doing Business Report for Enforcing Contracts Indicator Held On 16th July, 2021 At 4:30 PM

Please find enclosed herewith Minutes of Twelfth Task Force Meeting held on 16.07.2021 at 4:30 P.M. in New Delhi to discuss the progress on the action required to be taken by the concerned authorities for improving India's ranking in World Bank Report on Doing Business for "Enforcing Contracts" indicator for your kind information. It is requested that the action taken report on all the issues pertaining to you may be submitted to the under signed before the next meeting.


(Narayan Prasad)

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Encl: As above

To:

1. Shri Rajiv Mani, JS, Department of Legal Affairs
2. The Registrar General/Representative, High Court of Delhi, New Delhi.
3. The Registrar General/Representative, High Court of Bombay, Mumbai.
4. The Registrar General/Representative, High Court of Karnataka, Bengaluru.
5. The Registrar General/Representative, High Court of Calcutta, Kolkata.
6. Shri Atul M. Kurhekar, Member(Process), e-Committee of Supreme Court of India.
7. Shri P. P. Pandey, Joint Secretary, e-Courts, Department of Justice.

Copy to:

1. PPS to Secretary, Department of Justice.
2. PPS to Joint Secretary (National Mission), Department of Justice.
3. PPS to Joint Secretary (e-Courts), Department of Justice.

Twelfth Task Force Meeting for Improving India's Ranking in World Bank Doing Business Report for Enforcing Contracts Indicator Held On 16th July, 2021 At 4:30 PM

The Twelfth task force meeting for improving India's ranking in World Bank Doing Business Report for Enforcing Contracts indicator was held under the Chairmanship of Secretary, Department of Justice on 16th July, 2021 at 4:30 pm. The list of participants is placed herewith at Annexure.

1. At the outset, Shri G.R. Raghavender, JS welcomed all the distinguished members and shared the power point presentation touching briefly upon the developments and the implementation of enforcing Contract reforms in Delhi and Mumbai. He also shared that the DOJ has an Action Taken Report which is shared with the EoDB Nodal Department, ie DPIIT regarding the developments and initiatives undertaken in enforcing contract regime not only in Delhi and Mumbai but also in Bengaluru and Kolkata. This report is also shared as and when required with the Cabinet Secretary and the Prime Minister. Information is also being provided by sharing information on the various portals being managed by the Cabinet Secretariat and the Prime Minister Office. There is a constant updation regarding the various initiatives and developments including the successful implementation of deadlines with the cooperation of e- Committee Supreme Court, all the four High courts and the Law Departments of the respective State Governments.
2. The Chair thanked the Task Force Members for their participation and made the following observations:
 - It was mentioned that apart from the World Bank Evaluation, EoDB regime is also being evaluated by the Niti Aayog, who have constituted a Task Force on the subject, with a wider scope than that of the Task Force formed by Department of Justice and involving brainstorming with think tanks, State Governments and other stakeholders. The participants were informed that the second meeting of the NITI Aayog Task Force was held in the forenoon on 16 July 2021 and included presentations by Vidhi and Daksh. During the Niti Aayog Meeting, DOJ highlighted the reforms brought about by the High Courts as far as Commercial Courts are concerned and also the work of committee. The fact that all the reforms with respect to enforcement of

Contracts can be implemented with the help of the State Governments and Judiciary was also brought out. *NITI Aayog Task Force will have interaction with e-Committee in a future meeting.*

- The participants were informed that the NITI Aayog Task Force would also invite the Registrars General of all High Courts and committee of Supreme Court to their meeting. *Representatives of all four High Courts present were requested to work on the issues to be raised before the Task Force.*
 - On the issue of Simplifications of Commercial Court Rules, a presentation of the draft Rules 2021 would be made to the Niti Aayog Task Force by Dr. SS. Rathi /Dr. Saurabh Kulshrestha, OSD and Registrar, Delhi High Court after Department of Legal Affairs has examined the draft rules.
 - The Chair also raised concerns regarding the lack of sufficient outreach stating that in spite of tremendous efforts being made by all the stakeholders including High Courts, e-Committee, NIC, word seems to be around that not a lot of work is being done. He requested all the High Courts and other participants to adequately highlight the achievements on their respective websites and portals.
3. The following suggestions were made by Dr. Saurabh Kulshreshtha, Registrar Delhi High Court

1) Amendment of PIMS rules. - reducing fee of PIMS.

Dr Saurabh Kulshreshtha explained that there is a dichotomy between PIMS and the mediation being conducted during the pendency of the suit. For PIMS a person has to pay Rs 75000 fee (maximum) but when a person files the case and the matter is referred to the mediation centre, as far as Delhi is concerned, no fee is charges and if the matter is settled, court fee is also refunded. In that case, the person has a double incentive whereas under PIMS, there is a high fee with no incentive. Dr Saurabh then suggested that apart from reducing the PIMS fee, incentive can be added that if the PIMS results in settlement, then 50 % of the fee would be refunded.

Shri Rajiv Mani, Joint Secretary, DOLA responded that reduction of fee and its variation is dealt with by DOLA and this is a fee which is proposed to be given as a mediation fee and is not the fee paid to the mediator. He further elaborated that in their

consultations with NALSA during the framing of rules, it was decided that the Legal Service Authority would get some incentive through financial backing and the amount they feel they can part with would be the portion of the fee for the Mediator and the remaining would be used in pursuance of their duties to be discharged under the Act. He also clarified that the maximum fee of Rs 75,000 is only for disputes which are more than Rs 3 crore in valuation. However, Shri Rajiv Mani did agree that the fee is amendable and with due discussions with stakeholders, can be changed.

Shri Rajiv Mani also mentioned that under PIMS, no advocate fee has to be given, if the person is competent and can plead his own facts and arguments.

Shri G.R. Raghavender, JS (J) shared that as per his interaction with lawyers in Commercial Court of Delhi and Mumbai, the fee of Rs 75000 has to be brought down. He further explained that the maximum mediator fee needs to be taken in consideration which in most instances is Rs 4000, and if costs of maintenance of infrastructure, administrative costs, the legal service Authority cost is factored in then in that case fee should not be more than Rs 15,000-20,000, hypothetically. Additionally, if the mediation is successful then in that case 50% of the fee can be exempted. This would automatically increase the number of people going for PIMS.

- 2) **Dr Saurabh Kulshreshtha** also raised concern regarding the jurisdictional issues with respect to framing of Draft Commercial Rules. He elaborated that as per his preliminary observation, the Central Government may not have the power to make the rules relating to civil procedure under the Commercial Courts Act. There needs to be a certainty regarding this before further detailed discussion is held. ***He requested Department of Legal Affairs to examine this issue.***

The Chair requested Delhi High Court to send their views on the issue in writing at the earliest.

- 3) **Dr Saurabh Kulshreshtha** also suggested that in case of the data pertaining to number of Case management hearings, a slightly different method can be used. He explained that Case Management hearing is now mandatory in all suits as per the amended Criminal Procedure Code. There may be certain cases like under S 9 of the Arbitration and

Conciliation Act or under S 34 of Arbitration Conciliation act where there is no need to frame issues or there is no need to take evidence and matter can straight away be decided based on pleadings and arguments in those cases there may not be a need for case management hearing. He clarified that a data of no. of cases where Case management has been conducted may not give the correct perspective because maybe the dates for these case management hearings have already passed or is yet to come, **it would be more beneficial to track in how many suits, despite the matter having gone to trial, Case Management Hearing has not been conducted.** This will give a clearer view and better figure.

Suggestions Made by Smt Supriya S. Devasthali, Director, DPIIT

- A more intense discourse and interaction with all the Stakeholders in the next 2-3 weeks would be more beneficial. *List of the Stakeholders would be shared by DPIIT.*

Suggestions made by Shri Yashwant Goswami, CPC, Mumbai

When it comes to aggregation of cases on NJDG,

- 4) At present there is a national code called Commercial Suits that should be renamed as Commercial Cases so that Arbitration Cases can also be included in Commercial Cases. He suggested that all the Commercial Cases should be given National Codes since at present only Commercial Suits are being shown on NJDG which excludes arbitration cases and S 34 Cases.
- 5) All Miscellaneous cases filed in Commercial Courts, need to be given separate national code so that all the data of miscellaneous cases which are filed in Commercial Court is aggregated on NJDG.

Action Points

All High Courts

- All High Courts to give the link of the EoDB Portal on their High Court Websites and also on their Commercial Courts Portal as it would be beneficial in disseminating the information relating to important reforms being undertaken.
- All HCs give priority to digitization of documents in Commercial Courts in first instance before launching in other courts.

- All the Four HCs to have a discussion regarding the issues they need resolutions on from the NITI Aayog Task Force.
- Highlight their achievements on all their websites and Portals.

Delhi High Court

- Operationalise the 42 notified Commercial Courts.

Bombay High Court

- Operationalise the 2 new notified Commercial Courts.
- Prepare a separate Website for Commercial Courts.

Calcutta High Court

- 2 more Dedicated Commercial Courts have to be operationalized.
- Pecuniary Jurisdiction of the existing two commercial courts in Alipore, and Rajahath has to be brought down from 30 lakhs to three lakhs. Review the pendency of courts so that once the pecuniary jurisdiction is brought down these courts are not clogged with cases.
- Issue directions that as per the Section 35 CPC, the unsuccessful party will pay the expenses of commercial dispute. This needs to be issued and if already issued, share the copy of the same.
- E-Summons and e-filing to be implemented.
- Issue directions regarding making e-filing mandatory in Central government ministries.
- Share regular data on the concerned websites.

Karnataka High Court

- Issue directions that as per the S 35 CPC, the unsuccessful party will pay the expenses of commercial dispute. This needs to be issued and if issued, share the copy of the same.
- Share the training calendar with DOJ.
- Paperless digital Pilot project to be implemented in Bengaluru.

Department of Legal Affairs

- Examine the proposal to reduce the PIMS fee.

- Examine all the provisions of the Draft Commercial Rules to ensure the legality of all the provisions and the jurisdictional issues before a presentation is made in front of Niti Aayog.

DPIIT

- To share the list of Stakeholders they want to have a discourse with.
- Update the film on Enforcement of Contracts.

E- Court

- Examine the suggestions made by Shri Yashwant Goswami, CPC, Mumbai with respect to NJDG.

E- Committee, NIC

- Examine whether Commercial Courts data can be directly linked with NJDG so that the granular data is available in public domain.
- Examine the suggestions made by Shri Yashwant Goswami, CPC, Mumbai with respect to NJDG.

Department of Justice

- Send a reminder letter to Calcutta regarding issuance of directions making e-filing mandatory in Central government ministries.
- Write a letter to Shri Atul Khurekar, NIC, regarding linking of Commercial Courts data with NJDG directly.

ANNEXURE

1. Shri Barun Mitra, Secretary, Department of Justice.
2. Shri G.R. Raghavender, Joint Secretary, National Mission, Department of Justice.
3. Shri P.P. Pandey, Joint Secretary, eCourts, Department of Justice.
4. Dr.Rajiv Mani, Joint Secretary , Department of Legal Affairs
5. Shri Atul Kurhekar, Member E-Committee Supreme Court
6. Dr Saurabh Kulshreshtha, Registrar Delhi High Court
7. Shri T.G. Shivashankare Gowda, Registrar Karnataka High Court
8. Smt Supriya S. Devasthali, Director, DPIIT
9. Shri Yashwant Goswami, CPC, Mumbai
10. Shri Rohan Sinha Registrar Calcutta High Court,
11. Shri Abhranil Neogi, Joint Registrar, Calcutta High Court
12. Shri Narayan Prasad, Deputy Secretary, Department of Justice.
13. Shri Ramesh Chand Ahuja, Under Secretary, Department of Justice.