

State Co-operative Election Authority, Maharashtra State, Pune

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Out no/SCEA/Desk-14/Circular/8795/2017

Date 28/12/2017

Read – Outward no/scea/desk-14/advocate talika/fee/04/2017 Dated 02.01.2017

Sub. :- Grant of legal assistance to the officers and employees who has made parties in civil and criminal proceeding in their personal capacity, while performing the election duties on behalf of state co operative election authority , M S Pune

Whereas, as per provisions contained under sub section (2) of section 73 CB of the Maharashtra Co operative Societies Act, 1960 State Co operative Election Authority has been constituted by the state Government, and as per sub section (1) of section 73 CB, the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society is vested in the state co operative election authority, and also that the state co operative election authority is expected to hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed;

And whereas while performing the duties of elections of the co operative societies on behalf of SCEA, the officers and employees engaged for performing such duties, some times, for their performance of duties in official capacity, are made party in their personal capacity in civil and criminal proceeding; and

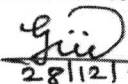
Whereas the officers and employees who perform election duties on behalf of SCEA as and when are made party in their personal capacity while performing duties in their official capacity, for performing election duties without fear and favor, it is necessary that some protection to such officers, as and when they are made party in criminal and civil proceeding in their personal capacity is required to be provided,

Now therefore it is decided to grant legal assistance to the officers and employees who are made parties in civil and criminal proceeding in their personal capacity, while performing the election duties, in due course of their official duties, on behalf of State Co Operative Election Authority, M S Pune in civil and criminal proceedings, which may be in following form –

- 1) The SCEA may grant legal assistance to the officers and employees who are required to institute civil or criminal proceedings in respect of acts done, in good faith, by or purported to have been done by them in discharge of their election duties or to defend such proceedings in which they have been sued by name and designation or in their personal capacities , for the acts done by them in the discharge of their election duties and it appears to the SCEA that they have acted in good faith and in due discharge of their election duties. Such assistance may consist of -
 - a) Engagement of an advocate at the authority's expense to appear in such proceedings on behalf of such officers / employees; or
 - b) Reimbursement of the officer /employee concerned of whole or part of the expenses incurred by him in such proceedings.
- 2) A officer and employee, who intends to institute or defend such proceedings or who has instituted or defended such proceedings and who desires to obtain legal assistance from SCEA must immediately refer the matter to his official superior. i.e DJR / DDR and DCEO / AR and TCEO / Ward election officer, as the case may be.
- 3) (a) The official superior i.e DJR / DDR and DCEO / AR and TCEO / Ward election officer as the case may be shall then refer the case to SCEA through his head of the department.

- (b) The head of the department under whom the officer / employee serves, if time does not permit, may sanction the employment of an advocate on panel of the SCEA. If there is no advocate on panel of the SCEA then any other suitable advocate will be appointed. The fees proposed to be paid to such an advocate shall not be more than the fees prescribed by the SCEA from time to time. The intimation of such engagement shall be furnished to the SCEA immediately thereafter.
- (c) Whenever it is proposed to pay the advocate at a higher rate, then services of such advocate shall not be engaged without the prior sanction of the SCEA.
- 4) All the applications for the legal assistance and reimbursement of expenses incurred by the officer / employee must be made to SCEA through the official superior of the officer / employee. Applications of reimbursement shall be made as soon as possible after the conclusion of the proceeding.
- 5) (a) Where an officer / employee conducts his defense himself, the question of reimbursement of reasonable expenses incurred by him for his defense may be considered in case the proceedings conclude in his favour. In determining the amount to be reimbursed SCEA may consider how far the court has vindicated the acts of officer / employee. The conclusion of the proceedings in favor of the officer / employees will not by itself justify reimbursement.
- (b) Where an officer / employee proposes to conduct his defense himself and applies to SCEA for assistance to enable him to meet the expenses of defense SCEA may sanction at its discretion an interest free advance not exceeding Rs 2500/- after obtaining from him an under taking to the effect that the advance so paid shall be used only for meeting the legal expenses in the said proceeding filed, by / against him in the civil/criminal court and for no other purpose and they will produce within 30 days after the passing of the decree or final order therein details of legal expenses incurred by him and return to the SCEA forth with the excess of said sum of Rs 2500/-
- 6) Where an employment / engagement of an advocate is sanctioned at the expenses of the Authority, it shall be expressly stated in sanction order that any sum which may be recovered by the officer / employee from opposite party as compensation, damages or cost shall be paid to the SCEA in reimbursement of the cost incurred by the SCEA and only the balance if any remaining thereafter shall be retained by such officer / employee. Where it is intended to reimburse to an officer / employee the expenses incurred by him, only the excess, if any of such expenses over any compensation , damages or cost that may be recovered by him from the party shall ordinarily be borne by the SCEA, to the extent of admissible fee as prescribed by SCEA.
- 7) Every bill of fees and law charges of panel advocate or any other advocate engaged as per this circular and every bill for reimbursement of expenses incurred by the officer / employee shall be submitted to the SCEA through the official superior concerned. The amount of every such bill shall be debited to the budget head V-2, 2070 other administrative services, (00) (800)- other expenses, (00) (01) SCEA (20700882) (28) Professional services.

By order of Hon'ble Commissioner SCEA , M S Pune


28/12/17
(Yashvant Giri)
Secretary,

State Co-operative Election Authority,
Maharashtra State, Pune.

Copy to –

1. All Divisional Joint Registrar Co operative societies
2. All DDR cum DCEO
3. All TCEO
4. All Kaksha pramukh's SCEA