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AJMER VIDYUT VITRAN NIGAM LIMITED
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No. AVVNL/MD/CE (CommL.)/XEN. (LC)/ALO/F. 1/D. 1523 Date: 5/2/15

The Superintending Engineer (ACC/ADC/O&M), AVVNL,
Ajmer / Bhilwara / Nagaur / Jhunjhunu / Sikar / Udaipur / Chittorgarh / Rajsamand /
Banswara / Dungarpur / Pratapgarh

Sub: - Points to be taken care of in dealing court cases.

It has been observed that we loose many court cases owing negligence/in-action on the part of OICs and the procedural lapses. After going through the court cases, it has been concluded that if following points are taken care of, better results may be yielded:-

1. The reply of case filed by the petitioner is the basic document on which the fate of the case depends but it has been observed that cogent documents are not provided to the advocate and the OIC do not discuss the merit of the case with the advocate. Therefore, in absence of relevant documents / orders / circulars / relevant provisions on the issue, the advocate is unable to prepare complete & comprehensive reply.
To over-come this difficulty, the circle Superintending Engineer should ensure that the OIC takes full interest in the court cases. While appointing OIC & advocate, he may send follow-up format to OIC.
2. The reply prepared by the advocate should be checked by the OIC to ensure that all relevant aspects have been incorporated and facts should be verified.
3. The reply should be filed well on the date of filing reply, alongwith the documents and concerned provisions.
4. The OIC should maintain a register of all court cases of his office and a chart in his chamber, showing Next date of hearing.
5. Whenever, the OIC is transferred, he should give charge of all case to the new officer.
6. At the time of witnesses/evidence before the court, the OIC him-self and other witnesses should go through the record to ensure event & dates and discuss the points with the advocate before appearing in the court to avoid contradictory statements.

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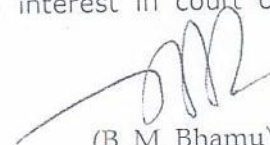
7. If Stay is granted by the court, he should take personal interest to get vacate the Stay.
8. He should remain present in the court on the date of final/effective hearing to protect interest of Nigam.
9. After decision of the case, he should ensure that certified copy is applied on the same day and case should be sent to the circle alongwith the opinion of the advocate within 7 days of the decision, so that appropriate decision is taken within limitation.
10. It has been observed that most of the revenue cases are decided against Nigam due to procedural lapses. For instance, the demand notice should be sent to the applicant for Agriculture connection, through registered post. Although on Demand Note 'Registered Post' is printed on the top of the Demand Note format but is sent through ordinary post. In some cases second notice is not sent. If the amount of Demand Note is not deposited within stipulated time, file should be cancelled and intimation must be given to the applicant, with request to submit the receipt for due refund.
11. Strict compliance of relevant provisions is not made in the cases of average billing.
12. After receiving the Notice from the court, notice should be issued to the complainant consumer to resolve the dispute through Settlement committee.
13. Many court cases decided against Nigam due to incomplete & ambiguous replies. It was pointed out that concerning officer (S) / official (S) do not furnish relevant record in time, which cause delay & difficulty in preparing comprehensive reply.
14. Special care should be taken in the cases of theft of electricity under section 135 to 140 and unauthorized use of electricity under section - 126 of the Act and due procedure should be adopted. VCR should be filled in properly & due process of provisional assessment, opportunity of hearing, final assessment etc. should be adopted in the cases of unauthorized use of electricity under section 126 of the Act. In the cases of theft of electricity under section-135, separate notice should be issued & If compounding amount/civil liability is not deposited within 7 days, FIR/Complaint should be filed, as the case may be. Point to be taken care in the case of theft of electricity:-
 - I. Contradictory statements:- The witnesses on behalf of Nigam appear in the special courts without going through the case file, due to which either contradictory statements are given or statements are given on probability, which leads to un-favourable judgement. It is therefore necessary to first go through the case file minutely and contact our panel advocate before hearing.
 - II. Improper VCRs:- Complete and proper VCRs are not filled, which leads the decision against the Nigam. Therefore complete VCR should be filled envisaging

manner in which theft was being committed, name of person/consumer present and relationship with the accused, details of consumer's acc. No, category, load etc. and details of premises, ownership, demarcations, Khasara No. etc. Signature of independent witnesses should be obtained. It should be mentioned clearly whether the offence committed was of unauthorized use of electricity U/s 126 or theft of electricity U/s 135 & other relevant clauses.

- III. Signature of accused/his representative:- Signature of the accused or his representative present at the time of checking should be obtained on VCR. However in case of denial, the name of denial person present there along with relationship. The copy of VCR should be given by obtaining receipt.
 - IV. Photographs, Seizure Maal- Khana:- The cogent evidences should be collected and seized with proper sealing & seizure memo should be prepared. Photographs should be taken in such a manner that it could be clearly established that theft was being committed in the premises of accused in the way shown in it. All seized evidences should be kept in Maal-Khana of each O&M and Sub Division.
 - V. Filing of FIR/Complaint:- In the cases of non consumers . thorough investigation is required to determine identity of accused, ownership of premises, details of seized materials, etc. therefore FIR should be filed so that APTPS may investigate. However in the cases of consumers if nothing is to be investigated than complaint may be filed directly in the special courts. However complete and detailed complaint should be prepared and all documents viz seizure memo, copy of notice, photos, VCR, sitemap, list of witnesses etc should be filed in special court along with complaint.
 - VI. Determination of Offence:- before taking action it should be determined whether the offence falls U/s 126 of the Act i.e. unauthorized use of electricity or U/s 135 & 138 or both of theft of electricity. In the case of unauthorized use of electricity, assessment should be carried out and notices should be issued for provisional and then final assessment and opportunity of hearing must be provided. However in the case of theft of electricity action should be taken for compounding and civil liability as per latest provision.
15. Information of cases in favour and against the Nigam, should be prepared every month. The Superintending Engineer concerned should make proper analysis of the cases decided against Nigam and try their best to overcome lapses/shortcomings.
 16. The Superintending Engineer concerned should arrange to prepare a list of pending cases of various courts with status mentioning the name of advocate, name of OIC, next date of hearing & present status of the case, so that same

may be sent to Legal Cell through E-mail, corporate office for updating the information.

I am directed to request you to instruct all Executive Engineers / Assistant Engineers / Personnel Officers and other OICs under your jurisdiction to go through all points enumerated above and take full interest in court cases to obtain decisions of courts in favour of Nigam.



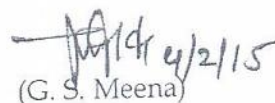
(B. M. Bhamu)

Chief Engineer (Comml.)

AVVNL, Ajmer

Copy submitted to the following for information & further necessary action: -

1. Zonal Chief Engineer (AZ/JZ/UZ) AVVNL, Ajmer/Jhunjhunu/Udaipur.
2. The Secretary (Admin.), AVVNL, Ajmer.
3. The Addl. S.P (Vig.), AVVNL, Ajmer.
4. The P.A. to Managing Director, AVVNL, Ajmer.



(G. S. Meena)

Executive Engineer (Legal)