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#### NOTIFICATION

#### TERMS & CONDITIONS OF APPOINTMENT OF ADVOCATE GENERAL

No. A. 45012/3/2019-LJE, the 30<sup>th</sup> March, 2021. In exercise of the powers conferred by articles 165 (2) of the Constitution and in supersession of this Department's Notification No. A. 45012/9/98-UE/Pt dt. 23.10.2012 and No. A. 45012/9/98-UE/Pt dt. 20.6.2016, the Governor of Mizoram is pleased to lay down the terms and conditions of appointment of Advocate-General of the State of Mizoram as follows, namely:

1. Appointment.- The Advocate-General shall be appointed in accordance with the provisions of article 165 of the Constitution and he shall hold office during the pleasure of the Governor of Mizoram.
2. Remuneration.- The remuneration payable to the Advocate-General, Mizoram may be as determined by the Governor from time to time.
3. Statutory Duties.-
  - b) To attend meetings of the Legislative Assembly and Committee thereof.. The Advocate-General shall attend the meeting of the Mizoram Legislative Assembly and the Committee of the Legislature, when so required by the Government.
4. Adviser to Government.-
  - a) The Advocate-General shall advise the Government upon such legal matters, including proposition of legislations, on which he may be consulted and perform such other duties of a legal character as may, from time to time, be specified in the rules or as may, from time to time, be referred to or assigned to him by the Secretary, Law & Judicial Department.
  - b) He shall also advise the Government in respect of proceedings whether civil or criminal, which he may be required to conduct on behalf of the state or its officers.
  - c) Advise on any matters on which he is consulted by the Law & Judicial Department or directly by the Chief Secretary to the Government of Mizoram.
  - d) He shall ordinarily entertain reference from the Government Department through the Secretary, Law & Judicial Department.
  - e) He shall supply to the Secretary, Law & Judicial Department, copies of the opinions or advice given by him directly to any other, Government Department along with the notes containing the points of reference made to him (except in such confidential matters where its disclosure would not be appropriate).

5. Adviser to Officers.-
  - a) The Advocate-General shall advise and guide the following officers when consulted by them directly on any matters, namely:
    - i) The Additional Advocate-General, Gauhati High Court (AB) & (PB)
    - ii) The Public Prosecutor, Additional Public Prosecutors, Gauhati High Court.
    - iii) The Government Advocate, Gauhati High Court
6. Duties as an Advocate.- It shall be the duty of the Advocate-General.
  - a) To represent the state in such cases, whether civil or criminal, filed on the Original and Appellate sides of the High Court and in the appeals filed therefrom to the Supreme Court, In which he is required to do so by the Government.
  - b) Conduct before the High Court, at the instance of the Government, Writ Matters, Revision, Review and appeals on Civil, Criminal and Revenue Cases.
  - c) Examine draft Writs or Appeal petitions, counter affidavit or affidavit in opposition, plaints and written statements in important Government cases when so required by the Government.
  - d) To appear on behalf of the state in Writ Petitions filed in the High Courts of other states and in the Supreme Court, whenever he is called upon to appear by the Government.
  - e) To appear on behalf of the state or the officers, if required by the Government, in any other proceedings, whether civil or criminal, in the Supreme Court or High Court or any Tribunal, Authority or in the Court subordinate to the High Court within the territory of India if required to do so by the Government.
  - f) To appear in any case, whether Civil or Criminal, in which the High Court or the Supreme Court desires him to appear or expresses its opinion that he ought to appear.
  - g) To settle pleadings, affidavits, statements of Case or any other document in any proceedings, if required to do so by the Government.
7. General Duties.- It shall be the duty of the Advocate-General that as soon as any matter, to which the state or its officers are parties is adversely decided by the concerned court:
  - a) To communicate the nature of the decisions to the Government in the administrative department with a copy to the Secretary, Law & Judicial Department, giving a brief statement of the grounds on which the decision is based and also to communicate his opinion with reasons on the question of going in appeal to the High Court or the Supreme Court, as the case may be.
  - b) To take all necessary steps, if the Government decides to go in appeal to the High Court or the Supreme Court, including drafting of any further petition, affidavit or statement of the case.
  - c) To bring to the notice of the administrative departments and the Secretary, Law & Judicial Department, any observation or indication made by the said court regarding the imposition of any tax, cess, levy, penalty etc or that any defect or lacuna existing in any enactment, statutory rule, etc., or in which it has observed that the state law or statutory rule has been causing inconvenience or anomaly.
8. Limitations.- The Advocate-General as a condition of his appointment is debarred from:-
  - a) Appearing or advising or holding briefs against the Government in any case either in the High Court or in any other court.
  - b) Defending accused person in criminal prosecution unless permitted by the Government.
  - c) Advising private parties in cases in which he is likely to be called upon to advise the Government.

- d) Accepting briefs from legal practitioner or other concerned in any case under the Legal Practitioner Act, without ascertaining whether his services will be required by the Government in that case.
- e) Appearing in any appeal against orders for settlement of any lease, contract or for the grant of permits issued by any Government Officers or any Authority under Government.
- f) Accepting appointment as a director in any company without the sanction of the Government subject to the limitations herein and provided that his private practice would not in any way interfere with the efficient discharge of his official duties, the Advocate-General will be at liberty to practice.

Marli Vankung,  
Secretary to the Government of Mizoram.