

GOVERNMENT OF KERALA

Law Department (Suits)

CIRCULAR

No.1786/C1/79/Law

Dated, Trivandrum, 29th June, 1979.

Sub:- Writ – Petition in the High court – Delay in filing counter affidavits on behalf of Government - Instructions to forward statement of facts to the Advocate – General within the notice period issued

Ref:- Letter dated 22-1-1979 from the Addl. Advocate General, Ernakulam.

The additional Advocate-General in his letter cited has pointed out that there is amorous delay in filing counter affidavits in the High Court on behalf of the Government and the officers and that the High Court is taking a very serious view of the matter. He has also stated that counter affidavits should be filed within three months of the receipt of notice, that if they are not filed within that period the High Court may not condone the delay except in exceptional Circumstances and that, in such cases, the petition for condonation of delay should contain sufficient material for the court to come to a finding that the delay in filing the counter affidavits was not willful. The Addl. Advocate-General has further pointed out that there are a number of cases particularly cases of 1976-77 in which statement of facts have not been received in the office of the Advocate General so far, that he has requested the court to grant time upto 31st January, 1979, to file counter affidavits in most of the 1976 & 1977 cases and a week more in cases in which statement of facts has not been received from the Government and that after the 1st February, 1979 the court will not grant any time for filing counter – affidavits particularly in 1977 cases.

2. In the circumstances stated by the Additional Advocate-General, Government direct that statement of facts in all cases should be forwarded to the office of the Advocate General at least within two months of the date of receipt of notices so that the counter affidavits can be drafted and filed within the allowed period of three months. In cases where the Court has specifically posted 1978 and 1979 cases, the counter affidavits should also give sufficient details regarding the time already taken for forwarding the statement of facts so that if any exceptional cases the Court will have to be moved by petition for condonation of delay the Advocate General's office will have sufficient materials for such petitions.

C.BHASKARAN NAIR
Chief Secretary.

To

All Heads of Departments

Endt. On E7-6916/79 dt. 5-3-1979

Copy forwarded to All Conservator of Forests and DEOs, all section Heads in Chief Conservator's office for immediate attention. They may examine whether there is any such case in our Department. They are also informed, that stringent action will be taken against all concerned if there is any lapse on this score.

Sd/-

For Chief Conservator of Forests

Endt. On G2.4231/79 dt. 14-1-79

Copy to all section for information and attention.

For Conservator of Forests,
Trichur