

POLICY FOR EMPANELMENT OF ADVOCATES IN SECL.

1. Objective: To provide a policy for empanelment of Advocates in SECL and their regular evaluation.
2. Applicability: This policy shall be applicable prospectively with effect from the date as notified, on approval by CMD, SECL.
3. Definitions: For the purposes of this Policy, the terms used will have the following meaning:
 - (i) 'Advocate' means an Advocate, entered in any roll of Advocates under the provisions of Advocates Act, 1961 (25 1961) (hereinafter referred as 'Act').
 - (ii) 'Company' means SECL, its Subsidiaries or Joint Venture Companies or its holding company (CIL) and its Subsidiaries or their JV Companies unless otherwise defined or explained.
 - (iii) 'Court' shall mean all courts of law including District Courts, High Courts, Supreme Court, Tribunals, Judicial Forums, Commissions and Arbitrators etc.
 - (iv) The term 'similar cases' shall mean two or more cases in which identical or similar point(s)/question(s) of law or fact(s) are involved or the same have been tagged as batch matter/petition by the Court.
 - (v) Unless the contexts otherwise demands, words importing any gender shall be interpreted to mean any or all genders.

4. General

- (i) The number of Advocates in the Panel shall be recommended by the HOD (Legal), SECL based on the requirement and quantum of work in different States and shall be approved by Director (P), SECL.
- (ii) Cases involving similar issues/points of law or otherwise interlinked or clubbed may be entrusted to the same Advocate as far as possible. However, care shall be taken to avoid concentration of cases in the hands of one Advocate/a few Advocates.
- (iii) The Advocate shall not necessarily be empanelled for specific court and shall accept the work as assigned to him and shall not refuse to accept any work without reasonable cause.

- (iv) Refusal by any Advocate to accept any assigned work otherwise than on grounds of conflict of interest, may entail removal of such Advocate from the Panel. Similarly, no Advocate as long as his name is on the panel shall contest any matter against the Company where company's interest is involved.
- (v) The empanelled Advocates will not delegate cases and themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the Officers of the Company, as required.
- (vi) The Advocates empanelled under this Policy, shall not be employees of Company and therefore, shall not be eligible for any benefits as available to its employees.
- (vii) The empanelled Advocate shall maintain absolute secrecy and confidentiality about the cases of Company as required under the Act and rules/regulations made there-under.
- (viii) The Advocates shall accept the terms and conditions of the empanelment in full as determined by SECL from time to time.
- (ix) Law Firm(s) may also be empaneled through an Advocate, duly authorized by the said Firm. In such a case all the terms and conditions for empanelment of the individual Advocates shall apply mutatis mutandis to them and the Company shall interact and deal with the said empaneled Advocate only.
- (x) If required, *on the advice of HoD (Legal), SECL* and considered appropriate by the Functional Director concerned of the dealing department/Area , Attorney General of India/Solicitor-General of India/Additional Solicitor General/Assistant Solicitor General/Advocate General/Dy. Advocate General/Designated Senior Advocate(s) may be engaged for obtaining opinion/settlement of draft on case to case basis/to argue the cases on behalf of SECL, keeping in view the urgency and importance of a particular matter. Such engagement shall be on case to case basis with the approval of the Functional Director concerned of the dealing department/Area.

5. Tenure of Empanelment.

The initial empanelment will be for five years or until further orders, whichever is earlier. Performance of empanelled Advocates shall be reviewed periodically and at least on annual basis .However, on completion of the term and satisfactory performance of the Advocate, the empanelment may be renewed for a period of another three years by SECL on mutually acceptable terms and conditions.

This does not bar the 'Company' from carrying out fresh empanelments as and when required.

SECL reserves the right to terminate the empanelment of any Advocate at any time without assigning any reason. In such a case or in the event of the Advocate discontinuing his services on his own, the Advocate concerned shall be required to return back all the cases /briefs allotted to him with complete case files along with the present status and invoices/bills for the services rendered.

6. Eligibility for Empanelment

(i) The Advocates should be familiar with various branches of law especially those concerning Mining Laws including Coal mines, Land Acquisition Laws, Competition Law, Constitutional Law, Company Law, Forest and Environmental Law, Service Law, Labour Law, Contract Law, Commercial Law, Property Laws and Taxation etc. Due weightage shall be given to Advocates having experience in handling cases of CPSEs and Government Departments.

(ii) In addition to above, the Advocates are required to have the minimum professional/court practice experience as under:

- For empanelment for the Supreme Court of India - 10 yrs. experience in Supreme Court.
- For empanelment for the High Courts in India/Competition Appellate Tribunal and other equivalent courts - 5 yrs. experience in High Court(s) and other equivalent courts.
- For empanelment for the Subordinate Courts/Tribunals and other equivalent courts - 5 yrs. experience in Subordinate Courts/Tribunals and other equivalent courts.

Note : The determination of equivalency of courts shall be decided by HOD (Legal) relying on the enactments, legislations, rules etc. as applicable.

(iii) For considering empanelment for the Supreme Court, generally those Advocates who are regularly practicing in Supreme Court including Advocates-on-Record, would be considered, if they are otherwise found to be competent and suitable.

- (iv) Provided that the Director (P), SECL may relax the above conditions at his discretion, if otherwise found suitable in certain cases for those having a very sound background, knowledge or to encourage the new talent etc.

7. Procedure for Empanelment

Empanelment shall be done from time to time as per the requirement as determined by HOD, (Legal), SECL and approval of Director (P), SECL.

For the purpose of empanelment, a Search Committee shall be constituted. The said Committee shall have members nominated by HoDs of the following departments:

- i. Finance,
- ii. Legal,
- iii. Material Management,
- iv. Personnel, and
- v. Marketing and Sales.

The Search Committee would be responsible for recommending the name(s) of Advocates after deliberating on the applications/BIODATA received from the Advocates in terms of the provisions of this Policy.

The name(s) so recommended by the Search Committee must fulfill the eligibility conditions prescribed herein under Clause 6 titled 'Eligibility for Empanelment'.

The name(s) so recommended must be done by a consensus of all the committee members along with a brief justification for such recommendation.

- (a) While considering the applications/BIODATA from the Advocates, following points shall be considered:
 - (i) Length of practice and specialization in the area of law relevant to SECL.
 - (ii) Availability of proper and adequate infrastructure such as office premises, number of Junior Advocates, Assistants, Clerks and fax, mobile phone, fixed phone, internet connection etc.
 - (iii) Annual income-tax return filed with the Tax Authorities for last three years may also be perused.
 - (iv) If considered necessary, an enquiry from the respective Bar Council/Bar Association about the claims and conduct of the Advocate, to be empanelled can also be made and credentials may be verified.

- (v) If the Advocate is empanelled by other regulators/organizations/ establishments, list of those organizations, addresses in full and contact numbers must be obtained for necessary verifications, if occasion so arises.

The Director (Personnel), SECL may also prescribe any other factor relevant for empanelment. The panel of Advocates so finalized shall not be exhaustive.

(b) Documents to be obtained from the Advocate.

The Advocates will be required to furnish their Bio-data as per the format given in Annexure-A. The self-attested copies of the following documents are required to be submitted with application:

- i. Registration with Bar Council.
- ii. Identity card/Sanad issued by Bar Association / Bar Council.
- iii. List of empanelment with other Organizations
- iv. Certificates in support of experience/expertise and/ or declaration on this count.
- v. Annual Income Tax Returns filed for last three years.
- vi. An undertaking from the Advocate to the effect that all information furnished by him is correct.
- vii. Other relevant information, if any

The recommendations of the Search Committee shall be placed before Director (P), SECL through HOD (Legal), SECL to accord approval for empanelment.

8. Communication of Empanelment

After a decision to empanel an Advocate is taken, a communication in writing/email to this effect shall be sent to the Advocate concerned as per Annexure-B with acknowledgement and acceptance due. The process of empanelment shall be completed when Company receives a duly signed acceptance letter in prescribed format, from the concerned Advocate.

9. Payment of Fee and Other Conditions

- (i) The fee payable to the Advocate shall be subject to the limits enumerated in the Schedule of Fee of SECL, as amended from time to time.
- (ii) The concerned Functional Director of SECL shall have the right in exceptional cases to approve payment of fee more than the fee mentioned in the schedule, keeping in view the importance of the matter and efforts & time involved in a particular case, supported with justification in this regard by HoD (Legal), SECL. He shall also have the power to approve payment of the fee for eventualities which have not been mentioned in the schedule.
- (iii) No Retainer Fee shall be paid to any panel Advocate merely because such Advocate has been empanelled.

- (iv) The bills/ claims should be generated in the name of the Advocate/Law Firm, as per the empanelment/engagement.

10. Right to Private Practice and Restrictions

- (i) The empanelled Advocate shall have the right to private practice which should not, however, interfere with or be in conflict of interest with the efficient discharge of his duties as an empanelled Advocate of SECL.
- (ii) The empanelled Advocate including his junior(s) shall not advise any party or accept any case against the Company in which he has appeared or is likely to be called upon to appear or advice.
- (iii) If the empanelled Advocate happens to be a partner of a Firm of lawyers or solicitors, it will be incumbent upon the Firm not to entertain any case against the Company arising in any court.

11. Terms and Conditions of Empanelment.

- i. An empanelled Advocate shall not advise any party or accept any case against the Company during the period of empanelment. It will be incumbent upon the Advocate(s) so empaneled to ensure compliance of its term by his Associates/Junior(s) working with/under him.
- ii. Empanelled Advocates engaged in matters before coming into force of this Policy, irrespective of their new empanelment, will continue to represent SECL/Company till the disposal of matter(s) already assigned to them and shall be paid as per the old Schedule of Fee.
- iii. SECL may avail services of the Advocates empanelled by CIL or any of its Subsidiaries as per the Schedule of Fees of CIL or the Subsidiary concerned. Similarly, in case CIL or any Subsidiary of CIL intends to avail the services of the Advocates empanelled by SECL, then the fee payable will be as per the Schedule of Fees of SECL.
- iv. Advocates empanelled for assignments to be undertaken other than in States of MP and CG shall be governed by the Schedule of Fees of CIL, as applicable from time to time, in this regard.

12. Monitoring & Evaluating advocacy:

Monitoring & Evaluation is the key to shape, transform & improve advocacy. The activities & performance/actions of empaneled Advocates shall be strictly monitored & evaluated by HOD (Legal), SECL on regular basis on both qualitative and quantitative parameters.

The following parameters shall be taken into consideration for such evaluation:

- The impact/benefit of actions taken/work done.
- The recognition they received.
- Advocate's attitude towards rising to the occasion & understanding business needs of the Company.
- How cost effective his actions were, time taken in briefing the matter or each case, his level of understanding of the nuances of the Company.
- The total time consumed in providing legal remedy.
- Response of Advocate towards the officials of the Company.

An 'Evaluation Form' for assessing the Advocate on the above parameters is annexed as Annexure 'C'. A comprehensive report containing details of evaluation, will be put up to the Director (P), SECL for information and directives, if any.

13. Disablements.

Disablement on the part of the Advocate shall mean and include any of the following:

- i. Giving false information in the application for empanelment;
- ii. Handing over the brief or matter to another Advocate without prior written permission from HOD (Legal), SECL;
- iii. Failing to attend the hearing of the case without sufficient reason and prior information;
- iv. Not acting as per SECL's instructions or going against specific instructions;
- v. Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- vi. Misappropriation of the Company's funds or earmarking, using the same towards his fee without Company's permission.
- vii. Threatening, intimidating or abusing any of the Company's employees, Officers, or representatives;
- viii. Making any of his Associates or Juniors to appear on behalf of any of the opposite parties in Cases/Appeal related to Company without prior permission from HOD (Legal), SECL.
- ix. Committing an act tantamounting to professional misconduct;
- x. Conviction of the Advocate in any offence resulting into arrest or detention or disbarment by the Bar Council;
- xi. Passing on information relating to Company's case on to the opposite parties or their Advocates which is likely to cause damage to the Company's interests;
- xii. Giving false or misleading information to the Company relating to the proceedings of the case; and
- xiii. Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason.

Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate or as and when deemed fit by Director (P), SECL.

14. Ownership of Implementation

The ownership for implementation and compliance of the provisions of this Policy shall be on the HOD (Legal), SECL.

15. Standing Counsel

Advocate(s) may be designated as Standing Counsels in Supreme Court and High Court(s) who shall be responsible for accepting notices on behalf of the Company and communicating the same to HoD (Legal), SECL, preferably on the same day but positively on next day through email or other means. However, such acceptance of notice would not give the concerned Advocate any preferential right of engagement in the case.

Intimation to this effect shall be given by HOD (Legal), SECL to the office of respective Registrar, as per requirement.

16. Removal of Difficulty

In the matter of implementation of the provisions of this Policy, if any doubt, difficulty or anomaly arises or doubt regarding the interpretation of any of the clause of the Policy, the same shall be placed by the HoD (Legal), SECL with his recommendation before Director (P) SECL, whose decision thereon shall be final and binding.

SECL reserves the right to modify, cancel or amend all or any of the provisions of this Policy or any supplementary provisions of this Policy or a part of a provision or supplementary provision issued in connection with this Policy, with due recommendations of HOD(Legal), SECL or the Search Committee, without previous notice of its intention.

17. Power to exempt from operation of Policy

Chairman cum Managing Director, SECL shall have the authority to exempt [subject to recommendation of HoD (Legal), SECL] with respect to any person(s), all or any of the clause(s) of this Policy, absolutely or subject to any specified conditions.