

## **GUIDELINES FOR EMPANELMENT OF LAW FIRM**

Following guidelines are to provide and regulate the manner and procedure for empanelling the advocates to represent and assist the MPCB before various courts and for regulating the referrals of the cases and payment of fee/remuneration payable to Law Firm.

### **1) Definitions:**

For the purposes of these Guidelines, the terms used will have the following meaning;

- a) 'Advocate' means an advocate, entered in any roll of advocates under the provisions of The Advocates Act, 1961 (The Act);
- b) 'Competent Authority' shall be the Member Secretary, MPCB or any other officer so designated by the Member Secretary, MPCB;
- c) 'Court' shall mean all courts of law including Mumbai/Nagpur/Aurangabad High Court, Supreme Court, National Green Tribunals (Principal Bench/Western Zone Bench), Judicial Forums etc;
- d) 'Effective Hearing' shall mean a hearing in which either one or both parties involved in a case are heard by the Courts / arguments were advanced by the Counsel of any of the parties. And in addition to the above, effective hearings are according to the High Court Rules;
- e) 'Non-effective Hearing' shall mean all hearings which are not covered in the above definition of effective hearing;
- f) 'Similar Cases' shall mean two or more cases in which identical or substantially similar questions of law or facts are involved.

### **2) Eligibility of Empanelment:**

- a) The Law Firm should be familiar with various branches of law especially those concerning laws of Regulatory matters related to Environmental Laws etc;
- b) For empanelment with MPCB, the Senior most Advocate /Partner /Associate of the firm must have at least fifteen (15) years of experience as a practicing Advocate;

- c) There would not be any court specific empanelment however, while referring cases to firm the following would be the criterion for such referrals:
- i) 15 yrs of experience of Sr. Partner of the firm is required to handle the cases before the National Green Tribunals, High Courts and Supreme Court of India;
  - ii) Further for designation of an Advocate to handle cases before Supreme Court of India generally those Advocates who are regularly practicing before the Supreme Court and are Advocates-on-Record would be preferred, if they are otherwise found to be competent and eligible;
  - iii) Infrastructure Facilities:
    - 1. Firm should have its own chambers in Supreme court, High Court or major District Courts or should have good office space with facilities like telephone, fax, computers, internet, etc;
    - 2. The firm must have adequate manpower.

*Provided that the Competent Authority may relax the above conditions at its discretion, if otherwise found eligible in certain cases.*

### **3) Tenure of Empanelment of Law Firm:**

The initial empanelment will be for two years or until further orders whichever is earlier. Performance of empanelled advocates shall be reviewed 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 Two years by the MPCB. The MPCB reserves the right to terminate the empanelment of any firm at any time without assigning any reason thereof.

### **4) General Terms and Conditions:**

- a) The Firm shall be engaged only in cases where MPCB is a necessary party;
- b) The Law Firm shall consist of Advocates from diversified fields having the expertise, experience, performance and conduct of advocates in

these fields in general or experience in dealing Environmental cases or cases of the MPCB, if any, in particular;

- c) Refusal by any firm to accept any work without any reasonable cause (e.g. on grounds of conflict of interest) may entail removal of such firm from the panel;
- d) The empanelled Law Firm will not delegate cases and would 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 MPCB, if required;
- e) The Advocates of the Law Firm empanelled under these guidelines shall not be employees of MPCB for any purpose and therefore, shall not be eligible for any benefits available to its employees.
- f) The empanelled Law Firm shall maintain absolute secrecy and confidentiality about the cases of the MPCB as required under the Act and rules/regulations framed there under;
- g) The Law Firm shall accept the terms and conditions of the empanelment as determined by the MPCBL from time to time;
- h) All the terms and conditions for empanelment of the individual Advocates of the Law Firm shall apply *mutatis mutandis* to them;
- i) If required and considered appropriate by the Competent Authority, Designated Senior Advocates may be engaged to argue the cases on behalf of the MPCB keeping in view the urgency and importance of a particular matter. They shall be engaged on case to case basis with the approval of the Competent Authority. Engagement of Sr. Advocates etc. and their fees for such cases may be approved and decided by the Chairman/Member Secretary on the merits of each case.

#### **5) Payment of Fee and Other Conditions:**

- a) The fee payable to the Advocates shall be governed by the **Schedule** of fee annexed as **Annexure "B"** with these guidelines as amended from time to time.
- b) The Competent Authority shall have the right in exceptional cases to approve the payment of a higher fee than the fee mentioned in the annexed schedule keeping in view the importance of the matter and the labour and efforts put in by the respective firm in a particular case. It shall also have the power to fix the fee for eventualities which have

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not been mentioned in the schedule till the appropriate amendment is made in this regard in the Fee Schedule by the MPCB.

- c) No retainer fee shall be paid to law firm merely because such firm has been empanelled.

## **6) Procedure for Empanelment:**

The Competent Authority will consider the applications for empanelment in terms of these guidelines only on merits after due notice in this regard is published on the website of the MPCB as well as in leading newspaper. For this purpose, the Competent Authority may authorize any officer/group of officers of MPCB and such authorized officer(s), while appraising the applications of the Law Firms, may consider the following points:

- a) Length of practice and specialization;
- b) Proper and adequate infrastructure such as office premises, number of junior advocates, assistants, clerks and other infrastructure facilities etc;
- c) Track record and integrity;
- d) If considered necessary, an enquiry with the respective Bar Council/Bar Association about the claims and conduct of the advocate to be empanelled may be made and credentials may also be verified;
- e) If the firm is empanelled by other organizations/authorities, their opinion may also be obtained, if felt necessary;
- f) If MPCB gets a large number of applications, then to select the required number of Firms, in addition to above, the attributes like experience in representing Govt/PSU/Statutory Bodies or number of cases in which the Advocate of the firm was able to get favourable outcome/decision which are reported/referred in reputed legal journals etc.

The above list is illustrative and not exhaustive. The Competent Authority may also consider any other factor relevant for empanelment.

**7) Documents required to be submitted by the Law Firms:**

The Law Firms will be required to submit their Applications in the prescribed format as given in **Annexure-A**. The attested copies of the following documents are required to be submitted with application:

- a) Certificate of Registration with Bar Council of Advocates of Law Firm;
- b) Identity card issued by Bar Association / Bar Council;
- c) Details regarding representation of other Govt./Statutory Bodies before the various court of law;
- d) Documents regarding empanelment with other Organizations, if any;
- e) Details regarding the cases in which the firm/Advocate of the firm was able to get favourable outcome/decision which are reported/referred in reputed legal journals etc.;
- f) Details of office Infrastructure;
- g) Acceptance of all the terms and conditions of empanelment unconditionally and unequivocally;
- h) An undertaking to the effect that all information furnished by him is correct;
- i) Other relevant information, if any.

**8) Communication of Empanelment:**

After a decision to empanel the advocate is taken, a communication in writing to this effect shall be sent to the shortlisted Firms as per **Annexure-B** with acknowledgement and acceptance due. The process of empanelment shall be complete when MPCB receives an acceptance letter from the Law Firm.

**9) Private Practice and Restrictions:**

- a) A Law Firm shall have the right to private practice which should not, however, interfere with or be in conflict with the efficient discharge of his duties as an empanelled Law Firm of the MPCB;
- b) A Law Firm shall not advise any party or accept any case against MPCB.

**10) Disablements:**

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

- a) Giving false information in the application for empanelment;
- b) Handing over the brief or matter to another advocate without prior written permission of the MPCB;
- c) Failing to attend the hearing of the case without any sufficient reason and/or prior information;
- d) Not acting as per MPCB's instructions or going against specific instructions;
- e) Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- f) Misappropriation of the MPCB's funds or earmarkings, using the same towards its fees without MPCB's permission;
- g) Threatening, intimidating or abusing any of the MPCB's employees, officers, or representatives;
- h) Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/appeal related to MPCB;
- i) Committing an act that tantamounts to contempt of court or professional misconduct;
- j) Passing on information relating to MPCB's case on to the opposite parties or their advocates or any third party which is likely to cause any damage to the MPCB's interests;
- k) Giving false or misleading information to the MPCB relating to the proceedings of the case; and
- l) Seeking frequent adjournments 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 firm/Advocate of the firm.

**11) Doubt/ Difficulty:**

If there arises any doubt/difficulty with respect to the implementation/ interpretation of any clause of these guidelines, the same shall be placed before the Member Secretary, MPCB and his decision in this regard shall be final and binding.

**ANNEXURE  
'A'**

**FORMAT OF APPLICATION FOR  
LAW FIRMS**

- 1) Name of the Law Firm:
  - 2) Details of Registration of the Firm:
  - 3) Age (as on ....)
  - 4) Details of the Enrolment of the Advocates of the Firm:  
*(Copy of enrolment certificate must be attached)*
  - 5) Details of Experience/practice:
  - 6) Area of practice:
  - 7) Specialization, if any (constitution/environment/service etc.):  
*The details of a few important cases the firm has dealt with/handled and reported Judgment if any.*
  - 8) Whether on panel of any State Govt./Central Govt.:  
(Indicate period)
  - 9) Brief list of clients e.g. State Govt./organizations:
  - 10) Date of enrolment as an Advocate – on – Record(AOR) of the Supreme Court and Registration No.:
  - 11) PAN number:
  - 12) Experience in Environment Related Matters, if any:  
  
*A brief note on suitability for empanelment (details of major cases dealt/contested by the advocate successfully).*
- i. I declare that I have never been penalized by any bar council in any Disciplinary Proceedings.

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- ii. I also undertake to maintain absolute secrecy about the cases of the MPCB as required under the Act, Rules and Regulations thereunder.
- iii. I agree with the Fee Schedule notified by MPCB.

**Signature of Partner/Advocate  
of the Firm**

**Address and contact details  
Of the Firm**



**ANNEXURE  
'B'**

To,

M/s \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Dear Sir,

**Sub: Enrolment of your firm on MPCB's Panel**

This is with reference to your application dated \_\_/\_\_/\_\_\_\_ wherein you have evinced interest for empanelment as Law firm with the MPCB. We are pleased to inform you that your request has been considered favourably and you are advised to give your assent for empanelment on following terms and conditions (A copy of guidelines enclosed):

- a) You will abide by MPCB's terms and conditions as enumerated in the Guidelines for such empanelment;
- b) Your fees would be strictly governed by the MPCB fee schedule for Panel Advocates as amended from time to time and you will not claim any retainer fee or employment in MPCB's service;
- c) You will not accept any case against the MPCB;
- d) You will take necessary steps to protect the interest of the MPCB in matters entrusted to you from time to time;
- e) Empanelment does not confer any right or claim that you alone should be entrusted with MPCB's work;

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- f) You will personally deal with the case assigned to you in addition to coordinating and working with designated Senior Advocate, if any, engaged in some matter;
- g) On unsatisfactory performance in any assigned matter, MPCB may at any time, at its discretion, withdraw from you such proceedings/matter/brief and may discontinue you as MPCB's panel firm without paying any further fees;
- h) You will keep MPCB informed about the developments in the matters entrusted to you;
- i) Unless a case is specially assigned to you by the MPCB, you will not on your own receive Summons;
- j) Notices of the MPCB's matters and even if you receive, if no Vakalatnama is given to you, you shall not otherwise deal with such cases. However, you will immediately inform MPCB in this regard;
- k) You shall not use MPCB's name or symbol, logo in your letter heads, sign boards name plates etc;
- l) In case of any misconduct, the MPCB will take appropriate action against you which includes filing complaint with Bar Council and recovery of financial loss caused to the MPCB due to your misconduct;
- m) In case of initiation of any disciplinary proceedings/criminal proceedings against you, the MPCB may remove you from the panel even without waiting for the conclusion of such proceedings;
- n) Your performance will be reviewed on yearly basis and if your services are not required/found upto the mark, MPCB may

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remove you from panel and the cases/matters entrusted to you will be taken back from you;

- o) You are required to maintain absolute secrecy about the cases of the MPCB as required under the Act, relevant rules and regulations and you shall not divulge any details to an outsider or opponent as the case may be without written consent of the MPCB;
- p) You are requested to return the duly signed duplicate copy of this letter indicating your unconditional consent;
- q) We look forward for better cooperation and hope for good relations with you.

Yours faithfully

(Authorized Signatory)

**ANNEXURE 'C'**

**FEE SCHEDULE**

<b>A</b>	<b>APPEARANCES</b>		
<b>Sr. No.</b>	<b>Particulars</b>	<b>For Sr. Counsel</b>	<b>For Jr. Counsel</b>
<b>A-1</b>	<b>Before Supreme Court, High Courts</b>		
(i)	For Effective Hearing		
(ii)	For Non Effective Hearing		
(b)	Before Registrar, Dy. Registrar, Joint Registrar		
<b>A-2</b>	<b>Regulatory Matters before NGT</b>		
(i)	For Effective Hearing		
(ii)	For Non Effective Hearing		