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Notification No. JSERC/52

Dated the 6<sup>th</sup> September 2016

**TERMS AND CONDITIONS FOR THE ENGAGEMENT OF  
EMPANELLED ADVOCATE(S) ON BEHALF OF THE  
COMMISSION AND REGULATION OF THEIR FEE.**

In exercise of power conferred on it by Section 181 Electricity Act, 2003 read with Regulation 12 of JSERC (Conduct of Business) Regulation 2011 and all power enabling it in that behalf, the Jharkhand Electricity Regulatory Commission hereby make the following Regulations:

**GENERAL**

**1. SHORT TITLE AND COMMENCEMENT AND OBJECT**

- (I) These Regulations may be called the “JHRKHAND STATE ELECTRICITY REGULATORY COMMISSION – (EMPANELMENTS OF ADVOCATE(S) AND PAYMENT OF THEIR FEE) ORDER 2016”
- (II) The object of these Regulations are:
- (a) To establish procedures for conducting the hearing before the Commission and on behalf of the Commission before the various Forum;
  - (b) To establish procedures for compliance of the orders/directions of the Commission and on behalf of the Commission.
  - (c) This order shall come into force from the date of its publication in the Jharkhand Government Gazette.

**THE JHARKHAND STATE ELECTRICITY REGULATORY  
COMMISSION**

2<sup>nd</sup> Floor, Rajendra Jawan Bhawan-cum-Sainik Bazar, Main Road, Ranchi –  
834001.

**Sub.: Scheme for empanelment of Advocates and fee applicable to the  
Advocates for cases matter of the Commission before various Courts  
and other legal services.**

In supersession of earlier instruction with regard to fee payable to advocates of Commission for their engagement in various courts, fees, rates, terms and conditions hereinafter prescribed shall be applicable to empanelled Advocates of Commission for various Courts with immediate effect. The Advocates are entitled to get fee at the old rate(s) for their appearance and other works done by them prior to coming into effect of this Scheme.

**DEFINATIONS**

For the purpose of the Scheme the expressions:

- a. **‘Competent Authority’** means the Chairperson or in absence of Chairperson senior most Member or any other person as designated by the Chairperson on this behalf who is vested with the powers to approve engagement of Advocates in various matters.
- b. **‘Effective Hearing’** means a hearing in which either one or both the parties is/are heard by the Court on merit of the petition or on interim prayer/petition. If the case is mentioned and adjourned or only directions are given or only judgment is delivered by the Court, it would not be an effective hearing, but will be treated as non-effective hearing.
- c. **‘Uncontested Cases’** means if cases are withdrawn by the Plaintiff / Appellant or is dismissed in limine or otherwise decided by the Court ex-parte before the final hearing. No case will be considered as ‘uncontested’ if it is decided by the Court on preliminary legal objections or is withdrawn during any stage of the final hearing or is withdrawn by the Commission at the time of admission or when a decision is given after hearing/arguments on both sides.
- d. **‘Substantial Work’**: When the case has been admitted by the Court after hearing the preliminary objections or filing of the Affidavits / Counter Affidavits etc. by the Advocate, ‘substantial work’ will be deemed to have been done.
- e. **‘Identical Cases’ ‘Connected Cases’**: Two or more cases in which substantially identical issues/ questions of law or facts are involved although there are different parties subject matter etc. or a common or identical judgment(s) is/are delivered irrespective of the fact whether all the cases are heard together or not.

- f. **‘Lower court’** means any Court which is subordinate to the High Court.
- g. **Tribunal/Forum/Board/Authority** shall mean one constituted by or under any Act/Legislation or subordinate legislation before whom lawyer(s) is/are allowed to pursue a case/matter/appeal/revision/other petitions.

**1. Empanelment (Engagement) of Advocates**

The Commission shall make a panel of Advocates for various court’s cases/matters concerning the Commission. The advocate for a particular case shall be engaged out of the panel except in an exceptional circumstances in which some other advocate is deemed suitable keeping in view the special character of the case or exigency for safeguarding interest of the Commission. The terms of engagement of counsel would be for a period of three years or until further orders whichever is earlier. The terms may be extended for a further period at the discretion of the Commission.

**2. DUTIES**

- a. The advocate shall appear whenever required before such Courts/Tribunals/ Forum/Board/Authority on behalf of Commission in cases in which Commission is a party or interest of the Commission is involved.
- b. The Advocate shall directly and personally deal with the case and will not entrust case to the other Advocates or to his junior advocate unless with prior consent of the Commission in writing.
- c. In the event of a case, attended to by him, is decided against the Commission or its officer. The advocate shall give his opinion in writing about the further course of action available against such decision.
- d. The Advocate shall keep the Commission informed of the important developments in the case from time to time particularly with regard to the drafting, filling of papers, dates of hearing of the case and its outcome, and order or the Judgments passed.
- e. The Advocate shall furnish periodical reports about the case or as and when may be called for by the Commission.
- f. The Advocate shall render detailed account of the advances received from time to time to the Commission for proper adjustment of the same against his fee bills.

**3. ALLOCATION OF CASES TO ADVOCATES**

The cases to the Advocates will be allotted by the Law officer with approval of the Competent Authority preferably in equitable proportion and keeping in view the nature of the case and expertise required for handling the particular case.

**4. FEE PAYABLE TO THE EMPANELLED ADVOCATES:**

The amount of fee payable to the Advocate for the professional services rendered in terms of this scheme are provided in the schedule to this circular. No retainership fee will be allowed to any empanelled advocate.

**5. TERMINATION OF ENGAGEMENT**

The engagement/empanelment of counsel would be terminable at any time by the Commission without assigning any reason.

**6. REPEAL AND SAVINGS**

Save as otherwise provided in these instructions, the earlier order namely JSERC (Engagement of Counsel) order 2004 read with all amendments thereto subject to these orders are hereby repealed.

- (a) Anything done or action taken or purported to have been taken, or proceedings initiated under such repealed Regulations, shall be deemed to have been taken under these Regulations to the extent that same were not inconsistent with the Act.
- (b) The Commission may, at any time and on such terms as it may think fit, amend, alter or modify any provision of these Regulations or remove any error or defect in these Regulations.

**7. Power of Relaxation and Power to Remove Difficulties**

- (a) The Chairman may, in public interest and for reasons to be recorded in writing, relax any of the provisions of this order.
- (b) If any difficulty arises in giving effect to any of the provisions of this order or there is a dispute regarding interpretation of any provision, the decision of Chairperson shall be final.

**8. GENERAL CONDITIONS**

1. In all cases Advocates fee shall be payable for only effective appearance. No fee will be payable in cases where no legal work is done e.g. cases in which the interests of the Commission are to be watched, transmission of record to other Courts, etc.
2. No fee will be admissible for preparation but the Commission may consider payment of a separate fee for preparation in special cases involving arduous work.
3. If the Advocate appears at the instance of the Commission for the parties other than the Commission whose case is not inconsistent with that of Commission, he will be entitled to only one set of fee.
4. When cases argued before a Division Bench is referred to a Full Bench separate fee at the prescribed rates will be paid for appearance before each Bench.

5. In 'uncontested cases' the fee shall be one third the fee otherwise payable but if such a case is later on restored and decided in contest the remaining two- third of the fee will be payable.
6. Where two or more cases involving substantially identical questions of law or facts are filed any one of such cases will be treated as a main case and the others as connected cases and the fees in such cases will be regulated as under, irrespective of the fact whether all the cases are heard together or not.
  - a) When the Advocate files separate Affidavits, Applications or Grounds of Appeal etc. in more than one case but other cases are decided accordingly, the Advocate shall be paid the full fee in the main case and one fourth in each of the connected cases.
  - b) When the main case and the connected cases are disposed of without contest, the Advocate shall get 1/3<sup>rd</sup> fee in the main case, and 1/3<sup>rd</sup> fee of the Main case in each of the connected matter.
7. The fee to the Advocate will be paid by the Commission on presentation of a pre receipted stamped receipt, and on submission of a copy of the document drafted if it is a drafting fee and submission of gist of proceedings or a copy of Order / Judgment as the case may be in case the claim is for appearance fee.
8. During the pendency of a proceeding if an Advocate is changed for some reason or the other, fee commensurate to the work done by the outgoing Advocate may be paid. In such an event the balance of fee payable in the case will be paid to the new Advocate as per admissibility.
9. Right to Private Practice & Restrictions: The Advocate shall have right to private practice which should not, however, interfere with the efficient discharge of his duties as an Advocate for the Commission. The Advocate, however, shall not accept any brief against Commission during his tenure of empanelment with the Commission and shall relinquish the briefs, if any, held by him against Commission forthwith and inform Commission writing.
10. The Advocate shall be entitled for special fee only in rare cases where the nature of the work is so intricate and complicated involving question of law and arduous work with multiplicity of hearing etc., a reasonable claim for special fee can be considered and allowed by the Competent Authority under DOP.
11. In the event of any doubt or difference regarding the interpretation of the provisions of this scheme, the decision of the Chairperson shall be final and binding on the Advocates.
12. The Fee payable to the empanelled Advocates shall be subject to the upper ceiling prescribed in the Schedule to this Scheme.
13. For the purpose of regulating the Advocate fee the CAT, CIC, APTEL, Commission, Appellate Tribunal, Arbitral Tribunals, Consumer State Commission, Consumer National Commission and NIT will be considered equivalent to the High Court and rest of the Forums & Tribunals will be considered equivalent to the Lower Court. (This list is not exhaustive and the status of the Tribunals & Forums for the purpose of regulating Advocate fee will be decided by the Chairperson from time to time.)
14. If the empanelled Advocate before of Supreme Court is required to appear before the High Court/ Lower Court/Forums/Tribunals, the Advocate will be entitled to the fee as applicable before the Supreme Court and if the empanelled Advocate before the High

Court is required to appear before the Lower Court/Forums/Tribunals, the Advocate will be entitled to the fee as applicable before the High Court.

15. An Advocate who ceases to be on the Commission's panel of Advocates for the Commission's work for whatever reasons, may be at the sole discretion of the Chairperson allowed to continue to hold Commission's briefs pending with them at the time of his cessation to be on Commission's panel subject to the condition that he does not advise or accept any brief against the Commission in any Court or Tribunal as long as such pending cases are being handled by him and not finally disposed of by the Court concerned.
16. The rates of fee provided in the schedule hereunder will be revised every three years, however, for any reason if the fee revision could not be undertaken, an increase @ 10% of the scheduled rates will be deemed to have been effected after expiry of every three years and four months.
17. No fee will be payable to the counsel if an advance notice about the adjournment has been issued or the adjournment of the case has been made at the request due to reason personal to him.
18. In case of any doubt or differences regarding the fees, the fees determined by the Chairman shall be final and binding.
19. There will be panel of not less than - 4 Advocates. Out of them two shall be preferably arguing advocates. The Advocates must have practicing experience not less than 7 years.
20. The work will be allocated to each advocate from the Commission depending upon nature of cases. No advocate will receive the notices from the advocate of other side directly. In case the advocate receives the notice under some compelling circumstances, he will instantly forward the same to the Commission for necessary instruction, if any.
21. In case of any case involving arduous and complicated question of law of large public interest, Commission shall engage reputed advocate having expertise in related field with special fee to be determined by the Chairperson depending upon the nature of case or case (s).

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**SCHEDULE**

<b>Sl. No.</b>	<b>Particulars</b>	<b>Supreme Court</b>	<b>High Court / APTTEL</b>	<b>Lower Court/ Any other Tribunal Forum/Commission</b>
1.	Drafting of SLP/Writ Petition/LPA/WS/Revision/Review Petition/Plaint/Original Suit/CounterAffidavit/Appeal /Reply etc.	<b>Rs. 10,500/-</b>	<b>Rs. 5,500/-</b>	<b>Rs. 3,000/-</b>
2.	Fee for drafting Misc. Application/Interlocutory Application/Replies thereto/Interim Application and its Replies/Affidavit etc.	<b>Rs. 5,000/-</b>	<b>Rs. 2,500/-</b>	<b>Rs. 2,000/-</b>
3.	Conference (involving more than one hour sitting)	<b>Rs. 5,500/-</b>	<b>Rs. 3,000/-</b>	<b>Rs. 2,000/-</b>
4.	Written Legal opinion (other than the cases entrusted to him)	<b>Rs. 7,500/-</b>	<b>Rs. 3,500/-</b>	<b>Rs. 2,500/-</b>
5.	Appearance fee for effective hearing for three consecutive dates. Thereafter 1/3 <sup>rd</sup> of fee per date if hearing continues for more than three days. Appearance fee for non-effective hearing restricted for three dates only.	<b>Rs. 10,000/-</b>  <b>Rs. 3,500/-</b>	<b>Rs. 7,000/-</b>  <b>Rs. 2,500/-</b>	<b>Rs. 2,500/-</b>  <b>Rs. 1,250/-</b>
5.1				
6.	For Drafting Legal Notice/Reply Notice	<b>Rs.7,000/-</b>	<b>Rs. 2,500/-</b>	<b>Rs. 1,500/-</b>
7.	For Drafting & Filing Caveat petition	<b>Rs. 7,000/-</b>	<b>Rs. 3,500/-</b>	<b>Rs. 2,000/-</b>
8.	Outstation Appearance/Case Fees + Boarding & Lodging + Daily Allowances	Double the Appearance fee. Boarding and Lodging	Double the Appearance fee. Boarding and Lodging to and fro journey	Double the Appearance fee. Boarding and Lodging to and fro journey and

		to and fro journey and Conveyance by reserved car/AIR or A.C IInd as may be sanctioned by the Chairman.	and conveyance by reserved car/AIR or A.C IInd as may be sanctioned by the Chairman.	Conveyance may be sanctioned by the Chairman.
9.	Misc. expenditure (Fax, Photostat, Court Fee/Stamps/Orders/Cost deposited in Courts/Attestation charges/ Typing/Dictation /Spiral Binding/Paper Books/Courier/ Telephone call/Postal Charges/ Vakalatnama/Certified copy etc.	Actual expenses based on the written certification of the Advocate concerned.	Actual expenses based on the written Certification of the Advocate concerned.	Actual expenses based on the Written Certification of the Advocate concerned.
10.	Connected Cases/Identical Cases.	a) When the Advocate files Affidavits, Applications or Grounds of Appeal etc. in all Connected/Identical Cases and the Cases are decided accordingly, the Advocate shall be paid the full fee in the Main case and one fourth in each of the connected cases.  b) When the Main case	a) When the Advocate files Affidavits, Applications or Grounds of Appeal etc. in all Connected/Identical Cases and the Cases are decided accordingly, the Advocate shall be paid the full fee in the Main case and one fourth in each of the connected cases.  b) When the Main case and the connected cases are disposed of without contest, the Advocate shall	When the Advocate files Affidavits, Applications or Grounds of Appeal etc. in all Connected/Identical Cases and the Cases are decided accordingly, the Advocate shall be paid the full fee in the Main case and one fourth in each of the connected cases.  b) When the Main case and the connected cases are disposed of without contest, the Advocate shall get 1/3 <sup>rd</sup> fee in the Main



		and the connected cases are disposed of without contest, the Advocate shall get 1/3 <sup>rd</sup> fee of the Main case in each of the connected matter.	get 1/3 <sup>rd</sup> fee in the Main case, and 1/3 <sup>rd</sup> fee of the Main case in each of the connected matter.	case, and 1/3 <sup>rd</sup> fee of the Main case in each of the connected matter.
11.	Fee for Drafting, Vetting, Finalization of Agreement/Deed/MOU etc. & other similar legal documents.	<b>Rs. 7,500/-</b>	<b>Rs. 5,500/-</b>	<b>Rs. 3,500/-</b>
12.	Lumpsum fee for services rendered i.e. preparation of Brief, obtaining Opinion of Sr. Counsel. For attending the case on special instruction.	<b>Rs. 7,500/-</b>	<b>Rs. 3,500/-</b>	<b>1,500/-</b>
13.	File Inspection	<b>Rs. 3,000/-</b>	<b>Rs. 2,500/-</b>	<b>Rs. 1,000/-</b>
14.	For setting the Index/Paper Book	<b>Rs. 5,000/-</b>	<b>Rs. 2,000/-</b>	--
15.	Clerkage	10% of the professional fees of Advocate.	10% of the professional fees of Advocate.	10% of the professional fees of Advocate.
16.	Upper Ceiling for advocate per case.	Rs. 50,000/- (excluding expenditure) per case.	Rs. 30,000/- (excluding expenditure) per case.	Rs. 20,000/- (excluding expenditure) per case.

By order of the Chairperson,

**A. K. Mehta,**  
Secretary.

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