CIRCULAR NO 01/2011

Sub: Guidelines for drawing panel of Advocates for Corporation work before various Courts.

These guidelines supersede all existing instructions on the subject and will come into force with immediate effect.

The policy of empanelment of Law Firms has been discontinued. Henceforth, Corporation will not empanel any Law Firm.

The Law Firms already empanelled with the Corporation and completed three years tenure may be dropped from the FCI panel, however, as an exception, in case it is felt that the Law Firm is dealing with some important case of FCI, till the completion of the said case the Firm may be allowed to continue and no fresh case will be entrusted to the Firm.

The receipt of the circular may be acknowledged.

The Hindi version of the circular will follow.

DISTRIBUTION:
1. PS TO C&MD
2. ALL EXECUTIVE DIRECTORS, HQRS.
3. ALL EXECUTIVE DIRECTORS (ZONE)
4. ALL GMs/DGMs/AREA MANAGERS
5. ALL HEADS OF DIVN. HQRS.
6. ALL LAW OFFICERS, HQRS./ZONAL/REGIONAL OFFICES
7. GUARD FILE
A QUALIFICATIONS

1. The Advocates shall be familiar with various branches of Law especially those concerning the Corporation such as Constitutional, Service, Labour, Contracts, Commercial, Maritime, Property, Taxation Laws etc.

2. The Advocates to be empanelled for various Courts shall have the minimum experience as a practicing Lawyer before the respective Courts as under:

   Supreme Court of India       --------10 yrs.
   All High Courts in India     --------10 yrs.
   Subordinate Courts            --------7 yrs.

3. For considering empanelment to the Supreme Court panel, normally only those Advocates who are regularly practicing in the Supreme Court of India would be considered if they are otherwise competent and suitable for Corporation work. The courts where the Advocates ordinarily and regularly practice may also be taken into consideration while processing the case for empanelment.

4. The Advocate to be empanelled to the Supreme Court panel shall be an Advocate-on-Record of the Supreme Court. However, in rare and exceptional cases where the Advocate to be empanelled is a specialist such as Maritime, Labour, Food Laws etc. or where the Advocate to be empanelled is extraordinarily outstanding professional, for the reasons to be recorded in writing this condition could be waived by the Competent Authority.

5. The Advocates to be empanelled for Corporation work shall be an Income Tax assessees and shall furnish the Income Tax PAN in his name.

B. TENURE

6. Corporation reserves the right to terminate the empanelment at any time without assigning any reasons.

C. GENERAL

7. Number of Advocates in the panel shall be determined by the Competent Authority from time to time depending upon the volume of work, requirement and expertise and accordingly the Advocates may
be empanelled/ dropped from the panel. Every panel shall consist of expert Advocates from diversified fields such as service, civil, commercial, property, taxation, labour etc.

8. While considering the empanelment cases, if necessary, confidential enquiries may be made in the respective Bar Council/Bar Associations regarding the expertise and reputation of the Advocate.

9. The work shall be distributed among the panel Advocates, taking into consideration the expertise of the Lawyer and his performance in successfully dealing with the Corporation cases. Engagement of Advocates shall be done by the Competent Authority in consultation with the Law Officer.

10. Litigation work of the Corporation shall be entrusted to the panel Advocates only. However, in case it is not possible for any reason (to be recorded in writing), other expert Advocates, preferably Central Government Counsel/State Govt. Counsel may be engaged as far as possible on FCI scheme of rates/ Govt. rates, with the approval of the Competent Authority.

11. The details of the Advocates to be empanelled shall be obtained in the Annexure-I Format.

12. The empanelled Advocates shall personally deal with the Corporation cases and they should coordinate and work with the Designated Sr. Advocates, if any, engaged by the Corporation.

13. The empanelled Advocates shall not accept any cases/advise against the Corporation in any matter and shall relinquish case(s) if any being contested against FCI before coming into panel.

FEES

14. The Advocate’s professional fees and other terms & conditions of the empanelment will be regulated as per the scheme or fees issued vide circulars 23/03 & 24/03, dated 14.8.03 and circular 28/08 dated 6.10.2008 issued from file No.4(2)99-Legal and circular No.49/04 dated 10.09.04 issued from file No.1(1)/04 legal and Circular 3/05 dated 21.3.2005 issued from File No. 4(1)/95-2004-Legal and as amended from time to time.

15. No retainer fee shall be paid to any panel Advocate.
16. Written consent of the Advocates shall be obtained as to the acceptance of the rates, terms & conditions of Corporation for empanelment, as amended from time to time.

17. As the empanelled Advocates for High Courts are also eligible to represent the Corporation before Subordinate Courts/Tribunals/etc. in the Hqrs. of the Advocate, while issuing empanelment orders, all care may be taken not to restrict the empanelment to the High Court panel so that the services of the Advocate could be utilized in the area of his expertise in the Courts where the Advocate ordinarily and regularly practices. The model empanelment order is enclosed as Annexure-II for guidance.

D. COMPETENT AUTHORITY

18. In supersession of all earlier instructions/delegation of powers, henceforth, the Competent Authority for approval and issue of Advocates panel for various courts shall be as under:-

- Supreme Court of India: Managing Director
- High Courts: ED(Zone)
- Subordinate Courts: G.M. (Region)

Note: The powers delegated to an Authority may be exercised by Authorities higher than him.

E. STANDING COUNSEL

19. Two Advocates from the panel may be nominated as the Standing Counsels of the Corporation before every High Court for accepting Court Notices/Summons/Pre-admission Notices etc. filed by or against the Corporation. The names of such nominated Standing Counsels shall be informed to the Registrar of the High Court for notifying the same.

20. While nominating Standing Counsel, care should be taken to choose Advocates of repute and standing who must be having a chamber within/nearby the Court premises.

21. Standing Counsels, on receipt of Notices/Summons etc. shall immediately hand over the same to the Corporation. The expenses payable to the Standing Counsel for delivering the same shall be fixed by the Competent Authority taking into consideration the local situation such as distance of the Advocate's chamber from FCI office.
22. On receipt of such Notices/Summons etc. from the Standing Counsel, Corporation may, at its discretion, allot such cases to any of the panel Advocates considering the expertise of such Advocates. Standing Counsels may be authorized to cause appearance before the Courts in emergencies and safeguard the interest of the Corporation.

E. PERFORMANCE REVIEW

23. The Regional Office shall undertake a Performance Review of all the empanelled Advocates as on 31st December of every year as per Annexure III Format and the Report of the same shall be furnished within a month to the concerned Zonal Office. The consolidated Performance Reports of the Advocates in respect of all the Regions under the Zone shall be forwarded by the Zonal Office to Legal Division, FCI, Hqrs.

24. The above guidelines shall be followed by all concerned while undertaking the empanelment of Advocates.

25. In case of any doubt regarding the interpretation of any of the clauses of this circular, decision of ED(Law) Hqrs. shall be final.
ANNEXURE-II
Model Empanelment Order

FOOD CORPORATION OF INDIA
(Address of the issuing Region)

No.

Dated:

Sub: Empanelment to the FCI panel of Advocates- Reg.

CIRCULAR No. /Year

1. Food Corporation of India is pleased to inform you of your empanelment as an Advocate to the panel of Advocates of FCI on the terms, conditions and fees regulated under instructions issued vide Circular No. /2004-Legal dated ______, Circular No. 23/03, 24/03-Legal dated 14.08.03 as the case may be and as amended from time to time (copy enclosed).

2. Food Corporation of India will utilize your services in the field of your expertise before the Courts you ordinarily and regularly practice.

3. Your acceptance to the above terms of empanelment may please be conveyed for our records.

4. Food Corporation of India is looking forward to a meaningful association with you.

5. Food Corporation of India reserves the right to terminate the empanelment at any time, without assigning any reasons.

(Name of the Advocate)
Address

Distribution:

1. (As per requirement)

GENERAL MANAGER
PERFORMANCE REPORT OF ADVOCATES

Annual performance report for the period__________________

1. Name of the Advocate

2. Whether Empanelled for
   Supreme Court/High court/District Court

3. Date of empanelment

4. Whether the Advocate advises effectively
   as to the steps to be taken by the Corporation
   before/during the course of litigation and
   devotes sufficient time to discuss the case

5. Whether the Advocate is prompt in his
   Correspondence with the Corporation

6. Whether his relations with Corporation staff
   Cordial

7. No. of cases entrusted to the Advocate during
   the year

8. No. of cases won

9. No. of cases lost

10. No. of cases pending

11. Nature of cases handled

12. Field of expertise

13. Whether maintaining good relations with the
    Bench and the Bar

14. Library facility

15. Any other relevant information

16. The views/comments of the concerned Litigation Cell

Reporting Officer