

CHAPTER 19

CORRESPONDENCE

PART A—GENERAL DIRECTIONS

1. All communications to and correspondence with the High Court should be in English, and should be addressed to the *Registrar of the Punjab High Court* at Chandigarh.

Correspondence
with High Court.

2. The Orders contained in Punjab Government Consolidated Circular No. 5 regarding the routine and procedure to be observed in the submission of correspondence, should be carefully observed by all officers of the Judicial Department. The directions relating to correspondence with the Punjab Civil Secretariat are to be followed, *mutatis mutandis*, in corresponding with the High Court. Judicial officers are not allowed to correspond direct with the Judges on matters affecting leave, transfer, etc. or other such official questions.

Ditto

3. (a) Every letter should have at the commencement its number, the name (when possible) as well as the office of both the writer and the officer addressed, and the place from which it is written, and its date. This rule applies as well to copies as to original documents.

Letters.

(b) Every letter should refer to the last preceding letter, if any, on the subject and also give, either as a heading or on the margin, a brief description of the subject; the subject in respect of a judicial case pertaining to the court which is being addressed, will be the title of the case (i.e. the class, number and year of the case and the parties' names). This will also be done when reminders are issued to facilitate the quick tracing of cases.

(c) Rule 2.42 of the Punjab Financial Rules Volume 1, enjoins that all references by Government servants on personal matters, such as, leave, leave salary, pay

Use of service stamps
for personal reference
not allowed.

increments, funds, subscriptions, house-rent, postings etc., must be submitted in covers stamped with ordinary postage stamps and not with service postage stamps. When, however, references are forwarded officially by a superior Officer the letter should be treated like any other official communication.

Representations by Government servants for settlement of claims etc.

(d) In cases of complaints of delays and unnecessary cuts by Accountant-General Punjab, Income Tax Department, P.W.D. and other Government offices, Government servants are at liberty to make a representation to the higher executive authorities of their departments for expeditious settlement of their claim and seeking redress of their legitimate grievances.

(Punjab Government letter No. 2013-P-56/55959, dated the 7th July, 1956).

Margin size and filing.

4. Correspondence should ordinarily be conducted on the $\frac{3}{4}$ margin system. The docket size should ordinarily be used. For the filing of correspondence the *flat file* system will be found to be the most convenient (the size of a halfsheet of foolscap).

Loss or damage.

5. A report should be made to the High Court through the District and Sessions Judge whenever any judicial records or file or correspondence is found to have been seriously damaged, tampered with, destroyed lost or mislaid. Every effort should be made to replace missing or damaged papers from all available sources.

^[1]5-A. Every report under Rule 5 should be registered in a separate register giving all the essential details as may be prescribed. When a report has been made to the High Court, the Court concerned should send quarterly reports of the efforts that have been undertaken to replace missing or damaged papers from all available sources.

[1] Inserted vide Correction Slip No. 143 Rules/II.D.4 dated 18.9.2007

The instructions have been issued by the High Court vide Letter No. 24066 Rules/XX.C.1 dated 13.07.2011 for preventing loss of record in Subordinate Courts. The relevant portion of the same is given below:-

“ I am directed to refer you on the subject cited above and to inform you that the matter regarding loss of judicial records in Courts has been engaging the attention of Hon’ble the Chief Justice and Judges of this Court. With a view to curb the growing number of cases of loss of judicial record, it has been decided to issue fresh instructions which should be followed in the matter in supersession of earlier instructions issued on this subject.

PREPARATION OF RECORD

1. The Rules contained in Chapter 16-A to D of High Court Rules and Orders Volume IV should be strictly followed by the officials as well as the Presiding Officers. It is laxity in the enforcement of the Rules and instructions relating to the preparation, maintenance, inspection and custody of records that leads to the loss of documents. It must, therefore, be ensured that all concerned acquaint themselves with these rules/instructions and strictly comply with the same.

2. It is further directed to invite a reference to Rule 6(g) in Part-A of Chapter 16 of Volume IV of the Punjab and Haryana High Court Rules and Orders which provides that every page (not sheet) should be consecutively numbered and also Rule 2 in Part A-II of Chapter 16 ibid which, inter alia, requires that each paper should be indexed on the day on which it is admitted by the official in charge. Further, Rules 10 and 11 of Chapter 1-C of Volume IV of the Punjab and Haryana High Court Rules and Orders, read with Part IV of Chapter 2-B of Volume IV, ibid, enjoin upon all the Presiding Officers of Subordinate Courts to ensure that the aforementioned instructions regarding the paging and indexing of papers in judicial records are strictly observed.

3. It has come to the notice of the Hon'ble the Chief Justice and Judges that proper care is not taken by some of the Presiding Officers in admitting documents filed by the parties in evidence as required by Order XIII, Rule 4 of the Code of Civil Procedure, which enjoins that every document must be endorsed and signed or initialed by the Judge in the manner required therein and also assigned an Exhibit mark. Apart from the admission of documents in evidence, documents which are not admitted in evidence must similarly be endorsed, before their return, with the particulars specified in Order XIII, Rule 6 C.P.C. together with a statement of their being rejected. Such endorsement be signed or initialed by the Judge. Documents which are admitted in evidence should be placed in strong covers, one used for documents produced by the plaintiff and the other for those produced by the defendant.

4. If any of the party desires or the Court considers necessary, documents, which form basis of a suit or a proceedings, should be kept in safe custody and in a sealed cover.

5. The indices of all the papers in the judicial record must be maintained properly and the documents filed from time to time entered therein without any delay.

6. Where a document is produced in the course of the hearing of a case, it shall be the duty of the Reader either to enter the same himself or to have it entered by the Ahlmad in his presence in the index before sending back the record to the Ahlmad.

PRESERVANCE AND MAINTENANCE OF RECORD

7. Judicial Officers in the District/Division working under your control should ensure that the Subordinate Staff does not take any judicial record outside the Court premises, without prior written permission of the Presiding Officer. The Ahlmad should ensure that all the files are kept in almirah (s), except those fixed for the day or which are being

inspected or in which compliance of some orders, including issue of processes, is to be made.

Strict instructions be issued to staff of subordinate Courts that no one should remove in future any judicial record from the courts without the prior express permission to be granted only sparingly of the Presiding Officer in writing specifying the purpose for which the file(s) is/ are required failing which the official(s) concerned shall render himself/ themselves liable to the disciplinary action which may even amount to dismissal.

8. Each Reader should be provided with one or more almirah(s) depending upon the number of files which are fixed on an average, per day, in the concerned Court so that no file is kept in open on the dais of the Court or at some other place.

9. When the judicial record comes to the Reader in connection with the hearing of a case, it shall be his duty to ensure that the Rules and instructions of this Court are being followed in the maintenance thereof. In case he finds any defect in compliance with the Rules, he shall forthwith bring it to the notice of the Presiding Officer to enable him to issue necessary instructions to the Ahlmad to remove the defects and ensure compliance in this behalf.

10. In order to avoid any possibility of loss, misplacement or tampering with the valuable documents such as Will / Pronote / Cheques, etc. following steps are required to be taken at the very first stage when these are produced:-

- i) Such document shall be shown in red ink in the index;
- ii) The party producing such document must furnish a strong cloth-lined cover for keeping each such document at the time when it is produced, along with a Photostat copy of the document. The cloth-lined cover containing such document should be sealed.

11. The Ahlmad of the Court shall be responsible for the safe custody of records. If he finds any record or part thereof misplaced or lost, he shall at once report in writing to the Presiding Officer, who shall, in addition to the action to be taken by him, order immediate reconstruction of the same.

12. If it comes to the notice of any official that any paper/document from any judicial record is missing, it shall be his duty to bring it to the notice of the Presiding Officer immediately.

13. It has come to the notice of this Court that judicial records are not properly maintained and a large number of loose papers including interlocutory orders, pleadings, statements of witnesses and un-serialized documents are kept in strong covers which are designated as 'Chitha' for which there is no warrant in the rules, with the result that the cases of loss of records are increasing day by day. Practice of keeping loose papers including interlocutory orders, pleadings etc. in the Chitha, should be discontinued forthwith.

INSPECTION OF RECORD

14. The instructions regarding the inspection of records should be strictly followed. The Ahlmad should permit inspection only in his presence or that of the Inspection Clerk, if any.

15. It should be ensured that inspection is carried out by counsel, clerk accompanied by counsel, and if a party is not represented by counsel, the party or its duly appointed Special/General Attorney.

16. Sealed documents should be inspected after obtaining specific written permission of the Presiding Officer, for the purpose. After inspection is over, Ahlmad should

ensure that the documents are put back in the cover meant for the purpose and are sealed again. The Ahlmad should satisfy himself that there has been no tampering with the record or loss of any paper.

SUPERVISION BY OFFICE OF DISTRICT JUDGE & PRESIDING OFFICERS

17. The importance of careful supervision of registers and pending case files by the Presiding Officers can hardly be exaggerated. Superintendent Grade-I and Superintendent Grade-II have been provided in the Sessions Courts. Superintendent Grade-II should be deputed to look into the indexing of cases of each Court on monthly basis and submit report. He shall inspect the registers and the work of the ministerial staff. He shall also scrutinize the pending files and report, if any loss has occurred.

18. Each Presiding Officer should inspect his Court frequently so as to satisfy himself about the compliance of instructions regarding maintenance of files and he should send a report in this regard in duplicate to the District and Sessions Judge.

19. A certificate to the effect that no paper/document from any judicial record was found or reported missing should be forwarded by each Presiding Officer along with the monthly statement. Whenever any paper/document is found missing/tampered with, the name and designation of the official in whose custody it was, should be reported by the Presiding Officer to the District and Sessions Judge, for taking further necessary action in accordance with the Rules.

20. The Presiding Officer should ensure that the files of decided cases are consigned to the record room within the time prescribed.

RECONSTRUCTION

21. Whenever a report regarding loss/damage of the judicial record/document is received, it be entered in a register maintained for the purpose. Proforma of the register shall be as per the annexed format **Annexure 'B'**. Thereafter notice be issued to parties to the proceedings and their Advocates, requiring them to furnish copies of the lost/damaged record, if the same are in their possession.

22. Officers should make prompt and sincere efforts to get the record reconstructed from all available sources/resources and fix the responsibility of the officials at fault within a fixed time frame, i.e. within 6 months and in case the lost/damaged documents are not reconstructed within fixed time limit, the reasons for non-reconstruction thereof should be intimated to this Court.

23. Quarterly progress of all the cases where documents have been lost or damaged should be sent to this Court in a consolidated form in the prescribed proforma enclosed as **Annexure 'C'** specifically indicating the changes occurred during the course of the last quarter.

24. It is a matter of experience that some of the Officers are not paying proper attention towards reconstruction of lost/damaged judicial record and years are taken for completion of the process of reconstruction and for fixation of the responsibility of the defaulting officials. Thereafter, reports are received that it is not possible to reconstruct the documents.

There can be no case where reconstruction of the document to some extent is not possible. It seems that officers are not properly aware about the process of reconstruction of the documents, so the files are kept pending for reconstruction proceedings for years together. The process of reconstruction of the documents can be speeded up by following a set procedure for reconstruction of the documents.

PROCEDURE FOR RECONSTRUCTION OF DOCUMENTS

25. Loss report will be entered in register maintained for the purpose and notice be issued to parties to the proceedings and their Advocates to furnish copies of lost or damaged record, if the same are in their possession. On the stipulated date, their statement(s) should be recorded and copies of the lost/damaged record be got produced from the parties/counsel. Opposite Party/Parties or his/their counsel should verify the correctness of the record produced by the other party, so that the same be not disputed at later stage of proceedings. If parties/counsel fail to produce copies of the lost/damaged record due to non availability of copy or for any other reason, efforts should be made to reconstruct the lost/damaged record with the help of other record, which may include :

- (a) In case the lost/damaged record is a statement recorded in the Court or order/judgment of the Court, then a copy of the same can be taken out from the hard-disk of the Computer used by Judgment Writer/Steno or from his shorthand copy.
- (b) Peshi Register
- (c) Disposal Register
- (d) Cause Lists
- (e) Record maintained by copyist
- (f) Record of Higher Courts or any other Court or Forum, where copies of record have been filed.
- (g) If record is a statement and double record is maintained, then from that record.
- (h) Statements can be reconstructed by summoning witnesses again.
- (i) If record is a copy of some public record, then by getting copy from original or copy of public record.
- (j) In case record relates to some other institution such as private banks, company, society etc., then from the record of that institution.

(k) If copies of record have been filed by the parties before other authorities e.g. in case of complaints etc. before Higher Courts, Human Rights Commission, CBI and other authorities, then from that record.

(l) History Sheets of the cases prepared for submission to the Higher Authorities.

FIXATION OF RESPONSIBILITY.

26. As per Rule 1 of Part D, Chapter 16 of High Court Rules and Orders Volume IV, Ahlmad is prima facie responsible for safe custody of the records. Once it is established that record is lost, then prima facie, Ahlmad is responsible for the loss of record. It is the duty of the Ahlmad to account for the record as he is the custodian of the record. If Ahlmad prima facie proves that the record in question was sent to Reader of the Court or to the copying agency/Inspection Clerk and soon after the receipt of the record from Reader/Copyist/Inspection Clerk, he reports the loss of the documents then the role of Reader, Copyist or Inspection Clerk can be, prima facie, inquired into and responsibility of the defaulting officials can be fixed.

27. Whenever any Ahlmad or custodian of record is transferred from office permanently or proceeds on leave for a period of two months or more, he shall make over full and complete charge of record in his custody to the official relieving him by following the procedure prescribed in Rule 3 of Part-D, Chapter 16 of High Court Rules and Orders Volume IV.

28. If any document or part of the record is subsequently found to be missing, the Presiding Officer of the Court shall fix responsibility of the custodian, if the document was on the index, or on the official whom the custodian relieved, if it was not on the index.

29. All the Presiding Officers should keep a strict vigil over the staff working under them. Whenever responsibility of

an official is fixed with regard to loss of any document, strict action should be taken against the official at fault. The punishment inflicted upon the Delinquent official should be commensurate with the quantum, nature and importance of lost record.

30. A copy of the above instructions be given to all the Presiding Officers and the officials responsible for maintenance and custody of the record for facility of reference.

Annexure 'C'

Sr.No.	Case and Category	Loss reported to this Court on	Nature of Lost record/ document	Whether loss is in a pending or decided case, if pending at what stage?	Whether the lost record reconstructed or not, if not why?	Whether Enquiry against delinquent official is completed or not	Delinquent official punished/ retired/ died
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Chalan.

6. (i) When several papers or records are transmitted under one cover, a list or invoice (*chalan*) in duplicate, should accompany the parcel. In the case of judicial records each of which has an index to the papers contained in it, the files only need be entered in the chalan but in this chalan the No. and date of the requisition and the class and No. of the case in the Court by which each record is requisitioned, must be given for the convenience of that Court which may not otherwise know the purpose for which the records have been transmitted.

Verification of chalan.

(ii) The receiving officer should, on receipt, verify the list or invoice with the papers received and return one copy thereof after entering the date of receipt thereon and signing it. If any paper or record entered in the list of invoice has not come to hand, the fact should be noted on each copy of the list or invoice and the despatching office informed of the fact by letter also, as soon as possible.

Checking of judicial records, received with chalan.

(iii) In the case of judicial records the receiving officer will, after despatching a copy of the list or invoice, subject each record to examination in order to satisfy himself that the papers thereon correspond with those entered in the index; that the papers are not in a seriously damaged state; and that the Court-fees are complete and in good condition. If any document or court-fee is missing or damaged, or appears to have been tampered with, intimation of the fact, should be sent, as soon as possible, to the office of despatch. Unless objection is taken within one week of receipt, responsibility will ordinarily be taken to have been transferred to the receiving office. (See also Chapter 16, "Records", Part B, regarding the transmission of Judicial Records).

Destruction of correspondence.

7. The destruction of judicial records is governed by the rules in that behalf contained in Chapter 16 "Records" part F. As regards ordinary official correspondence, routine, and ephemeral correspondence may be destroyed after one year, under the supervision of the head of the office, a note in red ink (under the signature of the head of the office) being made of the fact in the column of remarks of the register.

8. All High Court Circulars should be placed, as received, on a file. All correction slips relating to the Rules and Orders should be duly noted and the Volumes kept up-to-date.

High Court
Circulars and
correction slips
to Rules and
orders.

9. Special directions regarding judicial communications intended for places outside India will be found in High Court Rules and Orders, Volume I, Chapter 10, Volume III, Chapter 9-C, and 16 and Vol. IV, Chapter 7-F and 8-C.

Correspondence
with places
abroad.

10. Further instructions regarding compliance with the precepts of the High Court will be found in Chapter 20.

Precepts of High
Court.

11. Instructions regarding the submission of building references will be found in Chapter 22, "Judicial Buildings", and with regard to submission of the annual budget in Chapter 21, 'Budget'. Attention is also drawn to Chapter 7-C, paragraph 4 and Chapter 7-E, paragraph 8 on the subject of correspondence.

Other references.

12. All letters received from mercantile bodies, firms private individuals, etc., not under Government, should be replied to unless they are in reply to communications from the High Court or office itself and call for no further action. If there is likely to be any delay in disposing of such letters, an *ad-interim* acknowledgement should be sent as soon as possible. The acknowledgement should ordinarily issue in the form below.

I ----- am directed
have the honour to acknowledge the receipt of your
letter No. ----- dated the

A reply will follow. I

(Punjab Government letter No. 3937 P.G.41/58974,
dated 12th November, 1941).