

POWERS AND DUTIES OF OFFICERS AND OFFICIALS:**OFFICERS:****1. Director of Prosecution:**

The State Government has appointed Director of Prosecution as per provisions of Section 25-A of the Criminal Procedure Code with the concurrence of Hon'ble Chief Justice of H.P. High Court. The Director of Prosecution performs statutory functions as notified by the State Government as per notification under Sub Section (7) of Section 25-A of the Code of Criminal Procedure (Act No.2 of 1974) vide Notification No. Home (Prosecution) B (14)-2/04 dated 12.1.2007, which are reproduced as under:-

- (i) Director (Prosecution) shall be the Head of the prosecution agency of the State and exercise the control over Prosecution Department in the matters relating to planning, budgeting, human resource management and infrastructure management.
- (ii) He shall advise the Home Department on all the matters relating to prosecution of offences
- (iii) He shall effectively coordinate with the Police Department to ensure adequate synergy between investigation and prosecution.
- (iv) He shall be the Head of the Prosecution Department, while exercising the financial powers under the Himachal Pradesh Financial Rules.
- (v) He shall be the Appointing and Disciplinary Authority under the provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965 and Central Civil Services Conduct Rules, 1964 in respect of Class III and IV employees of the Prosecution Department.
- (vi) He shall be the reviewing authority in the case of Class-I (Gazetted Officers) and Accepting authority in the case of Class III employees posted in the Prosecution Department for the purpose of Annual Confidential Reports.
- (vii) He cause to be rendered, necessary guidance, advice and clarifications to all the prosecuting officers of the Department from time to time in relation to legal, financial and service matters in accordance with the orders & instructions issued by the Government from time to time.
- (viii) He shall cause the conduct of inspections of the subordinate offices of the Prosecution Department in the State from time to time and issue necessary guidelines to the officers and officials, as deemed necessary.
- (ix) He shall generally supervise the working of Directorate of Prosecution and shall perform such other functions in relation to the Directorate of Prosecution as may be assigned by Government from time to time.

2. Joint Directors (Prosecution) :

In the Prosecution Department, 3 posts of Joint Director of Prosecution are sanctioned, out of which one post of Joint Director of Prosecution is in North Zone, Dharamshala and 2 Joint Director of

Prosecution are working in the Directorate of Prosecution, Hqrs to aid and assist the Director of Prosecution in the day today functioning of the Department The Joint Directors (Prosecution) have been designated as Prosecutors vide Government notification dt. 28.8.1988 who are also required to conduct trial and appear in the courts with in the State of Himachal Pradesh in important cases as and when ordered by the State Government/Director of Prosecution. The organizational chart of the department is given above at page-2 of the report. However, the work assigned to amongst the Joint Directors is as under:

I. Joint Director (Prosecution, NZ, Dharamshala:

- i) Controlling Officer of all the Law Officers and their subordinate staff pertaining to Districts Chamba, Una, Kangra and Hamirpur.
- ii) To lookafter the work both Civil and Criminal etc. pertaining to the offices of DAs/ADAs and APPs of the districts mentioned in para-1.
- iii) To supervise the functioning of the law officers/ministerial staff working under his control as above and shall also be responsible for its smooth and efficient working.
- iv) To inspect the subordinate offices as per directions of the Director of Prosecution.
- v) To render the opinion on files referred to him by the Incharge of the District Prosecution Agency.
- vi) Any other work is entrusted to him from time to time by the Director of Prosecution from time to time.

II. Joint Director (Prosecution)-I Hqrs., Shimla:

- i) To look after the entire litigation work both civil & criminal including monthly diaries, counsel fee bills etc. at the Directorate Hqrs., Shimla-9.
- ii) To inspect the subordinate offices as per directions and approval of Director of Prosecution.
- iii) To tender opinion on the matters marked by the Director of Prosecution and any other legal matter i.e. including enactment/amendments of any Act and Rules.
- iv) Supervision of the work relating to Litigation Cell, Directorate of Prosecution.
- v) Subject regarding Right to Information Act, 2005.

III. Joint Director (Prosecution)-II Hqrs., Shimla:

- i) Controlling Officer of the establishment of Directorate of Prosecution, Hqrs, Shimla-9.
- ii) Budget & Accounts, Audit Paras, maintenance of Stores & Stationery and Library.
- iii) To supervise the functioning of the Law officers and ministerial staff.
- iv) Any other work including inspection of subordinate Offices as entrusted by the Director of Prosecution.
- v) Controlling Officer of the maintenance of vehicles.

3. District Attorneys:

The District Attorney while functioning as Public Prosecutor and Government Pleader shall work as under:-

- a) The District Attorney shall be the In-charge of the district prosecution agency and is responsible for ensuring conduct of State cases civil, revenue, criminal and other miscellaneous matters through-out the District including motor vehicle/labour/consumer matters.
- b) He shall tender opinion on legal matters at district level when called upon by the District Magistrate or directed by the Director or Joint Director (Prosecution).
- c) He shall facilitate scrutiny of challans in criminal cases by Law Officers/Prosecutors subject to general directions of the Director of Prosecution.
- d) He shall cause the preparation of grounds of appeal in civil/criminal matters etc. after examining all cases of acquittal/inadequate sentence passed at Sessions level or in other cases where appeal is to be filed in the High Court.
- e) He shall also perform any other duty assigned by the Director of Prosecution.
- f) He shall further communicate all the instructions issued by the Director of Prosecution/ State Government to all the Law Officers posted under his control.
- g) The District Attorney is the controlling officer of all the Law Officers and the Ministerial staff of his District. The District Attorney is the competent authority for sanctioning earned leave up to one month to the ministerial staff and sanctions casual leave of Deputy District Attorneys, Dy.Dist.Attorneys(FTC) and Assistant District Attorneys in the District. The Superintendent of Police is the Controlling Officers of the Law Officers posted in their respective offices.
- h) The District Attorney is also required to review and supervise the working of Deputy District Attorneys, Additional District Attorneys and Assistant District Attorneys.
- i) The District Attorney gives guidance to Law Officers posted in the Superintendent of Police offices for making them effective Legal Advisors to the said offices.
- j) Quarterly meetings of all the Prosecutors posted in the District use to be called in the District headquarter by the District Attorney and date of such meeting is fixed in advance for the current year so that no case is fixed for hearing on those days and Presence of all prosecutors should to be ensured. Agenda of such meeting shall be finalized in advance. Endeavour is made in the quarterly meetings to apprise the Prosecutors about new developments regarding important legal issues/judgments/laws etc. and serious prosecution deficiencies noticed recently and remedial action for the future etc. Record of such meeting is being maintained and communicated to the Director of Prosecution.

Apart from the District Attorneys in the Districts, there is one post of District Attorney (Forest) who conducts the Forest cases under the Indian Forest Act, Forest (Conservation) Act or Wild Life (Protection) Act before the Special Judge (Forest) Himachal Pradesh. There is one post of District Attorney (Revenue), who conducts the revenue cases in the courts of Financial Commissioner (Appeals), Divisional Commissioners and Settlement Commissioner and before the State Consumer Disputes Redressal Commission, District Consumer Disputes Redressal Forum. The State Government has created a post of District Attorney at Delhi to keep liaison with the Advocates-on-Record/Additional Advocate General in pending litigation by or against the State of Himachal Pradesh before the Hon'ble Supreme Court, Central Administrative Tribunal, National Human Rights Commission etc.

4. Deputy District Attorneys:

- a) The Government of Himachal Pradesh vide Notification No. LLR-B (1A)-2/89 dt. 18th February, 1994 has notified all the Deputy District Attorneys of Prosecution Department as Public Prosecutors for conducting prosecution in the State of Himachal Pradesh under the provisions of the Code of Criminal Procedure.
- b) The Deputy District Attorneys shall draft plaints/written statements/replies and affidavits in cases relating to their court and in matters assigned to them by the District Attorney.
- c) The Deputy District Attorneys will generally conduct civil, criminal, revenue and other miscellaneous work in the courts of Additional District & Sessions Judge. They will also look after the work which is assigned to them by the District Attorney and during the leave period of District Attorney, they will attend to court work of District & Sessions Judge and other administrative and miscellaneous work in addition to their own duties as may have been assigned by the District Attorney. They are also to examine decided cases relating to their court on the receipt of certified copies and submit proposals of appeals/revisions etc. to the District Attorney.
- d) The Deputy District Attorneys are also to conduct scrutiny of police challans in respect of their court and such other challans as may be assigned to them by the District Attorney. As in the case of District Attorney, in cases of serious crime where the Law Officer of SP office has scrutinized the challan at an earlier stage, they will verify that the observations of the Law Officer on the scrutiny memo have been complied with by the Investigating Agency.
- e) They will also render legal opinion on different matters and submit their opinion to the District Attorney concerned whenever asked in a case.

5. Assistant District Attorneys:

Assistant District Attorneys at District Headquarters function as Assistant Public Prosecutors/ Government Pleaders and work under the overall control and supervision of the District Attorney in the district, and conduct cases in the courts of Chief Judicial Magistrates and other Judicial Magistrates as per

work allocation or as per directions of the District Attorney from time to time. They also examine judgments of acquittals, discharge and cases of inadequate sentence and submit their opinion/reports to the District Attorney for taking further action. An Assistant District Attorney at District Headquarters may be asked by the District Attorney to conduct government cases in revenue/executive courts of Deputy Commissioner/Additional Deputy Commissioner/Additional District Magistrate and take further steps for appeals/revision in decided cases. They will, in respect of the criminal Court to which they are assigned, scrutinize the challans on the scrutiny memo format before the challan is put in the court. Scrutiny of the police challans relating to their court or as marked to them by the District Attorney before its submission to the concerned courts will also be carried out by them and they shall also look after the additional work, which is assigned by the District Attorney. They shall draft complaints/written statements/replies and affidavits relating to their court and matters assigned to them by the District Attorney. The Assistant District Attorney is the Officer in charge of the Prosecution Department at Sub-divisional level and while exercising the powers of Drawing and Disbursing Officer, he also looks after the establishment and accounts matters.

6. Superintendent Grade-I (Gazetted Class I):

There is 1 post of Superintendent Grade-I in the Directorate of Prosecution, Headquarters, who shall be responsible for overall supervision of the working of Ministerial Staff posted in the Directorate of Prosecution, Headquarters.

MINISTERIAL STAFF (OFFICIALS):**7. Superintendent Grade-II:**

There is 1 post of Superintendent Grade-II in the Directorate of Prosecution, Headquarters, who deals with the establishment of Class-I Gazetted Officers of the Department.

8. Personal Assistant:

The Personal Assistant is required to assist the Director of Prosecution in his day-to-day working.

9. Senior Assistants:

There are 18 posts of Senior Assistants in the Department. At the Directorate level, the Senior Assistants work as Dealing Hand in various branches as Litigation/Establishment/ Accounts/ Budget (Finance)/ vehicles. At the District level, the Senior Assistants are required to deal with the establishment/ budget/ correspondence/Service Books etc. of the concerned District.

10. Junior Scale Stenographer/Steno-typists :

There are 14 posts of Junior Scale Stenographers and 3 posts of Steno-typists in the Department. The District Attorneys in the Districts have been provided with Junior Scale Stenographers, who are required to take dictation from the officers and attend to the phone calls as well as personal management of said officers.

11. Junior Assistant/Clerks:

There are 93 posts of Junior Assistants and Clerks in the Department. The Junior Assistants/Clerks posted in Directorate, District and Sub-divisional level are assigned various duties like dealing and maintenance of office records including case files, Diary & Dispatch, preparation of bills, cash work, service records of the officials and miscellaneous registers pertaining to office working.

12. Peons:

There are 101 posts of various categories of Class IV employees including Peons, Chowkidars and Sweeper in the Department.