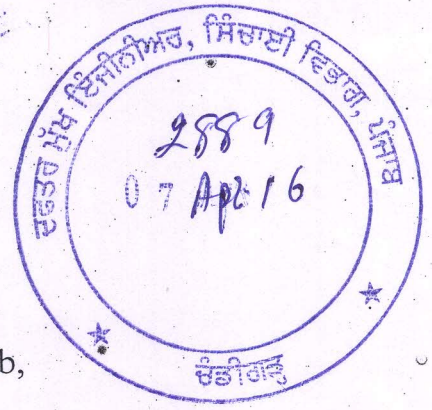


ਕੰਪਿਊਟਰ ਮੈਲ ਸਿੱਚਾਈ ਵਿਭਾਗ ਪੰਜਾਬ
ਚੰਡੀਗੜ੍ਹ
ਡਾਇਰੀ ਨੰ. 876/CC ਮਿਤੀ 8/4/16



From

Director Prosecution and Litigation
and Additional Secretary to Govt., Punjab,
Chandigarh.

To

1. All the Joint Director Prosecution & Litigation in the State of Punjab.
2. All the District Attorneys in the State of Punjab.
3. All the Deputy District Attorneys (Legal Advisory Agency) and Deputy District Attorneys (Administration).

Memo No.7AD-10(27)16/ 1572- 1632
Dated, Chandigarh the 8/3/16

Subject:- Tendering of legal opinion.

Reference on the subject cited above.

In Alexander Machinery (Dudley) Ltd. Vs. Crabtree (1974)

ICR 120 (NRC) relied upon by the Hon'ble Supreme Court in State of Rajasthan Vs. Rohitas & others 2008(2) All India Criminal Reporter (Supreme Court) 311, it was observed, "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why

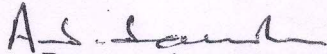
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the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See Raj Kishore Jha v. State of Bihar and Ors. (2003 (7) Supreme 152).

It has been seen that while tendering legal opinion, reason on the basis of which conclusion is arrived at, is usually not mentioned by the law officers. It is often opined that from the facts and circumstances of the case, prima-facie offence/offences under particular section/sections is/are made out. Neither the facts and circumstances are properly delineated nor it is disclosed upon what basis a particular finding is recorded. The opinion is often not supported by the judicial pronouncements. In these circumstances, it becomes very difficult for the competent authority to adjudge the validity of the opinion. It is, therefore, desirable that, to introduce clarity, every legal opinion should contain reason sufficient to indicate an application of mind by the Law Officer.

These instructions be complied with in letter and spirit and may be brought to the notice of all Deputy District Attorneys and Assistant District Attorneys working under you for strict compliance.


Director Prosecution & Litigation
and Additional Secy. to Govt., Punjab.

Endst.No. 7AD-10(27)16/ 1633-1733

Dated: 8/3/16

A copy is forwarded to all the Additional Chief Secretaries/
Financial Commissioners/Principal Secretaries/ Administrative
Secretaries to the Government of Punjab for information.

A. C. Sandhu

Director Prosecution & Litigation
and Additional Secy. to Govt., Punjab. *AK 4/3/16*

Endst.No. 7AD-10(27)16/ 1734-1834

Dated: 8/3/16

A copy is forwarded to the following for information:-

1. All the Heads of Departments in the State of Punjab.
2. All the District Magistrates in the State of Punjab.
3. All the Commissioners of Police/Senior Superintendents of
Police in the State of Punjab

A. C. Sandhu

Director Prosecution & Litigation
and Additional Secy. to Govt., Punjab. *AK 4/3/16*