प्रत्यय अमृत, भा.प्र.से.
मुख्य सचिव
PRATYAYA AMRIT, I.A.S.
Chief Secretary

बिहार सरकार

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पत्रांक –3/एम०–44/2019सा0प्र0.20383/ **पटना, दिनांक: 05.11.2026**

सेवा में,

विकास आयुक्त
पुलिस महानिदेशक
सभी विभाग
सभी विभागाध्यक्ष
सभी जिला पदाधिकारी
सभी पुलिस अधीक्षक

विषय– प्रतिशपथ–पत्र (Counter Affidavit) दायर हेतु त्रुटि रहित एवं स्पष्ट तथ्य विवरणी तैयार करने के संबंध में।

प्रसंगः– महाधिवक्ता का कार्यालय का पत्रांक–247 दिनांक–05.10.2026

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि विद्वान महाधिवक्ता के पत्रांक–247 दिनांक–05.10.2026 (छायाप्रति संलग्न) द्वारा अवगत कराया गया है कि कई मामलों में विद्वान महाधिवक्ता के कार्यालय को विधि पदाधिकारियों और उच्च न्यायालय, पटना के माननीय न्यायाधीशों से शिकायतें प्राप्त हो रही है कि प्रतिवादियों द्वारा अनुचित, अपूर्ण और बिना जाँचे परखे प्रतिशपथ–पत्र दायर किये जा रहे हैं। विधि पदाधिकारियों पर संबंधित जिला पदाधिकारी या पुलिस अधीक्षक द्वारा उल्लिखित तथ्यों के अनुसार ही प्रतिशपथ–पत्र दायर किये जाने का दबाव डाला जा रहा है तथा उन्हें प्रतिशपथ–पत्र दायर करने से पहले उसकी जाँच करने का उचित समय भी नहीं दिया जा रहा है।

साथ ही प्रतिवादी विभागों/कार्यालयों द्वारा तथ्य विवरणी ससमय उपलब्ध नहीं कराया जा रहा है जिसके कारण प्रतिशपथ–पत्र दायर करने से पूर्व तथ्यों की जाँच उचित ढंग से नहीं हो पा रही है। फलस्वरूप न्यायालय में एक असहज स्थिति उत्पन्न हो जाती है और कई मामलों में माननीय न्यायालय द्वारा प्रतिकूल रूख भी अपनाया जाता है।

2. अतः निदेश दिया जाता है कि सभी प्रतिवादी विभागों द्वारा यह सुनिश्चित किया जाय कि राज्य सरकार की ओर से विषयगत मामले में प्रतिशपथ पत्र/कारण–पृच्छा को विभागीय समीक्षा के उपरान्त माननीय उच्च न्यायालय, पटना में निर्धारित समय–सीमा से कम–से–कम 02 से 03 दिन पहले संबंधित विधि पदाधिकारी (Law Officer) को उपलब्ध करा दिया जाय। ताकि विधि पदाधिकारी (Law Officer) द्वारा बिन्दुवार समीक्षा कर माननीय उच्च न्यायालय में सरकार का पक्ष स्पष्ट रूप से रखा जा सके।

विश्वासभाजन,

(प्रत्यय अमृत)

(5) Letter No. 247 /Patna **Mail** Dated 05/10/26

Office of the Advocate General, Bihar
High Court, Patna

E-6376863

To,

1. The Chief Secretary, Bihar
2. The Secretary, General Administration Department, Bihar
3. The Director General of Police, Bihar

Sub:-Proper filing of improper and incomplete counter affidavit without vetting from the concerned Law Officers of the State of Bihar in Patna High Court.

Sirs,

I have been directed by the learned Advocate General to bring to your kind notice that in number of cases the office of the learned Advocate General is receiving complaints from the Law Officers and also from the Hon'ble Judges of the Patna High Court that improper, incomplete and un-vetted counter affidavits are being filed or the Law Officers are being pressurized to file affidavit only as per the facts mentioned by the concerned District Magistrate or the Superintendent of Police from the districts and the Law Officers are not allowed to even vet the counter affidavit before filing of the same. Further, the complaint is also that the affidavit is sent on the date on which the case is fixed and known to the authorities in much advance still the affidavit is comes on the last moment. Further, since the Law Officers are not provided in advance the opportunity to see the facts stated in the affidavit but the same is being filed.

When the case is taken up, the Law Officers are scolded by the Court as what type of affidavit has been filed as it does not contain the relevant fact or answer to the query made by the Court or the answer to the statement/allegation made in the writ petition. It causes lots of inconvenience to the Law Officers in defending the stand of the government and it creates unpleasant situation in the Court and therefore on number of occasions the Court take adverse view.

In this view of the matter, I have been directed to say that henceforth the statement of fact must be provided to the concerned Law Officer at least 2 to 3 days in advance before the fixed date in the case to enable the Law Officers to read the statement of fact properly and also to

provide his input and also to vet the statement of fact or to incorporate those relevant facts which are expected to be put on record in the counter affidavit. It is not correct to say that since the D.M. and SPs or the Senior Officers have vetted this statement of fact, therefore it can't be changed. It may also be noted that the Law Officer has full liberty to correct the facts or incorporate proper facts and response to the averments made in the writ petition in its proper perspective to effectively defend the stand of the State as also the officials of the State, otherwise it will be very difficult for them to defend the stand of the State. It is expected from the officers of the district as also the State to understand that the duty of the Law Officers is to defend the stand of the State and therefore no counter affidavit should be filed without vetting by the concerned Law Officer. If the Law Officers are pressurized not to make any change by the authorities or even to incorporate the legal issue then there is always the risk of inviting adverse order from the court or adverse action by the Court.

It has been requested to the Chief Secretary and the DGP to please issue circular letter across the Departments and officials and also to the District Magistrate, SPs and other In-charge of the concerned offices.

This is for your information and necessary action.

Thanking you

Akash Deep
05/10/2026

(AKASH DEEP)
P.S. to Ld. A.G