



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 26463 of 2026

Neetu Agarwal & Another

.....Petitioner(s)

Versus

State of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Akash Mani Tripathi, Rituvendra Singh Nagvanshi, Sr. Advocate
Counsel for Respondent(s)	: C.S.C.

Court No. - 38

HON'BLE VINOD DIWAKAR, J.

1. Parting with the issue raised in the present petition, this Court is constrained to notice a matter connected with the functioning of the Court itself. It has therefore become necessary to recapitulate a few facts, so as to address the issue and to bring uniformity in the procedure relating to the allocation of cases to the learned Government Counsel.
2. The subject falls within the domain of the offices of the learned Advocate General, the learned Chief Standing Counsel and the learned Government Advocate. However, as the difficulty has been recurring and is impeding the course of justice, this Court considers it necessary to bring it to the notice of the authority competent to appoint the Law Officers of the State.
3. This Court is of the view that the replacement of a Government Counsel is not the solution. The solution lies in framing a policy, and in laying down a procedure to regulate the work of the Law Officers, coupled with the fixing of accountability and the imparting of sustained training programmes through an inclusive approach.
4. The present matter was first listed on 14.07.2026, when Shri R.P. Tiwari, learned Standing Counsel, appeared for the State. After hearing Shri R.C. Singh, learned Senior Counsel, the Court considered it necessary to call for a responsible officer from the office of the Sub-Registrar having complete knowledge of the records and of the factual background of the proceedings.
5. On the next date, an accommodation was sought on behalf of the office of the Sub-Registrar. Learned Standing Counsel, after a telephonic

conversation with the office concerned, suggested 28.07.2026, and the matter was accordingly posted for that date at 2:00 p.m., in accordance with the convenience and availability of the officer.

6. On 28.07.2026, Shri Bheemvrat Pratap Singh, Sub-Registrar, Balrampur Sadar, appeared, and his personal presence on subsequent dates was dispensed with. On 06.08.2026, Shri Vaibhav Tripathi, learned Standing Counsel, prayed for and was granted two weeks' time to file the counter affidavit.

7. Today, when the matter was taken up, the counter affidavit was placed on record by Shri Vaibhav Tripathi, learned Standing Counsel posted in this Court. On enquiry, the Court was informed that the counter affidavit had been drafted, upon receipt of instructions, by a learned Chief Standing Counsel-Vth who is not posted in this Court and who has not appeared in this matter.

8. This is not the first occasion on which a counter affidavit has been prepared by a Government Counsel who has never been posted in this Court and who does not appear before it. The counsel who prepares the counter affidavit is not aware of the deliberations that have taken place in Court, of the arguments advanced by the petitioner, or of the queries put by the Court; nor will he be present to assist the Court when the matter is next listed. Conversely, the counsel who appears and argues is unfamiliar with the record upon which the counter affidavit was prepared, and has taken no instructions from the officer concerned.

9. It has been observed, more often than not, that the contents of a counter affidavit sworn by a Government officer amount to a bare denial of the facts asserted in the petition. The exercise is routine and mechanical, and is undertaken without application of mind. A counter affidavit of that description serves no purpose and does not assist the Court in reaching the issue raised in the petition. The Government Counsel defending the interests of the State bears no accountability, having neither prepared the affidavit nor perused the record on which it rests; and when confronted with a query, such counsel is unable to respond, the reports on which the affidavit was prepared not having been made available to him.

10. It appears to be an established practice in the offices of the learned Chief Standing Counsel and the learned Government Advocate that a limited

number of Government Counsel prepare the counter affidavits. They do not ordinarily appear in Court, and are consequently unacquainted with the proceedings, the deliberations, and the requirements of the Court. Such a practice bears no reasonable nexus with the object for which learned Government Counsel are assigned to a Court. It has nonetheless continued for more than a decade.

11. There is no procedure for the allocation of cases to the learned Government Counsel in advance. The files are distributed by the Court In-charge within the Court itself, on the date of hearing and during the course of hearing, or at times shortly before the commencement of proceedings. The files being handed over on each date in Court, no time whatever is left for preparation. On most occasions, the learned Government Counsel is able only to read out what is contained in the instructions, and is unable to address the issue when confronted with the contents so read. This is unsurprising, since the material is placed before him for the first time in Court, and he has had no opportunity to apply his mind to it.

12. It has been submitted before this Court that considerations extraneous to the merits govern the selection of the limited panel of advocates entrusted with the preparation of counter affidavits. This Court refrains from setting out those reasons, in the interest of the institution and of the dignity of the office of the Law Officers. It is, however, necessary that the practice itself be examined by the competent authority.

13. The State is expected to maintain an institutional mechanism whereby every case pending before the Court is allocated well in advance, the relevant record is made available to the Government Counsel concerned within a reasonable time, and the counsel appearing on behalf of the State is fully briefed as to the facts, the pleadings, the previous orders and the stand of the State. Such a mechanism is a precondition to fixing accountability where the Court is not assisted, or where information is withheld or incorrect facts are placed before it.

14. It requires to be said that the office of learned Advocate General, learned Additional Advocate General, learned Chief Standing Counsel and learned Government Advocate is not a matter of status or privilege. It is a responsibility entrusted to an advocate, to defend the officers of the Government engaged in their day-to-day work, and particularly those

discharging field duties. The just and proper decision of a case — especially in the exercise of writ jurisdiction — depends substantially upon the quality of the assistance rendered by the Government Counsel.

15. This Court has, on several occasions, impressed upon the authorities concerned that the State must ensure timely, effective and complete assistance to the Court. Despite such observations, the same difficulty continues to recur. Cases are nominated at the last moment; the counsel concerned is not adequately briefed; the record is not made available in advance of the date of listing, and its availability itself remains uncertain; and the counsel appearing for the State is at times not acquainted even with the factual background of the case or with the previous orders passed therein, and there is frequent change of Government Counsels, anyone who is present in the Court may pick the file lying on the table and stand before the Court without realising his responsibility.

16. Such a state of affairs cannot be permitted to continue. A Government Counsel- Senior Law Officers- appearing before the Court does not represent an individual litigant. He represents the State Government and its departments, and is expected to assist the Court fairly, responsibly and effectively. Adequate preparation, availability of the complete record, knowledge of the pleadings and of the previous orders, and compliance with the directions of the Court are basic and indispensable requirements for the proper conduct of litigation on behalf of the State.

17. The failure to ensure proper briefing and the timely availability of the record consumes valuable judicial time and causes avoidable adjournments and delay in adjudication. This is particularly so where the Court has already granted an opportunity to the State and has expressly directed that no further time would be granted. An order of the Court is not a procedural formality; every direction contained in a judicial order requires to be complied with in its true letter and spirit.

18. This Court is therefore of the considered view that the matter requires examination at the appropriate administrative level. The issue is not confined to the inability of a particular counsel to assist the Court on a particular date. It concerns the mechanism adopted by the State for the allocation of cases, for briefing, for the preparation of counter affidavits, and for the effective conduct of Government litigation before this Court. If these deficiencies

persist, they are liable to cause serious prejudice to the State as well as to private litigants, and to impede the orderly and expeditious administration of justice.

19. Accordingly, the Principal Secretary, Law Department, Government of Uttar Pradesh, Lucknow, is directed to examine the matter personally and to file his personal affidavit before this Court setting out, *inter alia*:

(i) the existing procedure and mechanism for the nomination and allocation of cases to the learned Government Counsels, and Law Officers;

(ii) the administrative considerations that have given rise to the practice, in the offices of the learned Chief Standing Counsel and the learned Government Advocate, of maintaining a separate panel of advocates for the drafting of counter affidavits, who thereafter neither appear in Court nor conduct the cases in which they have drafted them;

(iv) the rationale for the change of Government Counsel on successive dates in the same matter;

(v) the considerations that justify the allocation of files by the Court In-charge within the Court itself, during the course of hearing, and the purpose that such a practice is intended to serve;

(vi) the purpose served by not assigning cases to Government Counsel well in advance;

(vii) the mechanism, if any, for accountability, and the procedure prescribed for the custody and upkeep of the Government file during the period from its delivery to the Government Counsel until its return to the office; and

(viii) the financial, legal and procedural impediments, if any, in framing a policy governing the allocation of cases, the custody of files during their retention, the preparation of counter affidavits, the fixing of accountability, and the timely payment of the charges incurred in the preparation of counter affidavits. What is the standard fees payable to the counsel for preparation of the counter affidavit, and mode of reimbursement of the expenses incurred in drafting the affidavit.

20. The Principal Secretary (Law) shall further state whether a procedure can be evolved so as to obviate the need for Government officers to remain at

Prayagraj for the preparation of counter affidavits.

21. The affidavit shall also address the feasibility of appointing liaison officers of the several departments at Prayagraj, who may receive instructions from the Government Counsel and communicate them to the department concerned, so that instructions reach the Court in time and through electronic modes.

22. The Principal Secretary (Law) shall appear before this Court on the next date; he may appear through video conferencing at 2:00 p.m. It is clarified that his presence is required only for the assistance of the Court, and that no opinion has been formed adverse to him or to any Law Officer of the State.

23. On the merits, recovery, if any, to be effected by the respondents shall remain in abeyance till the next date of hearing.

24. Put up as fresh on 15.09.2026 at 2:00 PM.

25. The Registrar (Compliance) is directed to transmit a copy of this order to the Principal Secretary, Law Department, Government of Uttar Pradesh, Lucknow for necessary compliance.

September 1, 2026

A. Tripathi

(Vinod Diwakar,J.)