

LEGAL DRAFTING

LEGAL WRITING OF DOCUMENTS

LEGAL

- MEANS
- CONNECTED TO LAW
- SECTION 43 OF IPC DEFINES TERM “ILLEGAL”: APPLICABLE TO EVERY THING WHICH IS AN OFFENCE OR WHICH IS PROHIBITED BY LAW
- LEGAL DRAFTING HEREIN MEANS WRITING OR MAKING OF DOCUMENT WHICH may BE USED FOR LEGAL PURPOSES

LEGAL WRITING SALIENT FEATURES

IT CARRIES

PURPOSE TO BE ACHIEVED

AUDIENCE TO BE REACHED

PACK OF FACTS IN CHRONOLOGICAL ORDER

JUSTIFICATION OF PURPOSE

CONCLUSION ON PURPOSE

AWE OF LAW : FEELING OF RESPECT AND

EITHER DETERRENCE OR

ACCEPTANCE APPRECIATION AND ADMIRATION

PURPOSE OF LEGAL WRITING

- TO BRING HARMONIZATION IN UNDERSTANDING AMONG THE OPPOSING PARTIES AND THE ADJUDICATOR DURING PROCEEDINGS , FACTS AND LAW BASED, TO AVOID COMPLEXITIES AND CONFUSIONS
- LAW IS NOT BY CHOICE OF INDIVIDUALS BUT LAW EMERGES FROM UNDERSTANDING OF HUMAN CONDUCT WITH ANY OR EVERY THING AROUND.
- LAW IS IMPOSED ON EVERY BEING TO BRING PEACE AND HARMONY IN THE SOCIETY THROUGH A JUSTICE PROCEDURE
- LAW IS REGULATION OF HUMAN CONDUCT WITH EVERY BEING
- LAW IS IN WRITTEN FORM (BY EXPERTS OF LAW)
- TO WRITE LAW VERY DISCRETE WORDS EXPRESSING SPECIFIC MEANINGS ARE CHOSEN, BUT WHEN INTENDED TO EXPRESS MORE APPLICATIONS OR MEANING DEFINITIONS ARE GIVEN e.g. IPC S.8 Gender—The pronoun “he” and its derivatives are used of any person, whether male or female.
- IN LEGAL WRITING MEANING, DEFINITIONS INTERPRETATIONS GIVEN UNDER LAW MUST BE FOLLOWED SCRUPULOUSLY.

DOCUMENT

- DOCUMENT HAS BEEN DEFINED IN CrPC Section 29: THE WORD “DOCUMENT” DONATES ANY MATTER EXPRESSED OR DESCRIBED UPON ANY SUBSTANCE BY MEANS OF LETTERS, FIGURES, OR MARKS , OR BY MORE THAN ONE OF THOSE MEANS, INTENDED TO BE USED, OR BY WHICH MAY BE USED, AS EVIDENCE OF THAT MATTER
- ELECTRONIC RECORD IN ANY FORM IS A DOCUMENT UNDER SECTION 65B(1) OF THE INDIAN EVIDENCE ACT. 1872 .SUCH RECORD DURING EVEDENCE MUST BE ACCOMPANIED WITH CERTIFICATE ISSUED BY WHO PREPARED THE ELECTROINC RECORD AS PROVIDED UNDER SECTION 65B(2) OF THE ACT

PAPER AND SIZES

- **1. WHITE LEGAL PAPER OF DIMENSION 356m mx216mm (14"x 8.5") IS prescribed in SUPREME COURT FOR ANY PETITION, however from April 2020, white paper size 4A (210mmx297mm (8.3"x11.7")) has been permitted. NO DICTATE FOR LOWER COURTS. BUT HIGH COURTS ALSO PRESCRIBE THE SAME**
- **2. GSM OF PAPER: 70 TO 80**
- **3. PRINT IN DOUBLE SPACE WITH MARGINS 1.25" ON TOP, 0.75" ON BOTTOM, 1.75" ON LEFT SIDE AND 0.75" ON THE RIGHT SIDE.**
- **4. FONT 14, DOUBLE LINE SPACE, FONT TYPE TIMES NEW ROMAN**
- **DISTRICT COURTS: BOTH LEGAL OR 4A SIZE FONT 14 DOUBLE LINE SPACE: GSM, MARGINS, ARE SAME AS ABOVE**
- **5. LANGUAGE : LANGUAGE OF THE COURT: TWO LANGUAGEs, OUT OF WHICH ONE IS ENGLISH AND SECOND AS PER RULE OF THE HC OF THE STATE**
- **6. PAGE NUMBER: IN MIDDLE OF TOP IN ARABIC NUMERALS**
- **7. ON THE TOP INDEX**

PRIOR TO LEGAL WRITING

- **KNOW WELL THE STATUTE UNDER WHICH THE PURPOSE OF WRITING IS HELD**, e.g Drugs and Cosmetics Act 1940 and Rules there under.
- **NOTATION OF THE STATUTE IN DOCUMENT; INSTEAD OF WRITING FULL NAME OF THE STATUTE NOTATIONS CAN ALSO BE USED**
- **EXAMPLE : 27-23-1940 MEANS OFFENCE UNDER SECTION 27 OF THE ACT 23 OF 1940: it means the punishment u/s27 OF THE DRUGS AND COSMETICS ACT 1940 AND RULES THEREUNDER**
- **EXAMPLE: 21-61-1985 MEANS punishment u/s 21 of the NDPS Act**

LAWS CONNECTED TO DRUGS

- THESE ARE SPECIAL LAWS
- 1. DRUGS AND COSMETICS ACT 1940 AND RULES THEREUNDER, (The Drugs Act)
- 2. DPCO 2013 UNDER ESSENTIAL COMMODITY ACT 1955
- 3. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES 1985
- 4. DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT 1954
- 5 THE INFORMATION TECHNOLOGY ACT 2000

GENERAL LAW

- 1. CODE OF CRIMINAL PROCEDURE, 1973
- 2. THE INDIAN EVIDENCE ACT 1872
- 3. THE GENERAL CLAUSES ACT 1897
- 4. IPC ...FOR THE PURPOSE OF S32(3) OF THE DRUGS AND COSMETICS ACT 1940
- 5. FACTORY ACT 1948.... FOR THE PURPOSE SCHEDULE M Part I
- 6. BIO-MEDICAL WASTE (MANAGEMENT AND HANDLING) RULES 1996

DOCUMENTS UNDER The Drugs Act

- 1 (A) PRESCRIBED UNDER SCHEDULE A UNDER DRUGS RULE, UNDER COSMETICS RULES AND UNDER MEDICAL DEVICES RULES, NEW CLINICAL TRIAL RULES or FORMATTED DOCUMENTS
- (B) NOTICES UNDER THE PROVISIONS OF THE STATUTE
- (C) REMINDERS
- (D) APPLICATIONS BEFORE COURT OF LAW
- (E) COMPLAINTS AGAINST ACCUSED PERSONS BEFORE COMPETENT COURT
- (F) REPLY TO NOTICES FROM HIGH COURT / SUPREME COURT
- (G) GROUNDS OF APPEAL OR REVISION OR WRTS IN O/O ADVOCATE GENERAL
- (H) CORRESPONDENCE WITH SDC AND OTHER SUPERIOR OFFICERS AND
- ADMINISTRATION OF THE CENTRAL OR STATE GOVERNMENT

DOCUMENTS CONCERNING A REGULATORY OFFICER UNDER THE DRUGS AND COSMETICS ACT

- 2. SUPERIOR OFFICERS UNDER THE STATUE
- (a) Grant of Permission to Prosecute addressed to the DCO
- (b) Exercise of Role of Authority over Functional Drugs Inspectors
- (c) Show Cause Notices as SLA or LA, to the Licensee
- (d) Passing of order for Stop sale or suspension of Licences or Cancellation of Licences
- (e) Correspondence with various officers for running of the office

WHICH DOCUMENTS SHOULD BE TREATED TO BE LEGAL DOCUMENT

- WHEN AN OFFICER UNDER THE DRUGS AND COSMETICS ACT OR ANY OTHER STATUTE IS DISCHARGING HIS DUTY AND WRITING/DRAFTING ANY DOCUMENT IT MUST BE PRESUMED THAT IT HAS OR CAN ASSUME LEGAL CHARACTER.
- ANY DOCUMENT RELATING TO SUCH OFFICER MAY BECOME PART OF DOCUMENTS SUMMONED BY ANY COURT, HENCE CAN ASSUME LEGAL CHARACTER

ATTITUDE OF THE WRITER

- BELIEVE THAT THE DOCUMENT MAY BE SCRUTINIZED BY COURT OF HIGHER AUTHORITY, AT ANY TIME IN FUTURE, EVEN WHEN THE OFFICER HAS RETIRED
- SOLUTION IS TO CULTIVATE HABBIT OF LEGAL DRAFTING .
- NO DOCUMENT IS TRIVIAL. IT MUST BE DRAFTED METICULOUSLY
- **The key to being a good writer is to be a good reader**
- UNDERSTAND THE STATUTE AND LAW WITH COOL MIND
- WHILE QUOTING CHAPTERS. SECTIONS AND RULES, BELIEVE IN KEEPING THE BOOK OPEN BEFORE YOUR EYES
- REAFFIRM YOUR MEMORY BY REFERRING TO THE BOOK TIMES AND AGAIN,.

CHARACTERISTICS OF A LEGAL DOCUMENT

- 1. IT HAS PURPOSE
- IT MUST CLEARLY SHOW TO WHOM IT HAS TO BE SUBMITTED OR ADDRESSED
- 2. IT IS PERMITTED BY LAW
- 3. IT IS WRITTEN BY PERSON EXPRESSLY AUTHORISED UNDER LAW
- 4. IT MUST CONSIST OF LANGUAGE ACCEPTED BY THE GOVERNMENT
- 5. IT SHOULD UNAMBIGUOUS
- 6. DOCUMENT ADDRESSED TO A PERSON MUST SHOW. NAME ADDRESS CAUSE OF ACTION AND PLACE WHERE IT ROSE. WHETHER. INFORMATION, DOCUMENT IA DEMANDED. AND CONSEQUENCE IF THE DOCUMENT IS NOT RESPONDED TO WITHIN STIPULATED TIME.

WRITING/DRAFTING

- UNDER CRIMINAL PROCEEDING THREE THINGS MUST BE INCLUDED IN A DOCUMENT
- 1. TIME.....24 HOUR CLOCK OR 12 HOUR CLOCK
- 2. PLACE THE SITE OF EVENT
- 3. PERSON.....NAMES ADRESS AND OTHER PARTICULARS OF PERSON
WHOM THE WRITER CONCERNS

THESE ELEMENT CREATE CREDIBILITY AND HELP RECREAT THE PICTURE OF EVENT DURING EXAMINATION OF WITNESS WHO CREATED THE DOCUMENT.

PURPOSE OF THE DOCUMENT EXERCISE UNDER S22 etc.

- **FORMATTED DOCUMENT**: AS GIVEN STATUTE: e.g. Form 16 or Form 17, Form 18 etc. The purpose is printed on it
- **Document Prescribed but not Formatted**. e.g. u/s 23(5)(b) application before Magistrate to obtain custody of drugs seized. IT IS A FORMAL REQUEST SHOWING ALL NECESSARY DETAILS AND IS DATED
- **Information**: supply of copy of Form 13 of Standard quality drug when no offence in the matter is made out
- **Notice**: it is an alert to the affected person informing him regarding detection of OFFENCE committed by him on a particular time and place. It also spells adverse impending consequences

PURPOSE OF THE DOCUMENT

Drafted for Courts

- 1. INSTITUTION OF Cr. Complaint in The Special Court (of Session) UNDER SECTION 36AB
- FILING OF REVISION. APPEAL. QUASHING U/S 482 OF CrPC. REPLY TO THE APPLICATIONS MOVED BY ACCUSED FOR WHICH NOTICE HAS BEEN RECEIVED BY INSPECTOR
- 2. INSTITUTION OF Cr. COMPLAINT in The Court of Notified Magistrate of 1st Class FOR OFFENCES OTHER THAN UNDER SECTION 36AB
- FILING OF REVISION. REPLY TO THE APPLICATIONS MOVED BY ACCUSED FOR WHICH NOTICE HAS BEEN RECEIVED BY INSPECTOR
- 3. QUASI JUDICIAL COURTS: LICENSING AUTHORITY AND APPELLATE AUTHORITY AGAINST DECISIONS OF LICENSING AUTHORITY

PURPOSE OF THE DOCUMENT

Drafted for Administrative and Statutory Positions

- Administration (Executives) of the State
- State Drugs Controller
- Senior Officers
- Equal Rank Officers
- Subordinate officers

CONNECTIVITY

- CONNECT PRESENT ACTIVITY OR OBSERVATION WITH THE PAST IN THE DOCUMENTS IN MULTIPLE EVENTS OR CORRESPONDENCE.
- EVERY DOCUMENT AND EVENT WHICH TOOK PLACE ON DIFFERENT DATES OR ON DIFFERENT PLACE OR WITH DIFFERENT PERSONS. SUCH DOCUMENT MUST BE CONNECTED WITH ITS PRECEEDING DOCUMENTS IN CHRONOLOGICAL ORDER AND BE CONNECTED TO SUCCEEDING DOCUMENTS / EVENTS
- EVERY DOCUMENT BECOMES A LINK FROM POINT TO POINT TO THE CONCLUSION OF EVIDENCE CONNECTING THE OFFENCE DTECTED WITH PERSONS REVEALING TIME AND PLACE.
- NO LINK BE MISSING

DOCUMENTS SHOULD BE NUMBERED

- IN A BUNCH OF DOCUMENTS ALL DOCUMENTS MUST BE SERIAL NUMBERED AND KEPT TOGETHER IN A FILE BEARING A TITLE

NOTICE WHILE EXERCISING U/S 22 OF THE ACT

- THERE SHOULD ALWAYS BE CAUSE OF ACTION AGAINST THE ADDRESSEE
- LEFT UPPER CORNER MENTION THE DESIGNATION AND ADDRESS OF SENDER, followed by
- NAME AND STATUS OF THE PERSON IN THE FIRM
- COMPLETE ADDRESS WITH PIN CODE
- STRICTLY INCLUDE (I) ANY REFERENCE OF PREVIOUS CORRESPONDENCE IN THE MATTER (II) MATTER FOR WHICH THE NOTICE IS BEING SENT. MENTION PROVISION
- NO NEED OF SALUTATION WHEN WRITING TO ACCUSED PERSON
- START IN IMPERATIVE FORMATION
- USE ACTIVE VOICE ONLY
- FIRST WRITE FACTS STARTING FROM THE FIRST DATE OF MATTER WHICH WILL FORM CONTENTS OF LEGAL MATTERS BEFORE A JUDICIAL COURT
- FACTS RELATED TO OTHER PERSONS NEED NOT BE IN DETAILS.
- ALL FACTS WHICH ARE INTIMATE TO THE ADDRESSEE BE GIVEN IN DETAIL IN CHRONOLOGICAL ORDER.
- IN THE PENULTIMATE PARAGRAPH MENTION ANY INFORMATION AND DOCUMENTS WHICH THE ADDRESSEE MUST SEND
- MENTION TIME LIMIT
- IN THE LAST PARAGRAPH MENTION HIS LEGAL RESPONSIBILITY AND LIABILITIES ACCRUING AGAINST HIM
- DO NOT MENTION, YOURS SINCERELY OR YOURS FAITHFULLY ETC
- SENDER SHOULD SIGN ON LOWER RIGHT SIDE WITH NAME, DESIGNATION AND DATE.
- SEND BY REGISTERED POST ONLY

MENTION OF WITNESSES AND THEIR SIGNATURE

- *WHERE THE OFFICER IS WRITING A DOCUMENT IN HIS AUTHORISED OFFICE, NO WITNESS IS REQUIRED*
- *IT IS ALWAYS PREFERRED TO INCLUDE WITNESS IF THE OFFICER IS PREPARING A DOCUMENT IN PUBLIC PLACE AND MENTIONING THE SAME IN THE DOCUMENT.*
- *INCLUDE PUBLIC WITNESS OF THE AREA*
- *DURING SUDDEN INSPECTION(RAIDS)*
- *NORMAL INSPECTION WHERE PROSECUTABLE OFFENCES HAVE BEEN DETECTED*
- *WHILE ISSUING FORM 16*
- *WHERE OFFENDER FLEES AWAY*
- *WHERE THERE OBSTRUCTION IN DISCHARGE OF DUTY*

BASIC STRUCTURE OF DOCUMENT

- EXCEPT FOR DOCUMENTS PREPARED IN AUTHORISED OFFICE
- EVERY DOCUMENT WRITTEN MUST HAVE TITLE SHOWING DATE TIME AND PLACE
- DETAILS OF PARTICIPANT PERSON
- BODY EXPRESSING THE PURPOSE, ACTIVITY, MATERIALS INVOLVED, DOCUMENTS RECEIVED, AGAINST WHOM THE DOCUMENT HAS BEEN PREPARED.
- ON LOWER LEFT SIDE ALL WITNESSES WITH PARTICULARS MUST SIGN
- ON MIDDLE OF LOWER LEFT THE ADRESSED PERSON WITH PARTICULARS MUST SIGN
- ON EXTREME LOWER LEFT OF THE DOCUMENT THE OFFICER SHOULD SIGN WITH NAME AND DESIGNATION
- BLOW IT ACKNOWLEDGEMENT OF RECEIPT OF ANY MATERIAL DOCUMENT OR NOTICE BE GIVEN AND SIGNED BY HIM.

NOTICE TO MANUFACTURER after completion for disclosures

- REGISTERED PARCEL
- Office of Food and Drugs Administration
- NCT Delhi
- 65 Aurangzeb Road
- New Delhi 110001
-
-
- To
- M/s GPL Pharmaceuticals Ltd
- 1201/37 Bhandup West
- Mumbai 400078

- Subject : Notice under section 18B , 17, 18(a)(i) of the Drugs and Cosmetics Act 1940 and Rule thereunder for the drug Amoxicillin Dry Syrup, Batch No. AMX 120 Mfd Sept. 2022 Exp Dt Aug. 2024 Manufactured for sale and sold by you, declared to be not of standard quality.
-
- It is informed to you that the undersigned took sample of the drug mentioned above in the subject for test and analysis under the Drugs and Cosmetics Act 1940 (hereinafter referred to as the The Act). It was taken from the retail shop of M/s PQR Medical Hall situated at Connaught Place New Delhi, on xx-yy-zz. One portion of the Drug sample was sent to the Government Analyst NCT Delhi. The Government Analyst after test and analysis of the drug sample issued test report No. RDTL/DL/2121 dated pp-qq-rr , wherein the drug sample was declared to be Not Of standard Quality.

- A notice u/s 18A was sent to M/s PQR who declared the name of M/s UUPP Gaziabad as the person from whom it acquired the drug and attached signed copy of purchase bill as proof.
- The undersigned sent a notice u/s 18A to M/s UUPP Gaziabad to disclose the name address and other particulars of the person from whom it acquired the drug. Firm M/s UUPP Gaziabad in its reply disclosed your name, address as the person from whom it acquired the drug Amoxicillin Drv Svrup. Batch No. AMX 120 Mfd Sept. 2022 Exp Dt Aug. 2024 Manufactured for sale and sold by you. As proof it submitted copy of purchase bill No. UUPP3108 Dt aa-bb-cc- issued by you.
- On examination of the Test Report mentioned above it was found that the drug sample was
 - (i) Not of Standard quality as per opinion of the Government Analyst for reason that the identification test for Amoxicillin was Negative and also Assay was Nil
 - (ii) Spurious u/s 17(B) since Presence of Ampicillin was positive in stead of label claim of Amoxicillin
 - (iii) The drug sample was Misbranded u/s 17 of the Act since label claim is misleading w.r.t. claim
- Manufacture for sale and sale of Not of standard quality, Spurious and Misbranded drug are prohibited under section 18(a)(i) of the Act and these offences are punishable under the Act.
- You are required to submit following information and documents to the undersigned failing which you are liable to be prosecuted under Section 18B/28A of the Act
 - 1.
 - 2.
 - n.

- You are hereby required to show cause as to why an action under section 18B/27(c) 17/27(d) and 18(a)(i)/27(d) be not taken against you for the offences committed by in a court of law by way of prosecution under the Act. One original Test report mentioned above and one sealed portion of the sample is being sent to you along with this notice in a parcel.
- Your reply should reach this office with in 15 days after receipt of this letter by you.
- You are required to recall the drug batch from the market and stop selling this drug further from your stocks
- [REDACTED]
- Dated:..... (Signature)
- [REDACTED] Name
- [REDACTED] Designation
- ENCLOSED:
- SAMPLE PORTION
- ORIGINAL TEST REPORT ON FORM13
- COPY OF PURCHASE BILL OF M/S UUPP
- COPY OF PURCHASE BILL OF PQR
- [REDACTED]
- [REDACTED]
- CC: to The State Drugs Controller Maharashtra Mumbai with signed Photocopy of the test report for information and further action in this regard.

ESSENTIAL CONTENTS OF A COMPLAINT IN A JUDICIAL COURT

- 1. NAME OF COMPETENT COURT OF ORIGINAL JURISDICTION
- 2. NAME OF THE COMPLAINANT AS OPPOSED TO
- 3. NAME OF ACCUSED PERSONS
- 4. TITLE OF THE STATUTE UNDER THE PROVISION IT IS FILED
- 5. SUBJECT AND PROVISIONS OF OFFENCES
- 6. SALUTATION AND SUBMISSION BY COMPLAINANT
- ALL SUBMISSIONS ARE IN PETITION FORMAT; EACH PARA OF FACT STARTS WITH WORD THAT AND IS IN PAST PARTICIPLE TENSE
- FIRST SUBMISSION IS ABOUT COMPLAINANT HIMSELF
- SECOND SUBMISSION IS VERY BRIEF STATUS OF EACH ACCUSED PERSONS IN THIS COMPLAINT
- THIRD AND SUBSEQUENT SUBMISSIONS ARE EVENTS IN CHRONOLOGICAL ORDER DESCRIBING TIME PLACE AND PERSON ALONG WITH ACTIVITY OF COMPLAINANT INVESTIGATION OFFICERS WITNESSES STATUTORY AUTHORITIES IF INVOLVED, EVIDENTIARY DOCUMENTS, MATERIALS, MEANS, TEST REPORTS, COURT ORDERS PRIOR TO FILING THE COMPLAINT
- PENULTIMATE SUBMISSIONS ARE THE ACT ROLE AND MANNER IN WHICH EACH ACCUSED BECOMES ENTITLED TO BE CHARGED WITH OFFENCES AS GIVEN UNDER CORRESPONDING SECTION OF OFFENCE AND PUNISHMENT
- ULTIMATE SUBMISSION IS TO COMPEL PRESENCE OF ACCUSED AND MAKE THEM FACE TRIAL PRAYER TO PUNISH THE GUILTY ASSERTING THE COMPETENCY OF COMPLAINANT THAT OF THE COURT AND LIMITATION/CONDONATION IF SEPARATE APPLICATION IS ALSO SUBMITTED SIGNATURE OF COMPLAINANT ON LOWER RIGHT SIDE, DATED. ENCLOSURE ATTACHED HEADINGS AND IF ANY MATERIAL IS BEING SUBMITTED
- LIST OF DOCUMENTS ENCLOSED
- LIST OF WITNESSES ENCLOSED

SUMMARY

- A GOOD WRITER IS A GOOD READER FIRST
- READ SUPREME COURT JUDGEMENTS
- IMPROVE VOCABULARY
- IMPROVE GRAMMER, PUNCTUATIONS
- USE SHORT SENTENCES
- USE PAST SIMPLE AND PAST PERFECT TENSE
- DONOT USE ADJECTIVES OR EMOTIONAL WORDS
- SALUTATION: WRITING COMPLAINTS OR REPLY TO COURTS OR TO JUDGES: HONOURABLE , WHILE REFERENCE LEARNED JUDGE OR MAGISTRATE
- TO SUPERIORS: RESPECTED SIR, INCLUDES MADAM
- TO CONTEMPORARY: SIR. DEAR SIR OF WRITING DEMI OFFICIAL (DO) LETTER
- DONOT PUT WORD SHRI OR SHRIMATI BEFORE NAME OF ACCUSED

RAJINDER KUMAR HARNA

THANKS

THE LEARNED AUDIENCE
for Patient Listening

Retired Assistant State Drugs Controller

FDA HARYANA

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