

Procedural Directive relating to Hearing (*Pesi*) Management through Lottery System, 2021 (2078)

Preamble: Whereas, it is expedient to determine Hearing (*Pesi*) through lottery system so that there is minimum human intervention in the Hearing (*Pesi*) management as per the primary objective of taking Hearing (*Pesi*) management towards an automatic method based on computerized system in a long-term to increase public faith towards the court and judicial proceedings through Hearing (*Pesi*) management process and to make the process of listing date for hearings and determination of cause-list of cases registered in the Supreme Court and to make the overall Hearing (*Pesi*) management predictable, transparent and reliable based on certain criteria.

The Supreme Court has issued this Directive as per the Rule 164 of Supreme Court Regulations, 2017 (2074 BS).

Chapter-1

Preliminary

1. **Short Title and Commencement:** (1) This Directive may be called “Procedural Directive relating to Hearing Management through Lottery System, 2021 (2078)”.

 (2) This Directive shall come into effect from such date specified by the Supreme Court.
2. **Definition:** Unless the subject or the context otherwise requires, in this Directive:
 - (a) “Regulation” means Supreme Court Regulation, 2017 (2074 BS).
 - (b) “*Pesi* Management” means the task of listing *Pesi* of cases, releasing weekly cause-list, preparing supplementary cause-list, formation of Bench for hearing of case and determination as well as publishing daily cause-list.
 - (c) “Committee” means the *Pesi* Management Direction Committee formed pursuant to Rule 110b of Regulation.
 - (d) “Division” means Cases and Writ Division .

Chapter-2

Preparation of Cause-List

3. **Listing Case in Pesi:** (1) After pre-requisite for pesi is completed, concerned employee must prescribe *Pesi* for hearing of the case.

(2) While prescribing Pesi as per sub-section (1), it must be prescribed considering the nature of case, registration date, work-load and priority on the basis of Pesi quota as determined by the Case Division.

(3) Notwithstanding anything mentioned in sub-section (2), cases older than five years on the basis of registration date, which could not be heard after being submitted before the Bench for hearing, must be re-listed in Pesi at least within one month.

(4) The Division must determine Pesi quota according to the criteria determined by the Committee.

(5) While listing Pesi, the cases certified by the concerned officer as having fulfilled all the pre-requisite for pesi must only be listed in Pesi.

4. **Publication of Weekly Cause-List:** (1) The Head of Division shall submit before the Chief Registrar a list including the complete details of cases Pesi scheduled for the upcoming week by Wednesday.

(2) While submitting details of Pesi as per sub-section (1), the cases listed in Pesi, as determined by the Committee, must be grouped as per necessary on the basis of nature of cases.

(3) The Committee, if it deems necessary, may give directions to prepare weekly Cause-List or to prescribe Pesi only to hear special cases in specific day of the week or cases that are older than five years.

Explanation: For example, provision can be made for all the Benches to hear only the cases of detainees on Sunday, civil appeal on Monday and writ petitions on Tuesday,

(4) The Chief Registrar, while publishing the weekly cause-list, must publish each group with a separate code and serial number, grouped according to the priority order of hearing so that each group has the required number of cases.

(5) In the weekly cause-list, based on the priority of the case and the order of registration, the hearing order of each case must be kept from 1 to 2, 3, 4 respectively and each group must be indicated by a consonant letter of the alphabet as 'A', 'B', 'C'. The Cause-List of full Bench must be kept as Full 1, Full 2 respectively.

(6) In any group of cases submitted to the Chief Registrar by the Division, if there are number of cases one Bench cannot hear in one day, the Chief Registrar may form as much groups as necessary.

Explanation: For the purpose of this sub-section, if one group of cases is to be divided into two or more groups, one group must be formed from the cases with even odd serial numbers based on the serial number of the list submitted by the head of the Division. If three or more groups are to be formed, groups must be formed based on the regular interval of the serial number of the submitted list.

(7) If there are more than the number of cases prescribed for hearing in any group and they have to be postponed in the weekly cause-list, cases that are new and have not received priority or precedence may be postponed on the basis of their registration date.

(8) The Division Head, while submitting the details of the case to the Chief Registrar for publishing the weekly cause-list, must include Reference (RC), Petition for Revision of Case (RI), Petition for Review (RV), Petition for Permission to File Appeal (LE), Reports pursuant to Section 73 of Muluki Criminal Procedure Code, 2017 (2074 BS) and Section 157 of Muluki Civil Procedure Code, 2017 (2074 BS) (RE) so as to be published in the weekly cause-list. These cases or petitions, as per necessity, may be published in separate list or in cause-list with other cases.

(9) While preparing group to publish weekly cause-list pursuant to sub-section (4), weekly cause-list may be published by forming groups of cases in distinct numbers for each day considering the nature of the case and the assigned date for Constitutional or Full/ Extended Full Bench and the number of Justices that will be present in the court that day.

(10) The Chief Registrar, while publishing the weekly cause-list of cases, shall publish on every Friday all list of cases submitted for hearing in the following week.

Provided that, if Friday of a week falls on a holiday, the court shall publish the weekly cause-list for the following week on the last day of the week the court is open.

5. **Supplementary Cause-List:** (1) The Head of Division shall submit before the Chief Registrar, cases or petitions that are not published in the weekly cause-list but to be submitted before the Bench for hearing, generally within 3:00 pm of the afternoon of the previous day of hearing.

(2) In the supplementary cause-list submitted pursuant to sub-section (1), generally following cases and petitions shall be included:

- (a) Case or petition submitted before Bench of one Justice (Single Bench) pursuant to Rule 25 of the Regulation.
- (b) Other petition and cases submitted under clause (a) of sub-rule (5) of Rule 76 of the Regulation except Reference cases,
- (c) Petition of *habeas corpus*, cases in ongoing hearing (*Herda Herdai*), Petition filed pursuant to Section 73 of the *Muluki Criminal*

Procedure Code, 2017 (2074 BS) and Section 157 of the *Muluki* Civil Procedure Code, 2017 (2074 BS), petition demanding to quash the interim order and interlocutory order, petition demanding privilege of court fee, petition against the decision of Chief Registrar or Registrar and case with prescribed date of hearing by the court,

- (d) Petition submitted for the preliminary hearing of case related to contempt of court pursuant to Rule 59 of the Regulation

(3) Petitions to be heard by a Single Bench shall ordinarily be grouped into one group if there are up to twenty cases and if more than that into two groups. In this way, if two groups are to be formed, they shall be formed based on the order of registration.

(4) The Chief Registrar, while grouping the supplementary cause-list, shall prepare the supplementary cause-list as “A”, “AA” for cause-list of cases to be heard by Single Bench and by providing distinct symbol/letter compared to the symbol/letter included in the weekly cause-list for cause-list of cases to be heard by Division Bench.

Chapter-4

Daily Cause-List

6. **Determination of Daily Cause-List:** (1) Each day, the formation of Bench and determination of list of cases shall be carried out by lottery process from among the list of cases grouped from the weekly and supplementary cause-list.

(2) The Chief Registrar, to form the Bench and determine cause-list pursuant to sub-section (1), shall inform the Chief Justice and Justices regarding the total number of Benches that may be formed on that day about the cases those included in the supplementary cause-list and the group of weekly cause-list.

(3) The work of forming Bench for hearing and determining daily cause-list through lottery process shall commence every day at 10 AM in the presence of Chief Justice, Justices, Chief Registrar as well as staff involved in case management and information technology technicians.

Chapter-5

Procedure relating to Formation of Bench and Determination of Cause-List

7. **Process to Draw Lottery**: (1) For each day, Extended Full/Full Bench, Single Bench and a Division Bench shall be formed for hearing the cases included in the weekly and supplementary cause-list and the cases that come casually (certain petitions registered in the afternoon).
- (2) For the purpose of drawing lottery pursuant to sub-section (1), balls of similar figure, color, shape and feature shall be used.
- (3) For the purpose of drawing lottery pursuant to sub-section (2), balls shall be kept in a non-transparent bag.
- (4) For the purpose of sub-section (1), generally the Chief Justice and the Justices shall draw the balls respectively in order of seniority.
- (5) The concerned shall announce the ball drawn pursuant to sub-section (4) such that the symbol is clearly understood and recorded in the CC Camera by showing to everyone
- (6) The staff engaged in *Pesi* management or information communication technicians shall give input in the computer software such so that the Bench is formed serially according to the ball drawn by the concerned Justice.
- (7) While forming the Bench through the lottery process, priority shall be determined so that the Extended Full or Full Bench, Single Bench and Division Bench shall be formed respectively. For this purpose, separate bags and ball shall be arranged.
8. **Extended Full or Full Bench**: (1) There shall be a separate bag and ball for the formation of Full Bench.
- (2) For the formation of Full Bench, ball equal to the number of Justices present that day shall be kept in the bag.
- Explanation**: For example, if there are 18 Justices present in any day, balls numbered 1 to 18 shall be kept in the bag.

(3) While drawing balls pursuant to sub-section (2), it shall be drawn in the order of seniority by the Justices present in that day.

(4) If the Extended Full Bench is to be formed, Bench shall be formed of Justices drawing balls numbered 1 to that number respectively up to as many members Bench is to be formed.

(5) If only one Full Bench is to be formed, Justices drawing balls numbered 1 to 3, if two Full Bench is to be formed, Justices drawing balls numbered 4 to 6 shall be formed. If Extended Full Bench is also to be formed on that day, after forming Extended Full Bench of Justices drawing balls numbered 1 to 5, Full Bench of Justices drawing first three numbered balls i.e., 6, 7, 8, shall be in the Full Bench. If Extended Full Bench of more than 5 Justices is to be formed or if multiple Full Benches are to be formed, they shall be formed in the same order.

9. **Bench of One Justice (Single Bench)**: (1) If a particular day where Full Bench has to be formed, lottery for Single Bench shall be drawn after drawing lottery for the Full Bench is complete. On the day when there is not a Full Bench, a Division Bench shall only be formed only after drawing lottery for a Single Bench.

(2) Balls shall be drawn by other Justices for the Single Bench, except the Justices involved in the Extended Full or Full Bench.

(3) For the purpose of sub-section (2), two balls marked “A” and “AA” for the cause-list to be heard by Single Bench and empty balls equal to the number of remaining other Justices shall be kept in the bag.

(4) Prior to drawing balls for Single Bench, the number of Justices present on that day should be considered and left even number in order to form Division Benches then balls shall be drawn for the formation of one or two Single Bench.

(5) While forming Single Bench pursuant to this Section, any day if only one Bench is formed, cases from the group “A” or “AA” whichever comes first shall be heard by postponing the other group.

10. **Division Bench**: (1) After formation of Extended Full Bench or Full Bench and Single Bench, formation of Division Bench shall be commenced by determining the

exact number of Justices in the order of seniority who might lead a permanent Bench from among the even number of Justices that may be available

(2) For the purpose of sub-section (1), numbered balls expressing order of seniority shall be kept in the bag.

(3) For the purpose of sub-section (2), if it is an even date, Justices who lead permanent Bench shall draw the balls numbered with seniority of Justices who does not preside permanent Bench from the bag. If it is an odd date, Justices who do not preside permanent Bench shall draw the balls numbered with seniority of Justices who preside permanent Bench from the bag.

(4) While drawing balls serially from the bag, which number marked ball is drawn, Bench shall be formed of the Justice drawing the ball and the number marked in the ball.

(5) After formation of the Bench, any one Justice from among the Justices presiding in the concerned Bench shall draw the lottery of group of cases to be heard by their Bench on that day.

(6) While drawing lottery for the list of cases, balls shall be kept serially marked “Ka”, “Kha” in the number as many as the list of cases are there. The Bench, on whose behalf the ball is drawn, shall hear the cases in the group of the alphabet that is drawn.

(7) If the weekly cause-list is more than the number of available Justices, the cause-list of the group remaining in the bag shall be adjourned.

(8) While determining the Bench Room, it shall be determined in the order of seniority of the Justices.

11. **Additional Provision relating to Daily Cause-List:** (1) If any case remains in *ongoing hearing (Herda Herdai)* and a cause-list of ongoing hearing (*Herda Herdai*) is to be published, whether that Bench was Division or Full, that Bench shall automatically be deemed to have been formed. The Bench shall be formed by drawing lottery only from other Justices, except the Justices involved in the said Bench.

(2) While there is verdict pronounced date was set for any case on that date, if different Bench is formed of concerned Justices, separate Bench shall be formed of the concerned Justices only for cases to pronounce/declare judgment.

(3) For the management of cases that come casual list (*Bhaipari*) such cases should be submitted to Full Bench 1 for petition to be submitted in full Bench and in Division Bench of group of Justices who draw “Ka” group lottery in relation to Division Bench and Justice drawing “A” group of lottery in relation to Single Bench shall hear cases and petition that come in supplementary casual list. If group “Ka” and “A” is adjourned, group “Kha” or “AA” shall hear such cases or petitions.

Chapter-6

Publication of Daily Cases’ Cause-List

12. **Cause-List Determined by Lottery Process:** (1) The cause-list determined by lottery process shall be published in the website within 10:30 AM, by entering immediately in the computer software with the computer-generated special number, symbol, watermark proving the authenticity of cause-list.

(2) Arrangement shall be made to view the cause-list thus determined by all concerned stakeholders through the court’s website.

(3) The secretariat of the concerned Justice shall make available to the Justice a print copy of the cause-list with the special symbol or watermark.

Chapter – 7

Miscellaneous

13. **Compliance of Directive:** It shall be the responsibility of Justice, Staff involved in Case management, Information Technology Technicians, Government Attorney, Law Professional, Parties to the Case and all stakeholders to comply and make to comply with this Directive.

14. **Amendment:** The *Pesi* Management Direction Committee shall make amendments, if amendment is required during the implementation of this Directive.