

Real Estate Regulatory Authority (RERA), Bihar

Notice for Empanelment of Advocates in the Panel of RERA, Bihar

Government of India has enacted the Real Estate (Regulation and Development) Act, 2016 and all the sections of the Act have come into force with effect from May 1, 2017. Bihar Real Estate (Regulation & Development) Rules 2017 was notified by the Government of Bihar on April 28th, 2017. The Real Estate Regulatory Authority of Bihar has been providing the platform for Registration of the Real Estate Projects and displaying details of Promoter and Real Estate Agents.

Real Estate Regulatory Authority (Authority) for the State of Bihar has been constituted by the Government of Bihar in March 2018 and it is functional since 2nd April 2018.

2. RERA, Bihar intends to empanel Advocates to represent and appear for and on behalf of Real Estate Regulatory Authority, Bihar in matters arising out of Real Estate (Regulation and Development) Act, 2016, the Rules, Regulations, Guidelines, Circulars, Orders issued thereunder or any other law for the time being in force in which the Authority is interested in or is made a party to any case or matter or in relation to rendering legal advice or providing legal support or defending the Authority, in any case or matter generally or specifically arising out of any question of law or fact, in any Court or Tribunal in India.

3. (1) The Authority shall prepare a panel for the purpose of assigning cases, namely, Panel of Advocates.

(2) There shall not be any fixed size of the panel and the number of advocates in the panel shall be determined by the Competent Authority from time to time based on the requirement and quantum of cases or matter in any Court or where a legal advice is required or may be sought in any case or matter.

(3) The Authority shall, as far as possible, make use of the services of the panel of advocates and while their services are utilised, they shall be deemed to have been empanelled under these Guidelines.

(4) Though, when required and considered appropriate by the Competent Authority, RERA may hire the services of designated Senior Advocate or any other Advocate, as nominated by Additional Solicitor General, Bihar, Law department, Bihar/ Advocate General, Bihar, for the time being empanelled or engaged by the Central or State Government, as the case may be, to argue or conduct a case or matter on behalf of the Authority, keeping in view the urgency and importance of a particular matter, and the empanelled Advocate shall conduct any case or matter in any Court in consultation, coordination and cooperation with the said law officers. These Advocates will be part of the Senior Panel of Advocates. Advocates empanelled for the Panel, for which present notice is issued, may be entrusted the task to assist the Advocates of Senior Panel.

4. Eligibility. - (1) An Advocate to be eligible for empanelment in the Panel should have active practice in the respective Courts for at least ten years at the bar;

(2) Preference will be given to those incumbents having experience in handling the cases relating to area of Real estate, in particular matters relating to the RERA Act.

(3) Technical / Soft Skills required:

- i. Computer proficiency with Microsoft Office.
- ii. Excellent communication and presentation skills both in writing and speaking; comfortable with English, Hindi,
- iii. Analytical and interpersonal communication skills.
- iv. Knowledge on various laws on litigation and non-litigation issues.

(4) Job Profile: To represent and appear for and on behalf of Real Estate Regulatory Authority, Bihar in matters arising out of Real Estate (Regulation and Development) Act, 2016, the Rules, Regulations etc; To carry out enquiry on the various complaints and submissions made by the complainants and also assist in drafting the criminal cases by the complainants.

(5) Where considered necessary, the Empanelment Committee may check background of the advocate with the respective Bar Council or Bar Association or otherwise about the claims, conduct and antecedents of the Advocate at any time during empanelment to verify his credentials. In this regard, Empanelment Committee may require an Advocate to make available self-attested copies of the following documents and may also require the originals for verification at any time during empanelment-

(ii) certificates in support of educational and other qualifications;

(iii) registration with the State Bar Council;

(iv) identity card issued by Bar Association or State Bar Council;

(v) details of empanelment with other organisations, if any;

(vi) list of major clients;

(vii) an undertaking to the effect that all information furnished by him is correct and that no disciplinary proceeding is pending against him by the Bar Council and also that he shall not take up any case or matter against the Authority or its officers, employees or representatives or advise any client against the interest of the Authority or the State Government.

(viii) an undertaking from the advocate to the effect that the empanelment shall be subject to these Terms of Empanelment.

(6) If the advocate is empanelled by other Regulators, Statutory Organisations, opinion of such Regulators or Organisations may also be obtained, where necessary.

(7) The Empanelment Committee may require the advocate to submit documentary proof of any suitability claim that may be made by him at any time during empanelment.

(8) The Empanelment Committee may call the Advocate to be present before it for discussion to check his/her suitability for empanelment.

(9) After satisfying the suitability for empanelment, the committee may approve the name of advocate for empanelment with Authority.

5. Terms of Empanelment. – (1) Following are terms and conditions of empanelment of advocate with Authority, which shall be complied with by empanelled advocate:

(a) mere empanelment of advocate shall not bind the Authority, the Empanelment Committee or the Competent Authority to assure him any particular case or matter or obtaining any service from him or to pay any fee or charges therefor.

(b) the allotment of a case or matter to the empanelled advocate shall be solely at the discretion of the Authority or the Competent Authority, as the case may be.

(c) upon termination, suspension or non-renewal of empanelment, as the case may be, the empanelled Advocate shall return the case files or matters forthwith to the Competent Authority along with all documents and records connected thereto duly marked and flagged with his No Objection Certificate.

(d) an empanelled Advocate shall not take up, contest, conduct any case or advise any person in any case or matter against the interests of the Authority or any of its officers or employees or representatives and will abide by the provisions of Advocates Act.

(e) the empanelled Advocate shall not delegate any case, brief or assignment given to him to any other advocate and shall deal with the case or matter himself.

(f) an empanelled Advocate shall coordinate or cooperate with any other Advocate in any case or matter assigned to him by the Competent Authority, where necessary, and as instructed by the Competent Authority.

(g) the empanelled Advocate shall maintain absolute secrecy and confidentiality about the case or matter of the Authority.

(h) the empanelled Advocate shall accept such other terms and conditions of the empanelment as may be determined by the Competent Authority from time to time.

(i) the volume of task shall be assessed by the Competent Authority on the basis of the pending cases or matters in the preceding months and any fresh case or matter is likely to be added in the succeeding months.

(j) the empanelled Advocate shall be familiar with various branches of law and keep him/her updated especially those concerning constitutional, Real Estate Law, Labour law, Contract law, Commercial law, Criminal law, Civil law, Property laws, corporate law, Banking law, Taxation or such other branch of law as the Competent Authority may deem fit.

(k) cases involving similar issues or matters or otherwise interlinked or clubbed may be entrusted to the same empanelled advocate as far as possible, unless otherwise found necessary, while care shall be taken by the competent authority to avoid concentration of cases in the hands of one or few empanelled advocates.

(l) the empanelled advocate shall not necessarily be for a particular Court and shall accept any case or matter assigned to him and shall not refuse to accept any professional task without reasonable cause.

(m) the empanelled advocate shall not refuse to accept any assignment otherwise than on grounds of ill health, conflict of interest or any other reason to the satisfaction of the Competent Authority.

(n) the engagement or allotment of cases or matters to the empanelled Advocate shall be at the sole discretion of the Competent Authority. However, the allotment shall be done in an equitable manner without prejudice or bias; but regard shall be had for the nature of the case or matter, subject under challenge, experience, merit, performance and competence of the person or such other circumstance of winnability of the case or matter.

(o) during the term of the empanelment and thereafter, any confidential information relating to the Authority, any officer, employee or representative of the Authority obtained by the empanelled advocate, under or by virtue of the empanelment, shall be maintained as professional communication within the meaning of section 126 of the Indian Evidence Act, 1872 (1 of 1872) and he shall not disclose the information to any person without the prior written consent of the disclosing party, unless such information is required to be disclosed in pursuance of order of any competent court, tribunal exercising jurisdiction, in which case the empanelled advocate shall promptly notify the Authority in writing of such disclosure.

(2) Notwithstanding anything contained in the foregoing, the Authority reserves the right to postpone, suspend, terminate, remove or cancel the empanelment of an advocate for reasons to be recorded in writing.

6. Performance review of empanelled advocate. - The Empanelment Committee shall review the performance of empanelled advocate regarding conduct of any case or matter pertaining to the Authority every year and where Committee believes that the performance of empanelled advocate is not satisfactory, his name may be removed from the panel for reasons to be recorded in writing by the Competent Authority.

7. Right to Practice. - (1) An empanelled advocate shall have the right to represent for and on behalf of any other client in any case or matter, which shall not, however, interfere with or be in conflict with the efficient discharge of his professional duties towards the Authority or any of its officers or employees

(2) An empanelled Advocate shall not advise any party or accept any case or matter against the Authority, any member or its officers or employees, or any case or matter in which he has appeared or is likely to be called upon to appear or advise, in which event they shall be liable to be removed from the panel.

(3) If the empanelled advocate, at any relevant period, is a partner of a firm of lawyers or solicitors, which takes up or advises a person or a party who is or is likely to be moving against the interests of the Authority, it shall be incumbent upon the empanelled advocate to disclose the same and a decision to withdraw a case or matter from such empanelled advocate shall be taken by the Competent Authority; However, non-disclosure of such information shall be liable for the empanelled Advocate to be removed from the panel.

(4) The empanelled Advocate shall not take up any case or matter or advise any person or party against the interests of the Authority, the Central or a State Government, any Public Sector Bank or any Authority, constituted or established under any Central or State law, which in the opinion of the Competent Authority, amounts to conflict of interest, prejudice or bias affecting the case or matter entrusted to him or advice sought by the Authority from him.8. Removal from empanelment. – (1) Where the Competent Authority is satisfied that an empanelled Advocate has committed or attempted to commit any of the following acts he may be removed or suspended from the panel, namely: -

(a) failing to attend the hearing of the case without sufficient reason and without prior information to the competent authority;

(b) handing over the case or matter to another advocate without prior written permission of the Competent Authority;

(c) not acting as per the instructions or acting against any general or specific instructions of the Competent Authority;

(d) not returning the brief or matter or no-objection when demanded by the Competent Authority or not allowing or evading to allow the inspection of case records on demand;

(e) misappropriation of any money or property of the Authority or earmarking or appropriating the same towards his fees without the permission of the Authority;

(f) threatening, intimidating, abusing any employee, officer or representative of the Authority or in any manner misbehaving with him;

(g) making or allowing any of his associates or juniors to appear on behalf of any opposite party in any case or matter against the interests of the Authority;

(h) committing an act that tantamount to Contempt of Court or professional misconduct;

(i) arrest or detention or disbarment by the Bar Council;

(j) directly or indirectly passing on any secret or other information relating to the Authority or any case or matter to the opposite party or the opposite or other Advocate which causes or likely to cause damage to the Authority's interests;

(k) giving false or misleading information to the Authority or to any officer or employee or representative of the Authority relating to the proceedings of the case or matter;

(l) not objecting the adjournment move by any party to a case or matter without any sufficient reason;

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(m) if at any time during the period of empanelment the empanelled Advocate has been found engaged in any fraudulent activities, misrepresentation, misappropriation etc.; or

(n) violating any of the provisions contained in paragraphs 8, 9 or 10 of these Guidelines

9. Payment of fee. – (1) The fee payable per case to the empanelled advocate shall be governed by the Schedule as amended from time to time.

Serial No.	Category of Services	High Court	BREAT	District Court
1	For Effective hearing and argument	3000.00	2000.00	1500.00
2	Conference fee	1500.00	1200.00	1000.00
3	Drafting of Affidavit/ Counter Affidavit Charges	1500.00	1200.00	1000.00
4	Vetting Charges	1000.00	1000.00	1000.00
5	Drafting of Miscellaneous Application	1000.00	1000.00	1000.00
6	Legal Opinion	Included in the retainership fee		
7	Clerkage	800.00	500.00	500.00

(2) Where the empanelled Advocate is authorised to represent two or more cases involving substantially identical or similar questions of law or facts, one of such cases shall be treated as a lead case and others assimilar or identical or connected cases and he shall be paid full fee for the lead case and ten per cent of the fee of the lead case shall be paid for each of the similar or identical or connected case, subject to a maximum of five such cases.

(3) No fee shall be paid for non-appearance in a Court by the empanelled advocate where he seeks adjournment without any instruction for adjournment from the Competent Authority or on account of his personal reason or where adjournment is effected due to non-sitting of the Court.

(4) Only one set of fee shall be payable to the empanelled Advocate where more party than one on behalf of the Authority are in the party array.

(5) If any senior Advocate is engaged for a matter representing the Authority, fee and charges shall be determined as per the Schedule under prior intimation of the Authority.

(6) Where more than one Advocate (excluding Senior Advocate) is engaged in any case or matter, the lead Advocate shall be entitled to the fee and charges as per the Schedule and the other Advocate assisting the lead advocate shall be paid at the rate of fifty per cent. of the fee paid to the lead Advocate.

(7) A retainer fee of Rs 10,000 per month shall be paid to an empanelled Advocate.

(8) for Outstation cases, travelling and accommodation will be provided as per the rules prevalent for the officers of State Government.

10. Method of Payment of fee. - (1) The empanelled Advocate shall submit the professional fee bills to the competent authority or any officer or employee authorised by him along with the gist of proceedings and certified copy of order or judgment where the bill relates to a claim for appearance fee and where, the bill relates to legal opinion or other reference, the copy of the request or reference sought by the Competent Authority may be enclosed.

(2) The claim for reimbursement of expenses in lodging shall be claimed by producing necessary voucher or bill or undertaking to the satisfaction of the Competent Authority or any officer, employee or representative authorised by him in this behalf.

(3) The Competent Authority shall process payment of bill within a period of one month from the date of submission if the claim is complete in all respects.

(4) The payments shall be subject to tax deduction at source or such other taxes as applicable from time to time.

11. Termination. - (1) The empanelled Advocate shall be at liberty to exit from the empanelment by giving at least one month's notice in writing to the Authority, whichever case file and every other document relating to the case or matter entrusted to him shall be returned to the Competent Authority or any officer or representative authorised by the Competent Authority.

(2) Without prejudice to the foregoing provisions, the Competent Authority or the Authority reserves the right to terminate the empanelment by giving notice to the empanelled advocate

at any time he fails to discharge his obligation under these Guidelines or is found to be negligent, careless, inefficient or has committed fraud, mischief, misappropriation or any misconduct to the satisfaction of the Competent Authority or the Authority, as the case may be.

(3) Any pending or unresolved operational issues, performance, unpaid fees or any other remedy to the empanelled Advocate may be settled or resolved even after the advocate is removed or his empanelment is terminated.

12. Eligible incumbents having requisite qualification and experience may submit their application in prescribed format online from 0900 Hrs. of 22 September 2021 till 2400 Hrs. of 26 October 2021 following a dedicated link created for this purpose on the website '<https://rera.bihar.gov.in>' of Real Estate Regulatory Authority (RERA), Bihar, Patna-800023.

Application received after the cut of date shall not be considered and no correspondence will be entertained in this regard. Incomplete application will not be entertained.

13. On filing the application online a reference number will be generated for every Incumbent acknowledging successful filing, which may be used for future reference /correspondence/records. No certificate needs to be submitted along with application. Shortlisted candidates need to bring requisite certificates before the Empanelment Committee. Filing wrong information in the application may lead to rejection of candidature.

14. Number of Advocates to be empanelled shall be decided by the Authority.


16/9/21
Secretary