

GOVERNMENT OF ORISSA
LAW DEPARTMENT

No. 8013 /L., dated, Bhubaneswar, the 17th June, 1993.

Sri R.N.Das, I.A.S.,
Chief Secretary, Orissa.

To

All Secretaries to Government (by name)

Sir,

Instances have come to notice of Government where certain Departments of Government were found to have taken steps for carrying out the directions contained in the judgements of the Hon'ble High Court of Orissa or the Central/State Administrative Tribunal even though a decision had been taken in the Law Department to file Special Leave Petition in the Supreme Court against the same judgement. Such anomolous situations have arisen primarily because-

the administrative Department concerned had decided to implement the judgement without seeking advice of Law Department on the question of advisability of filing Appeal in the Supreme Court and

the Law Department had examined the judgement and decided to file Special Leave Petition, without a reference from the administrative Department concerned, on the basis of a copy of the judgement received directly by it in that Department from the office of the Advocate General or the Government Advocate.

2. With a view to obviating scope for such anomolous situations and conflicting decisions, it has been decided that on receipt of the judgement of the Hon'ble High Court of Orissa or of the Tribunals, the following procedure shall be followed:-

(a) On the receipt of a judgement the administrative Department shall examine the facts and circumstances of the case, the likely effects of the judgement as also its implications for the future and take a view as to whether it would be appropriate to file a Special Leave Petition in the Supreme Court. It shall thereafter refer the relevant file to Law Department for its opinion/concurrence.

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(b) If a copy of the judgement is received directly in the Law Department with or without the opinion of the Advocate General/Government Advocate, the Law Department shall examine whether there are adequate grounds for filing a Special Leave Petition. It shall simultaneously inform the administrative Department concerned that the question as to whether SLP should be filed is being examined in the Law Department and request the administrative Department to furnish its views on this question in the relevant file forthwith. Where views of the administrative Department are not made available to Law Department within a reasonable time, the Law Department will examine the matter without waiting for the opinion of the administrative Department.

(c) After a reference has been made by the administrative Department to Law Department in pursuance of sub-para(a) or an intimation has been received by the administrative Department from the Law Department in pursuance of sub-para(b) above, the administrative Department will take steps to implement the judgement only after receipt of opinion of the Law Department.

(d) The decision as to whether a Special Leave Petition shall or shall not be filed shall be communicated by the Law Department to the concerned administrative Department well before the expiry of the date within which the directions contained in the judgement are required to be implemented so that the administrative Department have adequate time to comply with the directions in case it is decided not to file SLP and to take appropriate steps for filing SLP if it is so decided.

Yours faithfully,

J. N. Jay

17/6/93

Chief Secretary to Government.

Copy of the letter No. 28222/Gen., dt. 12.10.90 from G.A. Department, Orissa, Bhubaneswar addressed to all Heads of Departments & others
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Sub:- Non-implementation of the orders of the State Administrative Tribunal resulting to initiation of Contempt proceeding.

2. Council
It has come to the notice of Government that due to non-implementation of the orders/ directions of the State Administrative Tribunal contempt proceeding are being started against the Secretaries to Government. There are cases where the date line fixed by the Tribunal for implementations of the orders or directions is already over and the aggrieved party has moved the Tribunal for contempt.

2. After careful consideration, it has been decided that in each Department an Officer not below the rank of Deputy Secretary and in each Heads of Department an Officer not below the rank of Deputy Director should be entrusted with the responsibility of monitoring the implementation of Court orders. All the cases where specific directions has been given by the Court should be sent to this Officer for ~~perusal~~ perusal and for taking a gist of the orders and the date by which it is to be implemented. He will maintain a diary of such cases and appraise the Secretary/Heads of Departments every month about progress of implementation. The cases where the orders is not implemented by the fixed date should be brought to the notice of Secretary/Heads of Department by this Officer.

3. This Officer will also be responsible for getting stay order vacated as and when necessary. It has to be ensured that the arrangement does not dilute the responsibility of the Branch Officer and the Heads of Department for ensuring implementation of the orders of the Court. It should be responsibility of the Branch Officer to see that conditional orders if any passed by the Court (for example, promotion being given subject to outcome of the case i.e. subjudice) are implemented at the appropriate time. It should also be the responsibility of the Branch Officer and Heads of Departments to ensure submission of detailed para-wise comments in each cases and to ensure preparation of counter by liasion with the Government Advocate.

4. The Government Advocate is being requested to distribute the cases among the different counsels department-wise so as to enable the Department to know with whom they are to keep contact.

Sd/-
Special Secretary to Government.