

RESOLUTION

No. 26574/GA, Bhubaneswar, dated the

5.10.05.

Sub: -Defence of officers and employees of the State Government impleaded in Contempt of Court proceedings, by Law Officers of the High Court.

In consonance with the principles of law enunciated by the Supreme Court of India in Civil Appeal No. 8588-89 of 1997 in the case of Commissioner, Agra and others -vs.- Rohtas Singh and others reported in AIR 1998 SC 685, it has been stipulated vide Chief Secretary's Letter No. 42863 dated. 6th December 2000 that the Government Advocates and Standing Counsels for the state shall appear and defend the Government officials against whom the notices for contempt of court have been issued for any alleged act of omission or commission while performing their duties in the official capacities if requested by the Administrative Departments / Heads of Departments to which the contemnor belongs. But as per provisions laid down under clause (d) of rule 7 of the Law Officers of the High Court (Recruitment, Remuneration and Duties) Rules, 1974, the Law officers of the High Court shall be precluded from appearing at any of the contempt proceedings in favour of the contemnor without sanction of the State government. As a result of which the Law officers of the High Court have not been authorised to defend the contemnor without specific sanction of the State Government.

Instances have come to the notice of Government that individual sanction of Government in each case is not only time consuming but also results in neglecting the defence of the contemnor by the Law Officers attached to the High Court. It has therefore, been decided by the Government that any request for defence of the contemnor as per circular of General Administration Department referred to above shall be deemed to have been accorded with the sanction of Government as a prerequisite under clause (d) of rule 7 of the Law Officers of the High Court (Recruitment, Remuneration and Duties) Rules, 1974 and shall be defended by the Law officers attached to the High Court.

Accordingly in partial modification of Chief Secretary's Letter No. 42863 dated.06.12.2000, the following sub-para may be added to para 3 of the said letter: -

"The request for appearance of the Government Advocates or Standing Counsels, as the case may be, in such contempt cases shall be deemed to have the sanction of the State Government as required under clause (d) of rule 7 of the Law Officers of the High Court (Recruitment, Remuneration and Duties) Rules, 1974"

This has been concurred in by the Law Department in their UOR. No. 1229/L dated. 12.06.2005.

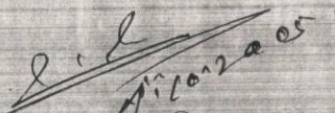
By Order of Governor



Special Secretary to Government

Memo No. 26575 Dated 5.10. 2005.

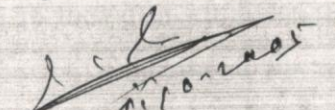
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Deputy secretary to Govt.

Memo No. 26576 Dated 5.10. 2005.

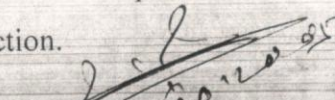
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Deputy secretary to Govt.

Memo No. 26577 Dated 5.10. 2005.

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Deputy secretary to Govt.