

Non-implementation of High Courts/CAT orders

*257. SARDAR BALWINDER SINGH BHUNDER: Will the PRIME MINISTER be pleased to state:

(a) whether Government is aware that several Ministries have not been implementing the judicial orders of High Courts/Central Administrative Tribunal (CAT) for the last more than five years, if so, the details thereof and the reasons therefor; and

(b) whether Government has received any representations against non-implementation of CAT orders by any Ministry and if so, the details in this regard and the action proposed to be taken on non-implementation of Court/CAT orders?

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (DR. JITENDRA SINGH): (a) and (b) No, Sir. No such case of deliberate non-implementation of the orders of Hon'ble High Courts or Central Administrative Tribunal (CAT) has come to notice. Government holds the High Courts/Central Administrative Tribunals in highest esteem, and has the greatest regard for their orders. Government is also well aware of the fact that non-implementation of orders constitutes contempt of Court which may lead to penal consequences for all the officials concerned. The only event in which the orders may not be implemented is when a judicial review of the Court orders before a higher judicial forum is sought and decision thereon is pending.

The responsibility for implementation of the orders of the Hon'ble Courts/CAT is of the Ministries/Departments concerned and no centralised data is maintained regarding implementation or otherwise of the Court orders received.

However, the Department of Personnel and Training *vide* OM no. 28027/1/2016-Estt.A-III dated 16.3.2016 (Copy annexed) has issued guidelines/instructions to all Ministries/Departments to treat the orders received from Court with proper care and to ensure that timely action is taken at each stage of a court case. The details are given in the Statement (*See* below). Litigation should not be allowed to prolong to the extent that it results in contempt proceedings.

Statement

Guidelines/instructions issued to Ministries/Departments with regard to orders received from courts

F.No. 28027/1/2016-Estt.A-III

Government of India

Ministry of Personnel, Public Grievances and Pensions

Department of Personnel and Training

Establishment Division

North Block, New Delhi-110001

Dated: 16th March, 2016

Office Memorandum

Subject: Court orders against Government of India instructions on service matters-consultation with Ministry of Law and Department of Personnel and Training on question of filing appeals.

The undersigned is directed to refer to this Department's O.M.No.28027/9/99- Estt. (A) dated 1st May, 2000 on the above subject (copy enclosed) and to say that the Department of Personnel and Training is the nodal Department that formulates policies on service matters and issues instructions from time to time. These instructions are to be followed by the Ministries/Departments of the Central Government scrupulously. All the Court cases filed by employees have to be defended on the basis of the facts available with the Administrative Ministry/Department concerned, keeping in view the instructions issued on the subject by this Department.

2. Reference is also invited to the Cabinet Secretariat's D.O letter No. 6/1/1/94-Cab dated 25.02.1994 and the Department of Expenditure's O.M. No. 7(8)/2012-E-II(A) dated 16.05.2012 *inter alia* provide that (i) a common counter reply should be filed before a Court of Law on behalf of the Union of India by the concerned administrative Department/Ministry where the petitioner is serving or has last served; and (ii) a unified stand should be adopted instead of bringing out each Department's/Ministry's point of view in the said reply. It further provides that it is primarily the responsibility of the Administrative Ministry to ensure that timely action is taken at each stage a Court case goes through and that a unified stand is adopted on behalf of Government of India at every such stage. In no case should the litigation be allowed to prolong to the extent that it results in contempt proceedings.

3. However, it is noticed that the Ministries/Departments are making several references to this Department seeking interpretation of the guidelines without exercising due diligence, The Ministries/Departments are advised not to make any references to this Department unless there are difficulties relating to interpretation/application of these guidelines or any relaxation in rules/instructions is warranted to mitigate a genuine hardship faced the Government servant. While seeking advice of this Department, instructions contained in this Department's O.M. number 43011/9/2014-Estt (D) dated 28.10.2015 may be followed.

4. The court cases may be further handled in the following manner:—

Sl. No.	Orders of Court	Action to be taken
1.	A decision/order has been quashed by Tribunal/Court on the ground that it is violative of the Rules/ Government instructions, but Government's policy has not come in for adverse comments.	The Administrative Department may implement the CAT Order/ Judgement if it is in consonance with Government policy and the Government case has been lost due to Administrative infirmities.
2.	Where the policy of DoPT has not been quashed, but the judgment/ order of the Tribunal/High Court/ Supreme Court has gone in favour of Respondents/Applicants.	
	(a) Where in above, the Administrative Ministry is in favour of implementing the judgement.	→ The Administrative Ministry may take a decision in consultation with DoPT and DoLA.
	(b) Where in above, a decision to file Writ Petition/Special Leave Petition (as the case may be) has to be taken.	→ The Administrative Department may take a decision to file Writ Petition/Special Leave Petition (as the case may be) in consultation with Department of Legal Affairs (DOLA) and DoP&T.
3.	Where the judgment has gone in favour of Applicant/Petitioner/ Respondent and a scheme/guideline/ OM outlining Government policy has been quashed.	The Administrative Department may take a decision to file WP/SLP (as the case may be) in consultation with DoPT and DOLA. The references to this Department should be sent at least one week in advance so that it can be properly examined in DoP&T.

Sl. No.	Orders of Court	Action to be taken
4.	CAT or a Higher Court has upheld Government's stand.	DoPT may only be informed with all details.

sd/-

(Mukesh Chaturvedi)

Director(E)

Tele: 23093176

To

The Secretaries of All Ministries/Departments (as per the standard list)

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. Cabinet Secretariat, New Delhi.
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi.
8. The Secretary, Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
10. Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
11. CVOs of all Ministries/Departments.
12. ADG (M&C), Press Information Bureau, DoP&T
13. NIC, Department of Personnel and Training, North Block, New Delhi (for uploading the same on the website of this Ministry under the Head OMs and Orders → Establishment → Miscellaneous
14. Hindi Section, DoP&T

sd/-

(Mukesh Chaturvedi)

Director(E)

Tele: 23093176

No.28027/9/99-Estt.(A)

Government of India

Ministry of Personnel, Public Grievances and Pensions

Department of Personnel and Training

New Delhi, dated. the 1st May, 2000

Office Memorandum

Subject: Court orders against Government of India instructions on service matters-consultation with Ministry of Law and DoP&T on the question of filing appeals, before implementation of Court's orders.

The undersigned is directed to say that it has come to the notice of this department that in cases where the Courts have passed orders against the Government of India instructions, the administrative Ministry/Department has not consulted the Law Ministry on the question of filing appeal against such orders, before implementation of such orders.

2. The matter has been considered in this Department and it has been decided that whenever there is any Court order against the Government of India instructions on service matters, the administrative Ministry/Department/Office shall consult the Department of Legal Affairs and the Department of Personnel and Training on the question of filing appeal against such an order, as far as possible, well in time, that is before the time limit, if any, prescribed in such order or before the time limit for filing appeal. No such orders shall be implemented by the concerned Departments/Ministries without first referring the matter to the Department of Legal Affairs for advice and to Department of Personnel and Training.

3. The Ministries/Departments are requested to note the above instructions for strict compliance.

4. These instructions are issued in consultation with the C&AG, in regard to its applicability to Indian Audit and Accounts Department

sd/-

(Shrimati S. Bandopadhyay)

Director

To

All Ministries/Departments of the Government of India.

Copy to:

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigation, New Delhi.
5. All Union Territory Administrations.
6. Lok Sabha/Rajya Sabha Secretariat.
7. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

sd/-

(Shrimati S. Bandopadhyay)

Director

Loans provided by NSDC

*258. SHRI HARIVANSH: Will the Minister of SKILL DEVELOPMENT AND ENTREPRENEURSHIP be pleased to state:

(a) whether it is a fact that some of the initial loans provided by the National Skill Development Corporation (NSDC) have turned bad, if so, the details in this regard; and

(b) whether any action has been taken against those who have been found responsible for the same?

THE MINISTER OF STATE OF THE MINISTRY OF SKILL DEVELOPMENT AND ENTREPRENEURSHIP (SHRI RAJIV PRATAP RUDY): (a) and (b) There are few loan accounts which have shown signs of stress and as per Prudential Norms, the same have been classified as Non-Performing Assets in the books of National Skill Development Corporation. As of 31st March 2017, 19 loan accounts are classified as NPA with a total overdue amount of ₹ 129.15 crores. As per Terms of the Agreement, Notice for Default has been sent and Legal Notices/Action has also been initiated against defaulting partners.

Allocation of funds according to population

†*259. SHRI DIGVIJAYA SINGH: Will the Minister of SOCIAL JUSTICE AND EMPOWERMENT be pleased to state whether Government proposes to allocate amounts for various schemes to State Governments according to their population and if so, the details thereof?

† Original notice of the question was received in Hindi.