

IMPORTANT
PERSONAL ATTENTION

No.Fin-E(E)3/17/2020
Government of Himachal Pradesh
Finance Department.

From

The Chief Secretary to the
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries to the
Government of Himachal Pradesh.
2. All Heads of Departments
Himachal Pradesh.

Dated: Shimla- 171002 the

3/ March, 2021.

Subject: - Non-Assailing/ Non-implementation of Court Judgments/Orders.

Sir,

1. It has come to the notice of the Government that various court judgments /orders passed by the Hon'ble High Court/erstwhile HPAT remain un-attended for months together at the level of the Government Departments/ Universities/ Public Sector Undertakings/ Autonomous bodies etc., as a result of which, appeals filed in higher appellate Courts are dismissed on the grounds of delay, causing financial burden on the State exchequer. In some cases, inordinate delay in filing appeals by concerned Government Departments etc., gives an opportunity to the petitioner(s)/applicant(s) to file Contempt petitions in the Hon'ble Court(s). In the past also, in some Govt. cases, the State Government was forced to implement Court decisions, which were purely dismissed on the grounds of delay in filing appeals in the Higher Appellate Courts resulting in huge burden on State exchequer.

2. In this regard, Ld. Additional Advocate General State of Himachal Pradesh has also intimated vide letter No. Ex.Pet No. 2021-7185 dated 18.03.2021 that instances have come to notice where the Judgement/orders passed by the Hon'ble Courts were not complied with by the concerned Departments. Feeling aggrieved, the incumbents are filing Execution Petition(s), before, the Hon'ble High Court. In such type of cases the Hon'ble High Court has cautioned the Respondents(s)/ Defendant(s) against disobeying and disregarding the judgement/order(s). In some matters pertaining to HRTC, the Hon'ble Court was

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pleased to impose heavy costs. In another matter pertaining to Health Department, the Hon'ble Court has been constrained to issue notice of contempt against the Respondents(s)/ Defendant(s) for non-implementation of the judgement(s) and the Hon'ble High Court has taken serious view on non-implementation of the Court orders.

3. It has been observed at Government level that in several cases the judgements/orders passed by the Courts in various Writ Petitions/OA's etc., involving financial implications are not dealt with on priority basis by the concerned departments as well as at the Secretariat level. The cases are referred to the advisory departments, close to the expiry of the period specified by the Hon'ble Court for implementation of the Court orders. In such circumstances, the Finance & Law Departments find it difficult to examine the cases in the right perspective keeping in view all the ramifications of the orders. In several cases, prior consultation with Law Department/Personnel Department on legal aspects too is required to be done by the departments.

4. It is pertinent to mention that in Chapter XVI of the "Office Manual of the Government of Himachal Pradesh", detailed procedure has been given to deal with the Court cases in time bound manner. As per provisions contained in Para-16.4.4 of the aforesaid Office Manual, every office is required to maintain a register of court cases in the form as given in Chapter XIII of said Office Manual. The Register, contains all essential columns such as details of interim orders/stay etc., final decision, date of implementation of judgment or date of filing appeal etc. This register should always be kept updated and should be regularly reviewed to ensure that all orders, directions or judgments of the Courts are either implemented without delay or in case review /revision or appeal is to be filed, action is taken immediately and stay orders^{be} obtained from the competent court with regard to the orders, directions or judgment against which review/revision or appeal has been filed.

5. The matter regarding non assailing/ non implementation of court judgments/ orders in time bound manner as per detailed guidelines/instructions contained in Chapter XVI of the "Office Manual of the Government of Himachal Pradesh" has been viewed seriously by the Government. Therefore, all Administrative Secretaries and Heads of Departments are requested to strictly

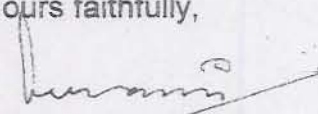
adhere to the Govt. instructions/guidelines as referred to above. Any laxity and delay in filing appeal/review /revision in higher appellate Court, causing dismissal of such appeals on the grounds of delay in filing appeals can lead to disciplinary/ departmental action against the officers/officials responsible for it.

6. All the Administrative Secretaries and Heads of Departments are also requested to ensure that a mechanism is developed by the heads of department under their control to deal with such cases on "TOP PRIORITY BASIS" which may be referred to the advisory departments including Finance department and Law department immediately, complete in all respect i.e. background of case alongwith previous papers/orders, number of beneficiaries, additional financial implications etc. alongwith cogent reasons. This exercise should be completed within reasonable time after the pronouncement of the decision by Hon'ble Court(s) failing which, the Administrative Secretaries/ Heads of Departments will be responsible for any adverse orders or consequences for non-compliance and disobedience Govt. directions, if any.

7. These instructions may be brought to the notice of all officers/officials in the Department/office for strict compliance so that delay in court matters could be avoided and the State Govt. is not forced to implement the Court judgements/orders, which could be legally contested in higher appellate Courts. Similarly court orders which call for implementation, could be implemented without any delay in the interest of stake holders.

8. These instructions may be followed in letter and spirit, failing which, strict action will be taken against the persons responsible for any lapses.

Yours faithfully,


(Anil Kumar Khachi, IAS)

Chief Secretary to the
Government of Himachal Pradesh.

Endst. No. As above-

Dated Shimla 3/March,2021

Copy forwarded for strict compliance of the above instructions, to: -

1. The Advocate General, Himachal Pradesh, Shimla, for information
2. The Resident Commissioner. Himachal Pradesh. Himachal Bhawan. 27- Sikandra Road. New Delhi

3. All Divisional Commissioners in Himachal Pradesh.
4. The Registrar General, H. P. High Court, Shimla - 171001
5. All Deputy Commissioners in Himachal Pradesh.
6. All Superintendents of Police in Himachal Pradesh.
7. All District and Sessions Judges in Himachal Pradesh.
8. All the Managing Directors,/Registrars/ Secretary of respective Public Sector Undertakings/Autonomous Bodies/ Universities/Boards/ Corporations in Himachal Pradesh.
9. The Incharge. NIC. H.P. Secretariat. Shimla-2 with the request to upload this letter on the State Finance-E Department Website.



(Rakesh Kanwar, IAS)

Special Secretary (Finance) to the
Government of Himachal Pradesh.