

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10349 of 2016

Date of decision: May 23, 2016.

Union Territory, Chandigarh and another

... **Petitioners**

v.

Kesar Singh and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE SURYA KANT**
HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Shri Vikram Vir Sharda, Advocate,
Additional Standing Counsel for UT - petitioners.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral):

Chandigarh Administration through its Finance Secretary and
DPI (Schools) have laid challenge to the two interlocutory orders dated
22.4.2016 and 11.5.2016 of the Central Administrative Tribunal,
Chandigarh Bench passed in exercise of its contempt jurisdiction.

Though, we have serious doubts on the very maintainability of
this writ petition but owing to the urgency shown, we have heard learned
Counsel for the petitioners on merits.

There can be no second opinion that the learned Tribunal has
rightly summoned the Officer(s) for their failure to comply with the time-
bound directions issued by the Tribunal on 17th December, 2007 which were
duly upheld by this Court on 16th September, 2015. Learned Counsel for
the petitioners refers to the opinion given by the Finance Department of UT

Administration on 18th December, 2015 according to which the above stated directions of the Court were to be complied with “after obtaining the approval of the MHA...”. Such like condition is totally uncalled for in a case where the authorities are required to comply with Court directions. The MHA, or for that matter, even Ministry of Finance cannot be allowed to sit over the judicial verdict.

However, the administrative compulsion of the UT Administration to seek prior approval from the Ministries of Home and Finance must always be attended to by these Ministries with the desired sense of responsibility and they are obligated to give their response promptly, particularly in a matter emanating from judicial proceedings.

The casual approach, as it appears, adopted by the Ministry of Home Affairs which kept the matter pending for more than four and a half months, warrants appropriate suitable action against the senior functionaries of the Ministry of Home Affairs also. We, thus, decline to interfere in the orders passed by the Tribunal but grant liberty to the Finance Secretary, UT Administration to apprise the Tribunal the nomenclature of the officers in the Ministry of Home Affairs who are responsible for stalling the implementation of Court order which has attained finality. We request the Tribunal to initiate appropriate proceedings against those officers of MHA as well. The Tribunal may thereafter determine where there is a “deliberate” and “willful” disobedience of the Court orders on the part of the Finance Secretary and other Officers of the UT Administration or such fault lies with the Government of India.

Disposed of accordingly.

A copy of this order be supplied to Learned Counsel for the petitioners under the signatures of the Bench Secretary for information and necessary action.

[Surya Kant]
Judge

May 23, 2016.
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[A.B. Chaudhari]
Judge