

Maharashtra, this GR gives 90-day limit for govt. officials to take action on any representation / application

Dear fellow citizens,

Chief Secretary J P Dange issued an important circular to all departments of Mantralaya and all district authorities on 16th February 2010. This GR specifies that proper action must be taken speedily on all applications and representations, within maximum of three months of receipt. If there is failure to do so, concerned official will be held personally liable, and departmental enquiry will be taken up against them for dereliction of duty.

This circular (in Marathi) is in compliance with a Bombay High Court Order in Writ Petition no. 8348 of 2009, seeking timely disposal of their application for compensation for land acquisition. However, the scope of the Order and the Circular is not restricted to the specific reliefs sought by the petitioner. It benefits all citizens who approach various government offices in Maharashtra for their work.

[Download this HC Order (ENGLISH Pg 1-5) & Circular (MARATHI Pg 6-7): <http://tinyurl.com/Maha90dayLimit>

The main parts are underlined in red.]

Justice S S Shinde and A M Khanwilkar of Bombay High Court remarked: "It is unnecessary to underscore that the applicant would have legitimate expectation of early redressal of her grievance. Indubitably, expeditious decision on the representation or application is a right engrained in article 21 ("Protection of life and personal liberty") of the Constitution of India. Even when no period of limitation to dispose of representation / application is prescribed under statute, it has to be done expeditiously within a reasonable time. That is the duty cast upon the officials. For, existence of power to decide such application / representation is coupled with duty to decide the same expeditiously..." (see page 2)

THE HIGH COURT GAVE CLEAR DIRECTIONS ON PAGE 3 & 4: "In our view, the Chief Secretary of the State of Maharashtra should issue appropriate instructions or circular to all the concerned officials of the respective departments, not only to the one referred above, but a general circular, instructing all the departments that if the officials are required to dispose of any application or representation under the provisions of law, they shall do so within a reasonable time and in any case not later than the time specified in the said circular, failing which the concerned official will be held personally responsible and may be proceeded for appropriate departmental action including for dereliction of duty." The Chief Secretary's circular was in compliance of this Order, and it says in Marathi what almost exactly what the Order said in English.

Jagdish Gaichandhani, the activist who emailed me this order and circular, points out: "Though the Maharashtra CS has issued the Circular, but the Content of the same is an Order, (read the last line of para 1 on page1) & violation of a Govt. Order is a penal offence under section 188 of the IPC. Please be aware of the severity of the non-compliance of the Govt. Order & the extent to which it can be stretched to."

IPC SECTION 188 SAYS: Disobedience to order duly promulgated by public servant Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate

such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation (given under IPC sec 188) - It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Fellow citizens, please use this circular and High Court order to seek swift action on your matters. Failing their proper disposal within three months, you can use the circular to press for disciplinary action against the concerned officials. As suggested by Jagdish Gaichandani, you can also try to get a police complaint (NC) lodged against the concerned government officials, and then take the matter further by approaching a magistrate.

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO. 8348 OF 2009

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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This is yet another matter in which the primary relief claimed is to direct the authority to discharge its statutory obligation, which it was expected to discharge within a reasonable time. The relief claimed is to issue direction to respondent nos.2 & 3 to decide the pending application u/s 28-A of the Land Acquisition Act within three months, obviously from the institution of this petition. Further relief is claimed for direction against respondent nos.2 and 3 to compensate the petitioner as per Land Acquisition Act within three months.

We have come across several writ petitions in which similar relief is claimed not

only in respect of inaction of the authority dealing with land acquisition proceedings, but even other departments, such as Cooperative Department, Caste Scrutiny Committee, Education Department, Social Welfare Department, Zilla Parishads and the like. We find that substantial number of writ petitions, such as the present petition, which are filed in this Court, are avoidable, if the officials of the State were to discharge their statutory obligation of deciding the representation within a reasonable time. In the present case, petitioner has submitted her application almost one year back i.e. 5th January, 2009. It is unnecessary to underscore that the applicant would have legitimate expectation of early redressal of her grievance. Indubitably, expeditious decision on the representation or application is a right ingrained in Article 21 of the Constitution of India. Even when no period of limitation to dispose of representation / application is prescribed under statute, it has to be done expeditiously within a reasonable

time (see Bharat Steel Tubes Ltd. V/s State of Haryana - [(1988) 3 S.C.C., 478]). That is the duty cast upon the officials. For, existence of power to decide such application / representation is coupled with duty to decide the same expeditiously. It will not be out of place to restate the legal position expounded by the Division Bench of this Court in a recent decision in the case of Vaishali Atmaram Suryawanshi V/s the State of Maharashtra in Writ Petition No.7055/2009 decided on 16th December, 2009. Notably, due to the inaction of the Authority (officials), not only the citizen has to suffer the agony of uncertainty and delayed justice, but at the same time the State exchequer is incurred on legal proceedings, which is wholly avoidable.

In our view, the Chief Secretary of the State of Maharashtra should issue appropriate instructions or circular to all the concerned officials of the respective departments, not only to one referred to above, but a general circular, instructing all the Departments that if the officials are

required to dispose of any application or representation under the provisions of law, they shall do so within a reasonable time and in any case not later than the time specified in the said circular, failing which the concerned official will be held personally responsible and may be proceeded for appropriate Departmental action including for dereliction of duty. The Government Pleader assures to convey the sentiments of the Court to the Chief Secretary for taking appropriate action, as may be advised, and report compliance to the Court within four weeks from today.

Insofar as the present matter is concerned, we have no hesitation in disposing of this petition with direction to the respondent nos.2 & 3 to forthwith process the application preferred by the petitioner u/s 28-A of the Land Acquisition Act and dispose of the same expeditiously, in any case not later than eight weeks from today and submit compliance report in the Registry of this Court. The said application shall be decided

on its own merits.

In view of the observations made in the earlier part of this order, it is treated as suo motu proceedings initiated by this Court. The matter to be listed on 22.2.2010 under the caption "Directions".

(S.S. SHINDE, J)

(A.M. KHANWILKAR, J)

Dt/- 25.01.2010

ndk/c2511023

सर्व मंत्रालयीन विभागांनी त्यांचेशी संबंधित
वैधानिक कामकाजाबाबत, तसेच
अधिनियमास अनुसरून करावयाची
कार्यवाही विहित कालावधीत करण्याची
दक्षता घेणेबाबत.

महाराष्ट्र शासन
महसूल व वन विभाग
शासन परिपत्रक क्र.संकीर्ण-०२/२०१०/प्र.क्र.२९/अ-२
मंत्रालय, मुंबई ४०० ०३२.
दिनांक- १६ फेब्रुवारी २०१०.

वाचा:- शासन अर्धशासकीय पत्र क्र.एलक्यूएन-१८९१/४८७४/अ-२, दिनांक १३.९.१९९१ चे पत्र.

शासन परिपत्रक

भूसंपादन अधिनियमाच्या कलम-२८(अ) खाली प्राप्त झालेले संबंधितांचे अर्ज निकाली काढण्यास होणारी दिरंगाई यांना आळा घालण्याच्या दृष्टीने आणि त्यामुळे पर्यायाने शासनाच्या तिजोरीवर पडणारा अतिरिक्त भार रोखण्याच्या दृष्टीने प्रलंबित अर्ज तातडीने निकाली काढण्याच्या दृष्टीने शासनाने यापूर्वी सुद्धा आदेश निर्गमित केलेले आहेत. सदर आदेश देण्यामागील मुख्य हेतू हा कलम-२८(अ) खालील अर्ज प्रलंबित न राहता, त्यावर भूसंपादन अधिनियमातील तरतुदीनुसार तातडीने निर्णय व्हावा असे अधिप्रेत होते. तथापि त्याप्रमाणेची कार्यवाही होत नसल्यामुळे मा.न्यायालयात त्याबाबत कार्यवाही होण्यासाठी आदेश मिळविण्यासाठी दावे दाखल करण्यात येतात. सदर अर्जांवर तातडीने निर्णय होत नसल्याबाबतची बाब मा.न्यायालयाने बऱ्याच दाव्यांमध्ये शासनाच्या निदर्शनास आणून दिलेली आहे. त्यामुळे ही बाब शासनास भूषणावह ठरणारी नाही. मा.न्यायालयाने रिट पिटीशन क्र.८३४८/२००९ मध्ये शासनाच्या असेही निदर्शनास आणले आहे की, विविध रिट पिटीशनमध्ये दिसून येणारी बाब फक्त भूसंपादन प्रक्रियेशी संबंधित आहे, अशी बाब नसून त्यामध्ये मंत्रालयीन इतर विभाग उदा.सहकार विभाग, जात पडताळणी समिती, शिक्षण विभाग, सामाजिक न्याय विभाग, जिल्हा परिषदा व इतर विभाग यांचाही समावेश होतो. त्यामुळे या सर्व बाबींचा विचार करता शासन खालीलप्रमाणे सर्वसाधारण आदेश देत आहे.

सर्व मंत्रालयीन विभागांनी त्या त्या विभागांशी संबंधित वैधानिक कामकाजाबाबत तसेच संबंधित अधिनियमांतर्गत अर्ज/ निवेदने प्राप्त झाल्यानंतर संबंधित अधिकारी/कर्मचारी यांनी त्या अर्जांमधील नमूद बाबींची तातडीने तपासणी करावी व अर्जदारांच्या अर्जांच्या अनुषंगाने संबंधित अधिनियमात/नियमात नमूद केलेल्या विहित कालावधीत कार्यवाही करण्यात यावी व ज्या अधिनियमांतर्गत/रौटा/एन-२५३९[१०००-२-२०१०]-३

[स्व. आ. म.

नियमांतर्गत कार्यवाही करण्याबाबत अंतिम कालावधी विहित केलेला नाही, त्याबाबतचा निर्णय घेण्याची कार्यवाही ३ महिन्यांच्या आत पूर्ण करण्यात यावी. सदरहू कार्यवाही संबंधित अधिकाऱ्यांनी बरील नमूद केल्या विहित कालावधीत न केल्यास संबंधित अधिकारी व कर्मचारी यांना बेयक्तिकरित्या जबाबदार धरण्यात यावे व त्याबाबत त्यांच्याविरुद्ध कर्तव्यच्युति व कामाची ह्यगय केल्याबद्दल त्यांच्याविरुद्ध विभागीय चौकशी चालू करण्याची कार्यवाही करण्यात यावी.

सदरहू शासन परिपत्रकातील आदेश सर्व मंत्रालयीन विभागांनी तसेच विभागीय आयुक्त व जिल्हाधिकारी यांनी त्यांच्या अधिपत्याखालील सर्व संबंधित अधिकारी व कर्मचारी यांच्या निदर्शनास आणण्याची कार्यवाही तातडीने करावी.

सदरहू शासन परिपत्रक महाराष्ट्र शासनाच्या वेबसाईटवर उपलब्ध करण्यात आले असून त्याचा संगणक संकेतांक क्र.२०१००२१६१६३४०९००१ असा आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.


(जे. पी. डांगे)

मुख्य सचिव, महाराष्ट्र शासन

प्रत,

- मुख्य सचिव, महाराष्ट्र राज्य, मंत्रालय, मुंबई.
- प्रधान सचिव, विधी व न्याय विभाग, मंत्रालय, मुंबई.
- सर्व विभागीय आयुक्त.
- जमावबंदी आयुक्त व संचालक, भूमी अभिलेख, महाराष्ट्र राज्य, पुणे.
- नोंदणी महानिरीक्षक, महाराष्ट्र राज्य, पुणे.
- सर्व जिल्हाधिकारी / अतिरिक्त जिल्हाधिकारी.
- सर्व उप विभागीय अधिकारी/ भूसंपादन अधिकारी/ विशेष भूसंपादन अधिकारी.
- सर्व जिल्हा पुनर्वसन अधिकारी.
- सर्व जिल्हा सरकारी वकील.
- महालेखापाल, महाराष्ट्र-१/२ (लेखापरीक्षा), मुंबई/ नागपूर.
- महालेखापाल, महाराष्ट्र-१/२ (लेखा व अनुज्ञेयता), मुंबई/ नागपूर.
- संचालक, नगररचना, महाराष्ट्र राज्य, पुणे.
- सर्व मंत्रालयीन विभाग.
- वित्त विभाग (व्यय-९), मंत्रालय, मुंबई.
- महासंचालक, माहिती व जनसंपर्क महासंचालनालय, मंत्रालय, मुंबई.
- सर्व कार्यासने, महसूल व वन विभाग, मंत्रालय, मुंबई.
- निवडनस्ती (अ-२), मंत्रालय, मुंबई.