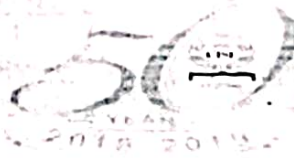


(16)



E-MAIL

Office of the Addl. Director General/Airport Sector
Central Industrial Security Force
(Ministry of Home Affairs)

Airport Sector HQrs., Ground Floor,
Administrative Block, CISF Complex,
Mahipalpur (ByPass Road) N. Delhi-37
Dated 22/10/2018.

No. V-14014/APS/CC-MISC/LC/ 2018 - 9289
To,

1. IG/APS-II Bangalore (Camp at ASG Hyd.)
2. All DISG under APS HQrs. - I

SUB: VACATION OF STAY AGAINST DEs/POSTINGS PENDING BEFORE VARIOUS
COURTS IN CIVIL AND CRIMINAL CASES FILED BY CISF PERSONNEL : REG

Please refer to this HQrs. letter No.V-14014/APS/CC-MSIC/LC/2018-5376 dated 15.06.2018 vide which a copy of the Apex Court J.O dated 28.03.2018 in the matter of Asian Resurfacing of Road Agency Pvt. Ltd. & Anr V/s CBI in Criminal appeal Nos. 1375-1376 of 2013 was forwarded for necessary action. The operative part of the J.O is as under:-

"In all pending matters before the High Courts or other courts relating to PC Act or all other Civil or Criminal cases, where stay or proceedings in a pending trial is operating stay will automatically lapse after six months from today unless extended by a speaking order on above parameters by the Courts concerned."

2. It has been intimated by FHQ. that the matter was taken up with MOL&J through MHA for seeking clarification as to whether the above said judgment can be cited for vacation stay in service matters also under Article 226 and 227 of Constitution of India or otherwise. In turn, MOL&J have intimated that the judgment delivered by the Hon'ble Apex Court is applicable in all the Civil or Criminal cases in which stay has been granted by the concerned Courts. There is no need to file any IA before the concerned Court to vacate the stay in service matter also. In this regard, the opinion of MOL&J circulated by MHA vide OM NO.I-45020/2/2018/Legal-II dated 08.10.2018 (copy enclosed) is reproduced as under:-

"We have examined the matter and perused the Hon'ble Supreme Court order dated 28.03.2018. The judgment delivered by the Hon'ble Apex Court is applicable in all the Civil or Criminal cases in which stay has been granted by the concerned courts. There is no need to file any IA before the concerned Court to vacate the stay in service matter also. Because as per the ratio laid down by the Apex Court, stay is vacated automatically after expiry of the six months."

3. As opined by MOL&J, there is no need to file any Interlocutory Application (IA) before the Court concerned to vacate the stay in service matter as the Apex Court has directed that the stay will automatically lapse after six months from today i.e. wef 28.03.2018 unless the same is extended by the Court concerned by issuing a speaking order on the above parameters.

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4. In the light of Judgment of Apex Court as well as opinion rendered by MOL&J, New Delhi, stay granted by the Courts will automatically lapse after six months from the date of pronouncing the order of stay unless extended by the Court. On completion of 06 months from the date of issue of stay order and if the same is not extended, the petitioner may be informed immediately in writing that as the operation of stay granted by the Court has lapsed automatically, as per Apex Court Judgment dated 28.03.2018, further action will be taken as per law as there is no stay in the matter under intimation to LO Unit so that the fact may also be apprised to the Court(s) concerned through ASGI/CGSC concerned during hearing of the case.

5. In view of the above, it is requested that the above guidelines may please be circulated to all Unit Commanders/formations under your administrative control for strict compliance. All DISG may closely monitor all stay cases pending in the Courts and ensure that no stay order is pending in the Units for more than 06 months unless the Court concerned has issued a speaking order extending the stay as per the directions of the Apex Court.

Encl: (FHQ.ltr. dated 16.10.18-through-mail).


Dy. Inspector General/AS

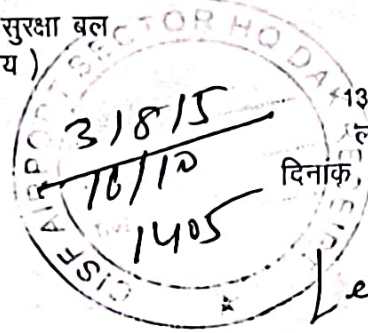


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AIG Hqs

Immediate/Court Matter

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महानिदेशालय
केन्द्रीय औद्योगिक सुरक्षा बल
(गृह मंत्रालय)



13, सीजीओ कॉम्प्लेक्स,
लोधी रोड, नई दिल्ली।

दिनांक, 16 / 10 / 2018

संख्या : वी-14013/393/2015/विनि/ 3294

To

The ADsG(APS, North) Delhi, CISF
All Sector IsG including IG/NISA, CISF
All Zonal/Units/Plants DIsG, CISF

Legal

Sub:- VACATION OF STAY AGAINST DES/POSTINGS AND OTHER SERVICE/CRIMINAL MATTERS PENDING BEFORE VARIOUS COURTS FILED BY CISF PERSONNEL: REG

Please refer to this Directorate letter of even No.(1862) dated 11.06.2018 forwarding therewith copy of the Hon'ble Apex Court JO dated 28.03.2018 in the matter of Asian Resurfacing of Road Agency Pvt. Ltd. & Anr V/s CBI In Criminal appeal Nos. 1375-1376 of 2013 for further necessary action. The operative part of the judgment is given hereunder:-

“..in all pending matters before the High Courts or other courts relating to PC Act or all other Civil or Criminal cases, where stay or proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on above parameters by the Courts concerned.”

02. The matter was taken up with MOL&J through MHA for seeking clarification as to whether the above said judgment can be cited for vacating stay in service matters also under Article 226 and 227 of Constitution of India or otherwise. In turn, MOL&J have intimated that the judgment delivered by the Hon'ble Apex Court is applicable in all the Civil or Criminal cases in which stay has been granted by the concerned Courts. There is no need to file any IA before the concerned Court to vacate the stay in service matter also. In this regard, the opinion of MOL&J circulated by MHA vide OM No.I.45020/2/2018/Legal-II dated 08.10.2018(copy enclosed) is reproduced as under:-

“We have examined the matter and perused the Hon'ble Supreme Court order dtd. 28.03.2018. The judgment delivered by the Hon'ble Apex Court is applicable in all the Civil or Criminal cases in which stay has been granted by the concerned courts. There is no need to file any IA before the concerned Court to vacate the stay in service matter also. Because as per the ratio laid down by the Apex Court, stay is vacated automatically after expiry of the six months.”

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03. As opined by MOI.&J, there is no need to file any Interlocutory Application (IA) before the Court concerned to vacate the stay in service matter as the Apex Court has directed that the stay will automatically lapse after six months from today i.e. wef 28.03.2018 unless the same is extended by the Court concerned by issuing a speaking order on the above parameters.

04. In the light of Judgment of Apex Court as well as opinion rendered by MOL&J, New Delhi, stay granted by the Courts will automatically lapse after six months from the date of pronouncing the order of stay unless extended by the Court. On completion of 06 months from the date of issue of stay order and if the same is not extended, the petitioner may be informed immediately in writing that as the operation of stay granted by the Court has lapsed automatically, as per Apex Court Judgment dated 28.03.2018, further action will be taken as per law as there is no stay in the matter under intimation to LO Unit so that the fact may also be apprised to the Court(s) concerned through ASGI/CGSC concerned during hearing of the case.

05. In view of the above, it is requested that the above guidelines may please be disseminated to all Unit Commanders/formations under your administrative control for strict compliance. IsG/Zonal/Plant DIsG may closely monitor all stay cases pending in the Courts and ensure that no stay order is pending in the Units for more than 06 months unless the Court concerned has issued a speaking order extending the stay as per the directions of the Apex Court.

06. This may be given TOP PRIORITY.

Encl: As above

उप महानिरीक्षक/लीगल

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(K)

F. No I. 45020/2/2018/Legal-II
Ministry of Home Affairs
Police II Division

North Block, New Delhi
Dated the, 08th Oct, 2018

::OFFICE MEMORANDUM::

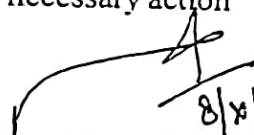
Sub: - Regarding Vacation of stay in Court cases relating to service matters pending before various Courts.

While examining the Court order dtd. 28.03.2018 in the matter of Asian Resurfacing of Road Agency Pvt. Ltd. & Anr Vs CBI in Criminal Appeal Nos. 1375-1376 of 2013 a query has been raised by CISF, "whether the judgment dtd. 28.03.2018 can be cited for filing petition for vacating stay in service matter also under Article 226 and 227 or otherwise."

02. According clarification was sought from MoL&J/DoLA. Now, DoLA vide their note dtd. 26.09.2018 has opined that: -

"We have examined the matter and perused the Hon'ble Supreme Court order dtd. 28.03.2018. The Judgment delivered by the Hon'ble Apex Court is applicable in all the civil or criminal cases in which stay has been granted by the concerned Courts. There is no need to file any IA before the concerned Court to vacate the stay in service matter also. Because as per the ration laid down by the Apex Court, stay is vacated automatically after expiry of the six months.

03. Keeping in view of above, all CAPFs are requested to take necessary action in accordance with aforesaid advice.


(A.K. Yadav)
Legal Officer-II, MHA
Tel. No. 23093708

To,

The IG (Pers) CISF.

Copy to:-

1. SO (Pers-I) MHA
2. The IG (Pers) CRPF/BSF/ITBP/CISF/SSB} - for similar action please.
& CLO, Assam Rifles