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No. 14/6/2016-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

0033398

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North Block, New Delhi-1
Dated the 23rd March, 2017

To,

The Chief Secretaries of all State Governments,
The Chief Secretaries/Administrators of all Union Territories.
The Directors General of Police of State Governments/Union Territories.

Subject:- Orders relating to the National Anthem of India.

Sir/Madam,

In supersession of this Ministry's letter of even number dated 21.12.2016 (copy enclosed), I am directed to state that the Hon'ble Supreme Court in its Order dated 9.12.2016 in the Writ Petition (Civil) No. 855 of 2016 (copy enclosed) had directed as follows :-

".... Learned Attorney General for India submitted that how the physically challenged or physically handicapped persons shall show respect to the National Anthem, the Central Government will issue guidelines within ten days hence. As the guidelines are going to be issued, we clarify, if a physically challenged person or physically handicapped persons goes to the Cinema hall to watch a film, he need not stand up, if he is incapable to stand, but must show such conduct which is commensurate with respect for the National Anthem. When we say physically challenged or physically handicapped persons, it means persons with disability as defined under Sections 2(i) and 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995...."

2. Subsequently, the Hon'ble Supreme Court in its order dated 14.2.2017 has observed the following:-

".... At this juncture, we may state that the Parliament has brought a new legislation called 'The Rights of Persons with Disabilities Act, 2016'. Section 102 repeals 'The Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995.' This Court on 9.12.2016 has modified the earlier order regard being had to the handicapped persons keeping in view the 1995 Act...."

3. Accordingly, the following guidelines are prescribed for persons with disabilities as defined under Section 2(s) read with Section 2(zc) of the Rights of Persons with Disabilities Act, 2016 for showing respect to the National Anthem :-

(i) The persons with locomotor disabilities and other wheel chair users having affected lower limbs shall position himself/herself to the extent of maximum attentiveness and alertness with or without the help of appropriate aids and appliances. For example a wheel chair bound person with disability shall make the wheel chair static, position himself/herself maintaining the maximum possible alertness physically.

(ii) If the person with disability is on crutch, he/she become stable (non-mobile) to the extent of maximum alertness.

(iii) The person with hearing disability (deaf or hard of hearing) if capable to stand, shall stand with attentiveness. However, there must be appropriate indication on the screen that the

National Anthem is being played or sung as the persons with hearing disability are likely to miss the auditory cues. Suitable instructions may be given in the form of captioning as well as in sign language on the screen so that the persons with hearing impairment are well informed that the National Anthem is being played.

- (iv) The person with blindness and low vision shall stand up in respect to National Anthem.
- (v) The escorts of the persons with disabilities shall stand-up when National Anthem is played.

4. Further in case of person with intellectual disabilities (mental retardation), it is stated that such disability is associated with a condition of arrested or incomplete development of mind, especially characterized by impairment of skills manifested during developmental period, skills which contribute to the overall level of intelligence- cognitive, language, motor and social abilities. Mental retardation is a challenging-problem, a multi-dimensional phenomenon, involving bio-psycho-social factors. The following characteristics may hamper in showing respect to the National Anthem by these class of persons with disabilities :-

- (a) Lack of understanding and comprehension.
- (b) Associated conditions like epilepsy, Attention Deficit, Hyperactive Disorder, Sensor impairments, Psychiatric illness, motor problems etc.
- (c) Most of them will have behavioural problems like flapping of the hands, screaming, shouting, abnormal body movements, difficulty in performing practical task etc.

4.1. While the persons with mild intellectual disability without associated conditions can be trained to understand and respect National Anthem, the same may not hold good in other cases. Relaxation to such class of person with disabilities may be considered. Wide publicity may be given to generate public awareness in this regard so as to avoid any unwarranted incident against persons with intellectual disabilities as some of the person with intellectual disabilities may not exhibit physical disabilities.

5. The Central Government has notified the Rights of Persons with Disabilities Act, 2016 on 28.12.2016 which recognizes 21 categories of disabilities. The Central Government is in the process of framing guidelines for assessment and certification of new categories of disabilities which were not included in the Persons with Disabilities Act, 1995. The Department of Empowerment of Persons with Disabilities (Divyangjan) will suggest further modification in the guidelines as and when the said guidelines for assessment of new categories of disabilities are framed and notified by them. In such eventualities, these guidelines will be further amended or modified or expanded.

6. The above is conveyed to you in compliance of the Orders of the Hon'ble Supreme Court quoted above.

7. The receipt of this letter may please be acknowledged and action taken in the matter be communicated to this Ministry.

Encl.: As above.


Yours faithfully,


(V.K. Rajan)

Deputy Secretary to the Government of India
Tel. 2309 4376

Copy to:-

1. All Ministries/Departments of Government of India.
2. President's Secretariat, Rashtrapati Bhawan, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. Prime Minister's Office, South Block, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Election Commission of India, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. The Registrar, Supreme Court of India, New Delhi.
10. The Registrar, All High Courts.
11. Office of Comptroller and Auditor General of India, New Delhi.
12. The Union Public Service Commission, New Delhi.
13. Central Vigilance Commission, New Delhi.
14. NITI Aayog, Yojana Bhawan, New Delhi.
15. All attached & Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.


(V.K. Rajan)
Deputy Secretary to the Govt. of India
Tel. 2309 4376

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संख्या 14/6/2016-पब्लिक
भारत सरकार
गृह मंत्रालय
पब्लिक अनुभाग

नॉर्थ ब्लॉक, नई दिल्ली -1
दिनांक 23 मार्च, 2017

सेवा में,

सभी राज्य सरकारों के मुख्य सचिव/
सभी संघ राज्य क्षेत्रों के मुख्य सचिव/प्रशासक
सभी राज्य सरकारों/संघ राज्य क्षेत्रों के पुलिस महानिदेशक

विषय : भारत के राष्ट्रगान से संबंधित आदेश।

महोदय/महोदया,

मुझे उपर्युक्त विषय पर इस मंत्रालय के दिनांक 21/12/016 के समसंख्यक पत्र (प्रति संलग्न) के अधिक्रमण में, यह उल्लेख करने का निदेश दिया गया है कि माननीय उच्चतम न्यायालय ने वर्ष 2016 की रिट याचिका (सिविल) संख्या 855 में अपने दिनांक 09/12/2016 के आदेश (प्रति संलग्न) में निम्नानुसार निदेश दिया है:-

“भारत के विद्वान महान्यायवादी ने यह प्रस्तुत किया है कि शारीरिक रूप से अक्षम या शारीरिक रूप से दिव्यांग व्यक्ति किस प्रकार राष्ट्रीय गान के प्रति अपना आदर प्रदर्शित करेंगे, इस संबंध में केन्द्र सरकार 10 दिनों के भीतर दिशानिर्देश जारी करेगी। जैसाकि दिशानिर्देश जारी किया जा रहा है, हम इस आशय को स्पष्ट करते हैं कि शारीरिक रूप से अक्षम या शारीरिक रूप से दिव्यांग व्यक्ति फिल्म देखने के लिए यदि सिनेमा घर जाते हैं, और वे खड़े होने में असमर्थ हैं तो उन्हें खड़े होने की आवश्यकता नहीं है, अपितु वे ऐसा आचरण प्रदर्शित करें जो राष्ट्र गान के प्रति आदर भाव प्रकट अवश्य करें। जब हम शारीरिक रूप से अक्षम या शारीरिक रूप से दिव्यांग व्यक्तियों का उल्लेख करते हैं तो उसका अर्थ दिव्यांग व्यक्तियों (समान अवसर, अधिकारों का संरक्षण एवं पूर्ण सहभागिता) अधिनियम, 1995 की धारा 2(झ) एवं 2(न) के अंतर्गत यथापरिभाषित दिव्यांग व्यक्ति से है”।

2. इसके बाद माननीय उच्चतम न्यायालय ने 14/02/2017 के अपने आदेश में निम्नांकित बातें कही हैं:-
“.....इस स्थिति में हम यह उल्लेख कर सकते हैं कि संसद में “दिव्यांग व्यक्तियों के अधिकार अधिनियम, 2016” नामक एक नया विधान लाया गया है। धारा 102 में “ दिव्यांग व्यक्तियों (समान अवसर, अधिकारों का संरक्षण एवं पूर्ण सहभागिता) अधिनियम, 1995” निरसित कर दिया गया है। इस न्यायालय ने 1995 अधिनियम को ध्यान में रखते हुए दिव्यांग व्यक्तियों के संबंध में अपने पूर्व के आदेश में दिनांक 09/12/2016 को संशोधित किया है.....”
3. तदनुसार, दिव्यांग व्यक्तियों के अधिकार, 2016 की धारा 2 (ध) के साथ पठित धारा 2(यग) के अंतर्गत दिव्यांग व्यक्तियों के लिए राष्ट्र गान के प्रति आदर प्रदर्शित करने हेतु निम्नांकित दिशानिर्देश निर्धारित किये जाते हैं।

- i. लोकोमोटर अशक्तता या व्हील चेयर का उपयोग करने वाले ऐसे व्यक्ति, जिनके नीचे के आधे शरीर अपंगताग्रस्त हैं वे आदर भाव प्रकट करने के लिए सहायक उपकरणों की मदद से अथवा उसके बिना अपनी एकाग्रता एवं सावधानी की अधिकतम सीमा तक शरीर की स्थिति बनाएंगे। उदाहरण के लिए व्हील चेयर पर बैठे दिव्यांग व्यक्ति व्हील चेयर को रोककर शारीरिक रूप से यथासाध्य अधिकतम सीमा तक अपनी सावधानी प्रदर्शित करें।
- ii. यदि दिव्यांग व्यक्ति क्रच पर है तो वह सावधानी की अधिकतम तक स्थिर (बगैर हिले-डुले) हो जाए।
- iii. बधिर व्यक्ति (बधिर एवं सुनने में कठिनाई महसूस करने वाले) यदि उठने में समर्थ हैं तो पूरी सावधानी से खड़े हो जाएंगे। तथापि, परदे पर पर्याप्त संकेत हो कि राष्ट्रीय गान गाया जा रहा है या इसका गान बजाया जा रहा है क्योंकि ऐसे व्यक्ति मुंह से दी गई

किसी सूचना को सुन नहीं सकते हैं। इस आशय की उपयुक्त अनुदेश संकेत भाषा में स्क्रीन पर दिये जाएं तथा इसे मोटे अक्षरों में भी लिखा जाए ताकि श्रवण बाधित व्यक्ति को सूचना मिल जाए कि राष्ट्रीय गान गाया जा रहा है।

- iv. दृष्टि बाधित एवं अल्प दृष्टि वाले व्यक्ति राष्ट्रगान के आदर में उठ कर खड़े होंगे।
- v. दिव्यांग व्यक्तियों के एस्कोर्ट्स राष्ट्रीय गान के समय उठकर खड़े होंगे।

4. बौद्धिक रूप से अक्षम (मानसिक विकास बाधित) व्यक्ति के संबंध में यह उल्लेख है कि ऐसे व्यक्ति मस्तिष्क के अपूर्ण व बाधित विकास की स्थिति में होते हैं, विशेषतः अशक्तता के यह लक्षण उनके विकास अवधि के दौरान परिलक्षित होते हैं जो उनकी समग्र संज्ञान बुद्धि, भाषा, जीवनगति तथा सामाजिक सक्षमता को प्रभावित करती हैं। मानसिक विकास बाधा एक चुनौतीपूर्ण समस्या है जो बहुआयामी प्रकृति के होने के साथ-साथ जैविक-मानसिक-सामाजिक कारकों से प्रभावित होती है। इस श्रेणी के अशक्त व्यक्ति द्वारा राष्ट्रगान के प्रति आदर प्रदर्शन में निम्नांकित विशेषताएं बाधा बन सकती हैं:-

- (क) समझ एवं बौद्धिक कमी।
- (ख) मिर्गी (एपीलेप्सी), ध्यान में कमी, हाईपरएक्टिव डिस्ऑर्डर, सेंसर इम्पेयरमेंट, मनोरोग (सायके ट्रिक) रुग्णता, मोटर समस्या आदि।
- (ग) इनमें से अधिक समस्याओं के कारण हाथ फैलाने, चिल्लाने, शोर करने, असामान्य शारीरिक हरकत, व्यवहारिक कार्य आदि कार्य करने में कठिनाई जैसी व्यवहारिक समस्याएं आती हैं।

4.1 जबकि बौद्धिक अक्षमता की अल्प समस्या से ग्रस्त व्यक्ति को, जो इससे जुड़ी अन्य समस्याओं से ग्रस्त नहीं हैं, राष्ट्रीय गान को समझने एवं उसका आदर करने के विषय में प्रशिक्षित किया जा सकता है, अन्य स्थिति में यह बात नहीं हो सकती। ऐसे अशक्त व्यक्तियों को इस प्रकार की छूट देने पर विचार किया जाए। इस संबंध में व्यापक जनजागरूकता निर्माण हेतु प्रचार प्रसार किये जाएं ताकि बौद्धिक अक्षमता से ग्रस्त ऐसे व्यक्तियों के विरुद्ध किसी प्रकार की अशोभनीय घटना से बचा जा सके क्योंकि कुछ बौद्धिक रूप से अशक्त व्यक्तियों में शारीरिक अक्षमता दिखाई नहीं देती है।

5. केन्द्र सरकार ने 28.12.2016 को दिव्यांग व्यक्ति अधिनियम, 2016 को अधिसूचित किया जिसमें 21 प्रकार की अशक्तताओं को मान्यता दी गई है। सरकार दिव्यांग व्यक्ति अधिनियम, 1995 में शामिल नहीं की गई अशक्तताओं की नई श्रेणियों का आकलन करने एवं प्रमाणीकरण के लिए दिशानिर्देशों के निरूपण की प्रक्रिया चला रही है। दिव्यांगजन सशक्तिकरण विभाग, जब कभी इस प्रकार की नई अशक्तता श्रेणियों का आकलन करने हेतु उक्त दिशानिर्देश निरूपित किये जाएंगे एवं उनके द्वारा अधिसूचित किये जाएंगे तो इन दिशानिर्देशों में आगे और संशोधन का सुझाव देगा। ऐसी स्थिति में ऐसे दिशानिर्देशों में आगे और अधिक संशोधन या सुधार या विस्तार किया जाएगा।

6. उपर्युक्त अनुदेश माननीय उच्च न्यायालय के उपर्युक्त आदेशों के अनुपालन में संप्रेषित किया जा रहा है।

7. पत्र की प्राप्ति की पावती दी जाए और की गई कार्रवाई के बारे में इस मंत्रालय को सूचित किया जाए।

संलग्नक: यथोपरि।

भवदीय,

वी.के. राजन
(वी.के. राजन)

उप सचिव, भारत सरकार
दूरभाष : 2309 4376

प्रति प्रेषित:-

1. भारत सरकार के सभी मंत्रालय/विभाग।
2. राष्ट्रपति सचिवालय, राष्ट्रपति भवन, नई दिल्ली।
3. उप-राष्ट्रपति सचिवालय, नई दिल्ली।
4. प्रधानमंत्री कार्यालय, साउथ ब्लॉक, नई दिल्ली।
5. मंत्रिमंडल सचिवालय, नई दिल्ली।
6. भारत का निर्वाचन आयोग, नई दिल्ली।
7. लोक सभा सचिवालय, नई दिल्ली।
8. राज्य सभा सचिवालय, नई दिल्ली।
9. रजिस्ट्रार, भारत का उच्चतम न्यायालय, नई दिल्ली।
10. रजिस्ट्रार, सभी उच्च न्यायालय।
11. भारत के नियंत्रक एवं महालेखापरीक्षक का कार्यालय, नई दिल्ली।
12. संघ लोक सेवा आयोग, नई दिल्ली।
13. केन्द्रीय सतर्कता आयोग, नई दिल्ली।
14. नीति आयोग, योजना भवन, नई दिल्ली।
15. गृह मंत्रालय के सभी संबद्ध और अधीनस्थ कार्यालय।
16. 20 अतिरिक्त प्रतियां।

वी.के. राजन

(वी.के. राजन)

उप सचिव, भारत सरकार

दूरभाष : 2309 4376

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IMMEDIATE

No. 14/6/2016-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

North Block, New Delhi-1
Dated the 21st December, 2016

To,
The Chief Secretaries of all State Governments,
The Chief Secretaries/Administrators of all Union Territories.
The Directors General of Police of State Governments /Union Territories

Subject:- Orders relating to the National Anthem of India.

Sir/Madam,

In continuation of this Ministry's letter of even No. dated 06.12.2016, I am directed to state that the Hon'ble Supreme Court in its Order dated 09.12.2016 in the Writ Petition Civil No. 855 of 2016 (copy enclosed) has directed as follows:-

"... , learned Attorney General for India submitted that how the physically challenged or physically handicapped persons shall show respect to the National Anthem, the Central Government will issue guidelines within ten days hence. As the guidelines are going to be issued, we clarify, if a physically challenged person or physically handicapped persons goes to the Cinema hall to watch a film, he need not stand up, if he is incapable to stand, but must show such conduct which is commensurate with respect for the National Anthem. When we say physically challenged or physically handicapped persons, it means persons with disability as defined under Sections 2(i) and 2 (t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995...."

2. Accordingly, the following guidelines are prescribed in this regard:

- (i) The persons with locomotor disabilities and other wheel chair users having affected lower limbs shall position himself / herself to the extent of maximum attentiveness and alertness with or without the help of appropriate aids and appliances. For example a wheel chair bound person with disability shall make the wheel chair static, position himself / herself maintaining the maximum possible alertness physically.

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- 463
- (ii) If the person with disability is on crutch, he / she shall become stable (non-mobile) to the extent of maximum alertness.
 - (iii) The person with hearing disability (deaf or hard of hearing) if capable to stand, shall stand with attentiveness. However, there must be appropriate indication on the screen that the National Anthem is being played or sung as the persons with hearing disability are likely to miss the auditory cues. Suitable instructions may be given in the form of captioning as well as in sign language on the screen so that the persons with hearing impairment are well informed that the National Anthem is being played.
 - (iv) The persons with blindness and low vision shall stand up in respect to National Anthem.
 - (v) The escorts of the persons with disabilities shall stand-up when National Anthem is played.

3. Further in case of persons with intellectual disabilities (mental retardation), it is stated that such disability is associated with a condition of arrested or incomplete development of mind, especially characterized by impairment of skills manifested during developmental period, skills which contribute to the overall level of intelligence - cognitive, language, motor and social abilities. Mental retardation is a challenging-problem, a multi-dimensional phenomenon, involving bio-psycho-social factors. The following characteristics may hamper in showing respect to the National Anthem by these class of persons with disabilities:-

- (a) Lack of understanding and comprehension.
- (b) Associated conditions like epilepsy, Attention Deficit, Hyperactive Disorder, Sensor impairments, Psychiatric illness, motor problems etc.
- (c) Most of them will have behavioral problems like flapping of the hands, screaming, shouting, abnormal body movements, difficulty in performing practical task etc.

3.1. While the persons with mild intellectual disability without associated conditions can be trained to understand and respect National Anthem, the same may not hold good in other cases. Relaxation to such class of persons with disabilities may be considered. **Wide publicity may be given to generate public awareness in this regard so as to avoid any unwarranted incident against persons with intellectual disabilities as some of the persons with intellectual disabilities may not exhibit physical disabilities.**

4. The Rights of Persons with Disabilities Bill has been passed by both the Houses of Parliament which recognizes 21 categories of disabilities and the issues concerning the new categories of disabilities also need to be considered after the notification in this regard is issued. In view of this and para 3 and 3.1 above, the Department of Empowerment of Persons with Disabilities will suggest further modifications in guidelines as and when required or necessary. In such eventualities, these guidelines will be further amended or modified or expanded.

5. The above is conveyed to you in compliance of the orders of the Hon'ble Supreme Court quoted above.

6. The receipt of this letter may please be acknowledged and action taken in the matter be communicated to this Ministry.

Yours faithfully,

(V.K. Rajan)

Deputy Secretary to the Govt. of India

Tel. 2309 4376

Encl.: As above.

Copy to:-

1. All Ministries/Departments of Government of India.
2. President's Secretariat, Rashtrapati Bhawan, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. Prime Minister's Office, South Block, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Election Commission of India, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. Registrar, Supreme Court of India, New Delhi.
10. All High Courts.
11. Office of Comptroller and Auditor General of India, New Delhi.
12. The Union Public Service Commission, New Delhi.
13. Central Vigilance Commission, New Delhi.
14. NITI Aayog, Yojana Bhawan, New Delhi.
15. All attached and Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.

Copy also to:-

The Secretary, Department of Empowerment of Persons with Disabilities for action in respect of para 4 above.

ITEM NO. 801

COURT NO. 3

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA Nos. _____/2016 in Writ Petition(s) (Civil) No(s). 855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(With appln. (s) for impleadment and recall of the order dated 30.11.2016 and office report)

Date : 09/12/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Abhinav Shrivastava, AOR
Mr. Rituvendra Singh, Adv.
Mr. Hameet Singh R., Adv.

For Respondent(s) Mr. Mukul Rohatgi, AG
Mr. R.K. Rathore, Ad.
Mr. B. Krishna Prasad, AOR

Mr. Siddharth Luthra, Sr. Adv. (AC)
Ms. Tara Narula, Adv.
Ms. Gargi Khanna, Adv.
Mr. Siddhartha Mehta, Adv.
Ms. Supriya Juneja, Adv.

Mr. C.U. Singh, Sr. Adv.
Mr. P.V. Dinesh, Adv.
Ms. Sinha T.P., Adv.
Mr. R. Beniwal, Adv.
Mr. Namit Saxena, Adv.
Mr. Biresh K., Adv.
Mr. Arushi Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

These two applications have been filed one seeking impleadment in the writ petition and the other for recall of the order dated

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30.11.2016.

On being mentioned by Mr. P.V. Dinesh, learned counsel, the I.As. are taken on Board.

Registry is directed to register the I.As.

Heard Mr. C.U. Singh, learned senior counsel along with Mr. P.V. Dinesh, learned counsel for the applicants, Mr. Mukul Rohatgi, learned Attorney General for India, and Mr. Sidharth Luthra, learned senior counsel who has sought leave of the Court to assist.

The prayer in the application is for recall of our order dated 30.11.2016. When it was brought to the notice of Mr. C.U. Singh, learned senior counsel about the grounds urged, we must fairly state that Mr. Singh submitted that he will have a re-look at the grounds and will amend the same.

As far as the recall of the order is concerned, the same has to be heard on merits when the matter is finally debated upon. Be it noted, Mr. Dinesh, learned counsel for the applicant at the time of mentioning had submitted that there has to be some kind of exemption for the physically challenged persons or physically handicapped persons. Mr. Siddharth Luthra, learned senior counsel who was present in Court has referred to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Mr. Rohatgi, learned Attorney General for India submitted that how the physically challenged or physically handicapped persons shall show respect to the National Anthem, the Central Government will issue guidelines within ten days hence. As the guidelines are going to be issued, we clarify, if a physically challenged person or physically handicapped person goes to the Cinema hall to watch a film, he need not stand up, if he is incapable to stand, but must show such conduct which is commensurate with respect for the National Anthem. When we say physically challenged or physically

handicapped persons, it means persons with disability as defined under Sections 2(i) and 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Another aspect needs to be cleared. When we said that the doors shall be closed, we did not mean that the doors shall be bolted as mentioned in the case of Municipal Corporation of Delhi, Delhi vs. Uphaar Tragedy Victims Association and Ors. [(2011) 14 SCC 481] but only to regulate the ingress and egress during the period while the National Anthem is played.

Let the matter be listed on the date fixed, i.e., 14.2.2017.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

B. K. Prasad

Addl Govt Advocate

Supreme Court

10/12/2016.

0046639

No. 14/6/2016-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

North Block, New Delhi-1
Dated the 11 May, 2017

12 MAY 2017

The Chief Secretaries of all State Governments,
The Chief Secretaries/Administrators of all Union Territories.
The Directors General of Police of State Governments/Union Territories.

Subject:- Orders relating to the National Anthem of India.

Sir/Madam,

In continuation of this Ministry's letter of even number dated 23.03.2017(copy enclosed), I am directed to state that the Hon'ble Supreme Court in its order dated 18.4.2017(copy enclosed) in Writ Petition(Civil) No. 855 of 2016 in respect of I.A. No.15 of 2017, has observed the following:-

"This is an application filed by the NPRD to direct the respondent No. 1 to exempt certain categories of disabled persons from the purview of the order of this Court dated 30th November, 2016 and 9th December, 2016. The categories of persons mentioned are:-

- (i) Wheel chair users – can be cerebral palsy, Parkinsons, Multiple sclerosis, Muscular dystrophy or other conditions
- (ii) Those with autism
- (iii) Those with cerebral palsy
- (iv) Intellectual disabilities
- (v) Mental illness
- (vi) Deaf blind
- (vii) Multiple disabilities
- (viii) Parkinsons, Multiple sclerosis
- (ix) Leprosy cured
- (x) Muscular dystrophy

Having heard learned counsel for the parties, we are inclined to modify the orders and direct that the persons who are wheel chair users, those with autism, persons suffering from cerebral palsy, multiple disabilities, parkinsons, multiple sclerosis, leprosy cured, muscular dystrophy and deaf and blind be treated not to be within the ambit of the orders passed by this Court.

As far as the other categories, which we have not referred to mentioned in the application, are concerned, the same may be considered by the Union of India."

3. The above is conveyed to you in compliance of the Orders of the Hon'ble Supreme Court quoted above and subsequent necessary action in this regard. You are also

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requested to give wide publicity in the local print and electronic media so that the above Order is followed in letter and spirit.

4. The Central Government has also notified the Rights of Persons with Disabilities Act, 2016 on 28.12.2016 which recognizes 21 categories of disabilities. The Central Government is in the process of framing guidelines for assessment and certification of new categories of disabilities which were not included in the Persons with Disabilities Act, 1995. The Department of Empowerment of Persons with Disabilities (Divyangjan) will suggest further modification in the guidelines as and when the said guidelines for assessment of new categories of disabilities are framed and notified by them. In such eventualities, these guidelines will be further amended or modified or expanded.

5. The receipt of this letter may please be acknowledged and action taken in the matter be communicated to this Ministry.

Encl.: As above.

Yours faithfully,

Shri Prakash

(Shri Prakash)

Joint Secretary to the Government of India
Tel. 2309 2962

Copy to:-

1. All Ministries/Departments of Government of India.
2. President's Secretariat, Rashtrapati Bhawan, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. Prime Minister's Office, South Block, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Election Commission of India, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. The Registrar, Supreme Court of India, New Delhi.
10. The Registrar, All High Courts.
11. Office of Comptroller and Auditor General of India, New Delhi.
12. The Union Public Service Commission, New Delhi.
13. Central Vigilance Commission, New Delhi.
14. NITI Aayog, Yojana Bhawan, New Delhi.
15. All attached & Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.

सं.14/6/2016-पब्लिक

भारत सरकार

गृह मंत्रालय

पब्लिक अनुभाग

नार्थ ब्लॉक, नई दिल्ली
दिनांक: // मई, 2017

सेवा में,

सभी राज्यों के मुख्य सचिव,
सभी संघ राज्य क्षेत्रों के मुख्य सचिव/प्रशासक,
राज्य सरकारों/संघ राज्य क्षेत्रों के पुलिस महानिदेशक

विषय : भारत के राष्ट्र गान से संबंधित आदेश।

महोदय/महोदया,

इस मंत्रालय के दिनांक 23/03/2017 के समसंख्यक पत्र (प्रति संलग्न) के अनुक्रम में मुझे यह उल्लेख करने का निदेश हुआ है कि माननीय उच्चतम न्यायालय ने वर्ष 2017, की आई ए संख्या 15 के संबंध में वर्ष 2016 की रिट याचिका (सिविल) संख्या 855 में दिनांक 18/04/2017 के अपने आदेश (प्रति संलग्न) में निम्नलिखित टिप्पणियां की हैं:-

"यह आवेदन इस न्यायालय के दिनांक 30 नवंबर, 2016 एवं 9 दिसंबर, 2016 के आदेश के दायरे से कतिपय श्रेणियों के दिव्यांग व्यक्तियों को छूट देने हेतु प्रतिवादी संख्या 1 को निदेश देने हेतु एनपीआरडी द्वारा दायर किया गया है। उल्लिखित व्यक्तियों की श्रेणियां निम्नलिखित हैं:-

- (i) व्हील चेयर प्रयोक्ता - सेरेवरल पाल्सी, पार्किंसंस, मल्टीपल सेलेरोसिस, मसकुलर डिस्ट्राफी या अन्य परिस्थितियां
- (ii) ऑस्टिज्म से पीड़ित व्यक्ति
- (iii) सेरेवरल पाल्सी से पीड़ित व्यक्ति
- (iv) बौद्धिक अक्षमता
- (v) मानसिक बीमारी
- (vi) बधिर मूक
- (vii) मल्टीपल अक्षमता
- (viii) पार्किंसंस, मल्टीपल सेलेरोसिस
- (ix) कुष्ठ रोग से ठीक हुए व्यक्ति
- (x) मसकुलर डिस्ट्राफी

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पक्षकारों के विद्वान काउंसिल को सुनने के बाद, हम इस आदेश में संशोधन करते हैं तथा इस आशय का निदेश देते हैं कि व्हील चेयर प्रयोक्ता, ऑस्टिज़म, सेरेवरल पाल्सी, मल्टीपल अक्षमता, पार्किंसंस, मल्टीपल सेलेरोसिस से पीड़ित व्यक्ति, कुष्ठ रोग से ठीक हुए व्यक्ति, मसकुलर डिस्ट्राफी तथा मूक एवं बधिर, तथा दृष्टिहीन व्यक्ति इस न्यायालय के आदेश के दायरे में न माने जाएं।

जहां तक अन्य श्रेणियों का संबंध है, जिनका हमने इस आवेदन में उल्लेख होने का संदर्भ नहीं किया है, उनके बारे में भारत संघ द्वारा विचार किया जा सकता है।"

3. आपको उपर्युक्त के संबंध में माननीय उच्चतम न्यायालय के आदेश के अनुपालनार्थ तथा इस संबंध में आवश्यक कार्रवाई हेतु संसूचित किया जाता है। आपसे यह भी अनुरोध है कि आप इलेक्ट्रॉनिक तथा स्थानीय प्रिंट मीडिया में इसका व्यापक प्रचार प्रसार करें ताकि उपर्युक्त आदेश का अक्षरशः अनुपालन किया जाए।

4. केन्द्र सरकार ने दिव्यांग व्यक्तियों का अधिकार अधिनियम, 2016 दिनांक 28/12/2016 को अधिसूचित किया जिसके अंतर्गत 21 श्रेणियों के दिव्यांगता को मान्यता दी गई है। केन्द्र सरकार उन नई श्रेणियों की दिव्यांगता के मूल्यांकन एवं अभिप्रमाणन हेतु दिशा-निर्देशों को निरूपित करने की प्रक्रिया चला रही है जो विकलांग व्यक्ति अधिनियम, 1995 में शामिल नहीं हैं। दिव्यांगजन सशक्तिकरण विभाग उनके द्वारा निरूपित एवं अधिसूचित नई श्रेणियों के दिव्यांग व्यक्तियों के आकलन हेतु उक्त दिशा-निर्देशों को बनाए जाने के बाद उन दिशा-निर्देशों में आगे और संशोधन करने संबंधी सुझाव देगा। इन परिस्थितियों के मद्देनजर इन दिशा-निर्देशों में आगे और सुधार या संशोधन या विस्तार किया जाएगा।

5. इस पत्र की पावती भेजने का कष्ट करें तथा की गई कार्रवाई के संबंध में इस मंत्रालय को सूचित करें।

संलग्नक : यथोपरि ।

भवदीय,

श्री प्रकाश

(श्री प्रकाश)

संयुक्त सचिव, भारत सरकार

दूरभाष : 23092962

प्रति प्रेषित:-

1. भारत सरकार के सभी मंत्रालय/विभाग।
2. राष्ट्रपति सचिवालय, राष्ट्रपति भवन, नई दिल्ली ।
3. उप-राष्ट्रपति सचिवालय, नई दिल्ली ।
4. प्रधानमंत्री कार्यालय, साउथ ब्लॉक, नई दिल्ली ।
5. मंत्रिमंडल सचिवालय, नई दिल्ली ।
6. भारत का निर्वाचन आयोग, नई दिल्ली ।
7. लोक सभा सचिवालय, नई दिल्ली ।
8. राज्य सभा सचिवालय, नई दिल्ली ।
9. रजिस्ट्रार, भारत का उच्चतम न्यायालय, नई दिल्ली ।
10. सभी उच्च न्यायालय ।
11. भारत के नियंत्रक एवं महालेखापरीक्षक का कार्यालय, नई दिल्ली ।
12. संघ लोक सेवा आयोग, नई दिल्ली ।
13. केन्द्रीय सतर्कता आयोग, नई दिल्ली ।
14. नीति आयोग, योजना भवन, नई दिल्ली ।
15. गृह मंत्रालय के सभी संबद्ध और अधीनस्थ कार्यालय।
16. 20 अतिरिक्त प्रतियां।

श्री प्रकाश
(श्री प्रकाश)

संयुक्त सचिव, भारत सरकार

दूरभाष : 23092962

3376/17 (12)

ITEM NO.16

COURT NO.2

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(With appln. (s) for directions and exemption from filing O.T. and impleadment and impleadment as party respondent and intervention and recalling the Court's order and office report)

WITH W.P. (C) No.98/2017
(With office report) ✓

Date : 18/04/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

Mr. Sidhartha Luthra Sr. Adv. (A.C.)
Ms. Tara Narula, Adv.
Ms. Gargi Khanna, Adv.
Mr. Sidharth Malhotra, Adv.

For Petitioner(s) Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Abhinav Shrivastava, AOR
Mr. Harmeet Singh Ruprah, Adv.
Ms. Sansriti Pathak, Adv.
Ms. Priyanka Garg, Adv.
Mr. Harsh Goel, Adv.

WP 98/17 Mr. Vikas Singh, Sr. Adv.
Mr. Girdhal Upadhyay, Adv.
Mr. A.K. Upadhyay Adv.
Ms. Asha Upadhyay, Adv.
Mr. R. D. Upadhyay, AOR

Respondent(s) Mr. Tushar Mehta, ASG
Ms. Binu Tamta, Adv.
Mr. Rajat Nair, Adv.
Mr. R.K. Rathore, Adv.
Mr. Arijit Prasad, Adv.
Mr. B. Krishna Prasad, AOR

Validity unknown
Digitally signed by
Date: 2017.04.18
17:50:58 +05'30'

Mr. Tushar Mehta, ASG
Mr. Nishant Ramakand Katneshwarkar, AOR

Mr. Tushar Mehta, ASG
Mr. Shiv Mangal Sharma, AAG
Mr. Shrey Kapoor, Adv.
Ms. Ruchi Kohli, Adv.

Applicant-in-person

Mr. Raju Ramachandran, Sr. Adv.
Mr. Biju P Raman, AOR

Mr. A. Subba Rao, AOR

Mr. Lakshmi Raman Singh, AOR

Mr. C.U. Singh, Sr. Adv.
Mr. P. V. Dinesh, AOR
Ms. Sindhu T.P., Adv.
Mr. Rajendra Beniwal, Adv.
Ms. Arushi Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Mr. Rakesh Dwivedi, learned senior counsel appearing for the petitioner submits that he has filed an interlocutory application seeking permission to urge additional grounds and prayers.

Regard being had to the grounds urged, the interlocutory application stands allowed. Mr. Abhinav Shrivastava, learned counsel assisting Mr. Rakesh Dwivedi, shall file the amended writ petition within two weeks hence and serve copies thereof on the learned counsel for other sides.

Mr. Tushar Mehta, learned Additional Solicitor General appearing for the Union of India has submitted that he has filed two interlocutory applications for impleadment on behalf of the States of Maharashtra and Rajasthan. The said two States be impleaded as respondents in the petition.

114.

The interlocutory applications stand allowed accordingly.

I.A. No.14 of 2017

This is an application for impleadment filed on behalf of the National Platform for the Rights of the Disabled (NPRD).

Having heard Mr. Raju Ramachandran, learned senior counsel for the applicant, the prayer stands allowed.

I.A. No.15 of 2017

This is an application filed by the NPRD to direct the respondent No.1 to exempt certain categories of disabled persons from the purview of the order of this Court dated 30th November, 2016 and 9th December, 2016. The categories of persons mentioned are:-

- (i) Wheel chair users - can be cerebral palsy, Parkinsons, Multiple sclerosis, Muscular dystrophy or other conditions
- (ii) Those with autism
- (iii) Those with cerebral palsy
- (iv) Intellectual disabilities
- (v) Mental illness
- (vi) Deaf blind
- (vii) Multiple disabilities
- (viii) Parkinsons, Multiple sclerosis
- (ix) Leprosy cured
- (x) Muscular dystrophy

Having heard learned counsel for the parties, we are inclined to modify the orders and direct that the persons who are wheel chair users, those with autism, persons suffering from cerebral palsy, multiple disabilities, parkinsons, multiple sclerosis, leprosy cured, muscular dystrophy and deaf and blind be treated not to be within the ambit of the orders passed by this Court.

As far as the other categories, which we have not referred to mentioned in the application, are concerned, the same may be considered by the Union of India.

I.A. No.11 of 2017

This is an application for recall of the order dated 30th November, 2016, passed by this Court, which has been modified from time to time. In our considered opinion, this application for recall shall be heard along with the writ petition when it is finally heard.

Writ Petition (C) No.98 of 2017

Issue notice.

Let a copy of this petition be served on Ms. Binu Tamta, learned counsel assisting Mr. Tushar Mehta, learned Additional Solicitor General of India. The Union of India shall file its response to the writ petition within four weeks hence.

Let both the writ petitions along with the interlocutory applications be listed on 23rd August, 2017.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

SH, 17 Section

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