

Most Urgent
Personal Attention

No.Fin(Pen)A(3)-1/2007-
Government of Himachal Pradesh
Finance (Pension) Department

From

The Chief Secretary to the,
Government of Himachal Pradesh,
Shimla-171002.

To

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

Dated: Shimla-2, the 26th September 2024

Subject: - Regarding compliance with the Hon'ble Court and Government of H.P. orders from time to time and taking necessary action-Clarification.

In reference to the Finance Department letter of even number dated 01.11.2022, on the subject cited above, I am directed to say that the instructions dated 01.11.2022 ibid were issued so as to enable the Government Departments to exercise legal recourse of filing Review Petition(s)/LPAs against the High Court decisions because the Government has the legal right to contest the Court decisions on merits in the intra Court or higher Court(s) in public interest.

2. The Hon'ble High Court vide order dated 23.08.2024 rendered in Ex. Petition(T) No.1/2024 in CWPOA No.5404/2020 titled 'Uttam Chand Vij V/s State of HP & Ors' has observed that the communication dated 01.11.2022 is an internal arrangement of the administration between the departments of the State Government evolved within it. Such communication if otherwise, case of petitioner is complete in all respects and petitioner is entitled for the benefits in terms of orders passed by the Courts, cannot be an impediment for sanctioning/approving the case by the office of Principal Accountant General by taking appropriate decision in accordance with law.

3. The Hon'ble High Court has further observed that the respondents may evolve a mechanism for its working to check and verify the matter by

providing formalities including approval/concurrence of Finance Department/ Law Department or any other Department/Agency. But every such exercise must be undertaken by the respondents within a reasonable period so as to ensure timely compliance of order/direction passed/issued by the Court. In any case, for want of adherence of such internal arrangements/instructions/ mechanism, Finance Department or any other Department or person cannot direct the authority/person/officer who is bound to implement the Court order, to refrain from implementing the order/direction of the Court.

4. The Hon'ble Court has also directed the Chief Secretary to the Government of Himachal Pradesh, to look into the matter and issue appropriate instructions for modifying/clarifying/withdrawing such instructions which are amounting to cause impediment in implementation of the order of the Court leading to obstruction in administration of justice.

5. The instructions dated 01.11.2022 were issued by the Finance Department with the purpose to control the finances of the Government and to ensure that the concerned Government department may exercise its legal right to contest the Court order(s) on merits, which is a legal remedy available to the Government department. However, to give utmost importance to the Court orders and to streamline the things, particularly in view of the Hon'ble High Court dated 23.08.2024 passed in Execution Petition(T) No.1/2024 in CWPOA No.5404/2020 titled 'Uttam Chand Vij V/s State of HP & Ors', the following instructions/ clarifications are issued for strict compliance:-

- (i) The Office of the Advocate General, State of Himachal Pradesh will send the copy of certified Judgement to the concerned Head of Department alongwith initial opinion of the Ld. Advocate General on the order/judgment of the Hon'ble Court within **3 working days**.
- (ii) The Head of Department(s) shall develop a mechanism at Headquarter level to monitor all the Court matters. As soon as, the court orders of the Hon'ble High Court are received, the Head of Department(s) will take a final view on such order(s), as to whether the case is fit for further challenge in the higher appellate Court or it needs to be implemented, keeping in view the merits/grounds of the case and seek appropriate advice from the Advisory Department(s) through Administrative Secretary within **3 working days**.
- (iii) The Administrative Department shall examine the matter in accordance with

the Rules/Regulations/instructions of the Government and come to the conclusion, whether the court order(s) is to be contested in the higher appellate Court or the same needs to be implemented. The Administrative Department will refer the matter to each Advisory Departments (Law/Finance/Personnel) **concurrently** on separate files, as may be required, with its opinion on the Court judgment, as to whether it needs to be contested or implemented, for the opinion/clarification/concurrence, by framing specific issues/merit points and grounds of the case within **3 working days**.

- (iv) The Advisory Departments (Law/Finance/Personnel) will examine the court matter in terms of policy decision and Rules/Regulations/instructions, keeping in view the legal/financial/administrative impact of the judgment, and thereafter the Advisory Department(s) will send its opinion/clarification(s) to the Administrative Department within **10 working days**. In case the Law Department advises/opines the Administrative Department to file Review petition/LPA against the Court decision, then there will be no need to refer the matter to the other Advisory Departments or to wait for their advice.
- (v) The Administrative Department within **3 working days** shall return the case file to the Head of Department with the opinion/clarification/concurrence of the Advisory Departments and its comments, if any.
- (vi) The Head of Department will proceed further in the matter as per the opinion/clarification/concurrence of the Advisory Department(s)/ Administrative Department, immediately. If the case is to be contested in the Higher Appellate Court, the Head of the Department will ensure to file an Appeal/LPA in higher appellate court against the Court order within the next **3 working days**. However, if the Court order is to be implemented as per opinion/clarification/concurrence of the Advisory Department(s)/ Administrative Department, the Head of Department will decide and dispose of the matter immediately.
- (vii) In those cases, where the Court order/judgement has attained finality and there is no scope left for further litigation, such cases will be sent to the Principal Accountant General (A&E) H.P. for authorization of pension and other retirement benefits, without referring the matter to the Finance

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Department in context to the letter dated 01.11.2022. However, in such cases the Head of Department will certify to the effect that, 'the Court order/judgement has attained finality and after taking all legal remedies there is no scope left for further litigation in the matter'. The Office of Principal Accountant General (A&E) HP may authorize such cases without making any reference to the letter dated 01.11.2022.

6. The Secretary (IT) will explore the possibility of creating a separate platform for monitoring court cases in terms of these instructions under the Litigation Monitoring System software or any other software, to create the dashboard for such cases.

7. The Principal Secretary (GAD) will make necessary changes to the Rules of Business of the Government of Himachal Pradesh, if required, to give effect for concrete examination of the court case files by the three Advisory Departments.

8. These instructions are issued with the approval of the Chief Secretary to the Government of Himachal Pradesh.

9. The ADs/HODs may bring these instructions to the notice of all concerned officers/officials for strict compliance.

Yours faithfully,

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

Endst. No. Fin(Pen)A(3)-1/2007- Dated: Shimla, the 20th September 2024

Copy is forwarded to:

1. Ld. Advocate General, State of Himachal Pradesh for information and necessary action.
2. The Principal Secretary(GAD)for necessary action.
3. The Secretary (IT) for necessary action.

Special Secretary (Finance) to the
Government of Himachal Pradesh

**HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED***(A State Govt. undertaking)*


Registered office Vidyut Bhawan, HPSEBL, Shimla-171004(H.P.)
Number (CIN) U40109HP2009SGC031255
GST No. HPSEBL 02 AACCH4894EHZB
Telephone Number 0177-2803600, 2801675 (Office), 2658984(Fax)
Website address www.hpseb.com
Email cmd@hpseb.in

No. HPSEBL (SECTT)/R&E/Govt.Instt. 2024-25:- 49416 - 616 Dated:- 26/10/2024

Copy of the Instructions received through Special Secretary (Finance) to the Government of Himchal Pradesh vide letter No.Fin(Pen)A(3)-1/2007 dated 20.09.2024 regarding compliance with the Hon'ble Court and Government of H.P. orders from time to time and taking necessary action-Clarification is forwarded to the following for strict compliance please.

1. All the Chief Engineers in HPSEBL.
2. All the Superintending Engineers in HPSEBL
- ✓ 3. The S.E. (IT) HPSEBL Shimla for uploading the HPSEBL web site.
4. All the Sr. Executive Engineers/ Resident Engineers in HPSEBL.
5. Under Secretary (Law), Thisal Building, HPSEBL, Shimla.
6. All the Dy. / Under Secretaries in Board Secretariat HPSEBL.
7. The Special Private Secretary / Sr.PS / PS / PA to the worthy Chairman / Managing Director / Directors / Executive Director (Pers.) in Board Secretariat HPSEB.
8. Guard file.

DA:-As above


(Joginder Singh)
Under Secretary (R&E)
HPSEBL Vidyut Bhawan,
Shimla-4.