

GOVERNMENT MEDICAL COLLEGE & HOSPITAL, CHANDIGARH
(Hospital Building), Sector 32-B, Chandigarh-160030 (Ph:0172-2665253-59, Fax: 0172-2608488)
(ESTABLISHMENT BRANCH-IV)

Endst. No.: GMCH/EIV/EA3(24/1)2017/ 3854-55 Dated, Chandigarh the, 25 JAN 2017

A copy of letters No. 08(GOI)-HIII(4)-2017/992 dated 17.01.2017 along with enclosure received from the Home Secretary, Chandigarh Administration, is forwarded to the followings with the request to do the needful at their own level and supply the requisite information to the quarter concerned, please.

1. The Office Superintendent (Estt. I,II, III, HA-I & HA-II), GMCH, Chandigarh.
2. The System Analyst, IT Centre, GMCH with a request to e-circulate/email the same to all the HODs/Branch Incharges of GMCH Chandigarh.

Rem
25/1/17
Superintendent (Estt-IV)
GMCH, Chandigarh.

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25/1/17

MOST IMMEDIATE

141/24/1/17
No. 08 (GOI)-HIII(4)-2017/ 992
CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Chandigarh dated the 17/1/2017

To

- (i) The Inspector General of Police,
Union Territory, Chandigarh.
- (ii) The Deputy Commissioner,
Union Territory, Chandigarh.

01546
20 JAN 2017

DP/AMCH

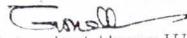
ADK: For dissemination

Subject: Order relating to the National Anthem of India

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Enclosed please find herewith a copy letter No.14/6/2016-Public dated 22.12.2016 alongwith copy of the Hon'ble Supreme Court's Order dated 09.12.2016, received from the Deputy Secretary to the Government of India, Ministry of Home Affairs, Government of India, which is self explanatory, for immediate strict compliance and send the action taken report to this Administration at the earliest for onward transmission to the Government of India.


Superintendent Home III
For Home Secretary,
Chandigarh Administration

MOST IMMEDIATE

Endst. No. 08(GOI)-2017/ 993

Dated the, 17/1/2017

A copy alongwith a copy letter No.14/6/2016-Public dated 22.12.2016 alongwith copy of the Hon'ble Supreme Court's Order dated 09.12.2016, received from the Deputy Secretary to the Government of India, Ministry of Home Affairs, Government of India, is forwarded to the All Administrative Secretaries, All Head of Departments / Boards / Corporations of Chandigarh Administration for information.


Superintendent Home III
For Home Secretary,
Chandigarh Administration

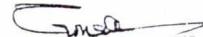
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MOST IMMEDIATE

Endst. No. 08(GOI)-2017/ 994

Dated the, 17/1/2017

A copy alongwith a copy letter No.14/6/2016-Public dated 22.12.2016 alongwith copy of the Hon'ble Supreme Court's Order dated 09.12.2016, received from the Deputy Secretary to the Government of India, Ministry of Home Affairs, Government of India, is forwarded to the Comptroller Raj Bhawan, Punjab, Chandigarh for information and necessary action.

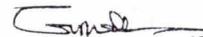

Superintendent Home III
For Home Secretary,
Chandigarh Administration

MOST IMMEDIATE

Endst. No. 08(GOI)-2017/ 995

Dated the, 17/1/2017

A copy alongwith a copy letter No.14/6/2016-Public dated 22.12.2016 alongwith copy of the Hon'ble Supreme Court's Order dated 09.12.2016, received from the Deputy Secretary to the Government of India, Ministry of Home Affairs, Government of India, is forwarded to the Registrar, Punjab & Haryana High Court, Chandigarh for information and necessary action.

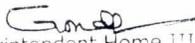

Superintendent Home III
For Home Secretary,
Chandigarh Administration

MOST IMMEDIATE

Endst. No. 08(GOI)-2017/997

Dated the, 14/1/2017

A copy alongwith a copy letter No.14/6/2016-Public dated 22.12.2016 alongwith copy of the Hon'ble Member of Parliament Order dated 09.12.2016, received from the Deputy Secretary to the Government of India, Ministry of Home Affairs, Government of India, is forwarded to the Hon'ble Member of Parliament, # 65, Sector-8, Chandigarh for information.

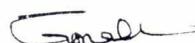

Superintendent Home III
For Home Secretary,
Chandigarh Administration

MOST IMMEDIATE

Endst. No. 08(GOI) 2017/997

Dated the, 17/1/2017

A copy is forwarded to the Deputy Secretary to the Government of India, Ministry of Home Affairs, Government of India, North Block New Delhi for information w.r.t their letter No.14/6/2016-Public dated 22.12.2016.


Superintendent Home III
For Home Secretary,
Chandigarh Administration

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IMMEDIATE

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

Adviser to the Administrator,
No. 6010 PS/AA
Dated 28/12/2016

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

22 DEC 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

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

Sir/Madam,

SS Home (bun)
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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:-

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"..., 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 that 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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- (ii) If the person with disability is on crutch, he / she shall become stable (non-mobility) 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.

4/13

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 CHOURSEY

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(With applications 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. P. 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.A.

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

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handicapped persons, it means persons with disability as defined under Sections 1(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. Uphaas 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

7/13

No. 1476/2016-Public
Government of India Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

North Block, New Delhi-1
Dated the 6th December, 2016

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

Subject:- Orders relating to the National Anthem of India

Sir/Madam,

I am directed to enclose a copy of the Hon'ble Supreme Court's Order dated 30.11.2016 delivered in the Writ Petition (Civil) No. 85 of 2016 on the above subject. The Hon'ble Supreme Court in the above said Order has directed as follows:-

- (a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.
- (b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.
- (c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which may be disgraceful to its status and tantamount to disrespect. It is because when the National Anthem is sung, the concept of protocol associated with it has its inherent roots in National identity, National integrity and Constitutional Patriotism.
- (d) All the cinema halls in India shall play the National Anthem before the feature film starts and all present in the hall are obliged to stand up to show respect to the National Anthem.
- (e) Prior to the National Anthem is played or sung in the cinema hall on the screen, the entry and exit doors shall remain closed so that no one can create any kind of disturbance which will amount to disrespect to the National Anthem. After the National Anthem is played or sung, the doors can be opened.

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(f) When the National Anthem shall be played in Cinema Halls, it shall be with the National Flag on the screen.

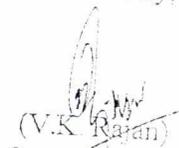
(g) The abridge version of the National Anthem made by any one for whatever reason shall not be played or displayed.

2. The above is conveyed to you for compliance and necessary action in this regard. You are also requested to give wide publicity in the local print and electronic media so that above order is followed in letter and spirit.

3. 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. Raman)
Deputy Secretary to the Govt. 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. 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 & Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.

- 9 -
9/13

ITEM NO.7

COURT NO.3

SECTION FIL(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(s) (Civil) No(s). 855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA
(With office report)

Respondent(s)

Date : 30/11/2016 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 Shrivastav, Adv.
Mr. Rituvendra Singh, Adv.
Mr. Harmeet Singh Ruprah, Adv.

For Respondent(s) Mr. Mukul Rohtagi, AG
Mr. Ashok Kumar Panda, Sr. Adv.
Mr. Avijit Prasad, Adv.
Ms. Movita, Adv.
Mr. B.K. Prasad, Adv.

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

We have heard Mr. Abhinav Srivastav, learned counsel for the petitioner and Mr. Mukul Rohatgi, learned Attorney General for India along with Mr. A.K. Panda, learned senior counsel for the Union of India.

This Court on 28.10.2016 while entertaining the Writ Petition under Article 32 of the Constitution of India had noted the submissions advanced by the learned counsel for the petitioner, made reference to the enactment, namely, Prevention of Insults to National Honour Act, 1971. It had also taken note

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of the averments in the petition.

It has been averred in the petition that sometimes National Anthem is sung in various circumstances which are not permissible and can never be countenanced in law. The emphasis is on showing requisite and necessary respect when the National Anthem is sung or played. The assertion is that it is the duty of every person to show respect when the National Anthem is played or recited or sung.

Having heard the learned counsel for the parties and awaiting the reply from the Union of India, as an interim measure, it is directed that the following directions shall be scrupulously followed:-

(a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.

(b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.

(c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which

may be disgraceful to its status and sentiment
to disrespect. It is because when the National
Anthem is sung, the concept of protocol
associated with it has its inherent roots in
National identity, National integrity and
Constitutional Patriotism.

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(d) All the cinema halls in India shall play the
National Anthem before the feature film starts
and all present in the hall are obliged to stand
up to show respect to the National Anthem.

(e) Prior to the National Anthem is played or
sung in the cinema hall on the screen, the entry
and exit doors shall remain closed so that no
one can create any kind of disturbance which
will amount to disrespect to the National
Anthem. After the National Anthem is played or
sung, the doors can be opened.

(f) When the National Anthem shall be played in
the Cinema Halls, it shall be with the National
Flag on the screen.

(g) The abridge version of the National Anthem
made by any one for whatever reason shall not be
played or displayed.

We have so directed as Mr. Mukul Rohtagi, learned
Attorney General for India submits with all humility at his
command and recommend that National Anthem has to be respected.
The directions are issued, for love and respect for the
motherland is reflected when one shows respect to the National

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Anthem as well as to the National Flag. That apart, it would
inspire the people with a sense of patriotism
and nationalism.

In this regard, we may refer to clause (a) of Article
51(A), Fundamental Duties occurring in Part IVA of the
Constitution. It reads as follows:

"51. Fundamental duties - It shall be the
duty of every citizen of India -
(a) to abide by the Constitution and respect
its ideals and institutions, the National
Flag and the National Anthem".

From the aforesaid, it is clear as crystal that it is
the sacred obligation of every citizen to abide by the ideals
engrafted in the Constitution. And one such ideal is to show
respect for the National Anthem and the National Flag. Be it
stated, a time has come, the citizens of the country must
realize that they live in a nation and are duty bound to show
respect to National Anthem which is the symbol of the
Constitutional Patriotism and inherent national quality. It
does not allow any different notion or the perception of
individual rights, that have individually thought of have no
space. The idea is constitutionally impermissible.

Mr. Rohatgi has submitted that the Union of India
shall circulate this order to the Chief Secretaries of all the
States and Union Territories. That apart, Mr. Rohatgi submits
that the order shall be shown in the electronic Media and

13/13

published in the print media so that every one knows that such an order has been passed and follow the same in letter and spirit.

This order shall be given effect to within a period of 10 days.

Let the matter be listed on 14th February 2017 for further hearing.

(Madhu Bala)
Court Master

(H.S. Parashar)
Court Master