

MOHD. MANSOOR
मुख्य स्थायी अधिवक्ता



उच्च न्यायालय लखनऊ बेंच
लखनऊ ।

Residence : 6/161 Vineet Khand Gomti
Nagar, Lucknow.
Phone : (0522) 2722703 (O)
(0522) 2722726(O)
(0522) 2303543(R)
Mobile : 9335914873 (M)
Fax : (0522) 2722751 (CH)
(0522) 2722752 (O)
e-mail : cschighcourtlucknow@gmail.com

FAX/URGENT पत्राक :

To,

1. The Principal Secretary,
Department of Home,
Govt. of U.P., Civil Secretariat, Lucknow.
2. The Principal Secretary,
Department of Housing,
Govt. of U.P., Civil Secretariat, Lucknow.
3. Industrial Development Commissioner,
Govt. of U.P., Lucknow.
4. The Director General,
U.P. Fire Services,
5th Floor, Indira Bhawan, Lucknow.
5. The Chief Fire Officer, Lucknow.

दिनांक :

No. 42470 /Civil/Lucknow/2017

Dated: 13.02.2017

Sub: For providing instructions.

Ref: Writ Petition No.1036 (M/B) PIL of 2016 (National Alliance of People's Movements & another Vs. State of U.P. & others).

Sir,

The above mentioned Public Interest Litigation (P.I.L.) was filed with the following main prayers interalia:

- (i) to issue a writ, order or direction in the nature *Certiorari* quashing the impugned order dated 16.12.2015, passed by the Director General of Fire Services, as contained in Annexure no.1 to this Writ Petition.
- (ii) to issue a writ, order or direction in the nature of *Mandamus* commanding the Respondents not to give effect to the operation and implementation of the impugned order dated 16.12.2015, passed by the Director General of Fire Services, as contained in Annexure no.1 to this Writ Petition.
- (iii) to issue a writ, order or direction in the nature of *Mandamus* directing the State Government to constitute a committee comprising of experts in the field of fire services to frame a Policy and to determine a mechanism for issuing "No Objection Certificate" keeping in view the Public Safety and ensuring accountability, transparency and proper checks and balance on authorities issuing the 'No Objection Certificate'."

A short counter affidavit was filed in the matter, wherein the Hon'ble Court was informed that the Director General of Fire Services, vide his order dated 22.02.2016 has placed the order dated 16.12.2015, which was impugned in the writ petition, in abeyance. The short counter affidavit and the annexures appended thereto indicates that a Expert Committee was constituted so as to reconsider the order dated 16.12.2015.

On 03.02.2017, when the matter was being heard, telephonic instructions were received from the Chief Fire Officer, Lucknow and on the basis of the instructions, the Hon'ble Court was informed that the Committee

comprises of the Director, Deputy Director and Joint Director of Fire Services. The Committee is yet to submit its report. The Hon'ble Court was pleased to pass an order on 03.02.2017 which is quoted below:

"Heard Sri S.K. Kulia, learned Senior Counsel, assisted by Sri Rajat Rajan Singh, learned counsel for the petitioners, Sri Mansoor Ahmad, learned Chief Standing Counsel for respondents 1 to 5 and Sri Gaurav Mehrotra, learned counsel for respondent No.6.

This petition filed as public interest litigation under Article 226 of the Constitution of India seeks the following reliefs:

"(i) to issue a writ, order or direction in the nature Certiorari quashing the impugned order dated 16.12.2015, passed by the Director General of Fire Services, as contained in Annexure no.1 to this Writ Petition.


(ii) to issue a writ, order or direction in the nature of Mandamus commanding the Respondents not to give effect to the operation and implementation of the impugned order dated 16.12.2015, passed by the Director General of Fire Services, as contained in Annexure no.1 to this Writ Petition.

(iii) to issue a writ, order or direction in the nature of Mandamus directing the State Government to constitute a committee comprising of experts in the field of fire services to frame a Policy and to determine a mechanism for issuing "No Objection Certificate" keeping in view the Public Safety and ensuring accountability, transparency and proper checks and balance on authorities issuing the 'No Objection Certificate'.

(iv) to issue a writ, order or direction in the nature of mandamus directing the Respondents to prevent the Generalized Officers from interfering in day to day affairs of Department of Fire Services in State of U.P. which involves specialized Technical and Professional knowledge and training to discharge the functions and duties assigned under the U.P. Fire Service Act, 1944, U.P. Fire Prevention and Fire Safety Act 2005, Disaster Management Act, 2005 and National Building Code, 2005.

(v) to issue a writ, order or direction in the nature of Mandamus directing the State Government to review the "No Objection Certificate's" granted to the buildings in pursuance of the impugned order dated 16.12.2015, which is in violation of the National Building Code, 2005."

Counsel for respondents 1 to 5, on instructions, submits that the Director General of Fire Services, vide his order dated 22.2.2016 has placed the order dated 16.12.2015 in abeyance and has also constituted Experts' Committee, consisting of the Director, Deputy Director and Joint Director of Fire Services, to reconsider the order dated 16.12.2015. He submits that till today the Committee has not submitted its report. Keeping that in view and having considered the prayer clause (iii) in the writ petition and as agreed by learned Chief Standing Counsel for respondents 1 to 5, we direct the Committee to also determine a mechanism for issuing no objection certificate keeping in view the public safety and ensuring accountability, transparency and proper checks and balance on the authorities issuing such certificate, keeping in view the National Building Code and the National Disaster



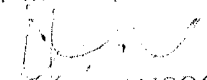
Management Guidelines issued by the National Disaster Management Authority, Government of India, in April 2012. The Committee shall endeavour to submit its report as expeditiously as possible and preferably within a period of three months from today. Learned Standing Counsel for the respondents 1 to 5 shall communicate this order along with the copy of the writ petition and annexures and so also the affidavits, counter affidavits before the Committee within a period of two weeks from today. The respondents, under any circumstance, shall not act on the order dated 16.12.2015, impugned in the present writ petition until the fresh orders are issued on the basis of the report of the Experts' Committee. It is needless to mention that the Committee shall submit its report within the stipulated time to the State Government through the Director General, Fire Services, and in turn, the State Government shall issue appropriate directions to the authorities concerned. We hope and trust that the Government shall take appropriate decision and issue orders on the basis of the report as far as possible within a period of two months from the date of presentation of the report.

Till the Committee submits its report and on the basis thereof, fresh orders are issued conferring power to issue no objection certificate, the certificates already issued on the basis of the impugned order and even after keeping this order in abeyance shall be subject to review, if necessary. With these observations, writ petition is disposed of."

In pursuance of the Directions of the Hon'ble Court dated 03.02.2017, the copy of the order of the Hon'ble Court, copy of the writ petition alongwith its annexures and the copy of the short counter affidavit and supplementary affidavit filed by the petitioner are being handed over to the official pairokar of the department, so that the same may be placed before the Expert Committee which shall submit its report in light of the directions issued by the Hon'ble Court dated 03.02.2017. After submissions of the report of the Expert Committee, the State Government has to take an appropriate decision. It is emphasized that the submission of the report by the Expert Committee as well as the decision which has to be taken by the State Government has to be within the time prescribed by the Hon'ble Court.

This is for your kind information and necessary action.

You are therefore advised to act as per the order of the Hon'ble High Court dated 03.02.2017, quoted above.


(MOHD. MANSOOR)

Copy forwarded to:

1. The Director,
U.P. Fire Services, Lucknow.
2. The Deputy Director,
U.P. Fire Services, Lucknow.
3. The Joint Director,
U.P. Fire Services, Lucknow.


(MOHD. MANSOOR)