

No 16495 / Gen
GAD-SC-CASE1-0032-2021

Government of Odisha
General Administration & Public Grievance Department

Bhubaneswar, Dated 29th June, 2021

To

All Departments of Government,
All Heads of Departments,
All Collectors.

Sub- Vacation of stay after six months from the date of such order unless extension is granted for good reason - Instruction regarding.

In inviting reference to the subject cited above, I am directed to say that matters remain in dead lock for months together due to the stay order passed by the Hon'ble Courts.

The Hon'ble High Court, Orissa, while disposing the W.P. (C) No. 2863 of 2021 (State of Odisha & others Vrs Shibashis Kar) vide Order No. 03 dated 19.03.2021, citing the authority of the Hon'ble Supreme Court have observed that as per decision of the Hon'ble Supreme Court held in case of Asian Resurfacing of Road Agency Private Ltd. and another v. Central Bureau of Investigation in Criminal Appeal No. 1375-1376/2013 and clarified in MA No. 1577/2020 vide order dated 15.10.2020, any stay order passed by any Court cannot remain effective beyond six months unless a specific order has been passed by the Court.

It is, therefore, requested that the above observation of the Hon'ble Supreme Court may be kept in view while dealing with such matters.

The subordinate offices under their control may be intimated accordingly.


Additional Secretary to Government

Memo No. 16496.,

Dated. 29th June, 2021

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*G. A. & P. G. Department
29.6.2021*

Additional Secretary to Government

Asian Resurfacing Of Road Agency ... vs Central Bureau Of Investigation

on 28 March, 2018

36. Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the Asian Resurfacing Of Road Agency ... vs Central Bureau Of Investigation on 28 March, 2018 legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to reappraise the matter. Even where such challenge is entertained and stay is granted, the matter must be decided on day-to-day basis so that stay does not operate for an unduly long period. Though no mandatory time limit may be fixed, the decision may not exceed two-three months normally. If it remains pending longer, duration of stay should not exceed six months, unless extension is granted by a specific speaking order, as already indicated. Mandate of speedy justice applies to the PC Act cases as well as other cases where at trial stage proceedings are stayed by the higher court i.e. the High Court or a court below the High Court, as the case may be. In all pending matters before the High Courts or other courts relating to PC Act or all other civil or criminal cases, where stay of 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. Same course may also be adopted by civil and criminal appellate/revisional courts under the jurisdiction of the High Courts. The trial courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced.