ORDER

Sub: Memo No.F.17(1)/16-RN/137/A-6050 dated 8.8.2016 issued by the Secretary to Hon’ble Lt. Governor, Delhi.

Please find enclosed herewith a copy of the aforesaid memorandum issued by the Secretary to Hon’ble Lt. Governor, Delhi.

In this connection, all Spl.DEs/Addl.DEs/Jt.DEs are hereby directed to review thoroughly the work done by their respective offices/branches during the past one and half years and identify those orders/notifications/files etc. wherein the prior approval of Hon’ble LG was required as the Competent Authority, but was actually not taken.

All such cases with complete relevant files/records must be located and brought to the undersigned by hand at 3.00 pm on 11th August, 2016 for onward submission, through proper channel, to Hon’ble LG for his approval.

In case, there is some doubt about whether or not the approval of Hon’ble LG is required in a particular matter, the same may also be put up by hand on 11th August, 2016 latest by 3.00 pm so that the expert opinion of the Law Department/other concerned offices may be obtained on an urgent basis.

Any laxity in compliance of this order shall be viewed seriously.

Encl: a/a.
All Spl.DEs/Addl.DEs/Jt.DEs

Copy to :

1. Secretary (Education), Delhi.
MEMORANDUM

Whereas, over the last one and half year, orders relating to issue of statutory notifications, conferment of statutory powers, amendments to Acts/Rules/Statutes, constitution/re-constitution of various Boards/Commissions/Corporations/Committees, including appointment of Chairman/Members thereof, etc. have been issued, which required prior approval of the competent authority i.e. Lt. Governor of Delhi under extant Acts/Rules/Guidelines as per prevailing constitutional scheme.

Whereas, in some of the said orders prior approval of the Lt. Governor of Delhi, though required, was not obtained.

Whereas, Hon'ble High Court in its judgement dated 04.08.2016 in the matter of WP(C) No.5888/2015 and related matters, amongst other issues has affirmed that:


(ii) Article 239 of the Constitution continues to be applicable to NCT of Delhi and insertion of Article 239AA has not diluted the application of Article 239 in any manner.

It is, therefore, obvious that all such orders as referred in paragraph two above suffer from legal infirmities and will have consequential repercussions.

I am, therefore, directed to convey that all Principal Secretaries/ Secretaries / HODs & all Heads of Autonomous Bodies/ Corporations/ Boards/ Institutions etc. concerned should immediately review all such orders issued and identify, by 17 Aug 2016, those cases where prior approval of Lt. Governor though required was not taken. All such cases may immediately be placed with appropriate proposal before the Lt. Governor, individually in the concerned file through proper channel and with the opinion/vetting of Law Department, wherever required.

It is also directed that no order in future be issued without approval of the competent authority as per the prevailing constitutional scheme.

This issues with the approval of the Hon'ble Lt. Governor, Delhi.

Vijay Kumar
Secretary to Lt. Governor

To:
1. Chief Secretary, Delhi.
2. Secretary, GAD, GNCTD to ensure that the copy of this Memorandum is circulated to all Principal Secretaries / Secretaries / HODs & all Heads of Autonomous Bodies/ Corporations/ Boards/ Institutions under GNCTD.

Copy to:
1. Secretary to Chief Minister, Delhi.
2. Secretary to Deputy Chief Minister / Ministers, Delhi.

Copy for kind information to:
Home Secretary, Government of India, North Block, New Delhi.