

No. 6545-4GSI-75/37934

From

The Chief Secretary to Government, Haryana.

To

All Heads of Departments, Commissioners, Ambala and Hissar Division, All Deputy Commissioners and Sub-Divisional Officers in Haryana.

2. The Registrar, Punjab and Haryana High Court and all the District & Sessions Judges in Haryana.

Dated Chandigarh, the 31st December, 1975.

Subject :—Proviso (c) to Article 311(2) of the Constitution —Rule 7(2) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952—satisfaction of the Governor that in the interest of the security of the State it is not expedient to hold an enquiry.

Sir,

I am directed to invite your attention to Haryana Government letter No. 3610-5GSI-71/21438, dated the 21st July, 1971 on the subject noted above and to say that in a recent judgement in Shamsheer Singh's case (AIR 1974 SC 2192), the Supreme Court has over-ruled their earlier decision taken in the case of Sardari Lal vs. Union of India (Civil Appeal No. 576 of 1969). The Supreme Court has now pointed out that "the rules of business and the allocation among the Ministers of the said business indicate that the decision of any Minister or officers under the Rules of Business made under these two articles viz. Article 77(3) in the case of President and Article 166(3) in the case of a Governor of the State, is the decision of the President or the Governor respectively." In the said judgement it has been held that neither the said judgement it has been held that neither the President nor the Governor has to exercise executive functions personally.

2. It would thus be clear that the requirements of proviso (c) to Article 311(2) of the Constitution would be satisfied if the matter is submitted to the Minister-in-charge under the rules of business and receives his approval. Accordingly, it has been decided that in so far as the employees of the State Government are concerned, the procedure indicated in para 2 of the letter referred to in para 1 above need not be followed hereafter. However, all cases coming within the proviso (c) to Article 311 (2) of the Constitution and the corresponding provision of rule 7(2) (b) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 should invariably be submitted to the Minister-in-charge for necessary orders.

3. I am to request that these instructions may be brought to the notice of all concerned for strict compliance and the receipt of this letter may also be acknowledged.

Yours faithfully,

Sd./-

Deputy Secretary General Administration,
for Chief Secretary to Government, Haryana.

A copy each is forwarded for information and necessary action to the :—

Financial Commissioner, Haryana and All Administrative Secretaries to Govt. Haryana.

Sd./-

Deputy Secretary General Administration
for Chief Secretary to Government, Haryana.

To

The Financial Commissioner, Haryana and All Administrative Secretaries to Govt. Haryana.

U.O. No. 6545-4GSI-75,

Dated, Chandigarh, the 31st December, 1975.