

No.U6-111784/2018/PHQ,

Police Headquarters,
Thiruvananthapuram,

Dated: 05-09-2018.

Circular No.24 /2018

Sub:- Incidents of violence and lynching by mobs – directions issued by the Hon'ble Supreme Court to the State Government to curb the incidents of mob lynching - instructions issued- reg.

- Ref:- 1. Judgment of the Hon'ble Supreme Court dated 17-07-2018 in Tehseen S. Poonawalla Vs. Union of India [WP(C) No.754 of 2016]
2. Letter No.11034/54/2018-IS.IV dated 23-07-2018 from the Ministry of Home Affairs, Government of India.
3. PHQ Circular No.22/2018 dated 07-08-2018.

Hon'ble Supreme Court, in the writ petition 1st cited, had ruled that lynching is an affront to the rule of law and to the exalted values of the Constitution itself. Lynching by unruly mobs and barbaric violence arising out of incitement and instigation cannot be allowed to become the order of the day. Such vigilantism, be it for whatever purpose or borne out of whatever cause, has the effect of undermining the legal and formal institutions of the State and altering the constitutional order.

In view of the direction of the Apex Court in the writ petition cited and considering the criticality and gravity all the District Police Chiefs in the State are designated as Nodal Officers in their respective districts who shall be assisted by one DySP rank officer of the district nominated by the Superintendent of Police for taking measures to prevent incidents of mob violence and lynching till the State Government makes specific designation in this regard. They shall constitute a "special task force" so as to procure intelligence about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.

The following directions issued by the Hon'ble court in relation to action by the Police are also brought to the notice of all officers concerned for strict compliance:-

1. The Nodal Officer, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.

2. The Nodal Officers shall bring to the notice of the State Police Chief any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.

3. It shall be the duty of every police officer to cause a mob to disperse, by exercising his power under Section 129 of the Code of Criminal Procedure, 1973 which, in his opinion, has a tendency to cause violence or wreak the havoc of lynching in the disguise of vigilantism or otherwise.

4. The District Police Chiefs shall direct compulsory police patrolling in the sensitive areas keeping in view the incidents of the past and the intelligence gathered at the district level and ADGP (Intelligence) will do the same for the State. It singularly means that there should be seriousness in patrolling so that the anti-social elements involved in such crimes are discouraged and remain within the boundaries of law thus fearing to even think of taking the law into their own hands.

5. The police shall cause to register FIR under Section 153A of IPC and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.

Remedial Measures

1. Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of IPC and/or other provisions of law.

2. It shall be the duty of the Station House Officer, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s).

3. Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be.

4. The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district. Such courts shall hold trial of the case on a day to day basis. The trial shall preferably be concluded within six months from the date of taking cognizance. This direction shall apply to even pending cases. The District Judge shall assign those cases as far as possible to one jurisdictional court so as to ensure expeditious disposal thereof. It shall be the duty of the Nodal Officers in particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial.

5. To set a stern example in cases of mob violence and lynching, upon conviction of the accused person(s), the trial court must ordinarily award maximum sentence as provided for various offences under the provisions of the Indian Penal Code.

6. The courts trying the cases of mob violence and lynching may, on application by a witness or by the public prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.

7. The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given timely notice of any court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. They shall also have the right to file written submissions on conviction, acquittal or sentencing.

8. The victim(s) or the next of kin(s) of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.

Punitive Measures

1. Wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited to departmental action under the service rules. The departmental action shall be taken to its logical conclusion preferably within six months by the authority of the first instance.

2. In terms of the ruling of the Hon'ble Supreme Court in *Arumugam Servai v. State of Tamil Nadu* [(2011) 6 SCC 405], the States have been directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident has already occurred, such official(s)

did not promptly apprehend and institute criminal proceedings against the culprits.

If any laxity or negligence is noticed on the part of any officer concerned in complying with the above directions, strict disciplinary action should be initiated against such officer by the disciplinary authority concerned.

W. 5/9
**Loknath Behera, IPS,
Director General of Police &
State Police Chief.**

To

1. All Officers in List B- for information and urgent necessary action.
2. CA to all Officers in PHQ

Copy to: Circular Register, Kerala Police Website.

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