

No.U3/109057/2012  
Police Headquarters,  
Kerala,  
Thiruvananthapuram  
Dated: 7/12.2012.

Circular No.38/2012

Sub: Preparation of Statement/Counter Affidavit to be filed on behalf of State Police Chief before the Hon'ble Supreme Court and High Court – Instructions issued – reg.

Ref: PHQ Circular No. 4/1996 dtd. 14.2.1996

It has come to notice that a large number of Writ Petitions related to police department are being filed before the Hon'ble High Court of Kerala frequently and invariably in many such Writ Petitions, the State Police Chief is seen as a respondent, even though the subject matter is purely concerned with the District Police only. However, the Statements, Reports, Instructions to the Government Pleader, Affidavits, Counter Affidavits etc. are being filed in such cases for and on behalf of the State Police Chief. It is noticed that the statements, affidavits etc. are being filed in a causal manner by the subordinate officers which causes embarrassing/unpleasant directions / comments from the Hon'ble Courts.

This piteous state of affair has developed due to lack of superintendence of the District Police Chiefs in the preparation of Statements of Facts, Reports, Affidavits etc. and filing the same before the Court by their subordinate officers.

Despite instructions in this regard contained in Circular No.4/96, some District Police Chiefs are in the habit of permitting their subordinate officers to file Statement of Facts, Reports etc. before the Hon'ble Court without any supervision.

In order to avoid the qualms of adverse criticisms from the higher Courts, all DPCs are directed to personally scrutinize the connected records of the case in question concerned to their jurisdiction and prepare para – war Statement / Reports etc. with the assistance of the officers who are directly handling the issue and closely acquainted with the facts and circumstances related to that case.

The Statements, Counter Affidavits etc. thus prepared should be shown to the Government Pleader concerned and necessary corrections, if any, may be made before filing it before the Court. The IsGP/ADGP Crimes shall ensure that the Statements, Counter Affidavits etc. are being filed before the Court at least 3 days in advance of the actual date of hearing / posting.

A copy of the Statement / Counter Affidavit should be forwarded to PHQ with a certificate of the DPC that he has personally perused and examined the Statement of Fact / Affidavit and found that what is stated in the Statement of Fact / Affidavit are correct and true.

Whenever an authorized officer has to represent the State Police Chief in order to file the Statement of Fact or Affidavit, the authorization shall be collected by the DPCs in the form of Fax or CoB message. AIG (P/G) shall ensure that authorization reaches DPC's office promptly.


It is the duty of DPC to ensure that the Affidavits, Statements, Reports etc. are filed before the Hon'ble High Court only by an officer not below the rank of Inspector of Police. In no circumstance such Affidavit/ Report/ Instruction/ Statement of Fact etc. should be filed by officers of and below the rank of Sub Inspector of Police unless there is a direction to the effect by the Court.

When the SPC is directed to file Statement of Fact / Affidavit etc. by himself, the DPCs concerned should prepare the same in consultation with the Government Pleader/ Addl. Director General of Prosecution/ Advocate General who is attending the case and the same should be got approved by the IGP of the Range concerned. Unless otherwise directed, DPC himself should produce the approved Statement / Affidavit before the SPC, along with copies of all connected relevant records supporting the facts mentioned in the Statement / Affidavit, at least three days in advance to the date of filing of it before the Court.

It is the duty of AIG (PG) to co-ordinate all this and to see that the signed Statement/ Affidavit is filed before the Court in time.

When the Statement of Fact, Instruction, Affidavit etc. is to be filed by the State Police Chief, matters concerned to general perception related to the department or issues connected to the state as a whole, the DPCs must take due diligence to provide information, statistics, record etc to PHQ whenever asked for. The AIG (PG) shall be responsible for the collection of data and preparation of Draft Statement / Affidavit in consultation with the Government Pleader concerned. He should bring the matter to the notice of the SPC in advance and get the Statement / Affidavit approved. He should also ensure through the Inspector, Liaison wing that the Statements / Affidavits have been filed in time.

Instructions in this circular may be read along with the contents of Circular No.4/96 which stands modified to the extent required by the provisions of this Circular.

  
State Police Chief 7/12/16

To

All Officers in List 'B'

Copy to: CAs to SPC, ADGP(Crimes), IGP (HQ), AIG I, AIG II, AIG (PG), SP (HQ), SP, NRI Cell, SP, Spl.Cell.

" : Stock File/RAC/Circular Book/Record Keeper