

CONFIDENTIAL

NO. T3/197780/2017/PHQ
Police Headquarters
Thiruvananthapuram
Date: 02.08.2019

CIRCULAR No. 19/ 2019

Sub: Investigation of UA(P)A Cases - Instructions -reg.

Ref: Circular No. 20/2018 Dated, 08.08.2018

Recently there was a discussion at the Govt. level relating to various aspects of enforcing UA(P)A in the State. As you know the UA(P)A is a special legislation and has to be used in special circumstances. Before invoking the UA(P)A, the application of mind of the DPCs/ DySPs/ ASPs is a requirement. So also the investigation should be done in a very meticulous manner, after preparing a plan of action by the Investigating Officer and the DPC jointly. This direction has to be complied with.

02. As far as sanction for prosecution is concerned, it is very clear that no UA(P)A case can be prosecuted without obtaining sanction for prosecution from the Home Secretary (now ACS Home), who is the Sanctioning Authority. But as per Section 45 of the UA(P)A, after the completion of the investigation, the Investigating Officer has to send the investigation report to be placed before the "authority", which will examine the details of evidence collected and take a decision whether the case is made out or not. As per the latest notification, this authority consists of Justice P. S. Gopinath Rtd. High Court Judge as the Chairman, IGP (IS), Special Secretary (Law Department) and Special Secretary / Addl. Secretary / Joint Secretary (Home SSA Department) as members. According to the UA(P)A Rules after the authority receives the investigation report, they are supposed to send the recommendations for according sanction for prosecution within 7 days of receipt of such investigation report. After receiving the recommendations of the Authority, the Home Secretary will accord sanction within 7 days as per the Rule.

03. Recently in one case the time schedule has not been followed and the Hon. High Court has come down heavily on all the stakeholders.
04. For preparing the Investigation Report, Circular No. 20/2018 dated, 08.08.2018 was issued with a proforma in which the report has to be prepared. This proforma is so designed, so that all the details relating to investigation can be easily found out after going through the report. Of course copies of some important statements/ some important forensic reports/ technical reports can also be attached to this investigation report, which has to be prepared by the Investigating Officer; vetted and approved by the DPC concerned. After such reports are prepared, that has to be sent to the IGP (HQ) in the name cover with a request to send the same to special secretary Home by the special messenger. IGP (HQ) will vet the report.
05. In fact there will be a team constituted in the Police Headquarters comprising of IGP (HQ), AIG (PG) and Legal Advisor, PHQ to vet the report jointly after receiving a report from the IO. The Team shall send the report, after vetting, within maximum 5 days to the Government (Special Secretary - Home i/c) without fail for the scrutiny of the authority. It is also decided that the IO will be called by the authority for clarifications etc. and on getting such a call, he/ she will come with the CD file with full preparedness to answer various queries posed by the Authority.
06. It may be noted that the "authority", if not satisfied with the report, can return the request with some directions which shall be complied with by the IO.
07. The IO shall always keep the DPC in picture during the investigation and preparation of reports.
08. The investigation report sent to the "authority" now through the Home Department is not in a proper format. So many details are missing in the

report and the authority finds difficulties in taking a view about the investigation. Therefore the IO, the DPC and the Committee in PHQ will ensure that the investigation report is prepared as per the format given (copy attached).

09. After receiving the sanction for prosecution, it is desirable that within 7 days, the charge sheet is laid in the designated/ Special Court. During the discussion, it also transpired that the investigation of UA(P)A Cases has to improve. The investigation in no circumstances be delayed.

10. In UA(P)A cases, there are provisions of extended custody of the accused persons and also extended time for charge sheeting (Sec. 43). Therefore there is no reason as to why the delay will happen. Split charge sheets can be filed in time in cases wherein there are absconding accused persons.

11. The same procedure shall be followed in the Crime Branch also.

2/8/2019
Loknath Behera IPS
DGP & State Police Chief

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