

HIGH COURT FOR THE STATE OF TELANGANA :: AT HYDERABAD

ROC.NO.393/SO/2019

DT.10.02.2023

CIRCULAR NO.5/SO/2023

Sub: High Court for the State of Telangana – High Court’s Orders dated 03.02.2023 in Criminal Petition No.563 of 2023 – Investigating Officers are not submitting inventory of substances seized before Magistrates as per Section 52-A of NDPS Act – Magistrates issuing certificates as to the correctness of the inventory under Section 52-A (2) of the Narcotic Drugs and Psychotropic Substances Act, 1985 in casual manner – Earlier circular instructions reiterated – Reg.

- Ref:1) High Court’s Circular No.13/SO/2019, dt.15.07.2019 in Roc.No.393/SO/2019.
2) Order dt.03.02.2023 in Crl.P.No.563.2023 on the file of High Court for the State of Telangana.

The Hon'ble High Court in Criminal Petition referred above has observed that Investigating Officers are not submitting inventory of substances seized before Magistrates as per Section 52-A of Narcotic Drugs and Psychotropic Substances Act, 1985, that Magistrates are not accepting the contraband produced within time, that Police are facing much difficulty for getting the certification regarding the correctness of the inventory preparation and that Magistrates and police officials are acting in a casual manner.

All the Unit Heads and the Jurisdictional Magistrates are aware that the High Court has issued circular instructions in reference 1st cited, where all concerned Judicial Officers are directed to follow the provisions of Section 52-A of NDPS Act and the Judgment of Apex Court in the Case of Union of India Vs. Mohan Lal & Another in Crl. Appeal No.652/2012, scrupulously.

The High Court while considering the circumstances once again reiterates the circular instructions referred above {copy enclosed}, for strict compliance.

Any deviation in this regard will be viewed seriously.


REGISTRAR GENERAL

To

1. All the Unit Heads in the State {with a request to communicate the same to Judicial Officers under their control}.
2. The Prl. Secretary to the Hon'ble the Chief Justice, High Court for the State of Telangana. {with a request to place the same before the Hon'ble the Chief Justice}.
3. All PSs to the Hon'ble Judges, High Court for the State of Telangana. {with a request to place the same before the Hon'ble Judge}
4. All the Registrars, High Court for the State of Telangana.
5. The Director, Telangana State Judicial Academy, Secunderabad.
6. The Section Officer, 'E' Section, High Court for the State of Telangana.

HIGH COURT FOR THE STATE OF TELANGANA :: AT HYDERABAD

ROC.NO.393/SO/2019

DT:15.07.2019

CIRCULAR NO.13/SO/2019

Sub: High Court for the State of Telangana – Investigating Officers - not submitting inventory of substances seized before Magistrates – Magistrates issuing certificates as to the correctness of the inventory under Section 52-A (2) of the Narcotic Drugs and Psychotropic Substances Act, 1985 – Certain instructions – Issued.

It has been brought to the notice of the High Court that in cases arising under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, the seized narcotic drugs, psychotropic substances are not being produced in their entirety before the Magistrate concerned for certification and only samples thereof are being placed before the Court in contravention with Section 52A of the Act and the Magistrates are issuing certificates as to the correctness of the inventory.

Attention of all the jurisdictional Magistrates is invited to the Section 52 A of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985,(Amendment Act No.16 of 2014). The section is extracted hereunder for ready reference:

“Section 52A: Disposal of seized narcotic drugs and psychotropic substances:

- (1) The Central Government may, having regard to the hazardous nature of any narcotic drugs or psychotropic substances, their vulnerability to theft, substitution, constraints of proper storage space or any other relevant considerations, by notification published in the Official Gazette, specify such narcotic drugs or psychotropic substances or class of narcotic drugs or class of psychotropic substances which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may from time to time, determine after following the procedure hereinafter specified.
- (2) Where any narcotic drugs or psychotropic substances has been seized and forwarded to the officer-in-charge of the

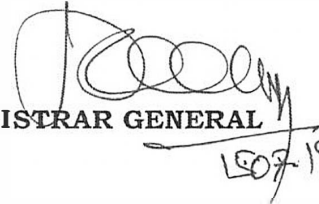
nearest police station or to the officer empowered under Section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs or psychotropic substances in any proceedings under this Act and make an application, to any Magistrate for the purpose of-

- (a) certifying the correctness of the inventory so prepared; or
 - (b) taking, in the presence of such Magistrate, photographs of such drugs or substances **or conveyances** and certifying such photographs as true; or
 - (c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.
- (3) When an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.
- (4) Notwithstanding anything containing in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every Court trying an offence under this Act, shall treat the inventory, the photographs of **[narcotic drugs, psychotropic substances, controlled substances or conveyances]** and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.]”

On considering the matter, the High Court hereby directs all the Unit Heads and the Jurisdictional Magistrates in the State to follow the provisions of Section 52-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and the Judgment of Apex Court in the case of Union of India Vs. Mohan Lal and another in CrI. Appeal No(s).652/2012 particularly paras 13 and 14 with instructions that no sooner the seizure

of any Narcotic Drugs and Psychotropic and controlled Substances and conveyances is effected, the same shall be forwarded to the officer in-charge of the nearest police station or to the officer empowered under Section 53 of the Act. The officer concerned shall then approach the Jurisdictional Magistrate with an application under Section 52-A (ii) of Act, which shall be allowed by the Magistrate under sub-Section (3) of Section 52-A as held by the Hon'ble Supreme Court in the above Judgment under the heading 'seizure and sampling'. The sampling shall be done under the supervision of the Magistrate as held in paras 13 and 14 of the said Judgment.

All the Unit Heads and the Jurisdictional Magistrates working under their control are hereby directed to follow the provisions of Section 52A of NDPS Act and the directions of the Hon'ble Supreme Court in Union of India Vs. Mohan Lal and another particularly para 13 and 14 scrupulously and any deviation in this regard will be viewed seriously.


REGISTRAR GENERAL
1507-19

To

1. All the Unit Heads in the State (with a request to communicate the same to Judicial Officers under their control).
2. The Prl. Secretary to the Hon'ble the Chief Justice, High Court for the State of Telangana.
3. All PSs to the Hon'ble Judges, High Court for the State of Telangana.
4. All the Registrars, High Court for the State of Telangana.
5. The Registrar (IT-cum-Central Project Coordinator), High Court for the State of Telangana [with a request to instruct the concerned to place the same in High Court's website]
6. The Director, Telangana State Judicial Academy, Secunderabad.
7. The Section Officer, 'E' Section, High Court for the State of Telangana.

