

HIGH COURT FOR THE STATE OF TELANGANA:: HYDERABAD

ROC.NO.158/SO/2024

DATE: 5.01.2024

C I R C U L A R No. 2 /SO/2024

Sub:- High Court for the State of Telangana – e-mail received from the Director, Telangana State Narcotics Bureau, Hyderabad – Request to issue necessary instructions to all District and Sessions Judges and the Jurisdictional Magistrates in the State of Telangana to allow applications U/s. 52-A (2) (3) NDPS Act and draw the samples without any delay – Circular reiterated – Reg.

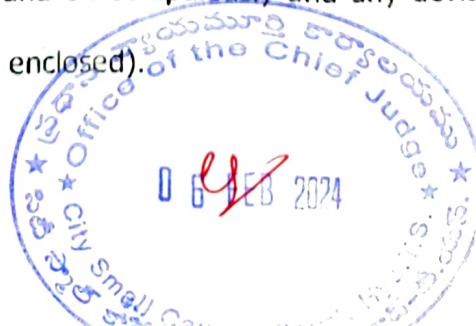
Ref: - 1) High Court's Circular No.13/SO/2019, dt.15.07.2019 to all the Unit Heads in the State of Telangana.
2) Letter C.No.6/Director-comp/TSNAB/2024, dt:17.01.2024 of Director, Telangana State Narcotics Bureau, Hyderabad.

The Director, Telangana State Anti Narcotics Bureau, Hyderabad has addressed a letter to the High Court stating that in the most of the Districts the concerned Magistrates are not allowing the applications filed by IOs U/s. 52-A (2) (3) of NDPS Act for certifying the inventory and drawing of the samples to be sent to the FSL, thereby charge sheet cannot be filed in time resulting in the release of accuse on bail and requested to issue necessary instructions to all the District Judges and concerned Magistrates.

Attention is invited to the High Court's Circular in the 1st referred above wherein, all the Unit Heads and the Jurisdictional Magistrates working under their control are hereby directed to follow the provisions of Section 52-A 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 (copy enclosed).

Check & Put u;

Chief Judge



Handwritten notes:
P.No. 370/2024
Date 7.06/02/2024

Handwritten note:
ADYR

Therefore, the High Court reiterates the earlier circular instructions in the reference 1st cited, and all the Unit Heads and the Jurisdictional Magistrates working under their control are once again directed to scrupulously follow the provisions of Section 52-A 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 and dispose off the applications filed under the above provision as soon as possible.

Any deviation in this regard will be viewed seriously.


27/2/24
REGISTRAR GENERAL

To


1. All the Unit Heads in the State of Telangana (with a request to communicate the same among the Judicial Officers working in your Unit.)
2. The Principal Secretary to the Hon'ble Chief Justice (with a request to place the same before the Hon'ble the Chief Justice.)
3. The Director, Telangana State Anti Narcotics Bureau, Hyderabad.
4. The Director General of Police, Telangana State, Hyderabad (with a request to issue necessary directions to all the Police Officers working in the State.)

OFFICE OF THE CHIEF JUDGE :: CITY SMALL CAUSES COURT ::
AT HYDERABAD

Dis. No. 183 /ADMN/CSCC/2024

Dt. 07-02-2024

//Communicated to All the Judicial Officers in this Unit to follow the instructions of the Hon'ble High Courts ROC. No.158/SO/2024, Circular No.02/SO/2024, dt.05.02.2024 //


CHIEF JUDGE
City Small Causes Court,
Hyderabad-T.S.

To:

1. All the Judicial Officers of this Unit (forwarding through official mail)

Copy to:

The District System Administrator (with a direction to upload the same in the Official website of this Unit)

+ Spare.,



Deep Shandilya, IPS
Director,
TS Anti Narcotics Bureau,
Hyderabad.



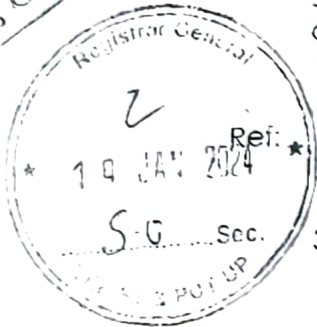
Mobile : 8712661700
Fax : 040 - 23147766
Email : director-tsnab@tspolice.gov.in

C.No.6/Director-Camp/TSNAB/2024 | 28

Date : 17.01.2024

Sir,

Sub: Request to pass necessary instructions to all the District and Sessions Judges and the Jurisdictional Magistrates in the state of Telangana to allow applications U/s 52A(2)(3) NDPS Act and draw the samples without any delay - Reg



- Ref: 1. Mohan Lal Vs Union of India [AIR 2018 SC 3853].
2. Notification No.899(E) Dt 23-12-2022, Minister of Finance, Department of Revenue, Government of India
3. ROC No.393/SO/2019 Dt 15-07-2019 Circular No.13/SO/2019 of the High Court for the State of Telangana
* * *

Telangana State Anti Narcotic Bureau was formed to curb the menace of drugs in the state of Telangana. Training classes are being conducted regularly to the Police Officers of Telangana from the ranks of PCs to the Dy.SsP for effective investigation of the NDPS Act cases following due procedures of law. During the training classes it has been brought to our notice that in most of the districts the concerned Magistrates are not allowing the applications filed by the IOs U/s 52A(2)(3) NDPS Act for certifying the inventory and drawing of the samples to be sent to FSL. It is also reported that many applications U/s 52A(2) are pending before the Hon'ble Magistrates all over the state and the drawing of samples pending which is hampering the IOs to file the charge sheets within 180 days in case of Commercial quantities, 90 days in case of Intermediate quantities and 60 days in case of small quantities due to which the cases could not be charge sheeted on time. As a result of which the accused are released on bail and they are continuing their nefarious activities unabatedly.


The Hon'ble High Court for the state of Telangana vide reference no.3 cited above has directed all the unit heads and the Jurisdictional Magistrates under their control to follow the provisions of Sec 52A NDPS Act and the directions of Hon'ble Supreme Court in Union of India Vs Mohanlal and another scrupulously and that any deviation will be viewed seriously

Hence in view of the above it is requested that necessary instructions may kindly be passed to all the District and Sessions Judges and the Jurisdictional Magistrates for allowing the applications by the IOs U/s 52A(2)(3) NDPS Act without any delay for smoother investigation of the NDPS Act Cases. This measure will have a far reaching impact on the well being of the society.

Thanking you

With kind regards,

Yours sincerely



Director

TS Anti Narcotic Bureau

To
The Registrar
Hon'ble High Court for the state of Telangana,
Hyderabad

Copy submitted W/Cs to

1. The Director General of Police, Telangana state
2. The Principal Secretary for Home, Government of Telangana for favour of kind information

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 Crl. 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
15/07/19

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.