

देवेन्द्र सिंह चौहान
आईपीएस



पुलिस महानिदेशक
उत्तर प्रदेश
पुलिस मुख्यालय, लखनऊ
दिनांक: सितम्बर 9, 2022

विषय: किमिनल मिस0 बेल अप्लीकेशन संख्या-56496/2021-विवेक सिंह बनाम उत्तर प्रदेश राज्य व अन्य के संबंध में।

प्रिय महोदय,

कृपया अवगत कराना है कि वर्तमान में प्रत्येक क्षेत्र में जिस तीव्रता के साथ कम्प्यूटर के प्रयोग में वृद्धि हो रही है उसी अनुपात में कम्प्यूटर सम्बन्धी अपराधों में भी निरन्तर वृद्धि हो रही है। इन अपराधों की विवेचना के सम्बन्ध में मुख्यालय स्तर से परिपत्र संख्या-17/2016 दिनांक 16.03.2016 के माध्यम से विस्तृत दिशा-निर्देश निर्गत किये गये हैं। ऐसे अपराधों की विवेचना में इलेक्ट्रानिक साक्ष्य संकलन किये जाते समय साक्ष्य अधिनियम की धारा-65बी का अनुपालन सुनिश्चित कराये जाने के सम्बन्ध में मा0 न्यायालय द्वारा दिनांक 17.08.2022 को सुनवाई के दौरान मौखिक निर्देश दिये गये हैं, जो निम्नवत है:-

"There must be full compliance of Section 65-B of Indian Evidence Act in case of electronic evidence."

मा0 न्यायालय द्वारा दिये गये उक्त निर्देश के क्रम में अपने अधीनस्थ नियुक्त अधिकारियों/थाना प्रभारियों/विवेचकों को यह निर्देशित करें कि उक्त संदर्भ में इलेक्ट्रानिक साक्ष्य को संकलित करते समय भारतीय साक्ष्य अधिनियम-1872 की धारा 65ए एवं 65बी में वर्णित प्राविधानों का अनुपालन सुनिश्चित किया जाय, जिसका विवरण निम्नवत है :-

65-A. Special provisions as to evidence relating to electronic record-The contents of electronic records may be proved in accordance with the provisions of section 65B.

65-B. Admissibility of electronic records. (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely-

- (a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;
- (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;
- (c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents;
- (d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether-

- (a) by a combination of computers operating over that period; or
- (b) by different computers operating in succession over that period; or

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(c) by different combinations of computers operating in succession over that period; or
(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,
all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,-

- (a) identifying the electronic record containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;
- (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,-

- (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- (b) whether in the course of activities carried on by any official information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
- (c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation-For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

2. मैं चाहूँगा कि आप उक्त निर्देशों का भली-भाँति अध्ययन कर जनपद में नियमित रूप से कार्यशालाओं को आयोजित कर अपने अधीनस्थ नियुक्त राजपत्रित अधिकारियों/थानाध्यक्षों/विवेचकों को अवगत कराकर इसकी प्रति उन्हें उपलब्ध करा दें और यह सुनिश्चित करें कि इन निर्देशों का अक्षरशः पालन किया जाये।

भवदीय

(देवेन्द्र सिंह चौहान)

1. पुलिस आयुक्त,
कमिशनरेट-लखनऊ/कानपुर/वाराणसी/गौतमबुद्धनगर।
2. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,
प्रभारी जनपद/रेलवेज, उत्तर प्रदेश।

प्रतिलिपि-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु:-

1. अपर पुलिस महानिदेशक(कानून एवं व्यवस्था), उ०प्र० लखनऊ।
2. अपर पुलिस महानिदेशक(रेलवेज), उ०प्र० लखनऊ।
3. अपर पुलिस महानिदेशक(अभियोजन), उ०प्र० लखनऊ।
4. अपर पुलिस महानिदेशक(तकनीकी सेवाएँ), उ०प्र० लखनऊ।
5. समस्त जोनल अपर पुलिस महानिदेशक, उ०प्र०।
6. समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/पुलिस उपमहानिरीक्षक, उ०प्र०।