

# मुख्यालय पुलिस महानिदेशक उत्तर प्रदेश।

1-तिलक मार्ग लखनऊ।

परिपत्र संख्या-<sup>22</sup>/2017

दिनांक: लखनऊ 01, 2017  
अगस्त

सेवा में,

समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,  
प्रभारी जनपद, उत्तर प्रदेश।

वर्ष 1995-1997 के मध्य मुम्बई पुलिस और अभिकथित अपराधियों के बीच लगभग 99 मुठभेड़ों में हुई 135 व्यक्तियों की मृत्यु की वास्तविकता या अन्यथा के विवादक(Issue) पर मा0 मुम्बई उच्च न्यायालय द्वारा दिये गये निर्णय के विरुद्ध अपीलार्थी पीपुल्स यूनियन फार सिविल लिबर्टीज(पी.यू.सी.एल.) द्वारा मा0 सर्वोच्च न्यायालय में किमिनल अपील संख्या-1255/1999 इत्यादि पीपुल्स यूनियन फार सिविल लिबर्टीज एवं एक अन्य बनाम महाराष्ट्र राज्य व अन्य योजित की गई जिसमें *मा0 सर्वोच्च न्यायालय के निर्णय दिनांक 23.09.2014 में प्रकरण की सम्यक विवेचन और मा0 उच्च न्यायालय द्वारा जारी किये गये निर्देशों, एन0एच0आर0सी0 द्वारा जारी किये गये दिशा निर्देशों, अपीलार्थी पी0यू0सी0एल0, न्याय मित्रों के सुझावों तथा भारत संघ, राज्य सरकारों एवं संघ राजक्षेत्रों द्वारा दाखिल शपथपत्रों को ध्यान में रखते हुए पुलिस मुठभेड़ में हुई मृत्यु और घोर उपहति के मामले की गहन प्रभावी एवं स्वतंत्र अन्वेषण हेतु अनुसरण की जाने वाली निम्न मानकों/अपेक्षाओं का अनुपालन किये जाने का निर्देश दिया गया है:-*

(1) Whenever the police is in receipt of any intelligence or tip-off regarding criminal movements or activities pertaining to the commission of grave criminal offence, it shall be reduced into writing in some form (preferably into case diary) or in some electronic form.

Such recording need not reveal details of the suspect or the location to which the party is headed. If such intelligence or tip-off is received by a higher authority, the same may be noted in some form without revealing details of the suspect or the location.

(2) If pursuant to the tip-off or receipt of any intelligence, as above, encounter takes place and firearm is used by the police party and as a result of that, death occurs, an FIR to that effect shall be registered and the same shall be forwarded to the court under Section 157 of the Code without any delay. While forwarding the report under Section 157 of the Code, the procedure prescribed under Section 158 of the Code shall be followed.

(3) An independent investigation into the incident/encounter shall be conducted by the CID or police team of another police station under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter). The team conducting inquiry/investigation shall, at a minimum, seek:

- (a) To identify the victim; colour photographs of the victim should be taken;
- (b) To recover and preserve evidentiary material, including blood-stained earth, hair, fibers and threads, etc., related to the death;
- (c) To identify scene witnesses with complete names, addresses and telephone numbers and obtain their statements (including the statements of police personnel involved) concerning the death;
- (d) To determine the cause, manner, location (including preparation of rough sketch of topography of the scene and, if possible, photo/video of the scene and any physical evidence) and time of death as well as any pattern or practice that may have brought about the death;
- (e) It must be ensured that intact fingerprints of deceased are sent for chemical analysis. Any other fingerprints should be located, developed, lifted and sent for chemical analysis;
- (f) Post-mortem must be conducted by two doctors in the District Hospital, one of them, as far as possible, should be In-charge/Head of the District Hospital. Post-mortem shall be video-graphed and preserved;**
- (g) Any evidence of weapons, such as guns, projectiles, bullets and cartridge cases, should be taken and preserved.

Wherever applicable, tests for gunshot residue and trace metal detection should be performed.

- (h) The cause of death should be found out, whether it was natural death, accidental death, suicide or homicide.

**(4) A Magisterial inquiry under Section 176 of the Code must invariably be held in all cases of death which occur in the course of police firing and a report thereof must be sent to Judicial Magistrate having jurisdiction under Section 190 of the Code.**

**(5) The involvement of NHRC is not necessary unless there is serious doubt about independent and impartial investigation.**

However, the information of the incident without any delay must be sent to NHRC or the State Human Rights Commission, as the case may be.

(6) The injured criminal/victim should be provided medical aid and his/her statement recorded by the Magistrate or Medical Officer with certificate of fitness.

(7) It should be ensured that there is no delay in sending FIR, diary entries, panchnamas, sketch, etc., to the concerned Court.

(8) After full investigation into the incident, the report should be sent to the competent court under Section 173 of the Code. The trial, pursuant to the chargesheet submitted by the Investigating Officer, must be concluded expeditiously.

(9) In the event of death, the next of kin of the alleged criminal/victim must be informed at the earliest.

**(10) Six monthly statements of all cases where deaths have occurred in police firing must be sent to NHRC by DGPs. It must be ensured that the six monthly statements reach to NHRC by 15 th day of January and July, respectively. The statements may be sent in the following format along with post mortem, inquest and, wherever available, the inquiry reports:**

- (i) Date and place of occurrence.
- (ii) Police Station, District.
- (iii) Circumstances leading to deaths:
  - (a) Self defence in encounter.
  - (b) In the course of dispersal of unlawful assembly.
  - (c) In the course of affecting arrest.
- (iv) Brief facts of the incident.
- (v) Criminal Case No.
- (vi) Investigating Agency.
- (vii) Findings of the Magisterial Inquiry/Inquiry by Senior Officers:
  - (a) disclosing, in particular, names and designation of police officials, if found responsible for the death; and
  - (b) whether use of force was justified and action taken was lawful.

(11) If on the conclusion of investigation the materials/evidence having come on record show that death had occurred by use of firearm amounting to offence under the IPC, disciplinary action against such officer must be promptly initiated and he be placed under suspension. (12) As regards compensation to be granted to the dependants of the victim who suffered death in a police encounter, the scheme provided under Section 357-A of the Code must be applied.

(13) The police officer(s) concerned must surrender his/her weapons for forensic and ballistic analysis, including any other material, as required by the investigating team, subject to the rights under Article 20 of the Constitution.

(14) An intimation about the incident must also be sent to the police officer's family and should the family need services of a lawyer / counselling, same must be offered.

**(15) No out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/recommended only when the gallantry of the concerned officers is established beyond doubt.**

(16) If the family of the victim finds that the above procedure has not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality by any of the functionaries as above mentioned, it may make a complaint to the Sessions Judge having territorial jurisdiction over the place of incident. Upon such complaint being made, the concerned Sessions Judge shall look into the merits of the complaint and address the grievances raised therein.

मा० सर्वोच्च न्यायालय द्वारा यह भी निर्देश दिया गया है कि उपर्युक्त दिशा-निर्देश जहाँ तक सम्भव हो पुलिस मुठभेड़ में हुई घोर उपहति के मामलों में भी लागू होंगे तथा उपर्युक्त अपेक्षाओं एवं मानकों का कड़ाई से पुलिस मुठभेड़ में हुई मृत्यु और घोर उपहति के सभी मामलों में उन्हें भारत के संविधान के अनुच्छेद 141 के अधीन घोषित विधि के रूप में मानते हुए अनुपालन किया जायेगा ।

अतः आपसे अपेक्षा की जाती है कि पुलिस मुठभेड़ में मृत्यु और घोर उपहति के मामलों के अन्वेषण में उपरोक्त मानकों/अपेक्षाओं का कड़ाई से अनुपालन सुनिश्चित की जाय।

(सुलखान सिंह)

पुलिस महानिदेशक,

उत्तर प्रदेश।

प्रतिलिपि निम्नलिखित को इस निर्देश के साथ कि उपरोक्त निर्देशों का नियमित अनुश्रवण कराना सुनिश्चित करें:-

- 1-समस्त जोनल अपर पुलिस महानिदेशक, पुलिस महानिरीक्षक, उत्तर प्रदेश।
- 2-समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/उपमहानिरीक्षक, उत्तर प्रदेश।

प्रतिलिपि अपर पुलिस महानिदेशक, मानवाधिकार, 30प्र० को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।