Sub:- Guidelines for filing of Statements of Facts in Constitutional Courts etc. – reg.

There is some sort of confusion relating to the filing of Statements of Facts/counter affidavits/Progress Reports/Status Reports of investigation before the Hon’ble High Court and in Hon’ble Supreme Court.

02. All the VACB Units are deemed as Police Stations and the Unit Heads are the SHOs. As per the CrPC, investigation has to be conducted by the SHO unless he authorizes another Officer for investigation; he has to forward the final report prepared by such Investigating Officer to the Court.

03. The SHO stands in a different and unique legal footing in the matters of investigation.

04. At present various petitions are filed by the accused persons and others in the High Court and also in the Supreme Court. The VACB then has to file counter affidavits/parawise remarks/statements of facts/status reports/progress reports on investigation etc. and many a times it is seen that even junior officers of the rank of Inspectors also file such reports. Recently the Hon’ble High Court was very critical about a report filed by an Inspector in the Court.
In this connection to bring uniformity in filing such reports etc. the following instructions are issued to be complied with by all concerned.

1. Statement of Facts, which will be parawise remarks of a petition, shall be prepared by an IO and he will submit that to the Unit Head. The Unit Head after perusing the same in consultation with the ALA wherever possible, should send that to the Directorate for getting clearance and approval from the Directorate to file such Statements of Facts. After the necessary vetting and approval in the Directorate the vetted copy shall be sent to the Unit Head who will prepare the fair copy and take the required number of copies and send the same to the Government Pleader who takes further necessary action. If the Government Pleader makes some amendments in the draft, the amended fair copy has to be signed by the Unit Head concerned in the capacity of an SHO.

2. In the event the Hon’ble Court specifically directs the Investigating Officer to file a Statement of Facts, then also the Unit Head will write a forwarding note below the signature of IO stating ‘verified found correct’ and sign as the Unit Head. This will ensure accountability of the SHO in matters pertaining to investigation.

3. In the event of any counter or report to be filed in Hon’ble Supreme Court the authorized officer will not be less than the rank of an SP. So the Range SPs and Superintendents of Police of Special Units are only authorized to sign such counter affidavits/Statements of Facts etc. to be filed before the Hon’ble Supreme Court.

4. The statement etc. should be prepared by the Investigating Officer and kept in the Crime File of the office/unit for record and that will be the basis of the report to be prepared by the Unit Head concerned.

5. The Status Reports, Progress Reports, Reports on investigation etc. shall be filed in sealed covers with prayer not to give a copy to the accused or the opposite side by stating that this will prejudice and
will affect the investigation and such reports are meant for the perusal of the Hon’ble Court.

6. In the statement of facts, we have already clarified it should not contain interim investigational findings and the steps to be taken by the IO to complete the investigation.

7. The Law Officers are requested to explain the above points to the Unit Heads as and when possible so that a proper system is to be in place and proper reports are filed in the Hon’ble Court without prejudice to the investigation and prosecution.

8. In Appeal Petitions (appeal against a court judgment in a case) which has to be filed on behalf of the State, the draft will be prepared by the IO after taking the help of the Law Officer or the Special Prosecutor as the case may be and sent to the Directorate for approval. After being approved, the Headquarters (Directorate) will send it to the Government for getting the approval to file it in the Hon’ble High Court/Supreme Court. Government only files such appeals.

9. In other appeals and revisions (when VACB is authorized to file), the Investigating Officer will consult with the Law Officer/Special Prosecutor and prepare such petition for getting approval from the Directorate and then make arrangements to file it after consulting the concerned Government Pleader in the High Court.

10. We have already instructed earlier that the petitions/replies/counters/Statements of Facts etc. in the constitutional Courts should not be filed in a hurry. It is therefore the responsibility of Unit Head to interact with the Government Pleader, get the tentative date for submitting such petition and prepare it well in advance, so
that there will be proper application of mind. Such drafts to be sent to the Headquarters in advance so that the officers in the Directorate will get sufficient time to vet the draft and then send it to the Unit Head concerned for filing the same in consultation with the Government Pleader in the High Court. Any omission in this regard will be viewed seriously.

Loknath Behera IPS
Director.

Copy to:--

All Unit Heads
All Officers in the Directorate
Manager/Accounts Officer/Administrative Assistant
CAs to Director/ADGP-I/ADGP-II/SP(Int.)/ADP(V)/EE
Stock File