

**OFFICE OF THE DIRECTOR-CUM-D.G. & I.G.P, VIGILANCE, ORISSA, CUTTACK**

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**VIGILANCE CIRCULAR ORDER No. 8/2010**

**Sub: (A) Instruction on accumulation of benami properties by suspected officers and submission of Detail Report.**

**(B) Instruction on investigation of D.A./Trap Cases.**

**(A) Benami Transaction in D.A. Cases:**

Of late, it has been come to notice that **most of the corrupt public servants** are accumulating valuable assets like land, buildings, light/heavy vehicles, deposits in the name of their close relatives and some times in the name of their illiterate servants as **benami**. The essence of benami is the intention of public servants to suppress the origin of their ill-got money. Very presence of documents (i.e. sale deeds of land, R.C.Books of vehicles, A/C Pass books etc.) relating to those properties available with the public servants, seized during house search are not sufficient to prove that the concerned public servant is the real owner of the said property but not the Benamidar.

2. In order to prove a particular transaction is of benami in nature and the owner is not the real owner, it is well settled that the burden of proof lies on the person asserting it to be so and this burden has to be strictly discharged by adducing legal evidence of a definite character which would directly prove the fact of benami or establish circumstantial evidence reasonably raising an inference of that fact.

3. As per Sec.3(1) of The Benami Transactions(Prohibition) Act 1988, no person shall enter into any Benami Transaction. Whoever enters into a Benami Transaction shall be punished with imprisonment for a term, which may extend to 3 years or with fine or with both.

The Act prevents the real owner from claiming ownership against the Benamidar. So far as the offence u/s.13(1)(e) of the P.C.Act 1988 is concerned, the real owner who conceals the property in the name of another person commits the offence if the property in the name of Benamidar is found to be disproportionate to his known source of income. It is, therefore impressed upon that during course of investigation of disproportionate assets cases, the documents either "Public or Private" have to be seized and the following facts must be looked into by the I.Os. to prove a particular property as Benami:

- (i) To ascertain the source from which the purchase money came, financial status/capability of Benamidar to do such transaction supported by documents such as BPL Card/Job Card, ration card, Credit card/Debit card etc.
- (ii) the nature and possession of property after purchase,
- (iii) motive, if any, for giving the transaction a benami colour,
- (iv) the position of the parties and the relationship, if any, between the claimant and the alleged Benamidar,
- (v) the custody of title deeds after the sale,
- (vi) the conduct of the parties concerned in dealing with the property after sale i.e. periodic supervision, purchase of materials, payment of rents/collection of rents, energy bills, Holding Tax/ground rent ; payment particulars of annual Insurance charges, daily/periodic collection of taxi/vehicle income ,maintenance charges etc of vehicles.
- (vii) any other document like Call detail charts of cellphones of S.O.,Benamidar which may connect actual owner i.e. S.O. with Benamidar/pseudonym holder.

4. Further, the I.O. should collect documents in support of accumulation of property by the real owner and mode of transfer of the said property in the name of Benamidar. He should thoroughly scrutinize and sort out all the documents in respect of each item of

acquisition or disposal of assets, income and expenditure. The I.O. is to verify the genuineness of the contents of the documents and to find out whether they are fictitious, false, forged or fabricated. The admissibility of those documents in the Court of law and the mode of proof of such evidence collected should be ensured in the light of the Evidence Act in the following proforma.

**PROFORMA**

Name of the S.O	Name of the Benamidar	Relationship of Benamidar with the S.O	Financial status of the Benamidar prior to purchase	Nature of the property	Source of procurement	Conduct of Benamidar/ S.O after transaction	Evidence collected to prove benami transaction	Date of transaction
1.	2.	3.	4.	5.	6.	7.	8.	

5. **Detail Report on D.A.Cases –**

- (i) Detail Report in D.A. cases should be submitted exclusively in respect of suspected officer, his wife, children and other family members along with calculation of percentage of D.A.,
- (ii) Detail Report in respect of accumulation of property in the name of Benamidar exclusively should be submitted along with calculation of percentage of D.A.
- (iii) Detail Report in respect of both S.O. including his family members and the Benamidar should be submitted after calculating benami properties jointly with percentage of D.A.

B. **Follow up action in Trap Cases :-**

- (i) Invariably all the trap cases are followed up with file enquiries to recover incriminating articles etc. from D.A. angle. It is seen that procedural formalities as per Sec.165 Cr.P.C. are not being followed in few cases. It is hereby reiterated that Unit Officers, Divisional S.P. shall send fax requisitions to other divisional Ss.P. citing above provision of Cr.P.C. which should be seized and dealt by the I.O. in Case Diaries. Search lists (house search) should form part of Case Diaries in order to avoid further legal problems.
- (ii) Now-a-days defence counsels being professionals, are putting complicated questions to prosecution witnesses particularly to I.O. on requisition, time of despatch by S.P. to concerned offices to depute official seizure witness in preparation, detection report and office orders of concerned Department in deputing official witnesses. Both letters/orders should be seized and dealt in Case Diaries.

Receipt of above Circular may please be acknowledged.

*A.K. Patnaik*  
*4-10-2019*

A.K. Patnaik

Director-cum-D.G. & I.G.P., Vigilance, Orissa, Cuttack.

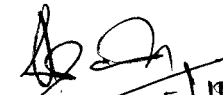
**OFFICE OF THE DIRECTOR-CUM-D.G & I.G OF POLICE, VIGILANCE,  
ORISSA, CUTTACK.**

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Memo No. 9314 /V.Co.(RA),

Date : 5-10-10


Copy to Ss.P, Vigilance, all Divisions including Cell for information and necessary action.

  
A.I.G of Police, Vigilance,  
Orissa, Cuttack. 5/10/10

Memo No. 9315 /V.Co.(RA),

Date : 5-10-10 .

Copy to D.S.P, Vigilance, Link (S) / Link (N) / Prosecution Cell / D.S.P,  
Co-ord. / P.A to Director, Vigilance / Stenos to I.G.P (S) / I.G.P (N) / L.A (V) for  
information and necessary action. necessary action.

  
A.I.G of Police, Vigilance,  
Orissa, Cuttack. 5/10/10

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**OFFICE OF THE DIRECTOR CUM D.G. & I.G. OF POLICE, VIGILANCE,  
ODISHA, CUTTACK**

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**VIGILANCE CIRCULAR ORDER No.7/2010.**

**Sub: Preservation and Circulation of course materials brought from  
Training Institutions.**

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It is observed that Vigilance Officers deputed to undergo re-orientation course on investigation into cases of corruption/ economic offence at Training Institution like CBI Academy, Gaziabad, Delhi, Gopabandhu Academy, Bhubaneswar etc. are returning with course materials and retaining these with them. As a result of which other officers are deprived of getting the course materials to go through it which could have helped in improving their skill and professional knowledge on investigation into cases of corruption/economic and other offences.

It is, therefore, directed that officers deputed to undergo the such courses must submit the course materials brought from the training institutions on their return to the Librarian State Vigilance Directorate, Cuttack. Librarian will make a Xerox copy of it for preservation in the Library, Vigilance Directorate for future reference and return the original course materials to the officers concerned. A copy of the course materials shall also be circulated among all Divisions by the Librarian for their information and circulation among their officers by respective Divisional Ss.P.


A.K. Patnaik  
21-9-2010  
(A.K. Patnaik)  
Director-cum-D.G. & I.G. of Police,  
Vigilance, Orissa, Cuttack.

P.T.O.

(17)


Memo No. 8938 (7) /VCo.(RA) Date. 22.9.10

Copy to Ss.P Vigilance all Divisions including Cell for information and necessary action. They are requested to circulate it among all the officers of Units / Squads under their jurisdiction. A copy be preserved in Guard file of Divisional Headquarters as well as Unit and Squad.

  
A.I.G of Police Vigilance  
Orissa, Cuttack.

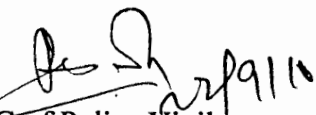
Memo No. 8939 (8) /VCo.(RA) Date. 22.9.10

Copy to D.Ss.P Vigilance Link(N) / Link (S) / Prosecution Cell / Coordination / P.A to Director / Stenos to I.G.P(N) / I.G.P(S) / L.A for information and necessary action.

  
A.I.G of Police Vigilance  
Orissa, Cuttack.

Memo No. 8940 /VCo.(RA) Date. 22.9.10

Copy to Librarian, State Vigilance Directorate, Cuttack for information and necessary action. She will pursue and keep touch with the matters and do the follow up action.

  
A.I.G of Police Vigilance  
Orissa, Cuttack.

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**OFFICE OF THE DIRECTOR-CUM- D.G. OF POLICE, VIGILANCE, ORISSA, CUTTACK.**

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**Vigilance circular Order No.6/2010**

**Sub: Assessment of Income from agriculture in D.A. Cases.**

Assessment of income of SO from agricultural source in D.A.Cases plays vital role in determination of D.A. For this purpose, land particulars, cropping pattern, yield rate, cost of agricultural commodities etc are required.

Presently, land particulars are received from Revenue Authorities. The yield rate and cost of agricultural commodities are supplied by the Statistical Cell of the Vigilance Directorate.

For cropping pattern in the land of the SO, IO has to depend upon the kism of land provided by the Revenue Deptt. Or has to depend upon the version of the SO or neighbouring farmers. It is seen that the kism of land often under gone changes and utilisation may not be accurate as to the kism. More over the verbal statement of SO or neighbours may carry biasness.

In order to avoid this difficulty it has been decided at Govt. level to refer to the land utilisation survey results of D.E &S (conducted under the scheme EARAS) for ascertaining the actual utilisation of the land possessed by the SO.

The "Statistical Field Surveyors" (SFS) under the Scheme "EARAS" conduct plot to plot survey through revenue maps and RORs on utilisation status in each plot and record the findings in a register called the "Filled Register (F-1)". Complete enumeration (plot to plot survey) of a village is done within a span of every five years only. The utilisation status of land of a village is not available for every year.

IOs can get some additional evidence regarding actual utilisation of each plot of a village (in a particular year/years) owned by the SO from these survey results. The non-agricultural use of land can be eliminated by IOs from the total land area of the SO while estimating the income from agriculture.

All IOs of your Division may there fore be impressed upon to collect land particulars from concerned Tahasildars with "village wise plot wise area with kism" etc.owned by SO at the first instance. In the next step, IO should contact the concerned "District Statistical Officer (DSO)" in order to know the plot wise utilisation as per the "land utilisation survey" of



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“EARAS” .It will be helpful for IOs to arrive at a conclusion regarding the agricultural/non-agricultural use of land with names of crops usually grown in the field of the SO.

Statistical Cell of Vigilance may be requested then to furnish the yield rate of appropriate crops for the estimation of income from agricultural source.

*AK Adoni  
20.8.2010*

**Director, Vigilance.**

Orissa,Cuttack

Memo No. **8293(P)** /V.Co (RA)

Dt. **31.8.10**

Copy to Ss.P., Vigilance of all Divisions including Cell for information and necessary action. They are requested to circulate it among all officers including Units & Squads under their jurisdiction. A copy be preserved in the guard file at Division as well as Units/Squads

*AK Adoni  
20.8.10*  
**A.I.G. of Police,**

Vigilance,Orissa,Cuttack.

Memo No. **8294(S)** /V.Co (RA)

Dt. **31.8.10**

Copy to D.S.P.,Link (N)/ D S.P. Link (S) /Co-ordination /Prosecution Cell/ Asst.Director, Statistics for information and necessary action.

*AK Adoni  
30.8.10*  
**A.I.G. of Police,**

Vigilance,Orissa,Cuttack

O.D:- **NO 8296 / dt 31.8.10**

Copy to P.A.to Director (V)/ Steno to I.G.P.(N)/ I.G.P.(S) /L.A., Vig/ A.I.G.P.(V)/ Guard file for information & necessary action

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**OFFICE OF THE DIRECTOR-CUM-DG & IG OF POLICE, VIGILANCE,  
ODISHA; CUTTACK.**

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**Vigilance Circular No. 5/2010**

**Sub:- Seizure of original documents from Vigilance Technical Wing, put up in case file and citing as relevant documents in charge sheet.**

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It is observed that I.Os are not collecting the original records submitted by them, during enquiry from Vigilance Technical Wing nor citing it in the charge sheet as relevant documents but only depending upon the report submitted by technical officers to finalise the case. Due nonseizure and nonproduction of the documents during trial in the court, the cases are ending with acquittal.

It is, therefore ordered that I.Os shall collect and seize the original relevant documents from technical wing , and to cite these documents in the charge sheet as exhibits & ensure production of the same in the court during trial. Xerox copies of the documents be kept in the Division office file for reference.

*A.K. Patnaik*  
7-8-10  
( A.K. Patnaik )

Director-cum-DG & IG of Police,  
Vigilance, Odisha, Cuttack.

Memo No. 7289 /V.Co.(RA)

Dated 7-8-10

Copy to Ss.P. Vigilance all Divisions including Cell, Cuttack for information and circulation among all officers of Squad/Units/Division for necessary action. A copy of it be preserved in the guard file of your Division as well as units/Squad.

*AIG of Police, Vigilance*  
7-8-10  
AIG of Police, Vigilance  
Odisha, Cuttack

NO. 7290/ dt 7-8-10

**OD:-** Copy to D.Ss.P (Vig.)Link (N)/Link (S)/Prosecution Cell/Coord (RA) /Con -A/Con-B/C/Steno to L.A.Vig./Steno to E.E.Vigilance for information and necessary action.

**OFFICE OF THE DIRECTOR-CUM-DG & IG OF POLICE, VIGILANCE,  
ORISSA, CUTTACK.**

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Circular Order No. 4 /2010

Sub : Maintenance of Registers in Unit Offices.

This is in continuation of instruction issued vide Circular Order No.1/2000.

It has come to notice that the registers, which are the index of an Unit, ~~are~~ not being maintained properly in Unit Offices. In order to improve the accountability, the registers, which are permanent records of the Units should be maintained properly by the officers posted to the Vigilance Unit / Squad Offices in the following manner.

- (1) **Registers to be maintained by the DSP.**
  - (a) Crime Index Register.
  - (b) File Register.
  - (c) Information Register.
  - (d) Anti-corruption Intelligence Register.
  - (e) Confidential Note Book.
  - (f) Authenticated list / Govt. Property Registers.
  - (g) Land / Building Register.
  - (h) Inspection Register.
  - (i) C.L. Register.
- (2) **Registers to be maintained by the Inspector(s).**
  - (a) Guard File.
  - (b) Surprise Check Register.
  - (c) Summon Register.
  - (d) Warrant Register.
  - (e) Petition Register.
  - (f) Car Diary.
  - (g) Malkhana Register.
  - (h) Receipt Register.
  - (i) Despatch Register.

The A.S.I. / Constables posted to the Unit offices will assist the DSP and Inspector(s) in maintaining the Registers. The registers should be kept in neat and clean manner as well as in good condition. The D.S.P. of a Unit having two Inspectors, will distribute duties among them.

These instructions should be strictly followed by the Unit Officers.

  
 Director-cum-DG & I.G. of Police,  
 Vigilance, Orissa, Cuttack.

**OFFICE OF THE DIRECTOR-CUM- D.G. & I.G. OF POLICE, VIGILANCE,  
ORISSA, CUTTACK.**

**CIRCULAR ORDER No. 3 /2010**

**Sub: House search conducted following successful trap- opening of file enquiry.**

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In most of the successful trap cases, house search of Suspect Officer is being conducted either for recovery of incriminating articles/documents related to the trap or to establish the truth or otherwise of the allegation of acquisition and possession of disproportionate assets by the Suspect Officer concerned.

It is seen that in many such cases though house search is conducted following a successful trap, no enquiry file is opened in this connection at Division level and in result enquiry conducted on D.A. angle is not effectively monitored. Besides, no action is taken for release of the documents/articles seized during house search conducted after trap in case the allegation of acquisition and possession of disproportionate asset by the suspect officer is not substantiated.

It is therefore ordered that henceforth in all cases of successful trap where house search is conducted, a file enquiry should be opened immediately after house search and entrusted to an officer for enquiry so as to bring it to a logical end within two months.

Similarly, Joint Surprise Checks are being conducted at Division/Unit level without obtaining prior permission from the Hqrs. and in most of the cases result of Joint Surprise Check is not intimated to this Hqrs. promptly and no file inquiry is opened in this connection.

It is therefore ordered that in all instances of Joint Surprise Checks prior permission from Hqrs. should be taken and on completion of such surprise checks reports should be submitted to this Hqrs. promptly mentioning the enquiry file reference.

*A.K. Patnaik*  
*11-2-2010*

**(A.K.Patnaik)**  
**Director-cum-D.G. & I.G. of Police,**  
**Vigilance, Orissa, Cuttack.**

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**OFFICE OF THE DIRECTOR-CUM- D.G. & I.G. OF POLICE, VIGILANCE,  
ORISSA, CUTTACK.**

CIRCULAR ORDER No. 2 /2010

**Sub: Monitoring service of summons.**

Speedy trial of Vigilance cases is a top priority of this Organisation. A lot of man power, time and resources are being utilized for serving of summons. However, the service of summons is not satisfactory. The following shortcomings are noticed in summon service.

1. A lot of delay is caused in serving the summons.
2. Many summons are returned un-served due to various reasons.
3. The serving of summons is not properly monitored by Senior Officers.
4. A lot of summons are returned to issuing Court because of change of address or summoee is found staying outside the jurisdiction of the serving Squad/Unit/Division jurisdiction.

It may be brought to notice of all concerned, that summons need to be served to summoees in the interest of Prosecution, notwithstanding whether he is staying outside the jurisdiction or there is a change of address.

**In order to properly monitor the service of summons, the Summons Register maintained at Squad/Unit/Division Offices should be maintained in four parts. The entries should be made in the following manner.**

- Part -I:- Summons for accused persons.  
Part -II:- Summons for the I.O./experts (Hand writing Expert, Statistical Officer, Technical Officer etc.).  
Part -III:- Summons for Sanctioning Authority.  
Part-IV:- Summons for other witnesses.

The P.Is of the concerned Courts will ensure issue of summons mentioning the category of the witnesses as indicated above so that the service of summons can be properly monitored. The P.Ps of the concerned Courts will also personally look into the matter.

The Summon Registers should be perused personally by the Inspector/DSP of the Squad/ Unit as well as by S.P of the Division once in 15 days. They will certify that they are personally satisfied with the reasons for which particular summon could not be served or returned unserved.

**This will come into effect immediately.**

*A.K. Patnaik*  
- 9.2.2010  
**(A.K.Patnaik)**  
**Director-cum-D.G. & I.G. of Police,**  
**Vigilance, Orissa, Cuttack.**

**OFFICE OF THE DIRECTOR-CUM- D.G. & I.G. OF POLICE, VIGILANCE  
ORISSA, CUTTACK.**

**CIRCULAR ORDER No. 1/2010**

Sub: Initiation of departmental proceeding simultaneously with criminal proceedings based on same set of facts.

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Government in G.A. Department have been pleased to issue instruction vide letter No. 19993/Gen. dtd. 6<sup>th</sup> October 2009 to the effect that departmental proceeding must start simultaneously against Government servants facing criminal proceedings on the same set of facts. This has been circulated to all concerned vide our letter No.6421/V.Pro.Cell dtd. 07.11.2009. The instructions contained in the Government order should be scrupulously followed.

It is impressed upon all the Divisional Ss.P. Vigilance that while sending S.P's report for obtaining sanction of prosecution from competent authority as required u/s. 197 (1) of Cr.P.C. 1973 or u/s. 19 of the P.C. Act 1988 draft charges alongwith articles of charges. statement of imputations and memo of evidence should invariably be forwarded to the concerned disciplinary authorities or to this Hqrs. as the case may be, for initiating proceeding under Rule 15 of the OCS (CC & A) Rules 1962.

While processing the recommendations of Divisional Ss.P. for obtaining sanction of prosecution from competent authorities/ Government, Link D.Ss.P will ensure that D.C. & M.E. against the suspect officers are forwarded to the concerned department for necessary action.

*A.K. Patnaik*  
*12/1/2010*

**(A.K. Patnaik)**  
**Director-cum-D.G. & I.G. of Police,**  
**Vigilance, Orissa, Cuttack.**