

OFFICE OF THE ADDL. DIRECTOR GENERAL OF POLICE :: CID
MEGHALAYA :: SHILLONG

CID CIRCULAR NO. 1 DATED 7.8.2012

Sub : Application of Unlawful Activities (Prevention) Act, 1967

The attention of the Superintendents of Police is invited to the fact that Garo National Liberation Army(GNLA) was notified by the Government of India as a terrorist organization vide S.O 62(E) dated 12th Jan, 2012 under clause (m) of sub-section 2 of Unlawful Activities (Prevention) Act, 1967. However, it is observed that cases against GNLA continue to be registered under those provisions of the Unlawful activities (Prevention) Act, 1967 which merely relate to offences committed by an outfit and its cadres as an unlawful association mainly under Chapter-III of the said Act without including the relevant serious offences.

The difference in law between HNLC and GNLA is that HNLC has been declared as an unlawful association and not included in the schedule of terrorist organization as per provisions of section 35 of U.A.(P) Act, whereas GNLA has been declared as a terrorist organization without being declared as an unlawful association as per section 3 of the said Act.

However, there are a number of penal provisions other than sections 10 and 13 which can be applied to prosecute the members of HNLC & GNLA for their activities as terrorist Gangs/Organizations under various provisions of the said Act as per details below:

Sl. No.	Chapter	Penal Provisions	Sections applicable under U.A.(P) Act to GNLA	Sections applicable under U.A.(P) Act to HNLC
1	Chapter- III	Punishment for Unlawful Activities	-	10, 11, 12 & 13,
2	Chapter- IV	Punishment for terrorist Act	16, 16A	16, 16A-
3		Punishment for raising funds for terrorist Act	17	17
4		Punishment for conspiracy, etc.	18	18
5		Punishment for organizing of terrorist camps	18A	18A
6		Punishment for recruiting of any person or persons for terrorist act	18B	18B
7		Punishment for harboring, etc	19	19
8		Punishment for being a member of a terrorist gang or organization	20	20
9		Punishment for holding proceeds of terrorism	21	21
10		Punishment for threatening witnesses	22	22
11		Enhance penalties	23	23
12	Chapter-V	Forfeiture of proceeds of Terrorism	24	24
13	Chapter-VI	Offences relating to membership of a terrorist organization	38	-
14		Offences relating to support given to a terrorist organization	39	-
15		Offence of raising fund for a terrorist organization	40	-

Certain provisions of Chapter IV and V are thus also applicable to the GNLA prior to the date it was notified as a terrorist organization as per the ingredients of the offences.

In accordance with the Section 43 of the said Act, no officer below the rank of Deputy Superintendent of Police shall investigate any offence punishable under Chapter IV or VI. It implies that for investigation of cases under Chapter-III mostly dealing with the offences

committed by an Unlawful Association, (e.g. HNLC), officers below the rank of DySP may investigate the case. However, if any offences given in Chapter-IV and VI are added against HNLC as terrorist gang, then the level of investigating officer has to be not below the rank of a DySP.

The provisions relating to arrest, search and the procedures that need to be scrupulously followed have been given in Chapter-VII (Secs 43A, 43B). The other very important provisions of Chapter VII is given in Section 43D which relates to the modified application of certain provision of the CrPC. The investigating officers should fully avail of the period of detention given in this section of the Act and make every attempt to complete the investigation of the case during the period of such detention.

The investigating officers should also fully use the provisions given in Section 43E relating to the presumption as to offences under section 15 of the Act. According to this section, the court shall presume that the accused has committed a terrorist act, under certain circumstances, unless the contrary is shown.

Under section 45 of the Act, prosecution sanction of the State Government is required to be obtained before submitting Final Form in the court of law. While seeking prosecution sanction, respective Superintendents of Police shall forward the copies of case diaries and all the relevant records of the case to Spl. Superintendent of Police, CID through the respective Range DIG for obtaining prosecution sanction from the Government. Before sending the copies of the CDs and case records, an SP shall properly scrutinize them and sort out all anomalies in terms of the names of accused, facts of the case, consistency in investigation report etc.

All the district Superintendents of Police are instructed to ensure that the above instructions are passed to all supervisory officers and In-charge of Police Stations and OPs/BHs and the cases against HNLC and GNLA are registered under appropriate sections of law and investigated accordingly.

**Sd/- N. Ramachandran, IPS
(Director General of Police)
Meghalaya, Shillong.**

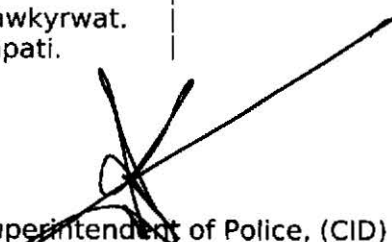
Memo No. M/CID/Cell-VI/C-9/2012/648-69

Dated Shillong the 7th August, 2012

Copy for information to :

1. The Director General of Police, Meghalaya, Shillong
2. The Addl. Director General of Police, (L/O), Meghalaya, Shillong
3. The Addl. Director General of Police, (SB), Meghalaya, Shillong
4. The Inspector General of Police, (W/R), Meghalaya, Tura.
5. The Inspector General of Police, CID, Meghalaya, Shillong.
6. The Inspector General of Police, (L/O), Meghalaya, Shillong.
7. The Dy. Inspector General of Police, (E/R), Meghalaya, Shillong.
8. The Asstt. Inspector General of Police, (A), Meghalaya, Shillong.
9. The Asstt. Inspector General of Police, (R), Meghalaya, Shillong.
10. The Asstt. Inspector General of Police, (E), Meghalaya, Shillong.
11. The Spl. Superintendent of Police, (SB-I), Meghalaya, Shillong.
12. The Superintendent of Police, East Khasi Hills, Shillong
13. The Superintendent of Police, West Jaintia Hills, Jowai
14. The Superintendent of Police, West Khasi Hills, Nongstoin
15. The Superintendent of Police, West Garo Hills, Tura
16. The Superintendent of Police, East Garo Hills, Williamnagar
17. The Superintendent of Police, Ri-Bhoi, Nongpoh
18. The Superintendent of Police, South Garo Hills, Baghmara
19. The Superintendent of Police, North Garo Hills, Resubelpara.
20. The Superintendent of Police, East Jaintia Hills, Khliehriat.
21. The Superintendent of Police, South West Khasi Hills, Mawkyrwat.
22. The Superintendent of Police, South West Garo Hills, Ampati.

For information
and necessary
action.


Spl. Superintendent of Police, (CID)
Meghalaya, Shillong.