

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
REVENUE DEPARTMENT- DELHI
(GENERAL ADMINISTRATION BRANCH
5, SHAM NATH MARG, DELHI**

No. F. 10(8)/GA/Estt./DC/HQ/2013 | 2615

Dated: 11/12/2013

To


The All DM's/ADM's/SDM's/Tehsildar's,
Revenue Department
Govt. of NCT of Delhi.
Delhi/New Delhi.

Sub: NHRC Guidelines for conducting Magisterial Enquiry in cases of death in custody or in course of police action.

Sir/Madam,


Please find enclosed herewith letter No.F.10/25-A/45/2013/HP-II/10024/ dated 09/12/2013 received from Deputy Secretary (Home), Home (Police-II) Department, Govt. of NCT of Delhi, I.P. Estate, New Delhi, on the subject cited above, for further necessary action at your end.

Yours faithfully,


(PREM KUMAR SINGH)
Office Supdt. (GA- HQ)

**Encl. As Above
Copy to :**

1. System Analyst with the request to upload this letter on the official website of Revenue Department.
2. PA to Divisional Commissioner (Revenue).
3. PA to Addl. Secretary (Revenue).
4. Guard file.


(PREM KUMAR SINGH)
Office Supdt. (GA- HQ)

Commissioner GNCT of Delhi
By No. 10561
- 9 DEC 2013

4835 / SOM-107HP
18/12/13

MOST URGENT
NHRC MATTER

ADDITIONAL SECRETARY (REVENUE)
GUM.A.D.M.(H)

F.10/25-A/45/2013/HP-II/10084
Government of National Capital Territory of Delhi
★ Home (Police II) Department
5th level, C Wing, Delhi Sachivalaya, I P Estate, New Delhi

Dated: 9-12-13

Handwritten notes:
6394
To,
DIARY NO.

To,
The Divisional Commissioner,
GNCT of Delhi,
5-Sham Nath Marg,
Delhi.

Sub: NHRC Guidelines for conducting Magisterial Enquiry in cases of death in custody or in course of police action.

As (Rev)

Sir,

I am directed to enclosed herewith letter dated 03.10.2013 received from Registrar(law), National Human Rights Commission alongwith its enclosures on the subject cited above for further circulation among all the officers concerned for necessary compliance.

Yours faithfully,

(B.K.TIWARI)

Deputy Secretary(Home)

Ph.23392072

dated:

It may be circulated to all DMs/ADM's/SOM's and

holders

Encl: As above
F.10/25-A/45/2013/HP-II/

Copy for information to :-

10/12/13

SOM TO

on Election duty.

1. The Registrar (Law), National Human Rights Commission, Manav Adhikar Bhawan, C-Blk, GPO Complex, INA, New Delhi-110 023.

(B.K.TIWARI)

Deputy Secretary(Home)

Ph.23392072

OS (GA)

*4186/GA
18/12/13*

ए. के. गर्ग
रजिस्ट्रार (विधि)
A. K. Garg
Registrar (Law)

राष्ट्रीय मानव अधिकार आयोग
मानव अधिकार भवन, सी-ब्लॉक, जीपीओ कम्प्लेक्स आईएनए,
नई दिल्ली-110 023 भारत
National Human Rights Commission
Manav Adhikar Bhawan, C-Block, GPO Complex,
INA, New Delhi-110023 India

Dated : 3rd October, 2013.

Delhi Secretariat
Govt. of NCT of Delhi
04 OCT 2013
By No. C.10/2013/40945

To

The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
I.P. Estate, New Delhi - 110 002.

Office of the P. Secy (Home)
Govt. of NCT of Delhi
07 OCT 2013
4987/1

Subject:- Guidelines for conducting Magisterial Enquiry in cases of death in custody or in course of police action.

Sir,

As you are aware, the National Human Rights Commission had vide its letter dated 03/01/2001 addressed to the Home Secretaries of the State Governments, emphasised upon the need for holding Magisterial Enquiry in all cases of death in custody within a period of two months from the date of incident. Separately, guidelines were issued vide letter dated 12/05/2010 addressed by the then Acting Chairperson to the Chief Secretaries/Administrators of the States for holding Magisterial Enquiry in all cases of death which occur in the course of police action.

It has been the experience of the Commission that on account of absence of guidelines, there is no uniformity in conduct of Magisterial Enquiry and adequate emphasis is not laid on vital aspects. The Magistrate do not care to visit the place of occurrence. In many cases, the family of the victim is not invited to join the enquiry. The evidence produced at the enquiry is not analysed in an objective manner.

The Commission has, therefore, laid down broad guidelines to be followed by the Magistrate which holding enquiry. I am accordingly forwarding to you, a copy of the guidelines for conducting Magisterial Enquiry in cases of death in custody or in course of police action with the request that the same may be forwarded to the concerned District Magistrates for compliance.

Encl: As above.

Yours faithfully,

(A.K. Garg)
Registrar (Law)

D/S
435/132
8-10-13
19/10/13
10/10/13
10/10/13

b : Guidelines regarding conducting of Magisterial Enquiry in cases of Death in Custody or in the course of police action.

- I. Following guidelines should be followed while conducting the magisterial enquiry in case of custodial death or death in the course of police action.
 - i. Magisterial enquiry be conducted at the earliest without undue delay.
 - ii. The Enquiry magistrate should visit the place of occurrence to be acquaintance with the facts on ground. During the visit to the scene of crime, the Enquiry Officer should make an attempt to identify natural witnesses who are likely to have been present at the scene of crime. Enquiry Officer should take them into confidence and try to record their statements. Many a times members of the family of the deceased narrate the motive of the police officer who staged the encounter for killing the deceased. The motive so given should be thoroughly investigated for its veracity or otherwise.
 - iii. A public notice be issued through the vernacular newspapers to inform witnesses concerned with the enquiry. The enquiry magistrate should ensure that the information reaches all concerned particularly the close relatives of the victim. A free and fair opportunity should be given to the relatives of the victim while recording their statements.
 - iv. The magisterial enquiry should cover the following aspects:
 - a) The circumstances of death.
 - b) The manner and sequence of incidents leading to death
 - c) The cause of death
 - d) Any person found responsible for the death, or suspicion of foul play that emerges during the enquiry.
 - e) Act of commission/omission on the part of public servants that contributed to the death.
 - f) Adequacy of medical treatment provided to the deceased.
 - v. The enquiry magistrate should examine and verify the following records.
 - a) Inquest Report
 - b) Post Mortem Report : It is seen that the Enquiry Officer does not analyze the Post Mortem report; no attempt is made to draw any inference about the genuineness or otherwise of the encounter. PM report should be thoroughly analyzed; if necessary, help of State FSL should be taken.
 - c) Viscera Analysis Report
 - d) Histopathological Examination Report
 - e) Final cause of death

- n) MLC report/Initial Health Screening Report of the prisoner
 - g) Medical treatment records
 - h) Inquiry/Investigation report of the police.
 - i) FIR/General Diary (GD) entries/any other relevant police records.
 - j) Ballistic examination reports of weapon and cartridges, if any, alleged to be used in the incident by the deceased.
 - k) Forensic examination report of 'hand wash' of the deceased.
 - l) The finger print expert report on finger print impression available on weapon alleged to have been used by the deceased.
 - m) Any other relevant records and reports.
- vi) The magistrate should examine family members and relative of the deceased, eye witnesses having information of the circumstances leading to encounter, doctors who have conducted the post mortem/provided treatment to the deceased, concerned police/prison officials, independent witnesses, co-prisoners and other such relevant persons.

II Report Writing

The Magisterial Enquiry Report should contain the gist of statements recorded, documents examined, discussion on allegations proved/not proved and grounds on which conclusion has been arrived at. MER should also contain specific/definite opinion about circumstances leading to death, whether use of force was justified and action taken lawful. The act of commission/omission on the part of public servants should be specified and names of officials responsible for death/cause of death may also be indicated. The enquiry magistrate may also suggest any systemic changes or improvement that may need to be brought about to void any such incidents in the future.

III Annexure to be attached with the report:-

- a) The statements of the family members/relatives of the deceased, concerned doctors who rendered medical treatment/conducted post mortem, concerned police/prison official, co-prisoners, independent witnesses and other such relevant persons.
- b) All other external reports which have been referred to or relied upon by the enquiry magistrate in his/her magisterial enquiry.