

ORISSA POLICE
C.I.D. CRIME BRANCH, CUTTACK.

E.B. Circular No. 2 /2011
("Law" Section)

Sub: GUIDANCE ON DESTRUCTION OF POPPY/ CANNABIS PLANTS.

Poppy Cultivation

Poppy cultivation in India normally commences in the month of October/ November after the monsoon. Cultivation of Poppy is done by sowing its seeds. The Plant matures by the month of February/ March (Except on hills where it matures late) when the flowers begin to blossom and pods appear. The poppy flowers bloom in different colours like red, orange, purple and white. Since the poppy plant is slender it can be easily destroyed manually. However in case of large scale plantations, tractors and cutters are used for destruction.

Legal Provisions.

Under Section 8 (b) of the NDPS Act, no person shall cultivate the opium poppy or any cannabis plant except under licence/permit of competent authority.

Section 15 of NDPS Act states that whoever produces opium poppy in contravention of provision of said Act shall be punishable according to the quantity of produce involved viz small Medium or Commercial quantity.

Under Section 46 of NDPS Act it is the duty of every land holder to give information to any officer of the Police (or any departments mentioned in section 42) of all the opium poppy cannabis Plant or coca plant which may be illegally cultivated within his land and every such holder of land who knowingly neglects to give such information shall be liable for punishment.

Section 47 lays down the duty of certain officers to give information of illegal cultivation. Every officer of the government and every panch, sarpanch and other village officer of whatever description shall give immediate information to any officer of the Police or of any of the departments mentioned in section 42 regarding illegal cultivation of poppy / cannabis / coca plant. Every such officer of the Government, panch, sarpanch and other village officer who neglects to give such information, shall

be liable for punishment as per section 47 of NDPS Act. Since no specific punishment has been provided for these offences, it will attract penalty under section 32 of the Act.

Section 48 defines the power of attachment of crop illegally cultivated. It reads "Any metropolitan Magistrate, Judicial Magistrate of the first Class or any Magistrate specially empowered in this behalf by the State Government [or any officer of a gazette rank empowered under section 42] may order attachment of any opium poppy cannabis plant or coca plant which he has reason to believe to have been illegally cultivated and while doing so may pass such order (including an order to destroy the crop) as he thinks fit".

INVESTIGATION OF CASES OF ILLICIT POPPY/CANNABIS CULTIVATION

During destruction of illegal poppy/ cannabis cultivation and investigation of these cases following guidelines may be followed.

1. Survey and detection of areas of illicit poppy cultivation.

- Unobtrusive survey & identification of the cultivated plots should be done before starting destruction operation.
- The photographs of the land should be taken showing the nearest identification mark, if possible.

2. Jurisdictional Land Revenue officer.

- Presence of land Revenue Officer on the day of destruction may be requested.
- Certificate of the Land Revenue officer regarding the ownership of the cultivated land should be obtained;
- The details of the cultivated land should be mentioned in the Destruction Order / Destruction Certificate separately.

3. Guidelines for Destruction Operation.

- (i) Order of destruction should be obtained from the authority under section- 48;
- (ii) Destruction Certificate may be prepared in detail with Khatian/ Khata No. etc;

- (iii) Preliminary test should be conducted & sample of plant species - (100 gms in duplicate) should be drawn. This procedure should be carried in presence of two independent witnesses:
- (iv) Samples should be forwarded to Chemical Laboratory preferably within 72 hours:
- (v) Land owner/ cultivator should be examined before or immediately after the destruction:
- (vi) The respective Court should be informed about the destruction operation & offence committed by the land owner/ cultivator at the earliest.
- (vii) Photographs of land along with the prohibited plant and destruction operation must be taken. If possible video recording of the whole operation should be undertaken. Copy of the photo/ video has to be preserved taking standard precautions and presented before the court.

SAMPLE ORDER FOR ATTACHMENT AND DESTRUCTION UNDER SECTION- 48 OF THE NDPS Act, 1985 (As AMENDED)

I Shri..... have reason to believe that opium poppy plants have been illegally cultivated on the land i.e. Plot/ Dag No..... Khatian No..... Mouza No. Village:.....P.S.....
 District:....., Orissa measuringKottah/ Bighas/ acres of land, owner of the land Sri.....S/o:.....
 R/o:.....village:....., P.S:.....
 District....., Orissa and therefore, I do hereby attach the aforesaid illegal opium poppy plants, as the same is prohibited under Section: 8 of the NDPS Act, 1985 (as amended) and punishable under Section: 18 of the above said Act.

AND, I do hereby order to destroy the aforesaid illegally cultivated opium poppy plants under Section: 48 of the NDPS Act, 1985 (as amended).

Signature of Gazetted Officer

SAMPLE CERTIFICATE OF DESTRUCTION

In pursuance of destruction order dated:..... issued by Shri..... Und
Section: 48 of the NDPS Act, 1985 (as amended), the opium poppy plants (leg
cultivated on the land bearing Dag No....., Khatian No..... Mo
No....., P.S.....
District:....., Orissa, owner of the land Shri.....
S/o:..... R/o:....., Villatge:.....
P.S.:....., District:..... Orissa have been destroyed by raising it to
ground and setting it to fire in presence of witnesses.

Signature
Officer Executing the Order.

Registration of cases mandatory.

For each instance of cultivation of poppy/cannabis, for which destr
operation is undertaken by police on its own or in association with other
agencies, a case under NDPS Act must be registered. If the cultivat
undertaken on Government or common land and name of cultivator
known, FIR can be registered against unknown accused person. In such
efforts should be made to find the identity of accused persons
investigation.

(Abha)
IGP/CID CB 1-2-011

Memo No. 3932 /CID(Law)

Dtd. 28 2011

1. Copy forwarded to all Range IGS/DIGs of Orissa/Commis
Police, Twin Cities/I.G. of Police, Railways for information and necessary act o

2. Copy forwarded to all Ss.P. including DCP, Cuttack, DCP, Bhu
and SRP, Cuttack, SRP, Rourkela for information and necessary action.

(Abha)
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