

**No. C4 (a) - 129574/2018/PHQ**

Police Headquarters, Kerala

Thiruvananthapuram-695010

Dated: 05/09/2018

**EXECUTIVE DIRECTIVE No. 39/2018**

Sub:- **Depositing of plastics and other non-biodegradable garbage/debris in rivers, water course etc. – Police action under various legal provisions – Directions – reg.**

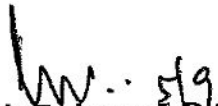
- Ref:- 1) PHQ Circular No.9/2016 dated 23/06/2016.  
2) Executive Directive No.9/2016 dated 14/11/2016.  
3) PHQ CoB Msg No. D2-2016170/2016/PHQ dated 30/08/2018.

Kerala is facing one of its worst ever flood of the century and consequential environmental damage. Along with the floods has arisen the serious issue of dumping of plastics and other non-biodegradable garbage/debris, e-waste etc. in rivers, canals, water sources etc. Ignorance of law, ineffective implementation of legal provisions, lack of public awareness and co-operation etc. have contributed towards aggravating the scenario that presently all our water bodies are virtually choking with piles of garbage. It is high time that all the stake holders including the Local Self Government, Revenue, Police and each and every member of the public join hands to fight this menace. Our rivers, lakes, ponds, canals and everything that holds water, the elixir of life, should be fiercely guarded and protected before it is too late.

**02.** To successfully meet this objective, the legal provisions are to be strictly implemented and awareness is also to be created among the general public. Though the powers and the role of the Police are limited in implementing environmental laws, in view of the urgent situation consequent to floods leading to an alarming increase in the dumping of wastes in water sources, all the Police personnel need to be familiar with the following existing provisions in law with regard to the protection of our water bodies:

- a) In the Indian Penal Code, 1860, Sections 268 (Public Nuisance), 269 (Negligent act likely to spread infection of disease dangerous to life), 270 (Malignant act likely to spread infection of disease dangerous to life), 277 (fouling water of public spring or reservoir), 290 (Punishment for public nuisance in cases not otherwise provided for) constitute offences that are directly and indirectly connected to the polluting of water resources.
- b) In the Kerala Police Act, 2011, Section 120 deals with penalty for causing nuisance and violation of public order. Section 120 (e) constitutes the offence of defiling of water sources or water supplies or causing hindrance to public sanitation activities or making public place dirty or causing serious damage to environment unlawfully.

- c) In the Kerala Police Act, 2011, Section 80 (1) (a) and (b) deals with the power of the District Magistrate to make and notify regulations to prevent any activity endangering public hygiene or environment or defiling water bodies and water sources in **consultation with the Local Self Government and the District Police Chief.**
- d) In the Code of Criminal Procedure, 1973, Section 133 deals with the power of the District Magistrate or a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government to issue a conditional order for the removal of any nuisance from any river or channel which is or may be lawfully used by the public **on receiving the report of a Police Officer or other information** and on taking such evidence (if any) as he thinks fit.
- e) If the water works or water body where the dumping of wastes etc. occurs is vested with any municipality or panchayat in the state, the duties and powers of Police Officers u/s. 550 & 551 of the Kerala Municipalities Act, 1994 and u/s. 252 of the Kerala Panchayat Raj Act, 1994, as the case may be, shall be exercised. Such dumping of waste may also constitute an offence u/s. 46 (1) (e) of the Kerala Water Supply and Sewerage Act, 1986.
- f) **In relation to irrigation works in the state, the dumping of wastes etc. in any distributary system or water course etc. has been made a cognizable offence u/s. 37(4) r/w Section 70 (3) of the Kerala Irrigation and Water Conservation Act, 2003 (as amended by Act 16 of 2018), punishable with imprisonment for a term which may extend to three years, or with fine which may extend to two lakh rupees, or with both. As per Section 74 (3) of the said Act, an Officer-in-charge of a Police Station is empowered to register a case directly in such cases.**
03. The Police have no power to register cases directly as per the provisions in the Water (Prevention and Control of Pollution) Act, 1974 and other Central Environment Laws.
04. Hence it is directed that the legal provisions, as mentioned above, shall be applied against the wrong doers in accordance with the requirements of a given situation by the District Police Chief's.

  
**Loknath Behera I.P.S.**  
 Director General of Police &  
 State Police Chief, Kerala

Distribution: **All District Police Chief's and SHOs.**

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TH1520/6/9/CP