

Tele : 011-23019585  
ASCON : 35675

RTI Cell, ADG AE  
G-6, D-1 Wing  
Sena Bhawan, Gate No-4  
IHQ of MoD (Army)  
New Delhi -110011

A/810027/8909/RTI-1911 (Appeal)

18 Jun 2012

Shri Venkatesh Nayak  
B-117, 2<sup>nd</sup> Floor  
Sarvodaya Enclave  
New Delhi - 110 017

**APPEAL UNDER RIGHT TO INFORMATION ACT – 2005**  
**SHRI VENKATESH NAYAK**

1. Refer Speaking Order of the Appellate Authority issued vide their letter No A/87008/AG/PM/RTI-1911 dt 05 Jun 2012.
2. An extract of Para 2 & 3 DGMO/MO-2 Note No A/20008/1/MO 2 dt 27 Feb 2012 alongwith its enclosures and extract of Para 2 of ADG (D&V)/HR Cell Note No C/17732/6/RTI/AG/Gen/HRC dt 28 May 2012 are enclosed as directed by the Appellate Authority.



Enclosure As above.

**Copy to :-**

AG PM Office

- For info wrt your letter mentioned at para 1 above.

(P. Nagaraj)  
Maj  
GSO 1(Appeal)  
for DDG RTI

**ADDITIONAL DIRECTORATE GENERAL DISCIPLINE AND VIGILANCE**  
**(HUMAN RIGHTS CELL)**

2. It is intimated that list of Do's and Don'ts is applicable to both Armed Forces Special Powers Act 1958 and AFSPA 1990.

(a) List of Do's and Don'ts for ops op under AFSPA 1958 & 1990 from HR Cell AG's B vide their letter No C/17732/6/RTI/AG/AFSPA dated 25 Aug 98. The contents have been widely promulgated in the envl - Appx A

जे. के. सिंह / Lt Col  
जी एच ओ-1, आर टी सी  
GSO-1, RTI  
एकीकृत मुख्यालय रक्षा मंत्रालय (सेना)  
HQ of MoD (Army)

3. Details wrt SOP, instrs, guidelines, circulars and office memoranda issued in relation to the implementation/ enforcement of all the provns of the AFSPA - 1958 and 1990 as sought by the applicant cannot be provided due to security implications and are exempt under the provns of Sec 31 (b) (v) of the RTI Act, 2002.



27 February 2012

**INTEGRATED HEADQUARTERS OF MoD (ARMY)**  
**DGMO (MO 2)**

2. Fwg are submitted for your further necessary action pl :-

(a) List of Do's and Don'ts for tps op under AFSPA 1958 as recd from HR Cell, AG's Br vide their letter No C/ 6227/ AG/ AFSPA/HRC dt 25 Aug 98. The contents of this letter have been widely promulgated in the envt – **Appx A**.

(b) - List of COAS Ten Commandments for tps op in CI envt – **Appx B**.

3. Details wrt SOP, instrs, guidelines, circulars and office memoranda issued in relation to the implementation/ enforcement of all the provns of the AFSPA – 1958 and 1990 as sought by the applicant cannot be provided due to security implications and are exempt under the provns of Sec (8) (I) (a) of the RTI Act 2005.

LIST OF DO's AND DON'Ts WHILE ACTING UNDER  
ARMED FORCES SPECIAL POWERS ACT, 1958

PREAMBLE

1. Protection and respect of human dignity, human decency and human rights are the very essence of rule of law and social order in civilised society. Armed Forces are called in aid to civil authorities to maintain and restore law and order as also to provide assistance in case of natural calamities and catastrophies. Thus members of the Armed Forces act as the protectors of the social order so that other citizens can enjoy the fruits in an orderly society.
2. When deployed in aid to civil authority the Armed Forces of the union operate in the State concerned in co-operation with the civil administration so that the situation affecting maintenance of public order which has necessitated the deployment of the armed forces is effectively dealt with and normalcy is restored. The Central Act viz Armed Forces (Special Powers) Act 1958 does not displace the civil power of the State by the armed forces of the Union and it only provides for deployment of armed forces of the Union in aid of the civil power. The word "aid" postulates the continued existence of the authority to be aided. This means that even after deployment of the armed forces the civil power continues to function.
3. The instructions given below in the form of DO's and DON'Ts are binding instructions which are required to be followed by the members of the Armed Forces exercising powers under the Armed Forces (Special Powers) Act 1958 and any disregard of these instructions would entail suitable action under Army Act, 1950.

CFC

*[Signature]*  
Lt Col  
जयपुर स्टाफ अफसर पंजो-2  
0801 MO 2

## DO's AND DON'Ts

### DO's

#### 4. Action Before Operation.

- (a) Act only in the area declared as 'Disturbed' under Section 3 of the Act.
- (b) Before taking action to fire upon or using force ensure -
  - (i) there exists a prohibitory order against assembly of five or more persons or carrying of weapons or fire arms/amm or explosives substances in the disturbed area and the persons concerned have acted in contravention of such order ;
  - (ii) power to open fire, using force or arrest is exercised only by an officer/JCO/WO or NCO ;
  - (iii) such officer is satisfied that action is necessary for maintenance of public order ; and
  - (iv) due warning is given by such person exercising powers under this section.
- (c) Under Sec 4(b) of the Act, any officer, JCO, WO and NCO may destroy those arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made or any structure used as training camp for armed volunteers or utilised as hide out by armed gang or absconders wanted for any offence. Before taking action, ensure that such officer is of the opinion that it is necessary to destroy any arms dump etc.
- (d) Under Section 4(c) of the Act, powers to arrest any person without warrant can only be exercised if that person has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed cognizable offence or is about to commit a cognizable offence. For effecting arrest, such force as may be necessary can be exercised. Ensure that only such a persons who has either committed a cognizable offence or against whom reasonable suspicion exists, is arrested, innocent persons are not to be arrested.

such witnesses but no person witnessing a search under this Section, is required to attend the Court as a witness of the search unless especially summoned by it.

(ii) the occupant of the place searched, or some person on his behalf, in every instance, is to be permitted to attend the search, and a copy of the list prepared duly signed by the said witnesses, is to be delivered to such occupant or person.

(d) The persons acting under the Act while effecting the arrest of woman or making search of woman or in searching the place in the actual occupancy of a female shall follow the procedure meant for the police officers as contemplated under the various provisions of the Code of Criminal Procedure, namely, the proviso to Sub Section (2) of **Section 47**, Sub Section (2) of Section 51, Sub Section (3) of Section 100 and proviso to sub Section (1) of Section 160 of the Code of Criminal Procedure. These provisions in substance provide as under :-

(i) If any place to be searched is an apartment in the actual occupancy of a female (not being the persons to be arrested) who, according to custom, does not appear in public, then before entering such apartment, such female shall be informed that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

(ii) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

(iii) No male person under the age of fifteen years or woman is required to attend at any place other than the place in which such male person or woman resides.

(e) Ensure that troops under command do not harass innocent people, destroy property of the public or unnecessarily enter into the houses/dwellings of people not connected with any unlawful activity.

(f) Ensure proper record is maintained of arrested and released persons after apprehension.

6. Action After Operation.

- (a) After arrest, prepare a list of the persons so arrested and handover the arrested person to the officer incharge of the nearest Police Station with the least possible delay together with a report of the circumstances occasioning the arrest so that arrested person can be produced before the nearest Magistrate within a period of 24 hours of his arrest excluding the time taken for journey from place of arrest to the Court of Magistrate.
- (b) Every delay in handing over the arrested person to the police must be justified depending upon the place, time of arrest and the territory in which such person has been arrested.
- (c) After raid, make out a list of all property, arms, ammunition or any other incriminating material/documents taken into possession.
- (d) All such property, arms, ammunition stores, etc are to be handed over to the officer in-charge of the nearest Police Station together with a report of the circumstances occasioning such search and seizure.
- (e) Obtain receipt of persons and arms/ammunition stores etc so handed over to the police and maintain proper record of such receipts.
- (f) Maintain record of the area where operations are launched, with details of date, time and the persons participating in such operations.
- (g) Maintain a record of the Commander and other officers/JCOs/NCOs forming part of such task forces.
- (h) Ensure medical relief to all persons injured during the encounter. If any person dies in the encounter, the dead body be handed over immediately to the officer-in-charge of nearest police station alongwith the details leading to such death.
- (j) Maintain detailed record of the entire operation correctly and explicitly.

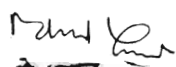
7. Dealing with Civil Courts.

- (a) Ensure that directions/instructions of the Supreme Court/High Courts and other subordinate judiciary are promptly attended to.

COAS TEN COMMANDMENTS

1. Remember that people you are dealing with, are your own countrymen. All your conduct must be dictated by this one significant consideration.
2. Operations must be people friendly, using minimum force and avoiding collateral damage – restraint must be the key.
3. Good intelligence is the key to success – the thrust of your operations must be intelligence based and must include the militant leadership.
4. Be compassionate, help the people and win their hearts and minds. Employ all resources under your command to improve their living conditions.
5. No operations without police representative. No operations against women cadres under any circumstances without Mahila Police. Operations against women insurgents be preferably carried out by police.
6. Be truthful, honest and maintain highest standards of integrity, honour, discipline, courage and sacrifice.
7. Sustain physical and moral strength, mental robustness and motivation.
8. Train hard, be vigilant and maintain highest standards of military professionalism.
9. Synergise your actions with the civil administration and other security forces.
10. Uphold Dharma and take pride in your Country and the Army.

CFC

  
Lt Col  
जनसहायक स्टाफ अफसर नम्बो 2