

PROBLEMS FACED BY INVESTIGATING OFFICER OF ANTI NARCOTICS FORCE IN INVESTIGATION OF ASSETS OF ACCUSED AND HIS ASSOCIATES UNDER CONTROL OF NARCOTICS SUBSTANCES ACT, 1997

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Abstract

The main purpose of this research paper is to find out the problems faced by investigating officers of Anti Narcotics Force (ANF) while investigating the assets of an accused and his associates involved in drug related cases under Control of Narcotics Substances Act, 1997 (CNS Act, 1997). The research design is exploratory on likert scale and a questionnaire is administered to ten investigating officers of Assets and Financial Investigation Branches, 2 from each Regional Directorate, out of all five Regional Directorates of ANF. The major trends are found that majority of the Investigating officers are facing practical problems during investigating the assets of the accused and their associates under Control of Narcotics Substances Act, 1997. There is need of reforms in the existing laws particularly procedure of tracing and identifying the assets of accused involved in Narcotics cases and their associates. The approach of the Investing Officer and the courts must be dynamic and timely action is required from all concerned with the help of sophisticated and modern allied facilities including but not limited to the computerized record, controlled direct access of investigation officer to get records, training and manpower.

Introduction

The Anti Narcotics Force of Pakistan is prime anti Narcotics Agency fighting against the Drug paddlers, smugglers, and financiers. Thus ANF has different Branches to deal a particular area of responsibility with experts of the relevant field. One of the most important Branches is the

Assets and Financial Investigation Branch (AFI Br) of Anti Narcotics Force, Pakistan, which is responsible to conduct Assets and Financial Investigation against accused and their associates involved in Narcotics cases under CNS Act, 1997. This investigation is deemed to be the most complicated chapter and challenging for the Investigation Officer of ANF to link the property with the drug proceeds acquired and generated by the accused in his own name or in the name of his associates. This paper is an attempt to introduce the current procedure adopted by ANF to investigate the Assets of the accused and his associates under CNS Act, 1997 and highlight the problems faced by Investigation Officers of AFI Br of ANF. The investigation is conducted under the ANF and CNS Acts, 1997 which both are criminal statutes whereas the properties and assets involved are of a civil nature litigation, therefore, the Investigation Officer of ANF faces a lot of problems to establish the cases and link the assets and finances with the crime committed by the accused under CNS Act, 1997. The purpose of this work is to suggest the way forward as guiding principle for Investigation Officers of AFI Br of ANF to conduct a proper and accurate investigation to establish the link of assets and finances with the accused that the same are drug proceeds and the same are generated from the Narcotics braininess. The hypothesis is based on the notion that the Investigation Officers of AFI Br of ANF faces a lot of problems while conducting investigation of assets of accused under CNS Act, 1997. The survey questionnaire depict main problems faced by Investigation Officer of AFI Br of ANF. Thus a purposive sampling method used in this research by administering the questionnaire to ten available Investigation officers of all Regional Directorates of ANF. The respondents have agreed to more than 70% of the problems faced by them in the survey. The research reaches the conclusion that the government has to make potential changes to empower the investigation officer in the procedure of investigation of assets under ANF Act, 1997 and CNS Act, 1997. The investigation officer of AFI Br of ANF may be provided adequate facilities and training to conduct a fair, speedy and easy investigation of assets of accused and his associates.

Objectives

1. To find out the current procedure of investigation of assets of accused and his associates under Anti Narcotics Force Act, 1997 and Control of Narcotics Substances Act 1997 carried out by the Investigating Officer of Anti Narcotics Force, Pakistan.

2. To explore various problems faced by investigating officer of Anti Narcotics Force in investigation of assets of accused and his associates under control of narcotics substances act, 1997.
3. To rank various problems faced by Investigating officer of Anti Narcotics Force during investigating the assets of accused and his associates under the Control of Narcotics Substances Act, 1997 on scale of 1:10.

Literature Review

The Anti Narcotics Force Act, 1997 vide section 6 (4) and (5) empowers the member of force to inquire, investigate and trace the assets of an accused and his associates who has committed an offence under CNS Act, 1997 or prohibition (Enforcement of Hadd) Order, 1979. The CNS Act, 1997 vide Chapter IV provides freezing and forfeiture of Assets of accused involved in commission of offence as mentioned above. Section 37 of CNS Act, 1997 provides for freezing of assets, section 38 provides for tracing of assets. The tracing is in two steps one is tracing of all assets of accused or his associates and second is identification of assets, means which of the traced assets are drug proceeds. The Special Courts may pass forfeiture order under section 39 of the CNS Act, 1997 with condition that the accused is convicted for more than three years as provided under section 19 of CNS Act, 1997. Section 40 provides for forfeiture of assets of a Pakistani citizen convicted abroad for an offence which is also made punishable under CNS Act, 1997. Section 41 CNS Act, 1997 prohibits the alienation of freezed property and make such act punishable. Section 68 CNS Act, 1997 creates presumption that the assets so acquired are drug proceeds and the burden lies upon accused to prove that the said assets are not drug proceeds. That details of assets investigation procedure is neither provided in ANF Act, 1997 nor in CNS Act, 1997. The investigation officer takes the steps from general law, therefore, calls for information under section 31 of CNS Act, 1997 from all concerned departments and institutions.

Research Questions

1. What current procedure of investigation of assets of accused and his associates under Anti Narcotics Force Act, 1997 and Control of Narcotics Substances Act 1997 is carried out by the Investigating Officer of Anti Narcotics Force, Pakistan?
2. What problems are faced by Investigating Officer of Anti Narcotics Force in investigation of assets of accused and his associates under Anti Narcotics Force, Act, 1997 and Control of Narcotics Substances Act, 1997?

Problems

1. Lack of or non-availability of transportation and allied facilities to investigating officer for collection of data of assets of accused.
2. Problem in collection of data of assets of accused in his actual name
3. Problem in collection of data of assets in the names of associates of accused.
4. Problems to link the associate with accused involved narcotics case
5. Problems to trace the associates of accused involved in narcotics cases
6. Problems to trace identity details of accused involved in narcotics cases
7. Problem to trace identity details of associates of accused involved in narcotics cases
8. Non-cooperation of sister agencies and departments for timely provision of data of assets of accused involved in cases under control of narcotics Substances Act, 1997.
9. Delayed reply from government departments for provision of data of assets of accused involved in cases under control of narcotics Substances Act, 1997.
10. Provision of wrong details and data of assets of accused and his associates by government departments
11. Lack of training of investigating officer in conducting investigation of assets of accused under control of Narcotics Substances, Act 1997
12. Incompetency of investigating officer in conducting investigation of assets of accused under control of Narcotics Substances Act 1997 due to lack of relevant training
13. Short time for Investigation Officer to freeze the traced and identified assets of accused and his associate involved in narcotics case to inform the concerned Special Court
14. Threats faced by investigating officer in conducting investigation of assets of accused under Control of Narcotics Force Act, 1997, extended by accused or his allies

15. Factor of corruption and mal practices of investigating officer conducting investigation of assets of accused under control of Narcotics Substances Act 1997
16. Non availability of sophisticated computer software to compile the record of assets of accused involved in cases of Control of Narcotics Substances Act, 1997
17. Non-availability of automated software to consolidate the data collected in investigation of assets of accused and his associates under CNS Act, 1997
18. Non availability of direct access of investigating officer to collect e-data of assets of accused and his associates involved in narcotics case
19. Non visibility of actual name of accused in record of concerned departments who maintain such record of assets
20. Element of corruption and corrupt practices in society and also in departments to give cover to the accused to benefit them by non-provision record and correct data in due time
21. After initiation of assets investigation, the concerned departments, in hand with accused, mutate and alienate the property to defeat the investigation process and save accused
22. Some departments to flout the orders issued by the investigating officer in conducting investigation of assets of accused under Control of Narcotics Substances Act, 1997, thereby, change of position of assets to that one where Investigating officer legally cannot do anything
23. Supply of wrong information and data of assets of accused and their associates by concerned departments
24. Non-availability of centralized data of the accused and his associates in Narcotics related offences through their Identity card, Passport and Fingerprint, in Pakistan
25. Non-availability of centralized data of oversea Pakistani nationals, involved in Narcotics related offences through Identity card, Passport, finger print and travel record
26. Non-access of Investigation officer to any data kept or maintained by any department, agency or private association
27. Non professionalized and lack of re-structuring of Assets wing/branch of Anti Narcotics Force Pakistan to work in a smart, centralized, compatible and sophisticated manner
28. Non-provision of foreign convictions of Pakistani Nationals involved in Narcotics related cases abroad in due time

29. Protracted channel of foreign office and diplomatic formalities for seeking Certified Copies and attested true translations of criminal record of foreign convictions of Pakistani nationals in due time

30. Booking and preparation of travel documents/air tickets on case payments without identity documents create problems in reaching the original source of supply and sponsor of the accused and his associates

Any other problem(s) which you faced during investigation of assets of accused and his associates under CNS Act, 1997

Research methodology

- It was an exploratory research to find out the Problems faced by Investigating Officer of Anti Narcotics Force, Pakistan, in investigation of assets of accused and his associates under Anti Narcotics Force Act, 1997 and Control of Narcotics Substances Act, 1997.
- The sample included 10 investigating officers of Anti Narcotics Force, through purposive and convenient sampling process from all five Regional Directorates including Regional Directorate, Sindh, Regional Directorate Khyber Pakhtun Khuwa (KPK), Regional Directorate Punjab and Regional Directorate North (Rawalpindi)
- Data was collected through a structured questionnaire and the responders were analyzed on five point likert scale i.e. strongly agreed (SA), Agreed (A), Unsure (US), Disagreed (D) and Strongly Disagreed (SD)

Population

All investigating officers of Assets and Financial Investigation Branches of all five Regional Directorates of Anti Narcotics Force, of Pakistan, (all five Regional Directorates) namely Regional Directorate Sindh, Regional Directorate Khyber Pakhtun Khuwa (KPK), Regional Directorate Punjab and Regional Directorate North (Rawalpindi).

Results

Table 1 (problems faced by Investigating officer)

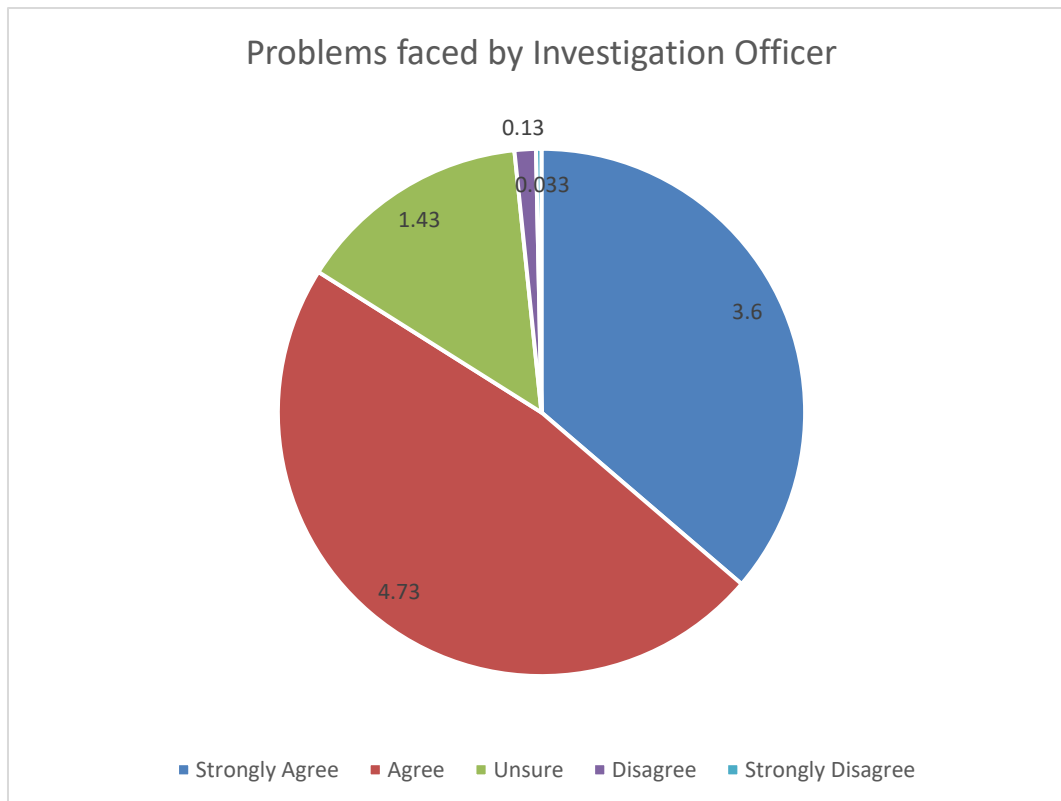
Sr. No:	PROBLEM	Response					Total
		Strongly Agree	Agree	Unsure	Disagree	Strongly Disagree	
		N%	N%	N%	N%	N%	
1.	Lack of or non-availability of transportation and allied facilities to investigating officer for collection of data of assets of accused	3	6	1	0	0	
2.	Problem in collection of data of assets of accused in his actual name	4	3	2	1	0	
3.	Problem in collection of data of assets in the names of associates of accused.	3	4	2	1	0	
4.	Problems to link the associate with accused involved narcotics case	5	3	2	0	0	
5.	Problems to trace the associates of accused involved in narcotics cases	2	5	3	0	0	
6.	Problems to trace identity details of accused involved in narcotics cases	2	6	2	0	0	
7.	Problem to trace identity details of associates of accused involved in narcotics cases	2	7	1	0	0	
8.	Non-cooperation of sister agencies and departments for timely provision of data of assets of accused involved in cases under control of narcotics Substances Act, 1997.	4	5	1	0	0	
9.	Delayed reply from government departments for provision of data of assets of accused involved in cases under control of narcotics Substances Act, 1997.	4	6	0	0	0	

10.	Provision of wrong details and data of assets of accused and his associates by government departments	2	5	3	0	0	
11.	Lack of training of investigating officer in conducting investigation of assets of accused under control of Narcotics Substances, Act 1997	5	5	0	0	0	
12.	Incompetency of investigating officer in conducting investigation of assets of accused under control of Narcotics Substances Act 1997 due to lack of relevant training	5	4	1	0	0	
13.	Short time for Investigation Officer to freeze the traced and identified assets of accused and his associate involved in narcotics case to inform the concerned Special Court	2	7	1	0	0	
14.	Threats faced by investigating officer in conducting investigation of assets of accused under Control of Narcotics Force Act, 1997, extended by accused or his allies	1	6	3	0	0	
15.	Factor of corruption and mal practices of investigating officer conducting investigation of assets of accused under control of Narcotics Substances Act 1997	3	4	2	1	0	
16.	Non availability of sophisticated computer software to compile the record of assets of accused involved in cases of Control of Narcotics Substances Act, 1997	3	4	2	1	0	
17.	Non-availability of automated software to consolidate the data collected in investigation of assets of accused and his associates under CNS Act, 1997	8	2	0	0	0	

18.	Non availability of direct access of investigating officer to collect e-data of assets of accused and his associates involved in narcotics case	4	5	1	0	0	
19.	Non visibility of actual name of accused in record of concerned departments who maintain such record of assets	4	2	4	0	0	
20.	Element of corruption and corrupt practices in society and also in departments to give cover to the accused to benefit them by non-provision record and correct data in due time	5	4	0	1	0	
21.	After initiation of assets investigation, the concerned departments, in hand with accused, mutate and alienate the property to defeat the investigation process and save accused	3	6	0	0	1	
22.	Some departments to flout the orders issued by the investigating officer in conducting investigation of assets of accused under Control of Narcotics Substances Act, 1997, thereby, change of position of assets to that one where Investigating officer legally cannot do anything	0	7	2	1	0	
23.	Supply of wrong information and data of assets of accused and their associates by concerned departments	2	3	5	0	0	
24.	Non-availability of centralized data of the accused and his associates in Narcotics related offences through their Identity card, Passport and Fingerprint, in Pakistan	7	3	0	0	0	
25.	Non-availability of centralized data of oversea Pakistani nationals, involved in Narcotics	4	5	1	0	0	

	related offences through Identity card, Passport, finger print and travel record						
26.	Non-access of Investigation officer to any data kept or maintained by any department, agency or private association	5	4	1	0	0	
27.	Non professionalized and lack of restructuring of Assets wing/branch of Anti Narcotics Force Pakistan to work in a smart, centralized, compatible and sophisticated manner	4	6	0	0	0	
28.	Non-provision of foreign convictions of Pakistani Nationals involved in Narcotics related cases abroad in due time	5	4	1	0	0	
29.	Protracted channel of foreign office and diplomatic formalities for seeking Certified Copies and attested true translations of criminal record of foreign convictions of Pakistani nationals in due time	4	5	1	0	0	
30.	Booking and preparation of travel documents/air tickets on case payments without identity documents create problems in reaching the original source of supply and sponsor of the accused and his associates	3	6	1	0	0	
		3.6	4.7 3	1.43	0.13	0.03	

The problems faced by the Investigation Officer of AFI Br of ANF, as per results / feedback obtained through survey reports that more than 80% of the respondents agreed that they face problems as arrayed in the questionnaire and the same is represented in pie chart given below.



Conclusion

It may be concluded that the Investigation officer of AFI Br of ANF is facing lots of problems which create hindrance in smooth process of the investigation of assets of accused and his associates. The Investigation officer of AFI Br of ANF thus fails to establish the cases of forfeiture due to lack of training, allied facilities

Recommendation

It is recommended that the reforms in CNS Act, 1997 regarding assets investigation of accused and his associates involved in offences under CNS Act, 1997 may be made so that the drug menace may be curbed and the evil of narcotics may be nipped in the bud.