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COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

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~~मीड पोस्ट~~

संख्या No. 15-6(82)/98-O&M-III

दिनांक : 12 दिसम्बर , 2017

प्रेषक
From

मुख्य सतर्कता अधिकारी
Chief Vigilance Officer

To

सीएसआईआर के सभी राष्ट्रीय प्रयोगशालाओं/संस्थानों के निदेशक
The Directors/Heads of all National Labs. /Instts. of CSIR

विषय : Reference to the Commission for advice- documents/ Information to be furnished - regarding.

महोदया, महोदय/Madam/Sir,

उपरोक्त विषय पर केन्द्रीय सतर्कता आयोग, भारत सरकार द्वारा प्रेसित दिनांक 28-11-2017 के परिपत्र स.09/11/2017 (पत्र संख्या 006/PRC/1 की एक प्रति सूचना, मार्गदर्शन एवम कड़ाई से अनुपालन हेतु अग्रेषित कर रहा हूँ। कृपया सभी संबन्धित अधिकारियों/कर्मचारिओ के सज्ञान मे लाया जाए।

I am to forward herewith a copy of the Circular No. 09/11/2017 (Letter No./006/PRC/1) dated 28/11/2017 of the Central Vigilance Commission, Govt. of India, on the subject cited above for information, guidance, necessary action and strict compliance. Please bring it to the notice of all concerned.

भवदीय/Yours faithfully,

(मेजर राणा विक्रम सिंह)
मुख्य सतर्कता अधिकारी

संलग्न: यथोपरि

प्रतिलिपि :

1. महानिदेशक, सीएसआईआर के निजी सचिव
2. संयुक्तसचिव (प्रशा.), सीएसआईआर के निजी सचिव
3. सभी राष्ट्रीय प्रयोगशालाओं/संस्थानों के प्रशासन नियन्त्रक/प्रशा. अधिकारी
4. सीएसआईआर मुख्यालय/कॉम्प्लेक्स के उप-सचिव/वरिष्ट- उप-सचिव/अवर सचिव
5. प्रमुख आईटी विभाग : इस पत्र को सीएसआईआर वेबसाइट पर उपलब्ध करने हेतु।
6. सतर्कता अनुभाग, सीएसआईआर के सभी अनुभाग अधिकारी
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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्पलैक्स,
ब्लॉक–ए, आई.एन.ए., नई दिल्ली–110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-110023

006/PRC/1
सं. / No.....

28.11.2017
दिनांक / Dated.....

Circular No. 09/11/2017

Subject: Reference to the Commission for advice – documents / information to be furnished – regarding

Reference:Commission's Circular No. 21/8/09 dated 06.08.2009

The Commission, from time to time, has been emphasising on the need for sending complete documents / information by the Ministries / Departments / Organisations while seeking its advice. Attention of CVOs is invited to the guidelines issued by the Commission in this regard vide its above-said Circular and also to para 7.9.4 and 7.28.4 of the Vigilance Manual 2017.

2. Of late, several instances have come to the notice of the Commission where the guidelines are not being followed scrupulously and references are being made to the Commission without the requisite information / documents which is resulting in avoidable delays in processing of vigilance cases / departmental inquiry reports. Many a time, even the proforma prescribed for bio-data of the Suspect Public Servant (SPS) / Charged Officer (CO) is being sent without duly filling it up, or more precisely, after leaving the column of date of birth / retirement blank. Whether an SPS / CO is in service or has retired is a crucial point for appreciating the case and enabling the Commission to tender its advice appropriately.

3. All CVOs are advised to ensure that the references being made to the Commission for seeking its advice are fully compliant to the guidelines contained in the Circular dated 06.08.2009 and in para 7.9.4 and 7.28.4 of the Vigilance Manual 2017, and include complete information / documents including duly filled-up bio-data as prescribed.

(M. A. Khan)
Under Secretary

All Chief Vigilance Officers of Ministries / Departments / CPSUs / Public Sector Banks/Insurance Companies / Autonomous Organisations / Societies, etc.

No.006/PRC/1
Government of India
Central Vigilance Commission
*****

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 6th August, 2009

Circular No.21/8/09

Subject: **References to the Commission for first stage advice – procedure regarding.**

Reference: **(i) Commission's circular No.NZ/PRC/1 dated 26.2.2004;**
(ii) Commission's circular No.NZ/PRC/1 dated 9.5.2005;
(iii) Commission's circular No. 006/PRC/1 dated 13.3.2006; and
(iv) Commission's circular No.006/PRC/1 dated 1.12.2008

The Commission receives preliminary inquiry reports from the Chief Vigilance Officers (CVOs) of Departments/Organisations, seeking the first stage advice. Reports for similar action also emanate from the CVOs in response to the Commission's directions for investigation issued u/s 8(1)(d) of the CVC Act, 2003. However, these reports are often found lacking in cogent analysis of misconduct or allegations, evidence on record and the recommendation of line of action. The supporting documents catered are also very often disjointed, casually arranged or unduly bulky, making the examination cumbersome and leading to protracted correspondence and delays.

2. With a view to improving the quality and focus of these investigation reports, the Commission has devised a new reporting format. Accordingly, it is directed that henceforth, a vigilance report should broadly conform to the parameters specified in Annexure A. Further, as the Commission lays utmost emphasis on facts, evidence and recommendations made by the CVOs, an investigation report should invariably be accompanied by an Assurance Memorandum (Annexure B) signed by the CVO, taking due responsibility and giving assurance of a comprehensive application of mind while submitting the report.

3. In supercession, therefore, of earlier instructions of the Commission on submission of investigation reports, the following instructions should be followed scrupulously while seeking the first stage advice:

(i) All vigilance reports of the CVOs should conform to the parameters prescribed in **Annexure-A**.
(ii) They would be accompanied by an Assurance Memo, in the form of **Annexure-B**.

Contd...2/-

(iii) Bio-data of suspect officials, figuring in the investigation reports, should be enclosed as per the format provided at **Annexure-C**.

(iv) Tabular statements, as prescribed vide the Commission's circular dated 1.12.2008, shall continue and be kept objective and precise.

(v) Draft charge-sheets and imputation of charge in respect of suspect officials where disciplinary action, such as major penalty or minor penalty proceedings, is proposed, would accompany the investigation reports.

4. The CVOs would ensure that all documents/exhibits, constituting the basic evidence for the charge, are systematically identified and arranged. Superfluous and voluminous documents, with little or no relevance to the misconduct under examination, should be retained at the CVOs' end. In case any additional material or evidence is required, it can always be recalled by the Commission before an advice is tendered.

5. The aforesaid reporting procedure would become operative with immediate effect.

Shalini
6/8/09
(Shalini Darbari)
Director

All Chief Vigilance Officers

Encl: As proposed.

Annexure-A

Vigilance Report

Title of the report

1. **Source**

   - Background of the report – whether based on source information, complaint referred to by the CVC, CTE/CTE type inspection or direct enquiry.

2. **Gist of allegations**

3. **Facts**

   - The relevant facts relating to the issue under examination should be presented in chronological or activity-wise sequence.
   - Each fact should be supported by documentary evidence (other forms of evidence may also be presented) denoted as E1, E2, and E3 etc. Since the facts occur in chronological order, the evidence E1, E2, E3, etc., should necessarily be arranged under the report in the same order, thus making it easier for reference.
   - While annexing the evidence, the relevant portion of the document should be highlighted and annexed. For example, the evidence for educational qualifications for promotion should consist of the Xerox copy of only the clause prescribing the qualifications and not the whole 20 pages of the promotion policy.
   - There may be several issues in a report which may be conveniently arranged as different paras viz. 2.1, 2.2 etc.
   - All relevant facts needed to support the observations/conclusion should be gathered and presented. Irrelevant facts, bearing no consequence on the issues under inquiry should be avoided.
   - Evidence presented should be credible and adequate.

4. **Observations**

   - Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of objections or anomalies observed with reference to the gathered facts. There may be several observations arising out of the analysis of facts.

- Observations are also arrived at by evaluating the facts against certain criteria viz. rules, regulations, policies, procedures, norms, good practices or normative principles. Evidence of these criteria (extracts of rules, procedures, etc.) should also be presented as E1, E2, etc.

5. Response of the officials concerned

- It is necessary to elicit the reasons and clarifications of the management or the officers concerned for the anomalies pointed out in the observations. Every deviation from rules or procedure cannot be attributed to a malafide/corrupt intent. There may be situations where it may be difficult to achieve the objectives of a task by strictly abiding by the rules. Rules may be circumvented, while expediting the work or in the larger interest of the work, with good intentions. It is, therefore, essential for Vigilance to distinguish between acts of omission and acts of commission. Therefore, obtaining the response of the officers concerned is essential in order to arrive at an objective conclusion.
- Response of the management is also necessary in order to clarify differences in interpretation or an understanding of the issues between vigilance and the management.

6. Counter to the response

- In order to sustain the observations made by Vigilance, it is necessary to counter the defence given by the management/ officers concerned with facts and supporting evidence. It should be clearly and convincingly brought out why the explanation given by the management is not tenable.

7. Conclusion

- Conclusion is the logical summation of the observations. The observations denoting various counts of irregularity, lapses or impropriety should finally lead to a logical conclusion on whether the case involves commission of irregularity/ impropriety with the intention of corruption.
- Undue favour given to a party or obtained for self and its adverse impact on the government or the citizens in terms of

additional cost, poor quality or delayed service should be clearly highlighted.

8. Responsibility of officials

- Having determined the vigilance angle in the case, the next step is to fix the accountability of the individuals involved in the misconduct. Name of officers should be clearly stated in this para.
- The role of each officer should be judged with reference to his prescribed charter of duties. In case the tender committee is responsible for the misconduct then, as far as possible, all members should be equally and collectively held responsible.
- Comments of Disciplinary Authority should invariably be included.

9. Recommendation for action

- Recommendation for closure of the case in case there is no discernable vigilance angle or criminal misconduct, should be clearly spelt out.
- Bio-data of the officials reported against in the investigation report should be included in the given format.

10. Recommendation for systemic improvement

- Punitive action on detection of corruption does not by itself lead to a logical conclusion unless it is able to prevent recurrence of the lapse. Any fraud, corruption, irregularity or impropriety indicates a failure of control mechanism or gaps in systems and procedures. Therefore, each case throws up an opportunity to identify these control failures and suggest ways of plugging them to prevent recurrence of the lapse. Therefore, at the end of the report the CVO should also try to recommend systemic improvements in order to prevent the risk of a recurrence of the lapse/misconduct.

Annexure-B

ASSURANCE MEMO

This is to provide reasonable assurance to the Commission:

(a) That all necessary facts and relevant evidence have been gathered.

(b) That all facts and supporting evidence have been duly verified.

(c) That contested evidence, if any, have been conclusively handled with reference to the facts at the disposal of Vigilance.

Chief Vigilance Officer

Annexure C

Format of Bio-Data of officer(s) against whom Commission's advice is sought

(To be incorporated in the Vigilance Report of the CVO)

1. Name of the officer :

2. Designation
   (a) At present :
   (b) At the time of alleged misconduct :

3. Service to which belongs :
   (Cadre and year of allotment in case of officers of the organized/All India Services)

4. Date of birth :

5. Date of superannuation :

6. Level/group of the present post and pay scale :

7. Date of suspension [if under suspension] :

8. Disciplinary Rules applicable to the officer :

****

and report to the CVO of the Ministry / Department / Organisation and CVOs would continue to furnish their investigation reports in all matters involving Category-A officers for seeking first stage advice of the Commission irrespective of the outcome of inquiry / investigation.

Similarly, all written complaints / disclosures (Whistle Blower complaints) received under the *Public Interest Disclosure and Protection of Informers' Resolution (PIDPI), 2004 or the Whistle Blowers Protection Act, 2011* would also continue to be handled / processed by CVOs in terms of the existing prescribed procedures or as amended from time to time.

(CVC Circular No. 07/04/15 dated 27.04.2015 - Consultation with CVC for First stage advice- revised procedure)

7.9.4 ***Information to be submitted for obtaining Commission's first stage advice:*** While seeking first stage advice of the Commission, following material should be submitted: -

(a) A self-contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self- contained note is meant to supplement and not to substitute the sending of files and records.

(b) The bio-data of the officer concerned;

(c) Other documents required to be sent for first stage advice: -

(i) A copy of the complaint/source information received and investigated by the CVOs;

(ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;

(iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/ acceptable, and the conclusions of the investigating officer;

(iv) Statements of witnesses and copies of the documents seized by the investigating officer:

(v) Comments of the Chief Vigilance Officer and the Disciplinary Authority on the investigation report {including investigation done by the CBI and their recommendation};

(vi) A copy of the draft charge sheet against the SPS along with the list of documents and witnesses through which it is intended to prove the charges;

(vii) Assurance memo.

(CVC Circular No. 14/3/06 dated 13.03.2006: Reference to the Commission for its advice-Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice)

(CVC Circular No. 21/8/09 dated 06.08. 2009: References to the Commission for first stage advice- procedure regarding)

7.9.5 ***Commission's advice in Composite cases:*** If a Government servant falls within the Commission's jurisdiction, the advice of Commission would be required and any decision of the Disciplinary Authority at this juncture may be treated as tentative. Such a reference would be required to be made even in respect of an officer / staff who are not within the Commission's jurisdiction if they are involved along with other officers who are within the jurisdiction of the Commission. as the case would then become a composite case and falls within the Commission's jurisdiction.

7.9.6 A composite case should be processed as 'one' and action against every individual employee should be taken only on Commission's advice. even if there is only one official who comes within Commission's jurisdiction.

(CVC Office order No. 2/1/04 dated 08.01.2004: Obtaining Commission's advice in composite cases)

7.9.7 ***Making available a copy of CVC's first stage advice to the concerned employee:*** A copy of the Commission's first stage advice may be made available to the concerned employee along with a copy of the charge - sheet served upon him, for his information.

(CVC Circular No. 99/VGL/66 dated 28.09.2000: Consultation with the CVC - Making available a copy of the CVC's advice to the concerned employee)

7.9.8 ***Difference of opinion between the CVO and the Chief Executive and between the Vigilance Officers and the Head of Office:*** With regard to

procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the CVC wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the CVC for advice).

(CVC Office order No. 03/01/10 dated 28.01.2010 – Clarification regarding making reference to the Commission for advice on complaints and second stage advice cases)

7.28.4 ***Materials to be furnished for second stage advice:*** Following material should be furnished to the Commission while seeking its second stage advice:

(i) A copy of the charge sheet issued to the public servant:

(ii) A copy of the Inquiry Report submitted by the Inquiring Authority (along with a spare copy for the Commission's records):

(iii) The entire case records of the inquiry, viz. copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;

(iv) Comments of the CVO and the Disciplinary Authority on the assessment of evidence done by the Inquiring Authority and also on further course to be taken on the Inquiry Report.

(CVC Circular No. 14/3/06 dated 13.03.2006- Reference to the Commission for its advice- Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice reg.)

7.28.5 ***Procedure for seeking reconsideration of Commission's Advice:*** The Commission's advice is based on inputs received from the organisation and where the Commission has taken a view different from the one proposed by the organisation, it is on account of the Commission's perception of the seriousness of the lapses or otherwise. In such cases, there is no scope for reconsideration. Therefore, proposal for reconsideration of the Commission's advice may not be submitted unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations / charges levelled against an officer.