

# VIGILANCE MANUAL



Chief Vigilance Officer

**BEML LIMITED**

(A Govt. of India Undertaking)

BEML Soudha, 23/1, 4th Main, S.R. Nagar, Bengaluru - 27.

Ph: +91-80-22223066 | E-mail: [bemlvig@beml.co.in](mailto:bemlvig@beml.co.in)

Website: [www.bemlindia.com](http://www.bemlindia.com)



# BEML India Network



- ★ Engineers at Pit Head
- ★ Mother Depots at KGF, Mysore, Bangalore and Palakkad
- ★ Parts Depot at Regional and District Offices
- ★ Service Centers at Nagpur, Bilaspur, Kolkata, Singrauli, Hyderabad



## VIGILANCE MANUAL

Chief Vigilance Officer

**BEML LIMITED**

(A Govt. of India Undertaking)

BEML Soudha, 23/1, 4th Main, S.R. Nagar, Bengaluru - 27.

Ph: +91-80-22223066 | E-mail: [bemlvig@beml.co.in](mailto:bemlvig@beml.co.in)

Website: [www.bemlindia.com](http://www.bemlindia.com)



## PREFACE



I am delighted to Present the much needed new version of “BEML Vigilance Manual” to all of You. The first Edition was brought out in 1999. This Edition is an updated version, wherein, certain new topics have been added. All the latest Revisions to the Rules, Instructions & Circulars issued by Central Vigilance Commission, are also incorporated into this Edition, in a user friendly format.

This Manual is intended to be a ready Reference with regard to various aspects of Vigilance Administration in BEML.

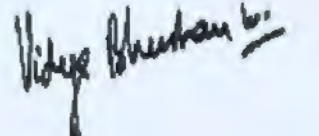
Vigilance is watchfulness in every ambit of working. Vigilance is a wholesome approach to Fight Corruption and Instill Integrity in Public Works. Vigilance Activities should Not be restricted to Vigilance Department alone. Being Vigilant, is a Prime Responsibility of all the Stake holders, the Management and all the Departments, with their Officers and Employees, without which, effective Vigilance cannot become a reality. Integrity of Administration and Honesty of the officials manning the Posts are indispensable factors in ensuring good Governance. Achieving the highest echelon of Vigilance depends on the Sincerity and Probity of the officials holding various positions.

This Manual is the result of sincere efforts put-in by the members of Vigilance Department, whose valuable contribution is appreciable.

We are hopeful that this Manual would serve as a useful Reference material for all and facilitate an effective Vigilance Administration.

Suggestions for the improvement of the Manual are welcome. Inadvertent errors or omissions, if any, may be brought to our notice, which would be very much appreciated.

Aug 2017  
Bengaluru - 27

  
(Vidya Bhushan Kumar, IFS)  
Chief Vigilance Officer  
BEML Limited

**FIRST EDITION : 1999**  
**SECOND EDITION : 2017**

**Published by**  
**CORPORATE VIGILANCE**  
BEML Soudha, 23/1, 4th Main, S.R. Nagar  
Bengaluru - 560 027. Ph: 080-22223066  
**E-mail: [bemlvig@beml.co.in](mailto:bemlvig@beml.co.in)**  
**Website: [www.bemlindia.com](http://www.bemlindia.com)**

**Designed & Printed by**  
**YAKSHI COMMUNICATIONS**  
# 3, 7th Cross, Railway Parallel Road  
Kumara Park West, Bengaluru - 560 020.  
Ph: 080-2346 0877/78  
**E-mail: [yaakshiblr@gmail.com](mailto:yaakshiblr@gmail.com)**

e-mail for Changes/Updation of Manual: [bemlvig@beml.co.in](mailto:bemlvig@beml.co.in)



## MESSAGE



I am glad to see that the Vigilance Department of BEML Limited has taken the initiative to bring about a Comprehensive Vigilance Manual covering the entire gamut of Preventive and Punitive Vigilance.

Vigilance is essentially a Management Function. Vigilance should not be considered in a limited way to prevent Corruption, but has to be seen as a part of the overall Risk Management mechanism of an organization. Systems are structured in such a manner that enhances Efficiency and Effectiveness of Our Organisation. By preventing the leakage of Revenue, the whole Organisation becomes accountable to the Stake Holders.

I congratulate the Chief Vigilance officer and his team for bringing out a very useful "BEML Vigilance Manual".

Wish You All the Very Best.

Aug 2017  
Bengaluru - 27

  
**(Deepak Kumar Hota)**  
Chairman & Managing Director  
BEML Limited



## ONLINE INTEGRITY PLEDGE





**ONLINE INTEGRITY PLEDGE**

  
सत्यमेव जयते



**CENTRAL VIGILANCE COMMISSION**

*Certificate of Commitment*

This is to certify that

**Shri ANIRUDDH KUMAR**

has adopted the Integrity Pledge and is committed to uphold highest standards of honesty & integrity and to follow probity and rule of law in all walks of life

  
Nilam Sawhney  
Secretary

  
844757837

Central Vigilance Commission, Sarakata Bhawan, G.P.O. Complex, INA, New Delhi-110023  
Tel: 011- 24600200 (30 Lines), Fax No. 011- 24651010/24651186, Website: www.cvc.nic.in

  
सत्यमेव जयते



**CENTRAL VIGILANCE COMMISSION**

*Certificate of Commitment*

This is to certify that

**Shri B.R VISWANATHA**

has adopted the Integrity Pledge and is committed to uphold highest standards of honesty & integrity and to follow probity and rule of law in all walks of life

  
Nilam Sawhney  
Secretary

  
528988574

Central Vigilance Commission, Sarakata Bhawan, G.P.O. Complex, INA, New Delhi-110023  
Tel: 011- 24600200 (30 Lines), Fax No. 011- 24651010/24651186, Website: www.cvc.nic.in



**ONLINE INTEGRITY PLEDGE**

  
सत्यमेव जयते



**CENTRAL VIGILANCE COMMISSION**

*Certificate of Commitment*

This is to certify that

**MURALIDHARA R H**

has adopted the Integrity Pledge and is committed to uphold highest standards of honesty & integrity and to follow probity and rule of law in all walks of life

  
Nilam Sawhney  
Secretary

  
8475246724

Central Vigilance Commission, Sarakata Bhawan, G.P.O. Complex, INA, New Delhi-110023  
Tel: 011- 24600200 (30 Lines), Fax No. 011- 24651010/24651186, Website: www.cvc.nic.in



### Chapter - 3 VIGILANCE ORGANISATION

PARA	CONTENTS	PAGE
3.1	Introduction	15
3.2	Administrative Vigilance Division	15
3.3	Central Vigilance Commission	15-19
3.4	CTE	19-20
3.5	CDI Unit	20
3.6	Annual Report	20
3.7	Chief Vigilance Officer	20-21
3.8	Central Bureau of Investigation	21-22

### Chapter - 4 CHIEF VIGILANCE OFFICER'S APPOINTMENT, ROLE AND FUNCTION

PARA	CONTENTS	PAGE
4.1	Background	25
4.2	Procedure for Appointment	25
4.3	Appointment of CVO in the Ministries / Departments	25
4.4	Appointment of CVO in Public Sector Undertakings	25-26
4.5	Tenure of CVO	26
4.6	Short-Term Arrangement in the Post of CVO	26
4.7	Association of CVO With Sensitive Matters	26-27
4.8	Permanent Absorption of CVO In PSU	27
4.9	Assessment of the CVO's Work	27
4.10	Role And Functions of CVO	27-28
4.11	Preventive Vigilance	28-31
4.12	Punitive Vigilance	31-34
4.13	Surveillance and Detection	34-35
4.14	Review Meetings/Structured Meeting Of CVO With CMD	35
4.15	Reports and Returns	35

### Chapter - 5 VIGILANCE IN BEML

PARA	CONTENTS	PAGE
5.1	Corporate Vigilance Vision	39
5.2	Vigilance Organization	39
5.3	Vigilance Officials	39-40
5.4	Model Code of Conduct – General	40
5.5	Preventive Checks	40-41
5.6	Personal Conduct	41
5.7	Establishment and Vigilance Set Up in BEML	41-42
5.8	Duties and Responsibilities	42-44
5.9	HOD of Vigilance Department in the Divisions	44-49
5.10	Asst. Vigilance Officer / Vigilance Officer in Divisions	49-50
5.11	Authority for Carrying Out Vigilance Work in BEML	50-51
5.12	Protection to Vigilance Officials for Acts Done in Good Faith	51
5.13	Protection Against Victimisation of Officials of Vigilance Units	51-52
5.14	Functional and Administrative Control Over Vigilance Officials	53
5.15	Detailing of Vigilance Staff in Committees and Non-Vigilance Activities	53
5.16	Appointment of Vigilance Officers in Departmental Inquiry Committee	53
5.17	Duties of the Vigilance Officers and Staff in Departmental Inquiry Committees	53
5.18	Administrative Vigilance	53
5.19	Functions of the Chairman, Divisional Vigilance Committee	53-54
5.20	Constitution and Functions of Divisional Vigilance Committee	54-56
5.21	Access to Documents	56



## Chapter - 6 PREVENTIVE VIGILANCE

PARA	CONTENTS	PAGE
6.1	Guidelines on Vigilance Clearance and Related Matters	59
6.2	Confirmation of an Officer	59
6.3	Promotion	59
6.4	Resignation	59-60
6.5	Voluntary Retirement	60-61
6.6	Retirement on Superannuation	61
6.7	Nomination of Officers for Foreign Deputation	61-63
6.8	Forwarding of Applications for Other Posts	63-64
6.9	Rotation of Officials Working in Sensitive Posts	64
6.10	Annual Immovable Property Return	64
6.11	Issue of Identity Certificate (IC) Or No Objection Certificate (NOC) for Issue of Ordinary Passport.	65
6.12	Prior Permission to Visit Abroad	66
6.13	Moral Turpitude	67-68
6.14	Pendency of Departmental / Disciplinary Proceedings	68
6.15	Contemplation of Disciplinary Case	68
6.16	Institution of Judicial Proceedings	68
6.17	Vigilance Clearance in BEML	68-72
6.18	Integrity Pact	72-74
6.19	Implementation Procedure	74-75
6.20	Role / Functions of IEM	75-76
6.21	Appointment of IEM	76-77
6.22	Review System	77
6.23	Officers of Doubtful Integrity List	77-78
6.24	Purpose of the List	78
6.25	Procedure for Preparation of the List	78-79
6.26	Action on the List	79
6.27	Retention Period	79-80

PARA	CONTENTS	PAGE
6.28	Transfer of Such Officers	80
6.29	Periodicity of Circulation by the C.B.I	80
6.30	Maintenance & Custody of the List	80
6.31	Agreed List of Suspected Officers	80-81
6.32	Job Rotation	81-82
6.33	Surprise Checks in Sensitive Areas	82
6.34	Job Rotation in Sensitive Areas	82-83
6.35	CTE Type Inspection	83-84
6.36	Selection of Works	84-85
6.37	Purpose of Intensive Examination	85
6.38	Requisition of Records	85
6.39	Role of CVO in Intensive Examination	85-86
6.40	Whistle Blower Policy	86-87
6.41	Vigilance Study Circle (VSC)	87
6.42	Vigilance Awareness Week	87-89
6.43	Vendor Development	89
6.44	E-Procurement	89-90
6.45	Updation of Manuals/Procurement Manuals	90

## Chapter - 7

### COMPLAINTS AND INVESTIGATIONS

PARA	CONTENTS	PAGE
7.1	Introduction	93
7.2	Anonymous / Pseudonymous Complaints	94
7.3	Registration of Complaints	94-95
7.4	Complaint Handling Policy	95-98
7.5	Preliminary Inquiry (P.I.)	98-99
7.6	Registration of Regular Case (RC)	99-100
7.7	Investigation Procedure (Questionnaire)	100-101
7.8	Investigation Technique	101-104
7.9	Regular Case (RC) Report	104-105
7.10	Vigilance Report	105-107
7.11	Action on Investigation Report	107-109
7.12	Prior Consultation of CVO in Disciplinary Proceedings	109-110
7.13	BEML Portal – Complaint Registration	110-111

## Chapter - 8

### ANNEXURES, FORMATS AND CIRCULARS

Annexure	Letter & Circular No	Date	Subject	Ref Pg	Page No
1	CVC vide Office Order No. 23/04/04 & Office Order No. 74/12/05	12.04.2014 21.12.2015	Vigilance Angle-Definition		118
2	O.M. No. 142/10/97-AVD.I	14.01.1998	Sanction for Prosecution		120
3	Order No. 4/2/09	27.02.2009	Govt of India Resolut-ion on Public Interest Disclosures & Protect-ion of Informer		121
4	Order No. 57/8/04	31.08.2014	Time limit for Investi-gation of Complaints		122
5	15(7)/98(GL-009) GM	25.09.1998	Model Vigilance Structure for PSU		123
6	Circular No 16/3/06	28.03.2006	Protection Against Victimization of officials of the Vigilance Units		125
7	O.M. No.321/77/91-ADV.III	09.06.1992			127
8	Circular No. 1542	03.09.2013	Functions of Chairman, DVC		128
9	Omno. 22011/5/86-Estt.(D)	10.04.1989	Confirmation of Order		130
10	DoPT OM no. 22011/4/91-Estt.(A)	14.09.1992	Promotion		136
11	DoPTO.M. No. 28034/4/94-Estt.(A)	31.05.1994	Acceptance of Resignation		140
12	Clause 6.14.1 of CVC Vigilance Manual 2005	2005			142
13	No. 25013/7/77-Estt. (A)	26.08.1977	Scheme of Voluntary Retirement		143
14	25013/3/79-Ests. (A)	28.07.1979			148
15	No. 25013/10/85-Estt. (A),	05.07.1985			149
16	25013/3/2003-Estt. (A),	17.06.2003			150
17	Sub Rule 4 of the Rule 9 & Sub-Rule3 of Rule 39 of the CCS(Leave) Rules, 1972		Provisional Pension		151



Annexure	Letter & Circular No	Date	Subject	Ref Pg	Page No
18	OMsno.11012/11/2007-EsttA	14.12.2007	Nomination of Officers for Foreign Deputation		152
19	OMsno.11012/11/2007-EsttA	27.09.2011			155
19 A	BEML circular No: 1235	19.05.2006	Acquisition of movable, immovable, and valuable properties by officers.		156
19 B	BEML circular No : 1632	25.04.2017	Declaration of Assets & Liabilities and intimation/Obtaining sanction during buying/ disposal of properties.		157
20	AB 14017/101/91-Estt(RR)	14.05.1993	Forwarding of Application		159
21	CVC letter no. 98/VGL/60	15.04.1999	Rotation of officials working in Sensitive Posts		161
22	CVC letter no. 98/VGL/60	02.11.2001			162
23	Para 2.13 (v) of CVC Vigilance Manual, 2005	2005			163
24	Rule18(1) (ii) of CCS (Conduct) Rules 1964		CCS(Conduct) Rules 1964		164
25	OM no. VI/401/01/05/2008	05.10.2009	Issue of Identity Certificate (IC) OR NOC for issue of Ordinary Passport		167
26	Section 6(2) of the Passport Act 1967				169
27	O.M. no. 11013/7/94-Estt (A)	05.10.2009	Prior Permission to visit Abroad		170
28	O.M. no. 11013/8/2000-Estt (A)	07.11.2000			171
29	No. 11013/7/2004-Estt (A)	05.10.2004			172
30	Supreme Court in the case of Allahabad Bank	11.11.1974	Moral Turpitude		173
31	Observations of Allahabad High Court in State of U.P. v. Jai Singh Dixit (1976) 2 LLJ(ALL)246	13.03.1997	Pendency of Departmental / Disciplinary Proceedings		201
32	Rule 9 (6) (b) of CCS (Pension) Rules		Institution of Judicial Proceedings		206
33	General Bulletin No 1228	19.04.2011	Vigilance Clearance for executives/ Employees		207
34	005-VGC-101	11.08.2005	handling of Pseudonymous / Anonymous Complaints		209



Annexure	Letter & Circular No	Date	Subject	Ref Pg	Page No
35	No.104/76/2011-AVD.I	18.10.2013	Guidance regarding Handling of Complaints in Ministries/Departments		210
36	Circular No. 10/5/09	18.05.2009	Adoption of Integrity Pact		212
37	Orders No. 41/12/07	04.12.2007			217
38	Circular No 43/12/07	28.12.2007			219
39	Circular No. 18/05/08	19.05.2008			220
40	Circular No. 18/05/08	05.08.2008			221
41	Circular No.3/2/07	23.02.2007	Investigation of Complaints		223
42	Circular No. 01/01/2015(98/DSP/09)	23.01.2015	Procedure for Dealing with Complaints		224
43	General bulletin 1581	30.01.2015	BEML Complaint Handling Policy		225
44	No.000/VGL/18	23.05.2000	Schedule of Time Limit in Conducting Investigations		231
45	No.21/8/09	06.08.2009	References to Commission for First Stage Advice		233
46	No.98/VGL/51	11.08.2009	Special Chapter on Vigilance Management in PSE		235

## FORMATS

Format	Description	Reference Page No	Page No
01	Annual Property Scrutiny Format		236
02	Vigilance Complaint Register Format		237
03	Investigation/Preliminary Inquiry Report Format		238
04	Fact Verification Report Format		241
05	Monthly Report Format		243
06	Vigilance Clearance Formats (a) For the PESB interview / selection		257
07	(b) For other purposes like confirmation/promotion / outside employment,		258
08	(c) For the purpose of obtaining Passport /Visa / Travel to be made by the individual (With Appendix)		259
09	CTE format		262



## GLOSSARY OF TERMS

ACR	Annual Confidential Report
AIPR	Annual Immovable Property Report
ACC	Appointment Committee of Cabinet
AVD	Administrative Vigilance Division
BG	Bank Guarantee
CTE	Chief Technical Examiner
CTEO	Chief Technical Examiners' Organisation
CCS	Central Civil Service
CO	Charged Officer
CBI	Central Bureau of Investigation
CVC	Central Vigilance Commission
CMD	Chairman and Managing Director
CVO	Chief Vigilance Officer
DoPT	Department of Personnel and Training
DPE	Department of Public Enterprise
DSPE	Delhi Special Police Examiner
EMD	Earnest Money Deposit
FVR	Fact Verification Report
IC	Identity Certificate
IO	Investigating Officer
IP	Integrity Pact
IPC	Indian Penal Code
IEM	Independent External Monitor
MoD	Ministry Of Defence
NOC	No Objection Certificate
ODI	Officer of Doubtful Integrity
OM	Office Memorandum
PIDPI	Public Interest Disclosure and Protection of Informers
PDO	Part Disposal Order
PI	Preliminary Inquiry
PSE	Public Sector Enterprise
PC	Prevention of Corruption
PSU	Public Sector Undertaking
QPR	Quarterly Progress Report



RO/DO	Regional Office/ District Office
RC	Regular Case
RDA	Regular Departmental Action
SOP	Standard Operating Procedure
SD	Security Deposit
TA/DA	Travelling Allowance/Dearness Allowance
VRS	Voluntary Retirement Service
VCI	Vigilance Clearance
VC	Vigilance Commissioner
VO	Vigilance Officer

# Chapter - 1

## INTRODUCTION



You must be the change you wish to  
see in this world.

- Mahatma Gandhi



## BANGALORE COMPLEX

### 1.1 Purpose

1.1.1 BEML Vigilance Manual is a set of all Instructions, Rules and Regulations governing Vigilance Management. The purpose of this Manual is to provide written guidelines for all Officers and Employees of BEML, whether directly involved in dealing with Vigilance matters or not.

1.1.2 The Manual is based on all the guidelines issued by the Central Vigilance Commission and Vigilance related instructions and guidelines issued by the Department of Public Enterprise and the Department of Personnel & Training. The Manual also includes Rules & Office Orders issued by BEML Management for effective Vigilance Management.

### 1.2 Issuing Authority

1.2.1 Hard copy of the Manual will be issued by the Chief Vigilance Officer of BEML as a controlled document. The Vigilance Coordinator shall be responsible for distribution and follow up. The Vigilance Department will be responsible for maintaining the updated version of the Vigilance Manual on BEML Website and distribution of the updated version to all authorized addressees.

1.2.2 The Manual will be available in PDF (Portable Document Format) format online on the Vigilance link in the BEML Website. [<http://www.bemlindia.com/vigilance.php>]

1.2.3 Vigilance Department will not accept responsibility for outdated versions of the Manual held by anyone.

### 1.3 Amendments and Revisions

1.3.1 For continual improvement, any suggestions for revisions, improvements and corrections to this Manual are welcome and should be forwarded to the Vigilance Coordinator. Amendments may be forwarded by e-mail or Manual Post.

1.3.2 Amendments will be issued by the Vigilance Coordinator after approval by the CVO. Only the Amendments will be forwarded to all the concerned departments for updation of their Manuals.

### 1.4 Objectives

1.4.1 The aim of this Manual is to outline Policies, Organizational Structure and Procedures to be used for Vigilance Management in BEML. The Manual is structured on the following broad categories:

- (a) Administrative Vigilance - General information about the Vigilance set up in BEML.
- (b) Operational Vigilance - Procedures and Guidelines related to the functional matters of Vigilance Management in BEML.
- (c) Monitoring - Measures and responsibilities for effective control of Vigilance work flow.

### 1.5 Scope of Vigilance Manual

1.5.1 The Vigilance Manual Deals with the Vigilance management and coordination of all



activities necessary for the smooth handling of all Vigilance matters. The Manual shall serve as the guiding document for reference and compliance.

1.5.2 Vigilance Manual sets down the commitments, policies and procedures that would be used in dealing with Vigilance matters.

### 1.6 Responsibility of Implementation

1.6.1 The CVC's Vigilance Manual lays down the responsibility for implementation of Vigilance Policies on the Head of the Organization through the Chief Vigilance Officer.

### 1.7 Supporting Manuals

1.7.1 The following CVC and Company publications support and supplement the information contained in the Vigilance Manual :

- (a) CVC issued Vigilance Manual.
- (b) CVC issued Special Chapter on Vigilance Administration in PSEs.
- (c) BEML Employees' Service Regulations.
- (d) BEML Conduct, Discipline & Appeal Rules.
- (e) BEML Standing Orders.
- (f) BEML Purchase Manual.

### 1.8 Limitation

1.8.1 This Manual requires constant updation. This Manual does NOT supersede the Statutory Rules and Orders, unless specifically laid down.

## Chapter - 2 VIGILANCE IN PUBLIC SECTOR UNDERTAKING



On this earth there is  
enough for everyone's need but  
not for their greed.

- William Shakespeare



**KGF COMPLEX**

## 2.1 Introduction

2.1.1 Today the Public Sector Undertakings play a significant role in the economic as well as social development of the country. Current thinking stresses the importance of these Units becoming self-reliant and profitable ventures and building themselves around their strength to face competitive challenges from the private sector.

2.1.2 In the changed economic scenario, the vigilance function itself has thus become complex. The Commission has, as part of its proactive role, been urging PSEs to codify their systems and procedures. It is noticed, however, that in many PSEs adhocism still continues to characterise management decision-making and the style of functioning lends itself to charges of lack of transparency and accountability. Questions are often raised with regard to consistency and credibility of decisions. In this context, it is important that all PSEs should codify their rules, procedures, norms and systems in key areas such as purchases, stores, operations, finance, award of contracts and personnel management.

2.1.3 Vigilance is basically and admittedly a managerial function and, therefore, it is an integral part of the duties of an executive. Vigilance departments of PSEs should work in cooperation with other Divisions/Units of the Corporation at all levels. Besides, the vigilance departments of PSEs should also work in coordination with the CVC, the administrative ministry and the CBI. The role of CVOs has been fully explained in Chapter XVIII of CVC Vigilance Manual (Vol. I). The primary responsibility for the maintenance of purity, integrity and efficiency in a PSE vests in the CMDs/MDs/Head of the PSEs. The CVO would act as his special adviser in all matters pertaining to vigilance. He would provide a link between the administrative Ministry/Department and the CVC. CVC's interface with the PSE would be through the CVO.

## 2.2 Vigilance in Public Sector Undertaking

2.2.1 In the Oxford Dictionary, "Vigilance" has been defined as "Watchfulness Against Danger or any action on the part of others Alertness or Closeness of Observation". "Vigilance", in brief, implies "A state of remaining watchful or alert and is relevant everywhere, all the time". Though the concept of organized or institutionalized Vigilance is of recent origin, it has been in existence since time immemorial in some form or the other. In ancient times, Rulers used to roam around in disguise, sometimes during night, to collect intelligence about ongoing activities in the kingdom so that effective steps could be taken to avert any untoward incident and maintain law and order, which is essential for peace and prosperity.

- (a) The Vigilance Administration of a PSU follows two broad approaches, namely the Preventive and Punitive approach. A recent approach introduced by the CVC, deviating from the conventional Preventive and Punitive Vigilance, is to focus on Predictive Vigilance, whereby the attempt is to pre-empt deviant behaviour. For a PSU, it is necessary to ensure that public funds are properly used and that any sort of misuse / misappropriation is avoided. Preventive Vigilance is primarily concerned with checking any undesirable or corrupt practice among employees. Preventive Vigilance relates to a positive and prognostic approach by taking steps for checking any possible loss to the organization. It involves identification of the source of corruption and taking





necessary preventive and constructive steps to plug existing loopholes in the systems, procedures, methods of working etc. Vigilance related action is not restricted to a few employees working in the Vigilance set up. Rather, it requires involvement of all employees for preventing all types of corruption, malpractice and misconduct. This in turn requires each and every employee to take due care in his own sphere of duty / activity. This, in fact, forms the fundamental tenets of Vigilance in a PSU.

- (b) While study and development of suitable systems for checking any irregular activity is important, taking appropriate deterrent action against the employees responsible for negligence in duty, causing wrongful loss is equally important. This is known as punitive Vigilance and is essential for promoting a culture of honesty and punishing the black sheep.
- (c) With a view to safeguard interest of the employees and avoid any prejudice / bias on part of the employer, certain protections have been provided to “public servants” under Article 311 of the Constitution of India – namely, the members of the Civil Services of the Union or All India Services or Civil Services of the States. These Constitutional safeguards cover two specific areas, namely:
  - (i) No person shall be dismissed or removed by an authority subordinate to that by which he is appointed.
  - (ii) No such person shall be dismissed or removed or reduced in rank except after an Inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.
- (d) Employees of Public Sector Undertakings – including BEML are entitled to similar safeguards as per the decision of the Supreme Court. These Constitutional safeguards require observance of certain rules and procedures while taking any punitive/departmental action against any employee of the Public Sector Undertaking. Persons dealing with such punitive action are required to be fully acquainted with the said procedures.

### 2.3 Vigilance Angle

2.3.1 In Vigilance administration, existence of Vigilance Angle has a critical importance. CVC vide Office Order No. 23/04/04 (read with amendment vide Office Order No. 74/12/05) has defined Vigilance Angle. Vigilance angle is obvious in the following acts :

- (a) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (b) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.
- (c) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.



- (d) Possession of assets disproportionate to his known sources of income.
- (e) Cases of misappropriation, forgery or cheating or other similar criminal offences.

2.3.2 As modified vide Officer Order No. 74/12/05 dated 21/12/05 (**Annexure-I**), there are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer’s integrity is in doubt. Gross or willful negligence, recklessness in decision making, blatant violations of systems and procedures, exercise of discretion in excess, where no ostensible/public interest is evident, failure to keep the controlling authority/superiors informed in time. These are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

2.3.3 Any undue/unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.

2.3.4 The raison d’être of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/operational interests of the organisation is one possible criteria for determining the bona fides of the case. A positive response to this question may indicate the existence of bonafides. A negative reply, on the other hand, might indicate their absence.

2.3.5 Absence of vigilance angle in various acts of omission and commission does not mean that the concerned official is not liable to face the consequences of his actions. All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules.

2.3.6 The above definition becomes a part of the Vigilance Manual and existing Special Chapter on Public Sector Banks and Public Sector Enterprises brought out by the Commission, in supersession of the existing definition.

### 2.4. Motto of Vigilance

2.4.1 Motto of Vigilance can be broadly Classified as given below :

- (a) Integrity in Governance.
- (b) Combating Corruption.
- (c) Professionalism.
- (d) Transparency.
- (e) Promptness.
- (f) Impartiality.



## 2.5. Corruption

2.5.1 Corruption is the misuse of public office for private gain and is said to be a function of both the opportunity to request/receive bribes and the risk of detection. Monopolies and discretion are corruption facilitators, while accountability and morality are inhibiting factors, best expressed in the formula Corruption = Monopoly + Discretion – Accountability - Morality. A key tool in the fight against corruption, therefore, is access to information and transparency.

**2.5.1.1 Causes for Corruption:** Important causes of corruption in India are poor regulatory framework, exclusivist process of decision making aggravated by discretion and official secrecy, rigid bureaucratic structures and processes; and absence of effective internal control mechanism. Social acceptability and tolerance for corruption and absence of a formal system of inculcating the values of ethics and integrity further propagates corruption.

**2.5.1.2 Impact of Corruption:** Corruption is a serious economic issue as it adversely affects the country's economic development and achievement of developmental goals. It promotes inefficiencies in utilisation of resources, distorts the markets, compromises quality, destroys the environment and of late has become a serious threat to national security.

## 2.6 Public Servant

2.6.1 A public servant is a person who is appointed or elected to a public office.

## 2.7 Fraud

2.7.1 Fraud is deliberate deception to secure unfair or unlawful gain, or to deprive a victim of a legal right. The purpose of fraud may be monetary gain or other benefits.

## 2.8 Bribe

2.8.1 Bribe is an amount received by a public servant other than his legal remuneration for the performance of his official duties.

## 2.9 Misconduct

2.9.1 Misconduct is an act of violation of Conduct rules of an Organisation.

## 2.10 Misappropriation

2.10.1 A public Servant who has appropriated property which does not belong to him for his own benefit or for the benefit of someone else is termed as misappropriation.

## 2.11 Illegal

2.11.1 The word illegal is applicable to everything which is an offence or which is prohibited by law, or which is prohibited by law, or which furnishes a ground for a civil action.

## 2.12 Wrongful Gain

2.12.1 Wrongful gain is the gain of property by unlawful means to which the person or agency gaining is not legally entitled.



## 2.13 Wrongful Loss

2.13.1 Wrongful loss is the loss of property by unlawful means to which the person or agency losing is entitled.

## 2.14 Disproportionate Assets

2.14.1 The assets acquired by the executive of the organisation are said to be disproportionate if the total value of such assets is more than the difference between his income from all known sources and the expenditure incurred during the same period.

## 2.15 Principles of Natural Justice

2.15.1 As per Article 311(2) of the Constitution, "No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence produced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed, provided further that this clause shall not apply to :

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.
- (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry.
- (c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry".

## Chapter - 3

### VIGILANCE ORGANISATION



**'INAUGURATION OF  
ENVIRONMENTAL PARK  
ON WORLD ENVIRONMENT DAY  
5TH JUNE 2017**



To make your children  
capable of honesty is the beginning  
of education.

- John Ruskin



**PALAKKAD COMPLEX**

### **3.1 Introduction**

3.1.1 Anticorruption measures of the Central Government are the responsibility of the following:

- (a) Administrative Vigilance Division (AVD) in the Department of Personnel & Training.
- (b) Central Bureau of Investigation.
- (c) Vigilance units in the Ministries/Departments of Government of India, Central Public Enterprises and other autonomous organisations (hereinafter referred to as Department).
- (d) The Disciplinary Authorities.
- (e) Central Vigilance Commission (hereinafter referred to as the Commission).

3.1.2 The AVD is concerned with the rules and regulations regarding vigilance in public services. The SPE wing of the CBI investigates cases involving commission of offences under the Prevention of Corruption Act, 1988 (hereinafter referred to as PC Act) against the public servants and other misconducts allegedly committed by the public servants having vigilance overtones. The Disciplinary Authority has the over-all responsibility of looking into the misconducts alleged against, or committed by, the public servants within its control and to take appropriate punitive action. It is also required to take appropriate preventive measures so as to prevent commission of misconducts/malpractices by the employees under its control and jurisdiction. The Chief Vigilance Officer [CVO] acts as a Special Assistant/Advisor to the Head of the concerned Department in the discharge of these functions. He also acts as a liaison officer between the Department and the CVC as also between the Department and the CBI. The Central Vigilance Commission acts as the apex organisation for exercising general superintendence and control over vigilance matters in administration and probity in public life.

### **3.2 Administrative Vigilance Division**

3.2.1 The Administrative Vigilance Division was set up in the Ministry of Home Affairs, in August 1955, to serve as a central agency to assume overall responsibility for anti-corruption measures. With the establishment of the Central Vigilance Commission, a good part of the functions performed by the Administrative Vigilance Division are now exercised by the Central Vigilance Commission. The Administrative Vigilance Division is now responsible for the formulation and implementation of policies of the Central Government in the field of vigilance, integrity in public services, and anti-corruption and to provide guidance and coordination to Ministries/Department of Government of India in matters requiring decisions of Government.

### **3.3 Central Vigilance Commission**

3.3.1 In pursuance of the recommendations made by the Committee on Prevention of Corruption [popularly known as Santhanam Committee], the Central Vigilance Commission was set up by the Government of India by a Resolution, dated 11.2.1964. Consequent upon the judgement of the Hon'ble Supreme Court in Vineet Narain vs. Union of



India [CWP 340-343 of 1993], the Commission was accorded statutory status with effect from 25.8.1998 through "The Central Vigilance Commission Ordinance, 1998. Subsequently, the CVC Bill was passed by both Houses of Parliament in 2003 and the President gave its assent on 11th September 2003. Thus, the Central Vigilance Commission Act, 2003 (No.45 of 2003) came into effect from that date.

**3.3.2 Set-Up Of Central Vigilance Commission:** In terms of the provisions made in the CVC's Act, the Commission shall consist of a Central Vigilance Commissioner [Chairperson] and not more than two Vigilance Commissioners [Members]. Presently, the Commission is a three member Commission consisting of a Central Vigilance Commissioner and two Vigilance Commissioners. The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President by warrant under his hand and seal for a term of four years from the date on which they enter upon their offices or till they attain the age of sixty-five years, whichever is earlier. However, the present Vigilance Commissioners shall have tenure of three years as they had been appointed before the CVC Act came into force.

**3.3.3 Functions and Powers of Central Vigilance Commission:** The functions and powers of the Commission, as defined in the CVC Act, are as under:

- (a) To exercise superintendence over the functioning of Delhi Special Police Establishment [DSPE] in so far as it relates to investigation of offences alleged to have been committed under the PC Act or an offence with which a public servant belonging a particular category (i.e. a member of All India Services serving in connection with the affairs of the Union; or Group 'A' officer of the Central Government; or an officer of the Central Public Sector enterprise/autonomous Organisation etc.) may be charged under the Code of Criminal Procedure at the same trial.
- (b) To give directions to the DSPE for the purpose of discharging the responsibility of superintendence. The Commission, however, shall not exercise powers in such a manner so as to require the DSPE to investigate or dispose of any case in a particular manner.
- (c) To inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the PC Act; or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial.
- (d) To inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to the following categories of officials, wherein it is alleged that he has committed an offence under the PC Act:
  - (i) Members of All India Services serving in connection with the affairs of the Union.
  - (ii) Group 'A' Officers of the Central Government.



- (iii) Officers of Scale-V and above of public sector banks.
- (iv) Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf, provided that till such time a notification is issued, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in this clause.
- (e) To review the progress of applications pending with the competent authorities for sanction of prosecution under the PC Act.
- (f) To review the progress of investigations conducted by the DSPE into offences alleged to have been committed under the PC Act.
- (g) To tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, the said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise.
- (h) To exercise superintendence over the vigilance administration of various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

3.3.4 Clause 24 of the CVC Act empowers the Commission to discharge the functions entrusted to it vide Government of India's Resolution dated 11.02.1964, insofar as those functions are not inconsistent with the provisions of the Act. Thus, the Commission will continue to perform following functions in addition to the functions enumerated in Para 3.2.1 above:

- (a) Appointment of CVOs: The Commission would convey approval for appointment of CVOs in terms of Para 6 of the Resolution, which laid down that the Chief Vigilance Officers will be appointed in consultation with the Commission and no person whose appointment as the CVO is objected to by the Commission will be so appointed.
- (b) Appraisal Report of CVO : The Central Vigilance Commissioner would continue to assess the work of the CVO, which would be recorded in the character rolls of the officer concerned in terms of Para 7 of the Resolution.
- (c) Commission's advice in Prosecution cases : In cases in which the CBI considers that a prosecution should be launched and the sanction for such prosecution is required under any law to be issued in the name of the President, the Commission will tender advice, after considering the comments received from the concerned Ministry/Department/ Undertaking, as to whether or not prosecution should be sanctioned.



- (d) Resolving difference of opinion between the CBI and the administrative authorities : In cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the CBI, the case will be reported to the Commission and the authority will take further action after considering the Commission's advice. In cases recommended by the CBI for departmental action against such employees as do not come within the normal advisory jurisdiction of the Commission, the Commission will continue to resolve the difference of opinion, if any, between the CBI and the competent administrative authorities as to the course of action to be taken.
- (e) Entrusting cases to CDIs: The Commission has the power to require that the oral inquiry in any departmental proceedings, except the petty cases, should be entrusted to one of the Commissioners for Departmental Inquiries (CDIs) borne on its strength; to examine the report of the CDI; and to forward it to the disciplinary authority with its advice as to further action.
- (f) Advising on procedural aspects: If it appears that the procedure or practice is such as affords scope or facilities for corruption or misconduct, the Commission may advise that such procedure or practice be appropriately changed, or changed in a particular manner.
- (g) Review of Procedure and Practices: The Commission may initiate at such intervals as it considers suitable review of procedures and practices of administration insofar as they relate to maintenance of integrity in administration.
- (h) Collecting information: The Commission may collect such statistics and other information as may be necessary, including information about action taken on its recommendations.
- (i) Action against persons making false complaints: The Commission may take initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against public servants.

**3.3.5 Jurisdiction :** Clause 8(1)(g) of the CVC Act requires the Commission to tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise. Thus, the types of cases to be referred to the Commission for advice, and also the status of officers against whom the cases would be referred to the Commission, may require a notification by the Government in the rules to be framed under the Act or through administrative instructions on the recommendation made by the Commission. However, till such time the instructions are notified, the Commission would continue to advice on vigilance cases against following categories of employees :

- (a) Group 'A' officers of the Central Government.
- (b) Members of All India Services if misconduct was committed while serving in



connection with the Affairs of the Union; or if the State Govt. proposes to impose a penalty of dismissal, removal or compulsory retirement for the misconduct committed by him while serving in connection with the affairs of that State Government.

- (c) Executives holding top positions up to two levels below the Board-level in the public sector undertakings.
  - (d) Officers in Scale-V and above in the Public Sector Banks.
  - (e) Officers of the rank of Assistant Manager and above in the Insurance Sector (covered by LIC and GIC).
  - (f) Officers drawing basic pay of Rs.8700 and above in autonomous bodies/local authorities/societies etc.
- 3.3.5.1 While delegating powers to the Ministries/Organisations to handle vigilance cases against certain categories of employees, the Commission expects that :
- (a) Appropriate expertise would be available to the CVO.
  - (b) The CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed off expeditiously.
  - (c) The punishment awarded to the concerned employee would commensurate with the gravity of the misconduct established on his/her part.
- 3.3.5.2 In order to ensure that the Commissions' expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also through the monthly information system (monthly reports) etc. If the Commission comes across any matter, which in its opinion has not been handled properly, it may recommend its review by the reviewing authority or may give such directions as it considers appropriate.

#### 3.4 CTE Organisation

3.4.1 The Committee on Prevention of Corruption had recommended that the Chief Technical Examiner's Organisation [hereinafter referred as CTEO], which was created in 1957, in the Ministry of Works, Housing & Supply for the purpose of conducting a concurrent technical audit of works of the Central Public Works Department with a view to securing economy in expenditure and better technical and financial control, should be transferred to the Central Vigilance Commission so that its services may be easily available to the Central Bureau of Investigation or in inquiries made under the direction of the Central Vigilance Commission. The recommendation was accepted by the Government of India and the Chief Technical Examiner's Organisation now functions under the administrative control of the Central Vigilance Commission as its technical wing, carrying out inspection of civil, electrical and horticulture works of the Central Government departments, public sector undertakings/enterprises of the Government of India and central financial institutions/banks etc. The jurisdiction of the organisation is coextensive with that of the Commission. The works or contracts for intensive examination are selected from the details furnished by the CVO in the quarterly progress reports sent to the CTEO.



The intensive examination of works carried out by the organisation helps in detecting cases related to execution of work with substandard materials, avoidable and/or ostentatious expenditure, and undue favours or overpayment to contractors etc.

3.4.2 At present, information in respect of civil works in progress having the tender value exceeding Rupees One crore, electrical/mechanical/electronic works exceeding Rupee fifteen lakhs, horticulture works more than Rupee two lakhs and store purchase contracts valuing more than Rupee two crores are required to be sent by the CVOs of all organisations. However, the Chief Vigilance Officers are free to recommend other cases also, while submitting the returns for examination of a particular work, if they suspect any serious irregularities having been committed.

3.4.3 Out of the returns furnished by the Chief Vigilance Officer, the Chief Technical Examiners select certain works for intensive examination and intimate these to the CVOs concerned.

3.4.4 The CVO is expected to make available all relevant documents and such other records as may be necessary, to the CTE's team examining the works. After intensive examination of a work is carried out by the CTE's Organisation, an inspection report is sent to the CVO. The CVO should obtain comments of various officers at the site of work or in the office at the appropriate level, and furnish these comments to the CTE with his own comments. In case the CTE recommends investigation of any matter from a vigilance angle, such a communication should be treated as a complaint and dealt with appropriately. The investigation report in such cases should be referred to the Commission for advice even if no vigilance angle emerges on investigation.

### 3.5 CDI Unit

3.5.1 To assist the disciplinary authorities in the expeditious disposal of oral inquiries, the Ministry of Home Affairs appointed Officers on Special Duty [later re designated as Commissioners for Departmental Inquiries] on the strength of the Administrative Vigilance Division. On the recommendation of the Committee on Prevention of Corruption, the Commissioners for Departmental Inquiries were transferred to work under the control of the Central Vigilance Commission.

### 3.6 Annual Report

3.6.1 The Commission is required to present annual report to the President as to the work done by it within six months of the close of the year under report. The report would contain a separate part on the superintendence by the Commission on the functioning of Delhi Special Police Establishment. The President shall cause the same to be laid before each House of Parliament.

### 3.7 Chief Vigilance Officer

3.7.1 The CVO heads the Vigilance Division of the organisation concerned and acts as a special assistant/advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission on one hand and his organisation and the Central Bureau of Investigation on the other. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence



about the corrupt practices committed, or likely to be committed by the employees of his organization, investigating or causing an investigation to be made into verifiable allegations reported to him, processing investigation reports for further consideration of the disciplinary authority concerned, referring the matter to the Commission for advice wherever necessary, taking steps to prevent commission of improper practices/misconducts, etc. Thus, the functions of CVO can broadly be divided into following three parts :

- (a) Preventive Vigilance.
- (b) Punitive Vigilance.
- (c) Surveillance and Detection.

### 3.8 Central Bureau of Investigation

3.8.1 The Central Bureau of Investigation was constituted under the Government of India Resolution No. 4/31/61-T dated 01.04.1963. The investigation work is done through SPE wing of the CBI, which derives its Police Powers from the Delhi Special Police Establishment Act, 1946 to inquire and to investigate certain specified offences or classes of offences pertaining to corruption and other kinds of malpractices involving public servants with a view to bring them to book. Section 3 of the Act provides that Central Government may, by notification in the official gazette, specify the offences or class of offences, which are to be investigated by the CBI.

3.8.2 The Special Police Establishment enjoys with the respective State Police Force concurrent powers of investigation and prosecution under the Criminal Procedure Code. However, to avoid duplication of effort, an administrative arrangement has been arrived at with the State Governments according to which :

- (a) Cases, which substantially and essentially concern Central Government employees or the affairs of the Central Government, even though involving State Government employees, are to be investigated by the SPE. The State Police is, however, kept informed of such cases and will render necessary assistance to the SPE during investigation.
- (b) Cases, which substantially and essentially involve State Government employees or relate to the affairs of a State Government, even though involving certain Central Government employees, are investigated by the State Police. The SPE is informed of such cases and it extends assistance to the State Police during investigation, if necessary. When the investigation made by the State Police authorities in such cases involves a Central Government employee, the requests for sanction for prosecution of the competent authority of the Central Government will be routed through the SPE.

3.8.3 The Special Police Establishment, which forms a Division of the Central Bureau of Investigation, has two Divisions :

- (a) Anticorruption Division.
- (b) Special Crimes Division.



3.8.4 Anticorruption Division investigates all cases registered under the Prevention of Corruption Act, 1988. If an offence under any other section of IPC or any other law is committed along with offences of bribery and corruption, it will also be investigated by the Anticorruption Division. The Anti-corruption Division will also investigate cases pertaining to serious irregularities allegedly committed by public servants. It will also investigate cases against public servants belonging to State Governments, if entrusted to the CBI.

3.8.5 On the other hand, the Special Crime Division investigates all cases of Economic offences and all cases of conventional crimes; such as offences relating to Internal Security, Espionage, Sabotage, Narcotics and Psychotropic Substances, Antiquities, Murders, Dacoities/Robberies, Cheating, Criminal Breach of Trust, Forgeries, Dowry Deaths, Suspicious Deaths and other offences under IPC and other laws notified under Section 3 of the DSPE Act.

3.8.6 The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offence alleged to have been committed under the Prevention of Corruption Act, 1988 [i.e. Anti-Corruption Division] vests in the Commission. The superintendence of DSPE in all other matters vests in the Central Government.

3.8.7 The administration of DSPE vests in the Director of the CBI, who is appointed on the recommendations of a committee headed by the Central Vigilance Commissioner. He holds office for a period of not less than two years from the date on which he resumed office. The Director CBI shall exercise in respect of DSPE such of the powers exercisable by an Inspector General of Police in respect of police force in a State as the Central Government may specify in that behalf.

3.8.8 The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Central Government where such allegation relates to:

- (a) The employees of the Central Government of the level of Joint Secretary and above.
- (b) Such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

3.8.9 Notwithstanding anything contained in Para above, no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988.

## Chapter - 4

### CHIEF VIGILANCE OFFICER'S APPOINTMENT ROLE AND FUNCTION



You cannot change your Future. But, you can change your habits. And surely your habits will change your future.

- Dr. Abdul Kalam





## MYSORE COMPLEX

### 4.1 Background

4.1.1 Primary responsibility for maintenance of purity, integrity and efficiency in the organisation vests in the Secretary of the Ministry, or the head of the Department, or the Chief Executive of the Public Sector Enterprises. Such authority, however, is assisted by an officer called the Chief Vigilance Officer (CVO) in the discharge of vigilance functions. The CVO acts as a special assistant/advisor to the chief executive and reports directly to him in all matters relating to vigilance. He heads the Vigilance Division of the organisation concerned and provides a link between his organisation and the Central Vigilance Commissioner and his organisation and the Central Bureau of Investigation.

4.1.2 It has been provided that big departments/organisations should have a full-time CVO, i.e. he should not be burdened with other responsibility. If it is considered that the CVO does not have full-time vigilance work, he may be entrusted with such functions that serve as input to vigilance activity, e.g. audit and inspections.

4.1.3 The work relating to security and vigilance, however, should not be entrusted to the CVO as, in that case, the CVO would find very little time for effective performance of vigilance functions. Furthermore, in order to be effective, he should normally be an outsider appointed for a fixed tenure on deputation terms and should not be allowed to get absorbed in the organisation either during the currency of deputation period or on its expiry.

### 4.2 Procedure For Appointment

4.2.1 The Chief Vigilance Officers in all departments/organisations are appointed after prior consultation with the Central Vigilance Commission and no person whose appointment in that capacity is objected to by the Commission may be so appointed.

### 4.3 Appointment of CVO in the Ministries/Departments

4.3.1 The Ministries/Departments of Government of India are required to furnish a panel of names of officers of sufficiently higher level (Joint Secretary or at least a Director/ Dy. Secretary), who may report direct to the Secretary concerned, in the order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission for the post of CVO is entrusted vigilance functions on full-time or part-time basis, as the case may be.

### 4.4 Appointment of CVO in Public Sector Undertaking

4.4.1 The CVO in a public sector undertaking (PSU), as far as practicable, should not belong to the organisation to which he is appointed, and having worked as CVO in an organisation, should not go back to the same organisation as CVO. The thrust behind this policy is to ensure that the officer appointed as CVO is able to inspire confidence that he would not be hampered by past association with the organisation in deciding vigilance cases.

4.4.2 The following guidelines have been prescribed for filling up full-time posts of CVOs in the PSUs:

- (a) The posts shall be filled as per the procedure followed for posts in the Central Government under the Central Staffing Scheme.



- (b) The DOPT would request the cadre controlling authorities of various organized services, as well as PSUs, to offer officers of proven integrity for these posts. The names, so received, would be forwarded, along with bio-data of the officers concerned and their ACR Dossiers, to the Central Vigilance Commission for approval.
- (c) The DOPT would maintain a panel of names approved by the Commission and would request the cadre authorities, as well as the officers on the officer list, to indicate choice of location.
- (d) The DOPT would offer the names to the Ministries/ Departments concerned for the posts of CVOs in the PSUs under their respective charges.
- (e) The offer list would be operative for a period of one calendar year.
- (f) The DOPT, or the Administrative Ministry/ Department concerned, would obtain specific approval in favour of an officer in the proposal to appoint that officer as a CVO in any of 100 select organisations.

4.4.3 Such PSUs, which do not have full-time posts of CVOs, would forward a panel of names of three officers of sufficiently higher level, who can report direct to the chief executive in the vigilance related matters, arranged in order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission for the post of CVO would be entrusted vigilance functions on part-time basis, i.e. in addition to his normal duties.

#### 4.5 Tenure of CVO

4.5.1 The normal tenure of a CVO is three years extendable up to a further period of two years in the same organisation, or up to a further period of three years on transfer to another organisation on completion of initial deputation tenure of three years in the previous organisation, with the approval of the Commission, But if a CVO has to shift from one PSU to another PSU without completing the approved tenure in the previous PSU, the principle of overall tenure of six years would prevail.

#### 4.6 Short Term Arrangement in the Post of CVO

4.6.1 Suitable arrangements in vacancies for three months, or for any shorter period, due to leave or other reasons, may be made by the appropriate authority concerned, without prior approval of the Central Vigilance Commission. The nature and duration of vacancy and the name of the officer who is entrusted with the duties of CVO should however be reported to the Commission.

#### 4.7 Association of CVO with Sensitive Matters

4.7.1 It is considered that participation in decision making or close association of vigilance staff in such matters over which they might be required, at a later stage, to sit in judgment from vigilance point of view, should be avoided. Therefore, vigilance functionaries should not be a party to processing and decision-making processes or in other similar administrative transactions of such nature, which are likely to have clear vigilance sensitivity. While it may not be difficult for full-time vigilance functionaries to comply with this requirement, the compliance of these instructions could be achieved in



respect of part-time vigilance functionaries by confining their duties, other than those connected with vigilance work, as far as possible, to such items of work that are either free from vigilance angle or preferable serve as input to vigilance activities such as inspection, audit, etc.

#### 4.8 Permanent Absorption of CVO in PSU

4.8.1 If an assurance is extended to a CVO, who has been appointed on deputation terms for a fixed tenure in the PSU, for permanent absorption, there is a distinct possibility that it might impair this objectivity in deciding vigilance cases and might negate the very purpose of appointing outsider CVOs. It has, thus, been provided that an outsider CVO shall not be permanently absorbed in the same public sector undertaking on expiry or in continuation of his tenure as CVO in that organisation.

#### 4.9 Assessment of CVO's Work

Central Vigilance Commissioner has also been given the powers to assess the work of Chief Vigilance officers. The Assessment is recorded in the character rolls of the officer. For that purpose, the following procedure has been prescribed :

- (a) The ACRs of the CVOs in the public sector undertakings/organisations, whether working on a fulltime or a part-time basis, would be initiated by the chief executive of the concerned undertaking/organisation, reviewed by the Secretary of the administrative Ministry/ Department concerned, and sent to the Central Vigilance Commissioner for writing his remarks as the accepting authority.
- (b) The assessment by the Central Vigilance Commissioner in respect of the CVOs in the Ministries/ Departments of the Government of India and their attached/ subordinate offices, who look after vigilance functions in addition to their normal duties, will be recorded on a separate sheet of paper to be subsequently added to the confidential rolls of the officers concerned.

#### 4.10 Role and Functions of CVO

4.10.1 As stated above, the CVO heads the vigilance Division of the organisation concerned and acts as a special assistant/advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission and his organisation and the Central Bureau of Investigation. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed, or likely to be committed by the employees of his organisation, investigating or causing an investigation to be made into verifiable allegations reported to him, processing investigation reports for further consideration of the disciplinary authority concerned, referring the matters to the Commission for advice wherever necessary, taking steps to prevent commission of improper practices/ misconducts, etc. Thus, the CVOs' functions can broadly be divided into three parts, as under:

- (a) Preventive vigilance.
- (b) Punitive vigilance.
- (c) Surveillance and detection.



4.10.2 While “Surveillance” and “Punitive Action” for commission of misconduct and other malpractices is certainly important, the ‘Preventive Measure” to be taken by the CVO are comparatively more important as these are likely to reduce the number of vigilance cases considerably. Thus, the role of CVO should be predominantly preventive.

#### 4.11 Preventive Vigilance

4.11.1 Santhanam Committee, while outlining the preventive measures, that should be taken to significantly reduce corruption, had identified four major causes of corruption :

- (a) Administrative delays.
- (b) Government taking upon themselves more than what they can manage by way of regulatory functions.
- (c) Scope for personal discretion in the exercise of powers vested in different categories of government servants.
- (d) Cumbersome procedures of dealing with various matters which are of importance to citizens in their day to day affairs.

4.11.2 The CVO is thus expected to take following measures on preventive vigilance side:

- (a) To undertake a study of existing procedure and practices prevailing in his organisation with a view to modifying those procedures or practices which provide a scope for corruption, and also to find out the causes of delay, the points at which delay occurs and device suitable steps to minimize delays at different stages.
- (b) To undertake a review of the regulatory functions with a view to see whether all of them are strictly necessary and whether the manner of discharge of those functions and exercise of powers of control are capable of improvement. (iii) To device adequate methods of control over exercise of discretion so as to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner.
- (c) To educate the citizens about the procedures of dealing with various matters and also to simplify the cumbersome procedures as far as possible.
- (d) To identify the areas in his organisation which are prone to corruption and to ensure that the officers of proven integrity only are posted in those areas.
- (e) To prepare a list of “Officers of Doubtful Integrity” – The list would include names of those officers who, after inquiry or during the course of inquiry, have been found to be lacking in integrity, such as :
  - (i) Officer convicted in a Court of Law on the charge of lack of integrity or for an offence involving Moral turpitude but who has not been imposed a penalty of dismissal, removal or compulsory retirement in view of exceptional circumstances.
  - (ii) Awarded departmentally a major penalty on charges of lack of integrity or gross dereliction of duty in protecting the interest of government although corrupt motive may not be capable of proof.



(iii) Against whom proceedings for a major penalty or a court trial is in progress for alleged acts involving lack of integrity or moral turpitude and who was prosecuted but acquitted on technical grounds as there remained a reasonable suspicion about his integrity.

- (f) To prepare the “Agreed List” in consultation with the CBI which will include the names of officers against whose honesty or integrity there are complaints, doubts or suspicions.
- (g) To ensure that the officers appearing on the list of officers of doubtful integrity and the Agreed List are not posted in the identified sensitive/corruption prone areas.
- (h) To ensure periodical Rotation of Staff.
- (i) To ensure that the organisation has prepared manuals on important subjects such as purchases, contracts, etc. and that these manuals are updated from time to time and conform to the guidelines issued by the Commission.
- (j) Interaction/Cooperation with CBI :The CVOs in PSEs and the concerned officer in the CBI should interact as frequently as possible with reference to exigencies of work. However, there should be a quarterly meeting between the CBI and CVO at the level of Zonal Joint Director of CBI to monitor and to take stock of the cases and exchange information for expeditious investigation and preparation of the 'Agreed List'.
  - (i) Standard tender procedure, policy guidelines and manuals may be supplied to the CBI so that transactions under investigation/inquiry could be examined to find out whether criminal or departmental misconduct is made out or not. Such standardised procedures and guidelines should also be updated periodically as compilations of extant procedures make it easier to form a view about criminal liability, misconduct or innocence of an official in a particular case.
  - (ii) The CVO should screen all the complaints before sending the same to the CBI - whether the complaint should be forwarded to CBI or be dealt with departmentally, as per provisions contained in Paras 11.2 and 11.3 (a) infra.
  - (iii) CBI should ordinarily be sent only cases involving transactions not less than Rs. 25 lakhs or otherwise possessing national or international ramifications. Other cases may be sent to the local police.
  - (iv) Full cooperation and facilities should be extended by the Public Sector Enterprises to the CBI during the course of investigation. This would include making available to them the requisite documents with the least possible delay, directing such employees as are to be examined to appear before the investigating officer and making suitable transport/accommodation in the PSE's guest houses, available to touring officers (subject to availability), in accordance with their entitlement and on



payment of the prescribed charges. Assistance of technical experts to the Investigating Officer, if considered necessary, may also be provided to the extent possible in accordance with extant instructions on the subject.

- (v) When PSEs make reference to the CBI for investigation, they should also make available duly certified photocopies of all relevant documents along with the complaint so that there is no delay in initiating action on the part of the CBI. The originals may be handed over to them only at the time of the actual registration of the case. Similarly, when CBI seizes documents, authenticated copies of all the documents, should within four days of the seizure, be made available to the CVO of the PSE.
- (vi) Investigation Reports Received From CBI are as given below :
  - (ai) On completion of their investigation, the CBI forwards a copy of the SP's report to the concerned CVO for further action. A copy of the SP's report is also endorsed to the Commission in cases in which the Commission's advice is necessary.
  - (aii) The CBI generally recommends prosecution in cases of bribery, corruption or other criminal misconduct; it also considers making similar recommendations in cases involving a substantial loss to the Government or a public body. The Commission's advice for prosecution, however, is required only if the sanction for prosecution is necessary under any law promulgated in the name of the President. In such cases, CVOs should furnish the department's comments within a month of the receipt of the CBI report by the competent authority. In other cases, as directed by the Supreme Court, the matter should be processed expeditiously to ensure that the required sanction is issued within a period of three months (the instructions issued by the Department of Personnel & Training vide O.M. No. 142/10/97-AVD.I dated 14.01.1998 also refer) **(Annexure-02)** However, in case of difference of opinion between the CBI and the competent authority in the PSE, the matter may be referred to the Commission for its advice irrespective of the level of the official involved.
  - (aiii) Prosecution proposals should be able to meet the legal and technical requirements laid down by the Courts. Apart from adequate evidence to establish that an offence has been committed under the relevant provision of the law, there should be some facts on record from which it should be possible to infer or presume a criminal or guilty intention behind the omission or commission. In the absence of mens rea violation of rules or codal formalities could at worst be considered as transgressions of systems and procedures of the organisation and the same would, as such, be more suitable as the subject matter of Regular Departmental Action (RDA) rather than criminal prosecution.



- (aiv) In cases, where the CBI recommends RDA for major/minor penalty action or 'such action as deemed fit' against the officials and the Commission is to be consulted, the CVO should ensure that the comments of the department/PSE on the CBI report are furnished to the Commission within one month of the receipt of the CBI's investigation report, failing which the CVC will proceed to examine the case and tender advice. Further action in such cases may be taken as per the Commission's advice. In other cases, the CVO should take expeditious action to ensure that charge-sheets, if necessary, are issued within two months of the receipt of the investigation report from the CBI. It would not be necessary for the CBI to follow up the matter in such cases after the disciplinary authority has initiated action for RDA against the concerned officials in accordance with their recommendations. However, in case of difference of opinion between the CBI and administrative authorities, the matter would be referred to the Commission for advice irrespective of the level of the official involved. The organisation would take further action in accordance therewith.
- (av) The law of the land permits prosecution as well as RDA to proceed simultaneously (Jang Bahadur Singh v/s Baijnath Tewari, 1969 SCR, 134).
- (avi) Where the suspect officer is primarily accountable for conduct which legitimately lends itself to both criminal prosecution in a court of law as well as RDA, as a general rule, both should be launched simultaneously after consultation with the CBI or other investigating agencies charged with conducting the prosecution. Such simultaneous conduct of RDA and criminal prosecution should be resorted to especially if the prosecution case is not likely to be adversely affected by the simultaneous conduct of RDA. Keeping RDA in abeyance should be an exception rather than rule. Copies of all the relevant documents authenticated by the competent authority may be retained, for the purpose of RDA, before the original documents are sent to the Court. If the documents have already been sent to a Court of Law for the purpose of criminal proceedings, certified copies may be procured for the purpose of RDA. Care, however, should be taken to draft the charge sheet for the purpose of RDA in such a manner that it makes the suspect official accountable for violation of various provisions of CDA Rules without reference to criminal misconduct.

#### 4.12 Punitive Vigilance

4.12.1 The CVO is expected to scrutinize reports of Parliamentary Committees such as Estimates Committee, Public Accounts Committee and the Committee on public undertakings; audit reports; proceedings of both Houses of Parliament; and complaints and allegations appearing in the press; and to take appropriate action thereon.



Predominantly, the CVO is expected to take following action on the punitive vigilance aspects:

- (a) To receive complaints from all sources and scrutinize them with a view to finding out if the allegations involve a vigilance angle. When in doubt, the CVO may refer the matter to his administrative head.
- (b) To investigate or cause an investigation to be made into such specific and verifiable allegations as involved a vigilance angle.
- (c) To investigate or cause an investigation to be made into the allegations forwarded to him by the Commission or by the CBI.
- (d) To process the investigation reports expeditiously for obtaining orders of the competent authorities about further course of action to be taken and also obtaining Commission's advice on the investigation reports where necessary.
- (e) To ensure that the charge sheets to the concerned employees are drafted properly and issued expeditiously.
- (f) To ensure that there is no delay in appointing the inquiring authorities where necessary.
- (g) To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defence during the course of inquiry, and obtaining orders of the competent authority about further course of action to be taken and also obtaining the Commission's second stage advice and UPSC's advice, where necessary.
- (h) To ensure that the disciplinary authority concerned, issued a speaking order, while imposing a punishment on the delinquent employee. The order to be issued by the disciplinary authority should show that the disciplinary authority had applied its mind and exercised its independent judgment.
- (i) To ensure that rules with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings void.
- (j) To ensure that the time limits prescribed for processing the vigilance cases at various stages, as under, are strictly adhered to:

SL. NO.	STATE OF INVESTIGATION OR INQUIRY	TIME LIMIT
1	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the complaint.
2	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	One month from receipt of the complaint.



SL. NO.	STATE OF INVESTIGATION OR INQUIRY	TIME LIMIT
3	Conducting investigation and submission or report.	Three months.
4	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.
5	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.
7	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report.
8	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.
9	Consideration of defence statement.	15 (Fifteen) days.
10	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12	Conducting departmental inquiry and submission or report.	Six months from the date of appointment of IO/PO.
13	Sending a copy of the IO's report to the Charged Officer for his representation.	i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved. ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated.
14	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.



- (k) Vide CVC Office Order No. 4/2/09 dated 27th February 2009 (**Annexure-03**), the Commission has mandated that, for all complaints under Public Interest Disclosures and Protection of Informers, the maximum time limit for submission of report is ONE month from the receipt of reference of the Commission.
- (l) For Complaints against Board level appointments, CVC Vide Office Order No. 57/8/04 dated 31st August 2004 (**Annexure-04**), the Commission has decided as follows :
- (i) As a rule, complaints/cases which are more than 5 years old and no action has been taken till then, should not be investigated, However, the time limit of 5 years will not apply to cases of fraud and other criminal offences.
- (ii) No cognizance should be taken of any complaint which is received 6 months prior to the initiation of selection process for senior posts.

4.12.2 Although the discretion to place a public servant under suspension, when a disciplinary proceedings is either pending or contemplated against him, is that of the disciplinary authority, the CVO is expected to assist the disciplinary authority in proper exercise of this discretion. The CVO should also ensure that all cases in which the officers concerned have been under suspension are reviewed within a period of 90 days with a view to see if the suspension order could be revoked or if there was a case for increasing or decreasing the subsistence allowance.

4.12.3 The Commission's advice in respect of category 'A' officials is to be obtained at two stages; firstly on the investigation report in terms of Para 11(iv) and secondly on the inquiry report in terms of para 11(vii) supra. The CVO has to ensure that the cases receive due consideration of the appropriate disciplinary authority before these are referred to the Commission and its tentative recommendation is indicated in the references made to the Commission. The references to the Commission should be in the form of a self-contained note along with supporting documents, viz the complaint, investigation report, statement/version of the concerned employee on the allegations established against them and the Comments of the administrative authorities thereon in first stage advice cases; and copy of the charge-sheet, statement of defence submitted by the concerned employee, the report of the inquiring authority along with connected records and the tentative views/findings of the disciplinary authority on each article of charge in second stage advice cases. The CVO may also ensure that the bio-data of the concerned officers is also furnished to the Commission in the prescribed format, while seeking its advice. The cases requiring reconsiderations of the Commission's advice may, however, be sent with the approval of the Chief Executive, or the Head of the Department, as the case may be.

#### 4.13 Surveillance and Detection

4.13.1 The CVO should conduct regular and surprise inspections in the sensitive areas in order to detect if there have been instances of corrupt or improper practice by the public servants. He should also undertake prompt and adequate scrutiny of property returns and intimations given by the public servants under the conduct rules and proper follow up



action where necessary. In addition, he should also gather intelligence from its own sources in whatever manner he deems appropriate about the misconduct/malpractices having been committed or likely to be committed.

CVO should invariably review all pending matters, such as investigation reports, disciplinary cases and other vigilance complaints/cases in the first week of every month and take necessary steps for expediting action on those matters.

#### 4.14 Review Meetings /Structured Meeting of CVO with CMD

4.14.1 The CVO would arrange quarterly meetings to be taken by the Secretary of the Ministry/Department or the Chief executive for reviewing the vigilance work done in the organisation.

4.14.2 The CVO would also arrange periodical meetings with the officers of the CBI to discuss matters of mutual interests, particularly those arising from inquiries and investigations.

4.14.3 The CVO would also arrange monthly or quarterly meetings in a structured manner with CMD for review of Vigilance Work/ activities. Minutes of such review meetings held would be reported by CVO in the Monthly report to the Commission.

#### 4.15 Reports and Returns

4.15.1 The CVO would also ensure that monthly reports of the work done on vigilance matters are furnished to the Commission by fifth day of the following months.

4.15.2 The CVO would ensure that the Annual Report(AR) of the previous year ( Jan. to Dec.) of the work done on vigilance matter is furnished to the Commission by 30th Jan. of the succeeding year.

4.15.3 The CVO would also ensure that quarterly progress reports (QPR) on the civil, electrical, horticulture works in progress and also on procurement of stores are furnished to the CTEs by 15th day of the month following the quarters ending March, June, September and December.

## Chapter - 5 VIGILANCE IN BEML



**VIGILANCE AWARENESS WEEK**

To believe in something and  
not to live it, is dishonest.

- Mahatma Gandhi



## 5.1 Corporate Vigilance Vision

5.1.1 Vision of BEML is as given below :

- (a) Preventive Actions should prevail over Punitive Actions.
- (b) To enforce meaningful, workable and objective Systems/ & Procedures to :
  - (i) Develop Trust and Transparency in all Transactions.
  - (ii) Prevent Leakage of Revenue.
  - (iii) Promote Pride and Self-Esteem of the Organization.
  - (iv) Time Bound Action in all spheres of activities.

## 5.2 Vigilance Organization

- (a) Vigilance is an important function of the management, like other functions viz., Finance, Personnel, Marketing, etc.. It is now considered part and parcel of the organization. Vigilance, therefore, cannot overlook the ultimate objectives of the organization and has to function within their framework. Though the prime object of Vigilance is to eradicate corruption in the organization, it has to safeguard the interests of the organization and, therefore, has to take a balanced view.
- (b) Vigilance Organization should never be instrumental in 'framing' a case against an employee. It should never be a tool in the process of witch-hunting at the behest of any individual, however highly placed she / he may be.
- (c) Vigilance efforts to tackle malpractices and corruption in the organization should, primarily, be the objective.
- (d) Vigilance checks should be objective. Preventive checks should be judiciously designed to give fair coverage to all sensitive departments with due Weightage to factors like:
  - (i) Loss of Revenue to the organization.
  - (ii) Harassment of the common Man.
- (e) Vigilance should steer clear of quarrels / personal enmity between two individuals as attempts are often made to involve Vigilance in such matters.
- (f) Vigilance should not interfere in administrative matters. This should be left to the department itself. Complaints having Vigilance angle only need be looked into by Vigilance.
- (g) There should be no subversion of Vigilance cases to favour an individual on account of local / political pressures or pulls. Vigilance should give their recommendations to the Disciplinary Authority without any fear or favour.

## 5.3 Vigilance Officials

5.3.1 Code of Conduct for Vigilance Officials is given below.



# VIGILANCE AWARENESS WEEK





- (a) While working in the Vigilance organization, an official has got a very onerous duty to perform. She / he has to simultaneously protect the interests of both the organization as well as that of the employee.
- (b) In this context, one's Conduct can be divided into two categories, such as, Official Conduct and Personal Conduct.

#### 5.3.2 Few Cardinal Principles for Official Conduct are mentioned below :

- (a) Speedy investigations must be ensured. It is necessary that investigation is expedited so that either the employee/officer is brought to book quickly and punished, or he/she is cleared and is able to regain his/her position in the department. The laid down schedule of investigation should therefore be strictly followed, and frequent discussions should be held by Investigating Officer with superiors and the DGM (Vig) to ensure that the investigations are being carried out on correct lines and that they are not delayed. Expeditious finalization of investigation is very important.
- (b) Investigation must be fair and impartial. Enough precautions must be taken to ensure that personal prejudices do not influence the investigation. Hasty and faulty conclusion must not be arrived at. The facts and merits of a case and not the reputation of the officer should be the real determinant. Whenever disciplinary proceedings are initiated, it must be ensured that departmental enquiries are also conducted expeditiously so that the Organization is able to decide quickly about the role of the Charged Officer in the alleged transaction or malpractice and is able to take an early decision on penalty to be awarded or otherwise. The Vigilance Officers must keep constant track of the cases at all stages and ensure logical conclusion.

#### 5.4 Model Code of Conduct – General

##### 5.4.1 Model Code of Conduct in general is mentioned below :

- (a) Never disclose the source of Information to anyone.
- (b) Never foul up human relations by divulging the identity of the complainant(s) or Informant(s) to the personnel concerned.
- (c) Never discuss the case under investigation with any outsider or even colleague.
- (d) Never be Light Hearted, Flippant or Irresponsible in general conduct.
- (e) Never be swayed by pre-conceptions, prejudices or pressure.

#### 5.5 Preventive Checks

##### 5.5.1 Some of the Preventive Checks required to be considered are given below :

- (a) Be Diligent : Be thorough in investigation / fact finding, dig as far deep into transactions and as far back in time as possible.
- (b) Be Detailed : Coverage of the area chosen be intensive and extensive.



- (c) Be Dynamic : Do not merely state static facts, make them come live and speak for you by eliciting any trends and patterns of conduct or any decision making impinging on Vigilance.
- (d) Be Qualitative : Vigilance Officers should not bother about inflating the number of preventive checks as a criterion for showing more output. They should concentrate on sensitive areas and on the activities of the officers borne on the Agreed and secret lists. Even if checks are fewer in number, they must be thorough and complete and be able to withstand scrutiny. In fact, few checks resulting in more people being caught / detected indulging in various malpractices and result in improvement of procedures, thus eliminating or minimizing the chances for corruption, are much better than the numerous checks conducted perfunctorily.

#### 5.6 Personal Conduct

##### 5.6.1 In respect of Personal Conduct, the following important points may be borne in mind:

- (a) Each Vigilance official in a Vigilance Organization has to be a Hundred Percent Honest. Vigilance officials have not only to be honest, but appear to be so.
- (b) Personal prejudices and idiosyncrasies must not get the better of logic or reason. Logic / reason is the instrument to reach the final objectives of truth and justice.
- (c) Humility does not necessarily mean weakness. One should be firm in conviction, determination and argument.
- (d) Nothing should be done with a view to perpetrating revenge on any person to settle an old score.
- (e) The objective of the Vigilance organization is to bring about cleanliness in different fields of organizational working. Punishing people is neither the primary nor the only objective, it is incidental to the efforts.
- (f) Be polite and courteous, courtesy costs nothing.

#### 5.7 Establishment and Vigilance Set Up in BEML

5.7.1 Ever since its inception, the Vigilance Department co-existed with Security Department and was generally identified as S&V (Security & Vigilance) Dept. Based on the outcome of the Regional Workshop of Chief Vigilance Officers held in Bangalore on 10th and 11th December 1997, action was taken by BEML Management for bifurcation of Security and Vigilance Department in the Company, with a view to strengthen and focus only on anti-corruption activities.

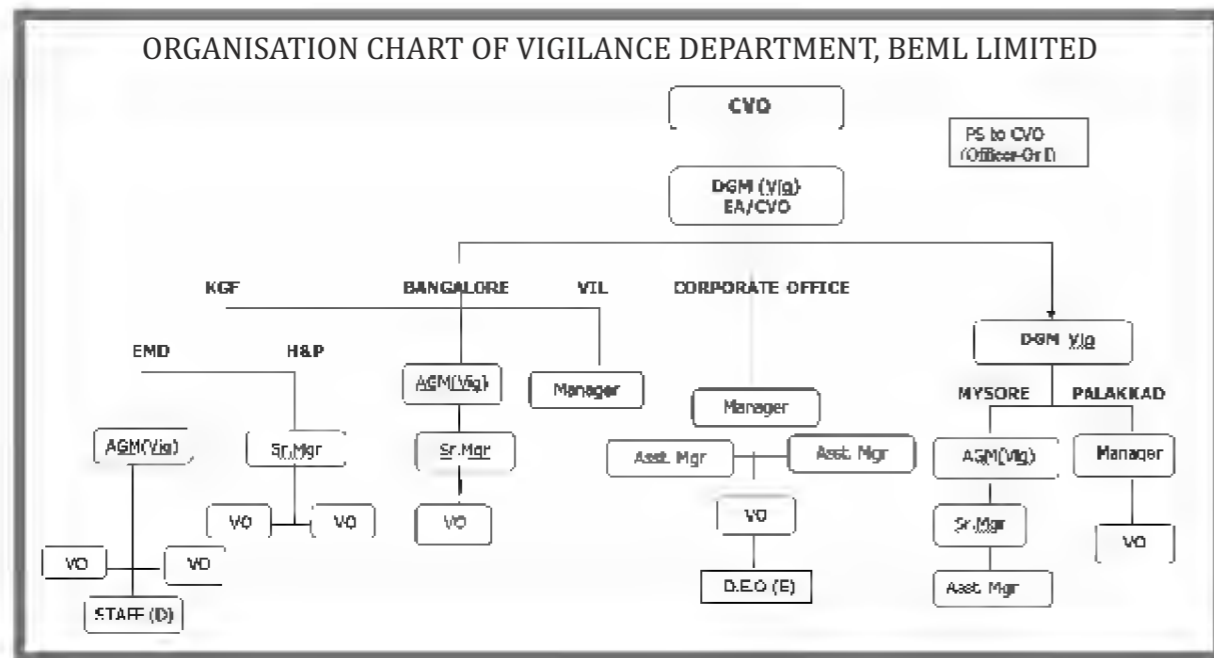
5.7.2 With a view to tackle corruption and making the functioning of investigating and Vigilance agencies more independent, effective, credible and prompt, the Department of Public Enterprises (Govt. of India), vide their letter No. 15(7)/98(GL-009) GM dated 25th September 1998, **(Annexure-5)**, has recommended model vigilance set-up for the PSE's as a broad guideline to be adopted with such modifications as may be appropriate in the case



of an individual undertaking. Based on the recommendations made in the above letter of DPE, the vigilance setup in BEML was recognized and the present setup established.

5.7.3 At the Corporate level, the Vigilance work is looked after by the Chief Vigilance Officer who enjoys the status, facilities and perquisites equivalent to that of a Functional Director of the Company. She/he is assisted by an Executive Assistant in the grade of Deputy General Manager who directly reports to CVO. At the Field Level, a Deputy General Manager leads all investigations. Officers at various levels, who are essentially Investigating Officers report to CVO through DGM (Vig).

5.7.4 Divisional Vigilance Offices have been set up in Bangalore Complex, Mysore Complex, KGF Complex, Pallakad Division and VIL Tarikere, a subsidiary of BEML. Functionally, all the Vigilance Officers report to CVO through DGM (Vig) and administratively to the respective Division Chiefs.



## 5.8 Duties and Responsibilities

### 5.8.1 DGM (Vigilance) - CO

- He/ She will report administratively and functionally to the Chief Vigilance Officer.
- He/ She will assist CVO for ensuring implementation of Corporate Policies and CVC/DPE/MoD guidelines on all vigilance related matters in the Company.
- He/ She will be responsible for compilation/collation of all vigilance reports, correspondences and returns from all the divisions including Corporate Vigilance and further onward submission to the MoD/CVC/CBI and other Government departments.
- He/ She will follow up the cases pending investigation/enquiry/disciplinary actions in all Divisions for timely disposal as per CVC guidelines.

- He/ She will maintain a Vigilance Complaint Register in prescribed format at the Corporate level for keeping records of complaints received in Corporate Vigilance. He will also maintain register for keeping track of progress of investigation and disciplinary proceedings in prescribed format. He will sign entries in the complaint register. If the complaint relates to non-vigilance matters which are received in vigilance section, then it will be separately entered in the register in part II and after entering the details the complaints will be forwarded to HR or the concerned department for further action.
- He/ She will ensure circulation of CVC/DPE/MoD guidelines/Circulars to all Divisions for compliance. He shall also follow-up for the compliance report.
- He/ She will liaise with the CBI and vigilance set up of other Central PSUs in Bangalore, regarding vigilance matters.
- He/ She shall co-ordinate with CVC for carrying out audit on vigilance function and take corrective actions based on audit findings of CVC.
- He/ She will put up nominations of Officers for external training / seminars / meetings relating to vigilance and disciplinary proceedings and maintain record of trained Officers.
- He/ She will put up to CVO, the Agenda of MoD/CVC and other important meetings, relating to Vigilance.
- He/ She will visit Division in connection with vigilance related activities.
- He/ She will put up for scrutiny at least 20% of APRs of Executives of Grade V and above in the Company before CVO every year in prescribed format so that APRs of all Executives are covered in 5 years.
- He/ She will verify the records of non-executives before processing the vigilance clearance who are working in Corporate Office and Marketing Division (including Regional and District Offices) for promotion / confirmation / superannuation / resignation / VRS / issue of passports / Visa, whether any department disciplinary cases/vigilance cases are pending or under punishment period or any police case filed by BEML pending, or bound by any obligations/agreements to serve the Company. In case of Executives (Grade I to V) he will give vigilance clearance after duly verifying the records as done in the case on non-executives and give vigilance clearance. For executives (Grade VI and above) after verifying the records as done in the case of others, he will put up the note sheet for approval of CVO and then give the vigilance clearance.
- He/ She will officiate as CVO in his absence with prior approval.
- He/ She will put up review of vigilance work done by VOs/AVOs on half yearly basis along with his comments.
- He/ She will initiate action for updating of BEML Vigilance Manual yearly.
- He/ She shall carry out any other duties entrusted to him by CVO/CMD.



5.8.2 The Corporate Vigilance department in the organization has five functional wings as given below. The Vigilance functionaries will report to DGM (Vig-CO) and assist in all the Vigilance matters as enumerated in the Duties and responsibilities of DGM /AGM.

- (a) Investigation Wing.
- (b) Disciplinary Wing.
- (c) Anti-corruption Wing.
- (d) Preventive Vigilance Wing.
- (e) Technical Wing.

5.8.3 The assigned tasks of these wings are given below :

- a) **Investigation Wing:** To deal with complaints received from various sources such as individuals, CVC, CBI, Media, Audit, conduct investigations and verification of files for suspected irregularities.
- b) **Disciplinary Wing:** To deal with and follow up of cases arising out of various investigation reports, disciplinary proceedings and inspection reports. Vetting of Charge Sheets pertaining to Vigilance cases. To monitor the progress of inquiry proceedings on all vigilance cases and to put up Disciplinary Authority's recommendations to CVO's concurrence and to review long pending Disciplinary Cases periodically.
- c) **Anti-corruption Wing:**
  - (i) To deal with and follow up of cases relating to possession of disproportionate assets, illegal gratification, procedural deviations etc., Preparation of lists of ODI/Agreed list. Liaison with CBI & CVC.
  - (ii) To conduct Surprise & Regular inspections. To Update Manuals in line with CVC, MOD, MOF, DPE guidelines. Job rotation of persons posted in sensitive areas. Simplification of Rules and Procedures enumerated under various Circulars & Instructions.
- d) **Preventive Vigilance Wing:** To conduct surprise checks, system improvement studies and simplification of procedures, scrutiny of POs and contracts etc., Organize vigilance related seminar/workshops and vigilance awareness training. Identifying red flags in ERP systems vis-a-vis e-procurements, e-tenders etc.
- e) **Technical Wing:** To conduct CTE Type of inspection of Civil, Electrical/ Mechanical Horticultural Works, Stores etc., Scrutinize the reports submitted by CTE Team & Submit the same with technical remarks. To co-ordinate with CTE/ CVC to carry out their inspection at BEML.

### 5.9 HOD of Vigilance Department in Division

- (a) He/She will be responsible for vigilance functions of the Division. In discharge of his function, he will report to next immediate superior in the vigilance set up of the Organization. He/she will administratively report to the Division Chief.



- (b) As head of Vigilance of the Divisions, he/she will act as the Member Secretary of the Divisional Vigilance Committee of the Division and assist the Divisional vigilance Committee in the vigilance matters of the Division.
- (c) He/She will be responsible for the timely submission of all periodical reports/returns/correspondence of Corporate Vigilance on vigilance activities of the Division. He will follow up with the concerned Departments for timely furnishing of information to the Corporate Vigilance pertaining to monthly and quarterly reports.
- (d) He/She will review and report the status of implementation of e-tendering / e-procurement in the Division to the Corporate Vigilance every month to ensure strict compliance of CVC guidelines on e-tendering / e-procurement, as per BEML circular CM/E-procurement/2014/1155 dtd 26 April 2014.
  - (i) e-mode of procurement is resorted to Mandatorily for cases of Indigenous projects/Non-projects/capital items, where the estimated value of purchase orders is more than 1 Lakh. This shall be applicable to all types of tenders i.e. Open Tenders, Limited tenders, Single/proprietary Tenders.
  - (ii) In case of Tenders for Imported Items, Capital items, Non-Project items, all out efforts are to be made to resort to e-mode of procurement either through e-bidding or through Reverse Auction.
  - (iii) Further, as per the BEML Circular CM-39/Website/Std.items2015/4369 dtd 23.09.2015, all limited tenders for Non-Project items, the transaction type for such Bid invitations shall be selected as 'Public Tender 2 Bid' in the SRM system."
- (e) He/She will undertake system study at least once in 6 months, of different areas in his Division with a view to streamline and simplify the procedures and to eliminate/minimize the factors providing opportunities for corruption and malpractices, under intimation to the Corporate Vigilance. He will put up his recommendations to Corporate Vigilance to take up with the Management for implementation.
- (f) He/She will scrutinize the following every month and submit the report to the Corporate Vigilance as per Format – 5, with the observations made.

Task No.	Task	Description (Quantity to be Checked)	Responsibility
1	Bills Receivable	Scrutiny of Bills Received. Status on realisability of Sundry Debtors. (5 Bills).	Decision
2	Bills Payable	Scrutiny of Bills paid to vendors. Random check for payment period, compliance of terms and conditions of payment. (This may not be clubbed with PO Verification/ Surprise Checks). (5 Bills).	Decision



Task No.	Task	Description (Quantity to be Checked)	Responsibility
3	EMD, SD, BG.	Status report on reconciliation of Earnest Money Deposit, Security Deposit & Bank Guarantee (Whether lapsed / alive during the currency of the contract, etc). (2 each EMD, SD, BG).	Division & Corporate Vigilance
4	Welfare Accounts	Check bills paid to Labor contractors, Civil & Electrical contractors and AMC. (2 Bills).	Division & Corporate Vigilance
5	Sale Orders	Check of Sale Orders vis-à-vis Contract Terms & Conditions and Revenue Realisation and report in a matrix form (5 Sale Orders).	Division
6	Receiving Stores	Surprise checks at Receiving stores (10).	Division
7	Rejected Stores	Surprise checks of sending Rejected material to vendors (10).	Division
8	Civil / Construction	Inspection report of Civil Construction (1).	Division & Corporate Vigilance
9	AMC/ House Keeping/ Mtrl. Handling	Report on study of contracts like AMC, House Keeping & Material Handling (One per month).	Division & Corporate Vigilance
10	Tenders	Percentage of Tenders - Single, Limited, etc., Vertical wise and Product wise.	Division & Corporate Vigilance
11	Purchase Orders	PO Verification reports (Rs. 1 Crores & above - 100%) + (Rs. 50.00 Lakhs & above; Rs. 25.00 Lakhs above, less than Rs. 25.00 Lakhs) = Total 10 Nos. Trading Division, Aerospace Division to be covered by Corporate Vigilance.	Division & Corporate Vigilance
12	Surprise Checks	Stores Check / Inventory check (10).	Division
13	E-Procurement	E-Procurement status vis-à-vis total number of Purchase Orders placed..	Division
14	TA/DA & Med. Claims	Scrutiny of TA / DA and Medical claims (5 Nos. each).	Division
15	APRs	Scrutiny report of APRs. (2)	Division & Corporate Vigilance
16	ERP System	Monitor ERP system for Red flags to be checked as per Format - 5.	Division & Corporate Vigilance



Task No.	Task	Description (Quantity to be Checked)	Responsibility
17	Shipping Department	Status on load distribution for equipment transport contractor. Scrutiny of Transport/ Carriers Contract. Procedures for allotment of load, etc. (100%)	Division
18	Receiving Inspection	Random check at Receiving Inspection (10).	Division
19	Weigh Bridge	Check for time taken for preparing the Inbound receipts/way bills and proper storage and weighment of consignment. (10).	Division
20	PDO (Part Disposal Orders)	Check 10 PDOs as per Format - 5.	Division
21	Stores	Shelf life items to be checked for FIFO in SAP (5).	Division
22	LD Deductions	Check for LD deductions in purchase orders / contracts are proper (5).	Division & Corporate Vigilance
23	Integrity Pact	Verification of all Purchase orders/ contracts of value Rs 1 Crore and above and report the same in CTE format (100%).	Division

- (g) He/ She will monitor the implementation of various CVC/MoD/DPE/CMD guidelines/circulars and CVOs instructions received from time to time on vigilance matters within his Division and send the status of compliance to Corporate Vigilance every Month.
- (h) He/ She will maintain the list of Executives who are not put through any Vigilance Awareness Programme in the last 10 years as on 1st of April every year and put up the list to the Divisional Vigilance Committee. He will organize vigilance awareness training programmes at least once in six months in consultation with Corporate Vigilance to cover these executives. In addition to this he will organize vigilance awareness programme for non-executives who are posted in sensitive areas and put up list of such non-executives who are posted in sensitive areas and need to be trained as on 1st of April every year before DVC. Besides he will also organize other vigilance related seminars/workshops time to time in consultation with Corporate Vigilance.
- (i) He/ She will maintain a separate office as Vigilance Officer and earmark specific timings and days in a week to meet the Visitors/Staff/Vendors, who come with specific complaint/information on vigilance issue relating to his Division, exclusively and confidentially.



- (j) He/ She will monitor the timely completion of Investigation/ Inquiry/ Disciplinary Proceedings pending in his Division and bring it to the notice of the Corporate Vigilance.
- (k) He/ She will conduct scrutiny of at least 20% APRs of Executives (Grade IV and below) in a Financial year and maintain the record of scrutiny in the prescribed format (Format-01) so that, all Executives (Below Grade IV) are covered in a block period of 5 years. He will report any abnormalities/adverse noticed during the scrutiny requiring further action to Corporate Vigilance/CVO.
- (l) He/ She will identify specific corruption prone/sensitive areas in his Division and put up a list of Executives and Non-Executives working for more than 3 years as on 1st April of every year in such places to the Divisional Chief/HR Chief for the job rotation in next 6 months. He will also put up this list in the vigilance committee meeting along with the status on job rotation every month.
- (m) He/ She will identify the executives/non-executives working in the Division for keeping in Agreed List and Doubtful Integrity List in consultation with the Chairman of the Vigilance Committee and send the list to the Corporate Vigilance for approval by 20th of January every year. If non-executives are to be kept in the Agreed List and Doubtful Integrity List the same will be put up to the Chairman of the Vigilance Committee for approval to keep them in internal agreed list and doubtful integrity list by 30th January every year. He will keep close watch on the persons kept in the agreed list and ODI and send quarterly reports to the Corporate Vigilance/CVO.
- (n) He/ She will maintain a Vigilance Complaint Register in the CVC's prescribed format (Format-2) and as and when complaints are received, either directly by him or from the Corporate Vigilance or from any other source, it should be entered in the register by giving Sl. Nos.
- (o) When any complaint is received directly by Division, he will maintain details of the complaint in the register and forward the Original Complaint to Corporate Vigilance for further action.
- (p) He/She will submit the Investigation/Preliminary Inquiry reports on the complaint taken up for investigation in the prescribed format, besides he will also submit the fact verification report on source information/report. (Format-3 & 4)
- (q) He/ She will also maintain the track of the progress on the Investigation Reports and the Disciplinary Actions initiated on it till their disposals. He will enter the status of the complaints in register showing the progress/the present status.
- (r) He/ She will organize/conduct surprise and regular checks/inspection in corruption prone areas/sensitive areas and make a record of such checks in the prescribed Monthly Report format (Format-5). He will also initiate and monitor actions on the lapses observed. He will put up a report on outcome of



- surprise/regular inspections conducted every month to the Corporate Vigilance/Divisional Vigilance Committee.
- (s) He/ She will collect Intelligence/information on vigilance related matters within his Division and pass it on to the Corporate Vigilance/CVO where necessary and act properly on such information.
- (t) He/ She will expedite the comments/replies on CTE/in-house intensive examination reports on POs/Contracts and other reports. He will also monitor actions recommended in such reports and send the status for implementation to Corporate Vigilance whenever and wherever asked for. He will also put up actions pending on such reports to Divisional vigilance committee.
- (u) He/ She will keep all vigilance related documents including Complaint Register, Files Correspondences, Circulars, Returns, Reports, Periodicals/ Books etc., and other documents which he is required to maintain in the capacity of Vigilance Officer in his personal custody and hand over the same to the next incumbent after the completion of his tenure as VO, along with authenticated list of such documents/files.
- (v) He/ She will verify the records of non-executives before issuing the vigilance clearance coming under his Division for promotion / confirmation / superannuation / resignation / VRS / issue of passports / Visa, whether any department disciplinary cases / vigilance cases are pending or under punishment period or any police case filed by BEML pending or bound by any obligations / agreements to serve the Company. However, before issuing vigilance clearance to the non-executives he will verify from the Corporate Vigilance whether any vigilance case is pending against the non-executives. In case of executives he will verify the records as done in the case on non-executives, make necessary remarks in the note sheet and forward the same to corporate vigilance for vigilance clearance. (For executives in Grade I to IV he will also verify whether they have submitted property returns or not and make remarks on the note sheet).
- (w) Any other task assigned by DGM/AGM(Vigilance)/CVO.

#### 5.10 Vigilance Officer in Divisions

- (a) He will assist and report to HOD in all vigilance matters of the division.
- (b) He will investigate the cases entrusted to him by Vigilance Officer/Corporate Vigilance and submit the report in time. He will also keep documents relating to investigation in safe custody and make them available to appropriate authority.
- (c) He will assist HOD in organizing/conducting regular/surprise inspection and will also conduct independent inspections in consultation with Vigilance Officer, in corruption prone and sensitive areas of the Division.
- (d) He will develop and maintain effective vigilance information network in his Division.



- (e) He will assist HOD in keeping watch over persons kept in Agreed List/Doubtful Integrity in the Division.
- (f) In absence of HOD he will discharge the duties of Vigilance Officer of the Division with prior approval.
- (g) He will assist HOD in preparation and submission of periodical reports/ returns and in maintenance of records/registers to keep track of progress of Vigilance cases.
- (h) He will carry out any other task assigned to him by the HOD / DGM (Vigilance) / CVO.

### 5.11 Authority for Carrying Out Vigilance Work in BEML

5.11.1 The Chief Vigilance Officer and the Vigilance Officials (posted in the Complex / Division) are the extended arms of the Central Vigilance Commission and are duty bound to implement the anti-corruption measures of the Government in BEML, completely and effectively. In order to achieve the above objectives all Vigilance Officials are duly empowered by the Chief Vigilance Officer with the following authority :

- (a) All Vigilance Officials will have unrestricted access (including their official vehicles) to any location in the factories / departments / hangars / buildings / shops / establishments / welfare units / township / residential Quarters / sports & entertainment amenities, ancillary units / liaison offices / RM Offices / Guest Houses etc., at any time for carrying out Vigilance work.
- (b) All Vigilance Officials are empowered to seize records / documents / files / information (contained in any electronic storage device in any form) / articles, for the purpose of vigilance investigation.
- (c) All Vigilance Officials are empowered to examine employees of BEML for vigilance enquiries / investigation, record their statement, obtain their signature on such statements / obtain their signature on the samples, etc.
- (d) All Vigilance Officials are empowered to conduct surprise / random / routine checks / inspections etc., of the points / places, in any Department / Office / Hangar / Premises / Estate / Township including shops / establishments / residential quarters etc, as part of either Preventive Vigilance activity.
- (e) All Vigilance Officials are empowered to collect / obtain samples of materials (in any form) for the purpose of testing etc during the course of inspection of civil / mechanical / electrical works and obtain photographs if required of the articles / points / places in question.
- (f) All Vigilance Officials are empowered to draw inspection / surprise / routine check report at the points / points of check and to obtain signature of the concerned in-charge, user / operator / custodian etc., as a token of confirmation that the same was carried out in their presence and that they are party to the details recorded.
- (g) All Vigilance Officials and their vehicles are empowered for unrestricted



movement (entry and exit) at their place of work at any time for the purpose of vigilance activities.

- (h) All Vigilance Officials are empowered to meet their sources, or any officials of government / non-government / private / public etc., for vigilance verification / work or for liaison.
- (i) All Vigilance Officials are empowered (under the supervision of CVO) for carrying out detective / surveillance as part of Vigilance work.

5.11.2 A photo identity card summarizing the above will be issued to each and every Vigilance Official. Non cooperation / obstruction to Vigilance Officials in discharge of their duties by any employee of the Company would be deemed as misconduct and liable for disciplinary action as per the Rules of the Company.

### 5.12 Protection to Vigilance Officials for Acts Done in Good Faith

5.12.1 The Vigilance functionaries conduct enquiries / investigations on behalf of the CVO / Management. During the course of investigation / enquiries to unearth, the facts of the case or which is warranted to bring the case to a logical conclusion the acts of the functionary should not be treated prejudicial to good order and discipline or malafide intention. The acts of the Vigilance functionaries are to be treated as in good faith and in the best interests of the Company and no Disciplinary Action should be initiated against the Vigilance Functionary. Whenever disciplinary action against Vigilance Officer is contemplated, authority to sanction is the Chairman through CVO and in case of Vigilance Workman, CVO will be the sanctioning authority.

### 5.13 Protection Against Victimisation of Officials of Vigilance Units

5.13.1 The Commission has viewed seriously certain instances of harassment and attempts at victimisation of vigilance officials of certain organisations. The need to allow the vigilance officials to work independently and freely without any fear, which is the foundation for effective vigilance administration in any organisation, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that "those posted to the Vigilance Organisations should not have the fear of returning to their parent cadre with the possibility of facing the anger and displeasure of those against whom they made inquiries". The Committee had also recommended that "those working in Vigilance Organisations should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification". (CVC Circular No.16/3/06 dated 28th March 2006) **(Annexure-6)**

5.13.2 The Commission has considered the problem of possible victimisation of Vigilance officials after they finish their tenure in the Vigilance Department and revert to their normal duties. In the case of CVOs, already, the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his ACR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVO'S response before coming to any conclusion on the need to investigate such complaints.



5.13.3 In order that the required degree of protection is conferred on the Vigilance officials supporting the CVO and keeping in view the spirit of the Santhanam Committee which with commendable foresight had anticipated very clearly some of these issues, the Commission issues the following consolidated instructions in exercise of its powers under Section 8 (1) (h) of the CVC Act:

- (a) All personnel in Vigilance Units will be posted only in consultation with and the concurrence of the CVOs. They will be for an initial tenure of three years extendable up to five years. Any premature reversion before the expiry of such tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.
- (b) The ACR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.
- (c) Since the problem of victimisation occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following :
  - (i) On reversion, the vigilance personnel shall not be posted to work under an officer against whom, he had earlier undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer.
  - (ii) All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.
  - (iii) All Vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organisation to the Commission if they perceive any victimisation as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the vigilance department.

5.13.4 The above instructions may be noted for strict compliance. The CVO should report promptly to the Commission, the details of any real or perceived victimisation of any official who is working in the Vigilance Unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Unit, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/ superseded in matters of promotion.



#### 5.14 Functional and Administrative Control over Vigilance Officials

5.14.1 All matters pertaining to functional and administrative control over vigilance officials like, recruitment, induction, training, transfer / job rotation, promotion, movement / temporary duty / forwarding of applications / writing of Performance Appraisal Reports / Disciplinary action etc., would be exercised by the Chief Vigilance Officer.

#### 5.15 Detailing of Vigilance Staff in Committees and Non-Vigilance Activities

5.15.1 The role of the Vigilance staff in the Divisions / Complexes is to study systems and procedures, which include surprise and regular inspections / checks and anti-corruption work. Vigilance staff will not be engaged in activities such as gathering information on union activities, investigation on industrial relations, verification of firms and individuals in non vigilance cases, members of any committees, routine administrative meetings etc. The Government in consultation with the Central Vigilance Commission has issued guidelines vide O.M. No.321/77/91-ADV.III dated 9 June 1992 (**Annexure-7**) that the Vigilance functionaries should not be a party to processing and decision making process or any other similar administrative transactions of such nature which are likely to have clear vigilance sensitivity.

#### 5.16. Appointment of Vigilance Officers in Departmental Inquiry Committee

5.15.1 Vigilance Officers will not be appointed as Inquiry Officer, Presenting Office, and Co-Officer, in exceptional cases they may be appointed as Presenting Officer with the concurrence of the CVO.

#### 5.17 Duties of Vigilance Officers and Staff in Departmental Inquiry Committee

5.17.1 The Vigilance Officers and the Vigilance staff play a vital role in the Departmental Inquiry Committee proceedings. The onus of proving the charges is on the prosecution. The prosecution is based on the investigation report prepared by the Vigilance Department. It is imperative that the Vigilance Officers and the Vigilance Staff should collect all the evidence before an investigation report is finalized and recommended the prosecution of the defaulting employees.

5.17.2 The Vigilance Officers and staff must provide all assistance and evidence gathered by them to the Presenting Officer.

#### 5.18 Administrative Vigilance

5.18.1 Administrative Vigilance encompasses conduct of Quarterly Vigilance Committee Meetings in the Divisions. Issuance of No-Objection Certificate/ Vigilance Clearance for various purposes and timely submission of reports and Returns.

#### 5.19 Functions of The Chairman, Divisional Vigilance Committee

- (a) As Chairman of Divisional Vigilance Committee, he will endeavour to maintain integrity and transparency in all functions of his Division. (Ref. Circular No. 1257 dated 25.07.2006 issued by K(HR)) reads Circular No. 1542 dated 03.09.2013) (**Annexure -8**)



- (b) He will chair the monthly meeting of the Divisional Vigilance Committee every month to review the status of Vigilance related issue in the Division. The meeting to be held latest by 25th of every month, so that the minutes/monthly report/quarterly report could reach Corporate Vigilance by last day of the month.
- (c) He along with VO will identify Executives/Non-Executives who are to be kept under Agreed List and Doubtful Integrity List and send the same to Corporate Vigilance for further action.
- (d) Any other task assigned by CMD/CVO

## 5.20 Constitution and Functions of Divisional Vigilance Committee

5.20.1 The Divisional Vigilance Committee will be constituted as follows: (Ref. Circular No. 1257 dated 25th July 2006 issued by K(HR))

- (a) Divisional Head - Chairman
- (b) Divisional Personnel Head - Member
- (c) Divisional Finance Head - Member
- (d) Divisional Material Management - Member
- (e) Divisional Plant Maintenance - Member
- (f) Divisional Security Head - Member
- (g) Divisional Vigilance Officer - Member Secretary

5.20.2 The Divisional Vigilance Committee constituted as above may co-opt any other senior Executive of the Unit as member of the Committee on need basis when there is requirement of such member in the committee to discuss the vigilance related issues pertaining to area of activity of such member. Some of the Governing Rules are given below.

- (a) The meeting of Divisional Vigilance Committee will be held every month latest by 25th to deliberate on vigilance related matters pertaining to the Division. In the absence of the Chairman, the senior most member of the committee will officiate as Chairman of the committee. The minutes of the meeting along with the monthly report of vigilance status will be sent by the Member Secretary through Chairman of the Divisional Vigilance Committee to Corporate Vigilance to reach by last day of the month.
- (b) The Vigilance Committee will review the status of pending Disciplinary/inquiry Proceedings and Vigilance issues in the Division and will take necessary action to ensure timely disposal of such cases. The Member Secretary will put before the Committee, the details of such pending cases and other vigilance related matter requiring the attention of the Committee.
- (c) The Divisional Vigilance Committee will review the status of implementation of e-tendering/e-procurement in the Division and will ensure that, CVC Guidelines/CMD/CVOs instructions on the subject is complied to bring transparency in procurement and contracts.



- (d) The Divisional Vigilance Committee will review the status of implementation of instructions contained in CVC/MoD/DPE Guidelines received from time to time on vigilance matters in the Division. For this purpose, the Member Secretary will put up the list of such guidelines and circulars received, if any, every month and requiring/pending implementation.
- (e) The Divisional Vigilance Committee will identify the corruption prone/sensitive areas of the sections in the Division and plan and implement rotation of Executives and Non-Executives working in corruption prone/sensitive areas for more than 3 years as on 1st April of every year within next 6 months. The Member Secretary will put up the list of such Executives and Non-Executives in the monthly meeting held in April every year and thereafter status of implementation of job rotation every month.
- (f) The Divisional Vigilance Committee will review monthly, the system of surprise and regular inspection in the Division and take appropriate steps for its efficient working. The Divisional Vigilance Committee will take notice and also review the lapses observed during such surprise and regular inspection and take appropriate actions. The Member Secretary will put up before the Committee, a brief on surprise/regular inspection conducted in the month highlighting the lapses found. He will also put up actions pending for implementation in earlier surprise/regular checks. The checklist for scrutiny is enclosed.
- (g) The Divisional Vigilance Committee will appoint sub-committee to scrutinize high value POs/Contracts and review the status of implementation of action on lapses found by the sub-committee every month. All PO/Contracts of more than Rs.50 lakh are to be scrutinized compulsorily. The Member Secretary will put up list of such cases pending action before Committee every month.
- (h) The Divisional Vigilance Committee will review the status of comments/replies and actions pending on CTE/in-house Intensive Examination Reports and take appropriate actions on timely compliance. The Member Secretary will put up list of such pending paras and actions pending relating to such examination reports.
- (i) The Divisional Vigilance Committee will ensure that all Executives are put through vigilance awareness programme at least once in 10 years. Besides, it will also ensure that non-executives who are functioning in sensitive areas are to be exposed to Vigilance Awareness Programme. The Member Secretary will put up list of such executives/non-executives along with status of training in the committee.
- (j) The Divisional Vigilance Committee will facilitate study of system improvement taken by the Vigilance Officer on different areas at least once in 6 months and ensure implementation of measures recommended.





(k) The Divisional Vigilance Committee will provide all logistics support and other facilities to Vigilance Officer/Investigating Officer to facilitate efficient functioning of vigilance in the Division.

(i) Any other task assigned by CMD/CVO.

#### 5.21 Access to Documents

5.21.1 A Vigilance Officer, by virtue of powers conferred vide CVC's Circular No.3/2/07 (Annexure-41) issued vide letter No.007/VGL/013 dated 23rd February, 2007, is empowered to seize or take into custody, all documents / records / material pertaining to a particular complaint / allegation for purpose of investigations. As per the directions of the CVC, if the allegations contain information which can be verified from any documents / records / material, the Investigating / Vigilance Officer should, without loss of time, secure such records / documents and take them into personal custody.

## Chapter - 6 PREVENTIVE VIGILANCE



**BREAK THE CORRUPTION CHAIN**

Fighting corruption is not just  
good governance. It's self-defense.  
It's patriotism.

- Joe Biden



## VIGILANCE AWARENESS WEEK

### 6.1 Guidelines on Vigilance Clearance and Related Matters

6.1.1 These guidelines have been prepared to facilitate decision making in respect of cases concerning vigilance clearance and other related matters. These are based on the instructions on the subject as on date and are subject to change.

### 6.2 Confirmation / Promotion of an Officer

6.2.1 Orders on the subject are governed by :

(a) DoPT OM 22011/5/86-Estt(D) dtd 10th April 1989 **(Annex-9)**.

6.2.2 As per above mentioned Office Memorandum (OM) a vigilance clearance from the Vigilance Section of the Office should be obtained before making actual promotion or confirmation of officer approved by Departmental Promotion Committee(DPC) to ensure that no Departmental Proceedings are pending against the officer concerned.

### 6.3 Promotion

6.3.1 Orders on the subject are governed by :

(a) DoPT OM 22011/4/91-Estt.(A) dtd 14th September 1992 **(Annex-10)**.

(b) DoPT O.M 22011/5/86-Estt.(D) dtd 10th April 1989 (clause 17.1) **(Annex-9)**.

6.3.2 As per above mentioned OMs at the time of consideration of cases of Government Servant for promotion, details of Government Servant in the consideration zone for promotion falling under the following category should be specifically brought to the notice of Departmental Promotion Committee :

- (a) Government servants under suspension.
- (b) Government servants in respect of whom a charge sheet has been issued and disciplinary proceedings are pending.
- (c) Government servants in respect of whom prosecution for criminal charge is pending.

6.3.3 In addition, a vigilance clearance from the Vigilance Section of the Office should be obtained before making actual promotion or confirmation of officer approved by DPC to ensure that no Departmental Proceedings are pending against the officer concerned.

### 6.4 Resignation

6.4.1 Orders on the subject are governed by :

(a) DoPT O.M.No. 28034/4/94-Estt.(A) dated 31st May 1994, **(Annexure-11)**.

(b) G.I. MHA (D.P. & A.R.) OM no. 24011/1/76-Estt(B) dtd 17th May 1976 and Clause 6.14.1 of CVC Vigilance Manual 2005 **(Annexure-12)**.

6.4.2 As per above mentioned OMs, in all cases of resignation, the Competent Authority, shall insist, as mandatory measure on prior vigilance clearance, before taking decision on the request for resignation.

6.4.3 A check list of points for consideration of cases of resignation has been prescribed which, inter alia, includes the following points:



- (a) Whether any Inquiry or Investigation or disciplinary case is pending or contemplated.
- (b) Whether under suspension.

6.4.4 If an officer against whom an Inquiry or Investigation is pending (whether he has been placed under suspension or not) submits his resignation, such resignation should not normally be accepted. Where, however, the acceptance of resignation in such a case is considered necessary in public interest because one or more of the following conditions are fulfilled, the resignation may be accepted with the prior approval of the Head of Department in case of holders of Group 'C' and Group 'D' posts and that of the Minister-in-charge in respect of holders of Group 'A' and Group 'B' posts:-

- (a) Where the alleged offence do not involve moral Turpitude.
- (b) Where the quantum of evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would be removed or dismissed from service.
- (c) Where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

6.4.5 Concurrence of the Central Vigilance Commission should also be obtained if the Central Vigilance Commission had advised initiation of departmental action against the government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

## 6.5 Voluntary Retirement

6.5.1 Orders on the subject is governed by :

- (a) Dpt. of Per. & A.R., O.M. No. 25013/7/77-Estt. (A) dtd the 26th August, 1977, **(Annexure-13)**.
- (b) O.M. No. 25013/3/79-Ests. (A), dated the 28th July, 1979, **(Annexure-14)**.
- © O.M. No. 25013/10/85-Estt. (A), dated the 5th July, 1985 and **(Annexure-15)**.
- (d) Dept. of Per. & Trg., O.M. No. 25013/3/2003-Estt. (A), dtd the 17th June, 2003 **(Annexure-16)**.

6.5.2 As per these orders, a notice of voluntary retirement given after completion of 20 years of qualifying service will require acceptance by the Appointing Authority.

6.5.3 The acceptance may be generally given in all cases except these :

- (a) In which the disciplinary proceedings are pending or contemplated against the Government Servant concerned for imposition of a major penalty and the Disciplinary Authority having regard to the circumstances of the case is of the view that the imposition of the penalty of removal or dismissal from service would be warranted in the case.
- (b) In which the prosecution is contemplated or may have been launched in a Court of Law against the Government servant concerned.



- (c) If it is proposed to accept the notice of voluntary retirement even in above mentioned cases, approval of the Minister In-charge should be obtained in regard to Group 'A' and Group 'B' Officer and that all the Heads of the Department in the case of Group 'C' and Group 'D' Government servants.
- (d) The Government Servants given notice may presume acceptance of the notice of voluntary retirement and the retirement shall be effective in terms of the notice unless the Competent Authority issues an order to the contrary before the expiry of the period of notice.

## 6.6 Retirement on Superannuation

6.6.1 Orders on the subject are governed by :

- (a) Sub Rule 4 of the Rule 9 of the CCS(Pension) Rules, 1972 **(Annexure-17)**.
- (b) Sub-Rule (3) of Rule 39 of the CCS(Leave) Rules, 1972 **(Annexure-17)**.

6.6.2 The information regarding the pendency of any departmental or judicial proceedings against the Government Servant is required in order to sanction pension, gratuity and encashment of leave of the retiring officer.

## 6.7 Nomination of Officers for Foreign Deputation

6.7.1 Orders on the subject are governed by :

- (a) DoPT OMs no. 11012/11/2007-Estt (A) dated 14th December 2007 and 27th September 2011 **(Annexure-18 & 19)**.

6.7.2 The above mentioned orders are applicable in respect of :

- (a) Empanelment.
- (b) Deputation for which clearance is necessary.
- (c) Appointment to sensitive posts and assignments to training programmes (except mandatory training).

6.7.3 In all these cases the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

6.7.4 The circumstances under which vigilance clearance shall NOT be withheld is :

- (a) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a Preliminary Inquiry or on the basis of any information that the concerned Department may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding.
- (b) Corruption.
- (c) Possession of assets disproportionate to known source of income.
- (d) Moral Turpitude.
- (e) Violation of the Central Civil Services (Conduct) Rules, 1964.



- (f) Vigilance clearance shall not be withheld if a Preliminary Inquiry mentioned above takes more than three months to be completed.
- (g) Vigilance clearance shall NOT be withheld unless :
- (i) The officer is under suspension.
  - (ii) Charge sheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending.
  - (iii) Orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of passing such order.
  - (iv) Charge sheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending.
  - (v) Orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of initiating proceedings.
  - (vi) Sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter.
  - (vii) FIR has been filed or a case registered by the concerned Department against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/Case.
  - (viii) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.
- (h) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a charge sheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent Court of Law.
- (i) Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges within a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the parent cadre in case he is on deputation and not for any other dispensation listed at Para 14.6.(2.1).

6.7.5 In cases where complaints have been referred to the administrative authority concerned, and no substantive response has been received from such administrative authority concerned within three months from the date on which the reference was made, the Disciplinary Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.



6.7.6 Vigilance clearance shall be decided on a case-by-case basis by the Competent authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations :

- (a) Where the investigating agency has found no substance in the allegation but the court refuses to permit closure of the FIR.
- (b) Where the investigating agency/ inquiry officer holds the charges as proved but the competent administrative authority differs, or the converse.

6.7.7 Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

6.7.8 Vigilance clearance shall be withheld if the officer fails to submit his annual immovable property return (AIPR) of the previous year by 31 January of the following year. In all such cases, where vigilance clearance was withheld due to non submission of AIPR by 31 January of following year, vigilance clearance shall not be withheld any further on subsequent submission of AIPR by the officer.

6.7.9 The officer shall submit the AIPR in his/her office. The date of submission of AIPR in the office will be considered as date of submission of AIPR under the orders on the subject mentioned in Para 1.1 of 14.9.

## 6.8 Forwarding of Applications for Other Posts

6.8.1 Orders on the subject are governed by :

- (a) DoPT OM no. AB 14017/101/91-Estt(RR) dated 14th Jul 1993 **(Annex-20)**.

6.8.2 Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/ forwarded if:

- (a) He is under Suspension.
- (b) Disciplinary proceedings are pending against him and a charge sheet has been issued.
- (c) Sanction for prosecution, where necessary has been accorded by the competent authority.
- (d) Where a prosecution sanction is not necessary, a charge sheet has been filed in a court of law against him for criminal prosecution.

6.8.3 When the conduct of a Government Servant is under investigation (by the CBI or by the controlling Department) but the investigation has not reached the stage of issue of charge sheet or prosecution sanction or filing of charge-sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations.



6.8.4 It should also be made clear that in the event of actual selection of the Government servant, he would not be released for taking up the appointment, if by that time charge sheet for imposition of penalty under CCS (CCA) Rules, 1965 or sanction for prosecution is issued or a charge sheet is filed in a court to prosecute the Government servant, or he is placed under suspension.

### 6.9 Rotation of Officials Working in Sensitive Posts

6.9.1 Orders on the subject are governed by :

- (a) DoPT OM no. 11012/11/2007-Estt (A) dated 14th December 2007 and 27th September 2011 **(Annexure - 18 & 19)**.
- (b) CVC letter no. 98/VGL/60 dated 15th April 1999 and 2nd November 2001 **(Annexure-21 & 22)**.
- (c) Para 2.13 (v) of CVC Vigilance Manual, 2005 **(Annexure-23)**.

6.9.2 A list of sensitive posts in various Departments/Organizations should be identified.

6.9.3 Ensure that officials posted on sensitive posts are rotated every three/five years to avoid developing vested interests.

6.9.4 Postings in the Vigilance Wings/departments are classified as sensitive.

6.9.5 Sensitive posts in an organization are those posts that are prone to corruption.

6.9.6 Vigilance clearance for appointments to sensitive posts is regulated by orders referred to in Para 13.6.(1.1) and guidelines elaborated in various sub Para of Para 13.6 (2).

### 6.10 Annual Immovable Property Return

6.10.1 Orders on the subject are governed by :

- (a) Rule 18 (1) (ii) of CCS(Conduct) Rules 1964 **(Annexure-24)**.
- (b) DoPT O.M. no. 11012/11/2007-Estt A dated 27th September 2011 **(Annex-19)**.
- (c) BEML circular No: 1235 dated 19th May 2006 **(Annexure -19A)**.
- (d) 1632 dated 25 Apr 2017 **(Annexure -19B)**.

6.10.2 Rule 18(1)(ii) provides that every Group 'A' & Group 'B' Government Servant shall submit an Annual Return in such a form as prescribed by the Government giving full particulars regarding the immovable property inherited by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.

6.10.3 DoPT vide OM dated 27th September 2011 **(Annexure-19)** has added a sub para (f) in para 2 of DoPT OM No. 11012/11/2007-Estt A dated 14th December 2007 **(Annexure-18)** on the subject of grant of vigilance clearance.

6.10.4 As per the above mentioned O.M., Group 'A' and Group 'B' Officers are required to submit their annual immovable property return by 31st January of the following year.

6.10.5 Submission of AIPR by 31st January of the following year by the officers in the Office where they are working should be considered as compliance to these instructions.



### 6.11 Issue of Identity Certificate (IC) or No Objection Certificate (NOC) for Issue of Ordinary Passport.

6.11.1 Orders on the subject are governed by :

- (a) MEA, CPV Division OM no. VI/401/01/05/2008 dated 05th October 2009.
- (b) **(Annexure-25)**, Section 6(2) of the Passport Act 1967 **(Annexure-26)**.

6.11.2 A Government Servant would have an option to submit either Identity Certificate (IC) or No Objection Certificate (NOC). If IC is submitted, passport will be issued without police verification and if NOC is submitted passport will be issued on post police verification basis.

6.11.3 The Government organization would issue IC certifying the identity of the Government Servant stating, inter alia, that the provisions of Section 6(2) of the Passports Act 1967 are not attracted in the case of the applicant.

6.11.4 The Government organization would issue an NOC stating that they have no objection to the Government servant to his obtaining a passport.

6.11.5 Section 6(2) of the Passport Act 1967 states that Passport Authority shall refuse to issue a passport for visiting any foreign country on any of the following grounds:

- (a) that the applicant is not a citizen of India.
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India.
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country.
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a Court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years.
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India.
- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;
- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation.
- (i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.



## 6.12 Prior Permission to Visit Abroad

6.12.1 Orders on the subject are governed by :

- (a) DoPT O.M. no. 11013/7/94-Estt (A) dated 18th May 1994 (**Annex-27**).
- (b) DoPT O.M. no. 11013/8/2000-Estt (A) dated 7th November 2000 (**Annex-28**).
- (c) DoPT O.M. no. 11013/7/2004-Estt (A) dated 5th October 2004 (**Annex-29**).

6.12.2 Prior permission of leave sanctioning authority is essential before a govt. servant leaves his station or headquarters and more so when he proposes to go abroad during such absence, as such visit may have wider implications.

6.12.3 In case the leave applied for the purpose of visiting foreign country is sanctioned, it would imply that permission for going abroad is also granted.

6.12.4 Separate permission may not be necessary where a government servant has indicated his intention of leaving Headquarters/station along with leave address while applying for leave.

6.12.5 Leave sanctioning authority while granting leave shall take prior approval, if required, for permitting the officer to go abroad as per the existing instructions.

6.12.6 Leave sanctioning authority shall take prior approval of the Competent Authority, if any, prescribed by the Cadre Authority or the administrative Ministries/Departments themselves, in terms of these instructions.

6.12.7 Department of Personnel and Training has not issued any instructions in this regard. In the absence of any such instructions, the approval of the leave sanctioning authority would imply approval to the visit abroad also.

6.12.8 The government servant is required to furnish information relating to the proposed and previous private visits as per the Proforma prescribed (Format-05).

6.12.9 Leave sanctioning authority shall keep a record of all such permission granted in the Proforma prescribed (Format-05).

6.12.10 Permission to visit abroad may be given or denied by the Leave Sanctioning Authority after going through all aspects including pending Vigilance/Disciplinary proceedings.

## 6.13 Moral Turpitude

6.13.1 Orders on the subject are Governed by :

- (a) Allahabad High Court's definition in the case of Baleshwar Singh V. District Magistrate, AIR 1963, All 71 and observations thereon of Supreme Court in the case of Allahabad Bank and Another V. Deepak Kumar Bhola 1997 (4) SCC 1 (**Annexure-31**).

6.13.2 Moral turpitude means anything done contrary to justice, honesty, modesty or good morals.

6.13.3 An act of abuse of official position or acts done with a dishonest intention or where the motive is a base one or where it shocks the moral conscience of the society or where the



person committing the act may be looked down upon by the society as a depraved person will involve moral turpitude.

16.13.4 Every violation of law would not necessarily involve moral turpitude.

16.13.5 The intention behind the act will decide whether it involves moral turpitude or not.

## 6.14 Pendency of Departmental/Disciplinary Proceedings

6.14.1 Orders on the subject are governed by :

- (a) Rule 9 (6) (a) of CCS (Pension) Rules and Observations of Allahabad High Court in State of U.P. v. Jai Singh Dixit (1976) 2 LLJ(ALL)246 (**Annex-30**).

6.14.2 Departmental proceedings shall be deemed to be instituted from the date on which the statement of charges is issued to the government servant.

6.14.3 The pendency of a disciplinary proceeding starts with the issue of the charge sheet and continues till final order is made by the disciplinary authority.

6.14.4 A departmental proceeding is deemed to be instituted, if the government servant has been placed under suspension from an earlier date, on such date.

## 6.15 Contemplation of Disciplinary Case

6.15.1 Orders on the subject are governed by :

- (a) Observations of Allahabad High Court in State of U.P. v. Jai Singh Dixit (1976) 2 LLJ(ALL)246 (**Annexure-30**).

6.15.2 A departmental enquiry is contemplated when on objective consideration of the material, the appointing authority considers the case, as one which would lead to a departmental enquiry.

6.15.3 A Disciplinary case against a government servant is considered contemplated from the date the Disciplinary Authority takes a view to proceed, under Rule 14 or Rule 16 of CCS (CCA) Rules, against the officer in a case to the date of issue of charge sheet.

## 6.16 Institution of Judicial Proceedings

6.16.1 Orders on the subject are governed by :

- (a) Rule 9 (6) (b) of CCS (Pension) Rules (**Annexure-32**).

6.16.2 In the case of criminal proceedings, judicial proceedings shall be deemed to be instituted on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made.

6.16.3 In the case of civil proceedings, judicial proceedings, shall be deemed to be instituted on the date the complaint is presented in the Court.

## 6.17 Vigilance Clearance in BEML

6.17.1 In BEML, The Vigilance clearance procedure has been revised vide :

- (a) GB no. 1228 dated 19th April 2011 (**Annexure-33**)



6.17.2 Cases where vigilance clearance is required in respect of following cases before Management's approval is accorded :

- (a) Confirmation on appointment / promotion.
- (b) NOC for issue of Passport.
- (c) Deputation within the Country and Foreign assignments, including business / official trips abroad.
- (d) Personal visits abroad.
- (e) Training abroad, including Seminars and Conference abroad.
- (f) Forwarding of application through proper channel to other PSUs, Government department (Both Central & State Governments).
- (g) To attend interviews for selection for employment to other PSUs / Government Departments (Both Central & State Departments).
- (h) Awards, including National / International.
- (i) Posting to the sensitive areas, including Transfer to / from Sensitive areas / Departments, such as Bills payable, Payrolls, Purchase & Stores, Recruitment & Promotions, Security, Vigilance, Construction & Plant Maintenance, Canteen, Sub-Contract Cell, etc.
- (j) Compulsory / Normal / Voluntary Retirement / Resignation.
- (k) Pre-mature retirement.
- (l) Extension / re-employment / commercial employment, after retirement.
- (m) Recruitment (regular / deputation / contract / assignment basis) to posts in all disciplines of the Company, joining from other PSUs / Government Departments (Both Central / State Government).
- (n) Re-employment after retirement from defence services, PSUs and Government Departments (Both Central / State Government).

6.17.3 Further to the above, the following formats should be utilized by the respective HR Departments while seeking Vigilance Clearance from the concerned Vigilance Departments in respect of matters indicated against each below :

- (a) For the PESB interview / selection : Format - 06
- (b) For other purposes like confirmation / promotion / outside employment, etc : Format - 07
- (c) For the purpose of obtaining Passport / Visa / Travel to be made by the individual Employee / Executive (With Appendix) : Format - 08

6.17.4 The HR Departments concerned are requested to adhere to the formats, without which Vigilance Department will not entertain such requests.



6.17.5 Further, it is indicated that Vigilance Clearance is given by the Vigilance Department based upon vigilance cases initiated / pending / contemplated at the time of seeking Vigilance Clearance and such clearance is valid for a period of 30 days. The accordal of Vigilance Clearance would be preceded by the following procedures :

- (a) Cases investigated and charges proved against the employee / officer and report sent to disciplinary authority, along with gist of charges / punishment awarded, if any, for last 3 years are to be furnished by respective HR Department.
- (b) If the information in respect of 2 (II) (a) is 'nil', then the Vigilance Department should give Clearance, stating that there is no Vigilance Case against the Employee / Officer for the last 3 years.
- (c) Vigilance Clearance will not be accorded in case of the following :
  - (i) Contemplation / pending of vigilance cases on the date of vigilance clearance requirement.
  - (ii) Cases pending in terms of CDA Rules / Standing Orders / Service Rules.
  - (iii) Officer / Employee who is under suspension.
  - (iv) Officer / Employee in respect of whom a charge sheet has been issued and disciplinary proceedings are pending.
  - (v) Officer / Employee in respect of whom prosecution for a criminal charge is pending.
  - (vi) Officer / Employee undergoing a penalty imposed by the Disciplinary Authority or sentence ordered by a Court of Law.
  - (vii) Non-submission of up to date Annual Property Returns (applicable for Officers only).
- (d) While seeking Vigilance Clearance relevant points as mentioned in the above paras may be provided by the respective HR Department.
- (e) A photo-copy of note-sheet, alongwith Vigilance Clearance given shall be kept with Vigilance Department for records and reference.

6.17.6 Vigilance Clearance in respect of cases covered under Sl No: 1-a (xiii) & (xiv) shall be obtained from the Vigilance Department of PSUs / Government Departments (Both Central / State Government) through their HR department, from where the Executive / Employee is being recruited OR re-employed after retirement.

6.17.7 Further, at the time of Issuance of Offer of Appointment, the prospective Executive / Employee may be requested to furnish a copy of the Vigilance Clearance given by the Vigilance Department of his / her previous employer. In case the applicant is not in position to furnish copy of Vigilance Clearance as above, same may be referred to his / her previous employer for clearance and if the same is not received within 45 days of joining the Company, the matter may be referred to CVO, BEML for getting the clearance from their end. Probation will get closed only after obtaining the Vigilance Clearance either from the previous employer or from the Vigilance Department of BEML.



6.17.8 The existing practice of level of executives viz-a-viz authority according to the Vigilance Clearance remains unaltered i.e for employees Division Vigilance heads will issue VC, for Executives in the grade I to VII will be issued by DGM(Vig-CO) and for Executives in the grade VII to X CVO will issue the VCI, whenever some officer is given additional charge of another post for a short duration i.e. upto 3 months, clearance from the CVC will not be required. In such cases, CVO of the organization would give the vigilance clearance (No. 005-VGC-101 Dated : 11th August, 2005) **(Annexure-34)**. For Board level executives, CVO of the Ministry will issue the VC.

6.17.9 In terms of letter ref. D O No. 5/4/2010/Secy./PESB/2010/97-A dated 15th September, 2010, In case of PESB selection, CVO of the Ministry may be asked to send the VCI of Board level functionaries in CPSEs and CVO of the CPSE may be asked to send the VCI of below Board functionaries of CPSEs to the PESB.

6.17.10 DoPT vide OM dated 22.10.2014 on the subject " Guidelines for processing proposals for appointment to Board level posts in Central Public Sector Enterprises(CPSEs)" has issued guidelines as follows :

- (a) The instructions contained in DoPT's O.M. No.104/76/2011-AVD.I dated 18.10.2013 **(Annexure-35)** regarding handling of pseudonymous / anonymous complaints should be strictly adhered to at all levels. Further as per CVC's instructions issued vide Office Order No.57/8/04 dated 31.08.2004; **(Annexure-04)** no cognizance should be taken of any complaint received within six months prior to the initiation of the selection process. For this purpose, the date of interview held by the PESB would be the crucial date, six months prior to which no cognizance would be taken of complaints received against the selected candidates. Such complaints therefore should not have any bearing on the ACC process and would not prejudice the same. Such complaints should however be dealt separately and necessary action be taken in the event of any adverse conclusion even after the appointment is made.
- (b) In case vigilance clearance is not denied by CVC within the two months period stipulated above (which would include consultation with CBI/CBI clearance, reference to the CVO of the Ministry for any report, clarification etc.), the Ministries shall proceed with the appointment process, without waiting any further.
- (c) While submitting such proposals for the consideration of ACC, the Ministry shall provide the complete details of cases / complaints, if any, pending against the selected candidate and their specific views regarding the gravity of the allegations and the culpability of the concerned candidate. While the Ministry may not have much difficulty in processing the proposal when selected candidate is from an organization under the control the same Department, some advance action would be required when the candidate is coming from outside. For this purpose, the Ministry shall obtain the complete vigilance profile of the candidate from the concerned Ministry / Department to which the selected candidate belongs as soon as the PESB recommendation is received by them. The Ministry shall also obtain complete details of the cases /



complaints, if any, which are pending for enquiry and the concerned Department's views thereon.

6.17.11 DoPT vide OM dated 30.10.2014 on the subject "Policy guidelines for Extension of tenure of Board level incumbents where vigilance clearance is not available' has issued the following procedure:

- (a) As in the case of fresh appointments, in line with CVC's instructions dated 31.08.2004, no cognizance should be taken of any complaint which is received within 06 months prior to the terminal date of the approved tenure of Board-level appointees. This is imperative as it has been frequently observed that there is a spate of allegations and complaints against Board-level officials whose cases become due for extension of tenure.
- (b) Department should take a decision on whether to extend the term of a Board-level appointee one year in advance of the completion of his initial term, so that adequate time is available for the Department to obtain CVC clearance.
- (c) Taking into account the vigilance status as on the date six months before the terminal date of initial appointment, the CVC may give its clearance within two months of receiving the reference in this regard from the Administrative Ministry. This limit of two months will include time taken for back references, CBI references / inquiries, etc.
- (d) Even though complaints received after the cut-off date shall have no bearing upon the process of extension of tenure and would not prejudice the same, such complaints shall be dealt with as per the normal procedure. Disregarding such complaints received after the cut-off date at the time of deciding upon extension of tenure may not be of any serious consequences as the appointment can always be terminated at a later date if the charges are substantiated on the basis of an inquiry.
- (e) In respect of the cases where CVC clearance has been delayed beyond the prescribed timelines, merely on account of procedural reasons, and where there is no denial of vigilance clearance, the case of extension could be processed without waiting any further.
- (f) In respect of the cases where CVC clearance is awaited, and there are cases / complaints pending against the officer, the Ministry shall submit to ACC, a proposal for extension of tenure, at least two months prior to the officer's approved tenure with :
  - (i) All available information in respect of the complaint.
  - (ii) Material received from / sent to CVC, including enquiry report, if any, of the CVO of the Ministry.
  - (iii) The comments of the Ministry thereon.

6.17.12 Procedure for Online Vigilance Clearance for appointment of Board Level Executives of Central Public Sector Enterprises(CPSEs) is given below.





6.17.13 DoPT vide D.O No 372/4/2016-AVD.III dated 19th January 2017 on the subject "Technology based mechanism for Vigilance Clearance of CPSEs officers "had taken decision to introduce a technology based mechanism that enables efficient Vigilance Clearance of Officers who apply for the Senior level Posts.

6.17.14 The implementation of Online Vigilance Status of Board Level Executives of CPSEs would require feeding/updating of data pertaining to the details of employee's vigilance profile, i.e., pending disciplinary proceedings, status of complaints received, details of prosecution sanction, Agreed list, ODI etc, at regular intervals. While Central Vigilance Officers(CVOs) would be responsible for maintaining and updating data of Board level Executives, the CVOs of the CPSEs will be responsible in respect of below Board level employees of its organisation.

6.17.15 Responsibility of CVOs: CVOs will undertake updation of Vigilance Profile regularly as follows :

- (a) For Board Level Officials and officials who are one level below Board, this updation will have to be carried out every month. The updation will have to be done even if there are no changes in the Vigilance Profile. Even a nil/Clear report will have to be updated every month.
- (b) For officers who are second level or below, the updation will have to be done every three months in the same way above.
- (c) As and when the selection process for any vacancy is initiated, the ACC/PESB, as the case may be , will communicate through online system, the details of officers who have applied against the notified vacancies. Such requests will be reflected in the module of the following stakeholders.
  - (i) Central Vigilance Commission.
  - (ii) CVOs of the concerned Ministries/Departments of the CPSEs/ Organisations where the officials are working depending upon whether the officials are board level or below.
  - (iii) Central Bureau of Investigation.
  - (iv) The administrative Ministry/Department under which the vacancy exists.
  - (v) The request sent will be flagged online as priority list and communicated through the registered email. The CVO will ensure the Vigilance Profile of such officers is updated in a weeks time based on the available records. The same will be reflected on the portal with the last date of updation being displayed.

### 6.18 Integrity Pact

6.18.1 Ensuring transparency, equity and competitiveness in public procurement has been a major concern of the Central Vigilance Commission and various steps have been taken by it to bring this about. Leveraging technology especially wider use of the web-sites for disseminating information on tenders, tightly defining the pre-qualification criteria and



other terms and conditions of the tender are some of the steps recently taken at the instance of the Commission in order to bring about greater transparency and competition in the procurement/award of tender.

6.18.2 In this context, Integrity Pact, a vigilance tool first promoted by the Transparency International, has been found to be useful. The Pact essentially envisages an agreement between the prospective vendors/bidders and the buyer committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the contract. Only those vendors/bidders who have entered into such an Integrity Pact with the buyer would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification. The Integrity Pact in respect of a particular contract would be effective from the stage of invitation of bids till the complete execution of the contract.

6.18.3 Vide Circular No. 10/5/09 (**Annexure-36**) Subject CVC has delineated the Standard Operating Procedure for Adoption of Integrity Pact as follows. The Central Vigilance Commission has been promoting Integrity, transparency, equity and competitiveness in Government/PSU transactions and as a part of vigilance administration and superintendence. Public procurement is a major area of concern for the Central Vigilance Commission and various steps have been taken to put proper systems in place. Leveraging technology, especially wider use of the web sites for disseminating information on tenders, clearly defining the pre qualification criteria and other terms and conditions of the tender are some of the steps recently taken at the instance of the Commission. In this context, Integrity Pact (IP), a vigilance tool conceptualized and promoted by the Transparency International, has been found to be useful. The Commission has, through its Office Orders No. 41/12/07 dated 04.12.07 (**Annexure-37**) and Circular No 43/12/07 dated 28.12.07 (**Annexure-38**) and Circulars No. 18/05/08 dated 19.05.08 (**Annexure-39**) and 24.08.08 dated 05.08.2008 (**Annexure-40**) (copies appended), recommended adoption of Integrity Pact and provided basic guidelines for its implementation in respect of major procurements in the Government Organizations.

6.18.4 The pact essentially envisages an agreement between the prospective vendors/bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, would be considered competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification. The essential ingredients of the Pact include:

- (a) Promise on the part of the principal
  - (i) Not to seek or accept any benefit, which is not legally available.
  - (ii) To treat all bidders with equity and reason.
- (b) Promise on the part of bidders not to offer any benefit to the employees of the Principal not available legally.
- (c) Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.



- (d) Bidders not to pass any information provided by Principal as part of business relationship to others and not to commit any offence under PC/ IPC Act.
- (e) Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates.
- (f) Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary.
- (g) Bidders to disclose any transgressions with any other company that may impinge on the anti corruption principle.
- (h) Integrity Pact, in respect of a particular contract, shall be operative from the date IP is signed by the parties till the final completion of the contract. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

### 6.19 Implementation Procedure

6.19.1 As stated in Department of Expenditure's O.M. dated 20.07.2011, Ministries / Departments may, in consultation with the respective Financial Advisor and with the approval of the Minister-in-charge, decide on and lay down the nature of procurement / contracts and the threshold value above which the Integrity Pact would be used in respect of procurement transactions / contracts concluded by them or their attached / subordinate offices.

- (a) The above provision is also applied for procurements made by autonomous bodies for which also the concerned administrative ministry / department may lay down the nature of procurement / contracts and the threshold value above which the Integrity Pact would be used.
- (b) The provision for the Integrity Pact is to be included in all Requests for Proposal / Tender documents issued in future in respect of the procurement / contracts that meet the criteria decided in terms of para (a) and (b) above.
- (c) Tenders should specify that IEMs have been appointed by the Commission. In all tenders, particulars of all IEMs should be mentioned instead of nominating a single IEM in the tender as far as possible.
- (d) The Purchase / procurement wing of the organization would be the focal point for the implementation of IP.
- (e) The Vigilance Department would be responsible for review, enforcement, and reporting on all related vigilance issues.
- (f) It has to be ensured, through an appropriate provision in the contract, that IP is deemed as part of the contract so that the parties concerned are bound by its provisions.
- (g) IP would be implemented through a panel of Independent External Monitors (IEMs), appointed by the organization. The IEM would review independently



and objectively, whether and to what extent parties have complied with their obligations under the Pact.

- (h) Periodical Vendors' meets, as a familiarization and confidence building measure, would be desirable for a wider and realistic compliance of the principles of IP.
- (i) A clause should be included in the IP that a person signing IP shall not approach the Courts while representing the matters to IEMs and he / she will await their decision in the matter.
- (j) In case of subcontracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor.
- (k) Information relating to procurement/contracts covered under IP and its progress / status would need to be shared with the IEMs on monthly basis.
- (l) The final responsibility for implementation of IP vests with the CMD / CEO of the organization.

### 6.20 Role / Functions of IEM

6.20.1 The Role and Functions of IEM are given below :

- (a) The IEMs would have access to all contract documents, whenever required.
- (b) It would be desirable to have structured meetings of the IEMs with the Chief Executive of the Organization on a quarterly basis including an annual meeting to discuss / review the information on tenders awarded during the previous quarter. Additional sittings, however, can be held as per requirement.
- (c) The IEMs would examine all complaints received by them and give their recommendations / views of the Chief Executive of the organization, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal / administrative action. IEMs are expected to tender their advice on the complaints within 10 days as far as possible.
- (d) For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- (e) IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging malafide on the part of any officer of the organization should be looked into by the CVO of the concerned organization.
- (f) The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At



the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.

- (g) Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- (h) All IEMs should sign non-disclosure agreements with the organization in which they are appointed. They would also be required to sign a declaration of absence of conflict of interest.
- (i) A person acting as an IEM shall not be debarred from taking up other assignments such as consultancy with other organizations or agencies subject to his declaring that his / here additional assignment does not involve any conflict of interest with existing assignment. In case of any conflict of interest arising at a later date from an entity wherein he is or has been a consultant, the IEM should inform the CEO and recuse himself / herself from that case.
- (j) All organizations may provide secretarial assistance to IEM for rendering his/her job as IEM.
- (k) In case of any misconduct by an IEM, the CMD/CEO should bring it to the notice of the Commission detailing the specific misconduct for appropriate action at the Commission's end.
- (l) The role of the CVO of the organization shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO in terms of the provisions of the CVC Act or Vigilance Manual, if a complaint is received by him / her or directed to him / her by the Commission.

## 6.21 Appointment of IEM

6.21.1 Appointment of IEM is elaborated below :

- (a) The IEMs appointed should be eminent personalities of high integrity and reputation. The Commission would invite applications from willing interested persons and maintain a panel of persons eligible to be appointed as IEM. The Commission may make independent & discreet background check before including a name in the panel.
- (b) The choice of IEM should be restricted to officials from the government and public sector undertakings who have retired from positions of the level of Additional Secretary to the Government of India and above or equivalent pay scale, and for Public Sector Undertakings, Board level officers in Schedule A Companies, Public Sector Banks, Insurance Companies and Financial Institutions. Officers of the Armed Forces who have retired from the rank equivalent of Lt. General and above may also be considered for appointment.
- (c) For appointment as IEM the Organization has to forward a panel of suitable persons to the Commission. This panel may include those who are in the panel maintained by the Commission or they may propose names of other suitable persons for appointment as IEM.



- (d) The Commission would not consider the name of an officer / executive who is either serving or who has retired from the same organization to be an IEM in that organization, although they may have served in the top management.
- (e) A maximum of three IEMs may be appointed in Navratna PSUs and a maximum of two IEMs in other Public Sector Undertakings, Public Sector Banks, Insurance Companies and Financial Institutions.
- (f) A person may be appointed as an IEM in a maximum of three organizations at a time.
- (g) The appointment of IEM would be for an initial tenure of three years and could be extended for another term of two years on a request received by the Commission from the organization appointing the IEM. An IEM can have a maximum tenure of 5 years in an organization with an initial term of three years and another term of two years.
- (h) Age should not be more than 70 years at the time of appointment / extension of tenure.
- (i) Remuneration payable to the IEMs by the organization concerned would be equivalent to that admissible to an Independent Director in the organization and in any case should not exceed Rs. 20,000/- per sitting. Remuneration being paid to existing IEMs may not be changed to their detriment for the duration of their tenure.
- (j) The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. This may be communicated individually to the IEMs concerned.

## 6.22 Review System

6.22.1 The Review System in the Organisation is given below :

- (a) All organizations implementing IP would undertake a periodical review and assessment of implementing of IP and submit progress reports to the Commission. CVOs of all organizations would keep the Commission posted with the implementation status through their annual reports and special reports, wherever necessary.
- (b) For all procurement transactions/Contracts above Rs. 1 Crore BEML Ltd. enters into a Pre-contract Integrity Pact Agreement which is monitored by Independent External Monitors (IEMs).

## 6.23 Officers of Doubtful Integrity List

### Introduction

6.23.1 In accordance with the recommendation made in the statement laid on the Table of the Lok Sabha on the 10th August, 1961, and the Rajya Sabha on the 24th August, 1961 measures are to be taken to locate officials against whom suspicion exist regarding their integrity amounting to moral conviction. It has already been decided that Secretaries to the



Ministries and the Heads of the Departments have the duty of locating and suitably dealing with corrupt officials. As a further step in this direction, it has been decided to prepare list of officers of doubtful integrity. This scheme gives in detail the purpose of this list and procedure for their preparation and maintenance.

#### Criteria for Entry in the List

6.23.2 The list will be termed as the 'list of Officers of Doubtful Integrity'. It will include names of those officers only, who, after Inquiry or during the course of Inquiry, have been found to be lacking in integrity. It will thus include the names of the officers, with certain exceptions mentioned below, falling under one of the following categories :

- (a) Convicted in a court of law on a charge of lack of integrity or for an offence involving moral turpitude but on whom, in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement is imposed.
- (b) Awarded departmentally a major penalty either on charges of lack of integrity or on charges of gross dereliction of duty in protecting the interests of Government although the corrupt motive may not be capable of proof.
- (c) Against whom proceedings for a major penalty or a court trial are in progress for alleged acts involving lack of integrity or moral turpitude.
- (d) Who were prosecuted but acquitted on technical grounds, and in whose case on the basis of evidence during the trial there remained a reasonable suspicion against their integrity.

6.23.3 The names of officers of the following categories should not be included in this list.

- (a) Officers who have been cleared or honourably acquitted as a result of disciplinary proceedings or court trial.
- (b) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.
- (c) Officers who have been convicted of offences not involving lack of integrity or moral turpitude.
- (d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapses, minor violation of Conduct Rules and the like.

#### 6.24 Purpose of the List

6.24.1 This list is intended to keep the Ministries/Departments/ Undertakings concerned informed about such officers of doubtful integrity to ensure that they are not posted to 'sensitive' assignments and that this fact is given due consideration when deciding administrative matters affecting the service of these officers. This list would also help the Ministries to know about the officers whose work and conduct need both special attention and closer supervisory scrutiny.

#### 6.25 Procedure for Preparation of the List

6.25.1 Procedure for Preparation of the List is given below :



- (a) Vigilance Organisation of Ministries/Departments/ Undertakings will prepare a list of public servants of Gazetted status against whom any disciplinary proceedings for a major penalty are in progress or who have been punished in disciplinary proceedings on a charge involving lack of integrity. A copy of these lists will be sent by the vigilance Organisation to the Central Bureau of Investigation every year in the last week of February.
- (b) As soon as an adverse report against an officer of the nature mentioned in the scheme is received, the Vigilance Officer should bring it to the notice of the Secretary/Head of the Ministry/Department concerned immediately. A decision in regard to the inclusion of the name of such officer in the list should be taken as soon as possible.
- (c) The Central Bureau of Investigation will suggest addition or deletion of names on the basis of information available with them and return the lists to Secretaries/Heads of Departments concerned.
- (d) If the Ministry/Department/Public Undertakings concerned does not agree to the inclusion or deletion of any particular name or names, it will be settled by mutual discussion. The decision of the Secretary/Head of the Ministry/Department would be final.

#### 6.26 Action on the List

6.26.1 The purpose of maintenance of this list is to also enable the Ministries/Departments to take such administrative action as is necessary and feasible. The following courses of administrative action are open :

- (a) Withholding Certificate of integrity.
- (b) Transfer from a 'Sensitive' Post.
- (c) Non-promotion, after consideration of his case, to a service, grade or post to which he is eligible for promotion.
- (d) Compulsory retirement in the public interest (otherwise than as penalty) in accordance with the orders issued by the Government. This is now permissible on completion of the age of 50 with certain exceptions.
- (e) Refusal of extension of service or re-employment either under Government or in a Public Sector Undertakings.
- (f) Non-sponsoring of names for foreign assignment/deputation.
- (g) Refusal of permission for commercial re-employment after retirement.

#### 6.27 Retention Period

6.27.1 When the name of an officer has been entered in the list for good and adequate reasons, it will not be removed until a period of three years has elapsed. The period of three years for which the name will be current on the list will count from the date of punishment in disciplinary proceedings or from the date of conviction in a court trial. On the conclusion of this period the cases of such officers may be reviewed by the Ministry/Department



concerned in consultation with the Central Bureau of Investigation and if during the intervening period there has been no further complaint or information against the officer touching on his integrity, the name may be removed from the list. If at the time of review, it is proposed to continue the name of an officer on the list, cogent reason for doing so should exist.

### 6.28 Transfer of Such Officers

6.28.1 In the event of the officers being transferred to another Ministry/Department/Undertakings, the Vigilance Officer concerned should intimate to his opposite number in the Ministry/Department/ Undertaking the fact of the officer's name being on the list, endorsing a copy to the Central Bureau of Investigation.

### 6.29 Periodicity of Circulation by C.B.I

6.29.1 Lists of such officers consolidated by the Central Bureau of Investigation will be circulated to Ministries once every year i.e. in June. While communicating the name of the officer the material against him should be briefly indicated by the Central Bureau of Investigation. Five copies of the list covering all Ministries/ Departments/Undertakings will be sent to the Ministry of Home Affairs(AVD), four copies for the use of E.O., J.S(E), J.S.(P), J.S.(AIS) and one for record on the AVD communication and references should be directly between the Central Bureau of Investigation and the Ministry concerned.

### 6.30 Maintenance & Custody of the List

6.30.1 It will be the duty of the Chief Vigilance Officer/Vigilance Officer of the Ministry / Department / Undertaking to maintain these lists up-to-date, The list will be treated as 'SECRET' and the Head of the Ministry/Department/Undertaking will be responsible for its safe custody. The lists cannot be and are not meant to be fully exhaustive and these will not fetter the discretion of the Government in any way.

### 6.31 Agreed List of Suspected Officers

6.31.1 Agreed Lists will be prepared of officers of gazetted status against whose honesty or integrity there are complaints, doubts or suspicious after consultations between the officers of the Departments concerned and of CBI. Except in regard to Port Trusts, Public sector Undertakings and Union Territories these lists will be settled by discussion at Delhi between the Head of the Departments concerned and the additional I.G.P. and the D.I.G (Spl) of the CBI. The agreed lists relating to Port Trusts, Public Sector Undertakings and Union Territories will be settled by mutual discussion between the Head of the Port Trust or the Public Sector Undertakings or the Chief Secretary of the Union Territory concerned and the D.I.G. of Police C.B.I and the S.P. of the local Branch of the C.B.I to achieve the best result it is important that there should be free and frank exchange of information during these discussions.

6.31.2 The following action will be taken in respect of officers on these agreed lists by the Departments or the Undertakings and by the C.B.I :

- (a) Closer and more frequent scrutiny and inspection of their work and performance by the Departments concerned, particularly in spheres there is scope for discretion or for showing favours.



- (b) Quite check about their reputation both by the Department and the C.B.I.
- (c) Unobtrusive watch of their contracts style of living etc. by the C.B.I
- (d) Secret enquiry by the C.B.I. about their assets and financial resources. The Departments will make available their property returns and other relevant records to the C.B.I.
- (e) Collection of information by the C.B.I. of specific instances of bribery and corruption practices.

6.31.3 If these secrets checks and enquiries reveal positive material, open enquiries will be started by the C.B.I. and further action taken in the light of the results of that enquiry. It may be emphasized that no adverse or punitive action is contemplated against any officer on these lists unless these checks, verifications or enquiries bring for the adequate material to reasonably conclude that he is lacking in integrity. These agreed lists will remain in force for one year from the date of preparation. At the end of this period, the list will be reviewed and the name of those officers against whom there is not sufficient evidence to proceed against will be deleted from the list.

6.31.41 The CBI branches may prepare their own lists of officers of non-gazetted status about whose integrity or honesty, there are complaints, doubts or suspicions, but these need not be 'Agreed list'. The Superintendents of police of the CBI branches, should however, consult the Heads of the Departments, Public Undertakings and Administration about any names of these lists as and when this is considered necessary. As and when requested by the CBI, the Departments etc. should arrange for closure and more frequent scrutiny and inspection of the work of those employees and also for affording assistance to the CBI in making in checks and verification about them.

### 6.32 Job Rotation

6.32.1 Identification of corruption prone areas in an organization is an important part of Preventive Vigilance. In a big organization like BEML, it is not possible for Vigilance to keep a watch in every nook and corner of its operations. It is, therefore, necessary that such areas / departments where officials mostly come in contact with contractors, outside parties etc. are identified and watch is kept over them. The Santhanam Committee on Prevention of Corruption has rightly remarked, "Corruption can exist if there is someone willing to corrupt and capable of corrupting. Both this willingness and capacity to corrupt is found in a large measure in the industrial and commercial classes".

6.32.2 As per the directive of the CVC, each PSU has to identify sensitive areas / sensitive posts in the organization and ensure rotation of Staff in such posts every three years. Orders issued in this regard – along with a list of the sensitive posts identified – is to be intimated to the CVC for record.

6.32.3 Corruption prone areas are known as 'sensitive areas' in Vigilance parlance. The responsibility of the Vigilance Officer on assuming office should be to acquaint himself fully with the sensitive spots in the organization, with the procedures which appear to afford scope for corruption or delay; whether preventive measures have already been planned and if so, whether they are being properly implemented.



6.32.4 Sensitive Posts are identified by the CVO with the help of the Vigilance Officers and the HODs of the various departments and got notified by the CMD. The list must be reviewed every 3 years.

### 6.33 Surprise Checks in Sensitive Areas

6.33.1 Santhanam Committee Report says “Corruption cannot be eliminated or even significantly reduced unless preventive measures are planned and implemented in a sustained and effective manner”.

6.33.2 Vigilance teams should be formed to keep a watch and conduct surprise checks in sensitive areas. The team should be held responsible for Vigilance work in particular areas.

Surprise checks are one of the important activities of the Vigilance Department. The Vigilance team should make regular surprise checks, mostly in sensitive areas. The Vigilance team may associate one or two officers of the concerned department during such surprise checks. Similarly, joint inspections in the form of surprise checks are also conducted with the officials of other department. On getting information regarding some irregularity being committed, surprise check should be arranged on immediate basis. The advantages of these checks are :

- (a) The presence of Vigilance is felt and this itself discourages persons in indulging in malpractices.
- (b) It will be known if the existing / rules / procedures are being followed. If there are any loopholes in the procedures / systems, these will be known and can be plugged.
- (c) The checks should be qualitative and fruitful otherwise they lose their importance.

6.33.3 Such checks should be conducted in absolute secrecy so that the element of surprise is not lost. The concerned department should not be informed about the visit of Vigilance team until the latter reach the spot of inspection.

### 6.34 Job Rotation in Sensitive Areas

6.34.1 As per CVC’s instructions, as a preventive measure it would be useful to locate such focal points in each organization and to take steps to ensure that the staff employed at such points are not allowed to continue there indefinitely. Rotational transfers – especially in Sections which have to deal directly with the public – should be effected as a rule. The retention of a person in the same seat in such Sections, beyond a term of three years, should not be allowed except with the approval of higher authority. (Ref. Commission’s letter no.2/9/66-coord. Dated 20th May, 1966).

6.34.2 In BEML the list of sensitive departments and sensitive sections has been revised and notified vide GB No. 1265 dated 20th December 2012 as follows :



SL.NO.	SENSITIVE DEPARTMENT	SENSITIVE SECTION
1	Purchase	All
2	Sub-contract	All
3	Vendor Development	All
4	Stores	Receiving, Bills section and salvage
5	Finance	Bills Payable, PF Section, Cash/Cheque section, Marketing Finance
6	Quality Assurance	Receiving Inspection
7	HR	Recruitment, Welfare, PR, Disciplinary, Training, Management Services
8	Civil Construction	Construction, Maintenance, Estate Office
9	Shipping Department	All
10	Trading	All
11	Medical	Pharmacy
12	Vigilance	All except PS/CVO & EA/CVO
13	International Business Division	All

### 6.35 CTE Type Inspection

#### Chief Technical Examiners’ Organisation

6.35.1 Chief Technical Examiners’ Organisation (CTEO) is the technical wing of the Commission. Initially on the recommendation of Public Accounts Committee, Chief Technical Examiner’s Organisation was created in the Ministry of Works, Housing & Supply (now known as Ministry of Urban Development) in May, 1957. Later on, after the recommendations of the Santhanam Committee were accepted by the Government, this Organisation was placed under the administrative control of Central Vigilance Commission in the year 1964. Initially this Organisation was headed by one Chief Technical Examiner. In the year 1979 one more post of Chief Technical Examiner was created to cater to the increasing workload and growing complexity of the Public Procurements. Para 1.3.5 of the Vigilance Manual 2005 issued by the Commission lays down the modalities of carrying out Intensive Examinations by CTEO. As per the Manual, Jurisdiction of CTE’s Organisation is coextensive with that of the Commission.

#### Quarterly Progress Report

6.35.2 CVC Act 2003 empowers the Commission to call for reports, returns and statements from all Ministries/Departments/Corporations/Central Undertakings so as to enable the Commission to exercise general check and supervision over the vigilance and anti-corruption work in the Ministries/Departments/Undertakings. Chief Vigilance Officers of various organisations covered under the jurisdiction of the Commission are required to



furnish Quarterly Progress Reports (QPRs) in respect of ongoing contracts for the quarter by 15th day of the month following the quarter. Even though, CTE's Organisation may examine Contracts of any magnitude, yet considering limitation of resources, it generally undertakes examination of Contracts of larger value only. As per Circular No. 15/07/12 (issued vide Letter No.98-VGL-25/18 dated 30.07.2012), the monetary limit for reporting the Procurement Contracts in QPRs are as follows:

WORKS / CONTRACTS	
Category-I:	
(a) Civil Works	Rs. 5 Crores & above.
(b) Turnkey Works Contracts	
(c) Stores & Purchase	
(d) PPP-Public Private Partnership [Cost/Revenue values]	
(e) Sale of Goods / Scrap / Land	
Category-II:	
(a) Electrical/Mechanical works/ Maintenance/ Service Contracts including Electronics/ Instrumentation/ Telecommunication/ Manpower Supply, etc.	Rs.1 Crore & above
(b) Medical Equipment	Rs.50 lakhs & above
(c) Consultancy contracts	Rs.1 Crore & above
Category-III:	
(a) Horticulture Works	Rs.10 lakhs & above
(b) Supply of Medicines Contract	4 Largest Value

### 6.36 Selection of Works

6.36.1 CTE's Organisation conducts Intensive Examination of some of the contracts under different categories reported in QPRs. Selection of contracts for Intensive Examination is generally undertaken from the QPRs received from various organisations, keeping in view the following factors :

- Complaints received from various sources.
- Works specifically recommended by CVOs for inspection.
- Works of organisations with substantial work load as compared to others.
- Large value contracts.
- Works of organisations, which do not have their own Engineering Departments for supervision and Quality Control.
- Works of organisations, which have not been inspected at all.



6.36.2 Works of different nature, such as Hydro/Thermal/Nuclear Power Projects, Highways, Railways, Buildings, Water Supply, Drainage/Sewerage works etc. are given consideration. Works of unusual nature are also given due consideration for the purpose of selection for examination.

### 6.37 Purpose of Intensive Examination

6.37.1 The purpose of Intensive Examination can be categorized as given below:

- System Improvements based on lessons learnt from the examined contracts.
- Detection/Recoveries of overpayments.
- Tax compliance and follow up action.
- Quality deficiencies and the remedial action
- Penal action in cases involving gross inaction/oversight and cases involving vigilance angle.

### 6.38 Requisition of Records

6.38.1 After approval of the Commission for Intensive Examination of Project/Contract, intimation is sent to the respective CVOs requesting for certified copies of the contract agreement, last bill paid to the contractor along with other details as per standard Proforma (Appendix-III & IIIA). A list of records/documents to be kept ready for examination during site inspection is also enclosed in the above Proforma.

6.38.2 Preliminary Examination of Contract by the CVO Before Intensive Examination is carried out by the Technical Examiner, CVO (Vigilance Unit) of the Organisation concerned may be asked to carry out a Preliminary Examination of the selected contract and submit the report to the CTE's Organisation flagging important issues.

### 6.39 Role of CVO in Intensive Examination

6.39.1 CVO plays a vital role in Intensive Examination of works. With the limited staff available, CTEO cannot inspect all the works of various Organisations under the jurisdiction of CVC. Hence, CVO should arrange vigilance inspection of works under his jurisdiction on the pattern of inspection carried out by the team of CTEO. In order to enable the organisation to effect immediate recovery from the contractors/suppliers as well as to ensure accountability of officials responsible for various lapses. The other important functions of CVO in respect of the Intensive Examination by CTEO are listed below:

- Timely submission.
- Quarterly Progress Reports.
- Documents required for intensive examination.
- Preliminary Examination of the impugned Contract and submission of report to CTEO before Intensive Examination is carried out by Technical Examiner.
- Replies to IE reports/rejoinders.
- Investigation Report with the assistance of an Independent Engineer.



6.39.2 The following are to be Ensured :

- (a) Presence of Engineers responsible for planning, design, tender scrutiny, award of work and construction during interim examines.
- (b) Presence of representatives of CVO during interim examination.
- (c) Rectification of Defects in the Project/Supplies.
- (d) Recoveries from the Contractors for the over-payments.
- (e) Implementation of necessary directions issued by the Commission/ CTEO.

6.39.3 Carrying out periodical inspection of works with the assistance of the technical staff of CVO in line with CTE's inspection

6.39.4 Pursuing, preparation and issue of Works Manual.

6.39.5 Implementation of guidelines/circulars issued by the Commission/CTEO.

#### 6.40 Whistle Blower Policy

6.40.1 Important Features of the "Whistle-Blowers" Resolution are :

- (a) The CVC shall, as the Designated Agency, receive written complaints or disclosure on any allegation of corruption or of mis-use of office by any employee of the Central Government or of any corporation established under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government.
- (b) The designated agency will ascertain the identity of the complainant; if the complainant is anonymous, it shall not take any action in the matter.
- (c) The identity of the complainant will not be revealed unless the complainant himself has made either the details of the complaint public or disclosed his identity to any other office or authority.
- (d) While calling for further report/investigation, the Commission shall not disclose the identity of the informant and also shall request the concerned head of the organisation to keep the identity of the informant a secret, if for any reason the head comes to know the identity.
- (e) The Commission shall be authorised to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
- (f) If any person is aggrieved by any action on the ground that he is being victimised due to the fact that he had filed a complaint or disclosure, he may file an application before the Commission seeking redress in the matter, wherein the Commission may give suitable directions to the concerned person or the authority.
- (g) If the Commission is of the opinion that either the complainant or the witnesses need protection, it shall issue appropriate directions to the concerned government authorities.



- (h) In case the Commission finds the complaint to be motivated or vexatious, it shall be at liberty to take appropriate steps.
- (i) The Commission shall not entertain or inquire into any disclosure in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850, or a matter that has been referred for inquiry under the Commissions of Inquiry Act, 1952.
- (j) In the event of the identity of the informant being disclosed in spite of the Commission's directions to the contrary, it is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

#### 6.41 Vigilance Study Circle (VSC)

6.41.1 Aims and Objectives of vigilance study circle :

- (a) To bring all Vigilance Functionaries in the Country together and promote the growth of Anti Corruption Movement by establishing Vigilance Study Circles all over the Country.
- (b) To Co-operate and Coordinate with Institutions connected with elimination of Corruption in the Society.
- (c) To establish Training institutions to impart knowledge and Skills to Vigilance Functionaries in anti-corruption and Vigilance work.
- (d) To establish Distance Education Centres for the propagation of Vigilance.
- (e) To assist organizations by undertaking 'Turn Key' projects to enhance the utility and efficacy of Vigilance Personnel and Organizations.
- (f) To assist, co-operate and collaborate with like minded persons and organizations for the promotion of vigilance and elimination of Corruption.
- (g) To organize Workshops, Symposia, Seminars and Consultations, to enable sharing of experiences of Vigilance / Anti Corruption work,
- (h) To Publish Journals, Professional literature etc., to assists Vigilance Professionals.
- (i) To assist 'Whistle Blowers' in exposing Corruption.
- (j) To establish a Public Website to enable Citizens to report about the prevalence of corruption to the authorities.
- (k) To educate the Students in Colleges and Schools about ethics and the evil effects of Corruption and prepare them to fight corruption.
- (l) To undertake all other activities for the furtherance of the basic aim of promoting the growth of Vigilance and elimination of Corruption.

#### 6.42 Observance of Vigilance Awareness Week

6.42.1 Vide CVC circular No.3(v)/99/11, the Commission proposes to launch a systematic campaign against corruption by involving all members of the civil society in fighting this





social evil. The first step in this campaign is to educate the people about the dangers of corruption and sensitize them about the evil consequences of corruption.

6.42.2 The Central Vigilance Commission, which has a special responsibility under para 3(v) of Government of India Resolution no 371/20/99/AVD-III dated 4.4.1999, declares that the week beginning from 31st October every year would be observed as the Vigilance Awareness Week. The significance of 31st October is that it is the birthday of the Bismarck of India, Sardar Vallabhai Patel. He represents the best values in the Indian tradition so far as governance is concerned. He integrated the country and also was a shining example of probity in public life.

6.42.3 The Vigilance Awareness Week is observed keeping in view the spirit of the eminent leaders like Sardar Patel and the need for fighting the social evil of corruption. The measures that could be considered for celebrating the Week will include the following :

- (a) It should be a five-day programme beginning from 31 October to 04 November.
- (b) The Central Vigilance Commissioner would request the President and the Prime Minister for their messages to the Nation on this occasion. Such messages received would be given wide publicity through the media and also through the CVC web-site <http://cvc.nic.in>
- (c) The messages from the President, Prime Minister, the Central Vigilance Commissioner and the Vigilance Commissioner would also be sent in advance to all Chief Executives and Chief Vigilance Officers.
- (d) The Vigilance Awareness Programme would begin in all the offices of the Central Government, its subordinate and attached offices, public sector undertakings and banks, autonomous bodies and institutions under the Central Government at 11 00 hrs with a pledge which would be sent separately. The pledge would be taken by all public servants irrespective of their status and would be administered by the head of the department or the senior most officer available on the occasion. (Page 3 of 4).
- (e) After the pledge, the message from the President, Prime Minister, CVC and VC would be read out to the audience.
- (f) The Chief Vigilance Officer will consider taking following steps depending upon the financial resources :
  - (i) Display banners, posters etc. at prime locations in their office at the Corporate Centre, Regional Centre, Zonal offices, Factories/Works etc.
  - (ii) Organise seminars at different location on the occasion and to invite prominent faculty from the area to address the participants. The CVC/VC will also address the participants in some of the seminar.
  - (iii) Organise competitive debates/lectures on anti corruption topics amongst the employees and to distribute prizes.
  - (iv) Organise competitive lectures/debate on anti corruption methods at the student levels in the colleges/schools in the city and to award prizes to the best participation.



- (v) Issue special journals during the week.
- (vi) Request the non government organisations, institutions and service associations in the local area to also participate in the vigilance awareness campaign.

6.42.4 The participants in the programme can also select specific procedures or offices and study them and make suggestions about how corruption can be checked by simplification or improvement of procedure by bringing in greater transparency and speed in the disposal of work.

### 6.43 Vendor Development

6.43.1 Vendor development is a continuous process to identify and develop new vendors to bring the competition among the vendors and to reduce cost.

- (a) BEML has separate Vendor Development and Quality departments.
- (b) Vendor meet is organized as per the business needs of the company. In addition to open tendering BEML also participates in various exhibitions, seminars organized by MSME/NSIC/PIA/CODISIA etc for outsourcing requirements.
- (c) The annual procurement from MSMEs is reported and the annual requirements have been uploaded on BEML's website. For Financial Year 2014-15, BEML has targeted to achieve 11% procurement from MSEs.
- (d) BEML follows the procedure of temporary vendor codes for potential vendors after assessment without any charges for development activity.
- (e) Alternate source development for both critical and non-critical items are being done on continuous basis.
- (f) BEML follows Long Term Agreement (LTA) to retain developed vendors/ encourage active participation of the vendors.

### 6.44 E-procurement

6.44.1 E-Procurement is the business-to-business purchase of supplies and services over the internet. E-Procurement makes use of a system utilizing internet technology to streamline the purchase of goods, works and services in order to reduce costs. E-Procurement can also be extended to cover various functions of the purchase department like supplier sourcing, purchase data analysis, online buyer driven commodity exchanges etc.

6.44.2 Implementing an e Procurement system benefits all levels of an organisation. E-Procurement systems offer improved spend visibility and control and help finance officers match purchases with purchase orders, receipts and job tickets. An e-procurement system also manages tenders through a web site. This can be accessed anywhere globally and has greatly improved the accessibility of tenders.

6.44.3 The two main processes of E-Procurement are : E-Bidding and E-Auction.

#### E-Bidding

6.44.4 E-Bidding is the electronic equivalent of traditional manual tendering process. In E-Bidding, the Bid Invitations are received from the buying organization by the bidders online



and the bidders can submit bids online till the submission deadline. The bids submitted by the bidders will be available for display to the authorized persons only after the opening date and time are reached for further processing.

#### **E-Auction (Reverse Auction)**

6.44.5 E-Auction is an electronic auction where suppliers bid and compete against each other online in real time for purchase orders/contracts for products/services against a published specification and pre-established criteria. E-Auction enables online, realtime dynamic price negotiation between a buying organization and a group of prequalified suppliers.

#### **Objective of E-Procurement**

6.44.6 To put in place a simplified alternative to traditional tendering / procurement /negotiation process aimed at:

- (a) Increasing operational efficiency.
- (b) Enhanced transparency in purchase process.
- (c) Cost rationalization.
- (d) Digitization of purchase documentation.

6.44.7 As per BEML circular CM/e-procurement/2014/1155 dated 16th April 2014, e-procurement is mandatory for all procurements (Indigenous project/Non-project/Capital items) where the estimated value of Purchase order is more than Rs 1 Lakh.

#### **6.45 Updation of Manuals / Procurement of Manuals**

6.45.1 Manuals are the most valuable reference source in a business environment. They are used to instruct and guide officers/employees on technical procedures, Company Policies and guidelines as a ready reckoner of various kinds of information. It removes the ambiguity and interpretation.

6.45.2 Since Policies and Procedures keep changing with time it is imperative that manuals are constantly updated and circulated at least once in a year, so that the officers/employees are abreast with latest trends, making them competitive.

## Chapter - 7 COMPLAINTS AND INVESTIGATIONS



The strength of a nation derives from  
the integrity of the home.

- Confucius



## INTEGRITY PLEDGE AT SCHOOL

### 7.1 Introduction

7.1.1 In the changed and liberalized scenario, BEML is functioning as a vibrant commercial organization with emphasis on self reliance, profitability and competitive strengths to meet challenges from other Indian as well as Foreign companies. In achieving these objectives, there has to be greater transparency and accountability in the functioning of Managers while handling operations, expenditure and sales. The organization has to get the best possible results with effective Vigilance against unethical acts, corruption and malpractices. These unethical acts come to notice through complaints, supervisory controls, surprise checks, source information etc.

7.1.2 Complaints form an important source of information about corruption, various irregularities in the Company, malpractices and misconduct on the part of officials.

7.1.3 Complaints are received from a number of sources, namely :

- a) General Public.
- b) People's representatives like MPs, MLAs, etc.
- c) Company employees.
- d) Press & Electronic Media.
- e) Contractors & Suppliers.
- f) Surprise Checks.
- g) Scrutiny of Annual Property Return Statements.
- h) Scrutiny of Purchase / Contract Files.
- i) Internal Audit Reports.
- j) Government Audit Reports.
- k) Reports of Parliamentary Committee such as the Committee on Public Undertaking / Public Accounts Committee / Estimates Committee / Parliament Questions etc.

7.1.4 All information gathered from reports, returns, newspapers etc. can be included Information received verbally should be reduced to writing as a Source Information and dealt with similarly.

7.1.5 Information about corruption and malpractices on the part of officials may also be received from their subordinates or public servants. While normally an employee is required to address communications through proper official channel, there is no objection to entertaining direct complaints or communications giving information about corruption or other kinds of malpractices.

7.1.6 As per CVC's instructions, while genuine complainants should be accorded protection against harassment or victimization, serious notice should be taken if a complaint is, after verification, found to be false and malicious. There should be no hesitation in taking severe departmental action or launching criminal prosecution against such complainants.

7.1.7 Information gathered from different means should also be reduced to writing and registered in the Vigilance Complaints Register at a suitable stage.



## 7.2 Anonymous / Pseudonymous Complaints

7.2.1 As per CVC & DoPT directives issued vide Circular No. 01/01/2015(98/DSP/09) dated 23rd January 2015 (**Annexure-42**) and No.104/76/2011-AVD.I (**Annexure-35**) dated 18th October, 2013 no action is to be taken by the departments / organizations, on anonymous / pseudonymous complaints received by them. The following has been delineated :

1. *All CVOs are informed that henceforth the Commission would be seeking confirmation from the complainant for owning / disowning the complaint, as the case may be. Therefore, any further confirmation would not be required to be sought by the CVOs from the complainant in respect of the complaints sent to CVO's for inquiry and report by the Commission. However, clarifications /any additional information, if required, could be obtained from the complainant (s) as part of inquiry in the matter undertaken by the CVO.*
2. *As regards complaints received directly by the CVOs of Ministries / Departments / Organisations, if a complaint contains specific and verifiable allegations of corruption / vigilance angle and it is proposed to take cognizance of such complaints, the complaint will be first sent to be complainant for owning / disowning as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous by the CVO of the Ministry / Department / Organization concerned. CVOs are advised that in no case, any inquiry / investigation be initiated on complaints without receipt of confirmation from complainant on any complaint.*
3. *In so far as complaints sent by the Commission for 'necessary action' to CVOs of Ministries / Departments / Organizations, no such confirmation would be made from the complainant by the Commission. In case the CVO on scrutiny of such complaints propose to inquire into the allegations confirmation as stated in para 2 above should be made by the CVO".*

## 7.3 Registration of Complaints

7.3.1 Every complaint, from whatever source received, should be entered in the Register of Complaints chronologically as it is received or taken notice of. A PI/RC number is to be obtained from Vigilance Administration which will be used as the unique serial number for all correspondence in the matter till its logical conclusion or till the case is registered for preliminary or regular investigations. A complaint containing allegations against several officials may be treated as one complaint for the purpose of registration and should be shown against the highest ranking official.

7.3.2 Whenever a preliminary open Inquiry needs to be conducted into an irregularity / case, the concerned Investigation Officer will obtain proper approval of the CVO on the Note Sheet and request Vigilance Administration for a PI number. This number will be used as the unique serial number for all correspondence in the matter till its logical conclusion or till the case is registered for regular investigations. A PI is to be registered only to ascertain whether a prima facie case exists.



7.3.3 When it is established that a prima facie case exists and it is necessary to conduct detailed investigations involving recording of statements by various officials / employees associated with the case, analyzing the outcome and finally making recommendations in the case (Punitive or Preventive), the concerned IO should obtain approval of the CVO on the Note Sheet for registering an RC. As in earlier types of cases, the RC number will thereafter be the unique serial number for all correspondence till the logical conclusion of the case. All cases registered as RC must be reported to the CVC in the Monthly Reports and IOs must ensure that the schedule of time limits for investigations to be completed within three months is strictly adhered to. All cases referred for investigations and report by the CVC / MOD need to be registered as RC upfront before commencing investigations. All cases involving officers at two levels below Board level and above, which fall under the jurisdiction of the CVC, need to be registered in a separate Register and need to be categorized as Category – A cases.

## 7.4 Complaint Handling Policy

7.4.1 Complaint Handling Policy of BEML has been released vide GB 1581 dated 30th January 2015 (**Annexure-43**). The same is Reproduced below :

### 1 Preamble:

- (a) *Complaints containing information about corruption, malpractice or misconduct by public servants are received in a decentralized manner. CVOs receive complaints, from many decentralized locations also. According to the prevailing practice what is sent to the CVO from different decentralized locations entirely depends on the appreciation of 'vigilance angle' or otherwise by the officers controlling these decentralized locations.*
- (b) *In such a system there is every chance that a complaint with a vigilance overtone may not be forwarded to the CVO, due to a lack of appreciation or for other bonafide reasons. This has also been revealed through the vigilance audit by the CVC in some organizations.*
- (c) *In order to have uniform practices and procedures in the handling and processing of complaints in an organisation, it is imperative that a 'Complaint Handling Policy' is laid down for receipt, handling and processing of all types of complaints / grievances from the public, contractors, vendors, suppliers, etc.*

### 2 Objective:

*Any complaint / grievance received in the organisation by any functionary containing any element of alleged corruption, malpractices or misconduct etc., should necessarily be sent to the CVO of the organisation for scrutiny and action.*

### 3 Definition :

#### (a) Complaint:

*Receipt of information about alleged corruption, malpractice or misconduct on the part of public servants, from whatever source, would be termed as COMPLAINT.*



**(b) Types of Complaints :**

- (i) Identifiable or Signed Complaints:** These are complaints wherein the identity of the complainant is mentioned by virtue of name, contact details, etc. Further, the complainant owns / confirms the details mentioned in the complaint, when the complainant is contacted at the address / contact no. mentioned in the complaint.
- (ii) Pseudonymous Complaints:** (bearing a false or fictitious name; writing or written under a fictitious name) These are complaints wherein the identity of the complainant is mentioned by virtue of name, contact details, etc. However, when the signatory of the complaint is contacted at the address / contact no. mentioned in the complaint, the complaint is either disowned or there is no response within a reasonable time.
- (iii) Anonymous Complaints:** These are complaints where the complainant has not revealed, verifiable or traceable or contactable identity while making the complaint.
- (iv) Source Information:** Source information received by the Vigilance Department shall be reduced in writing and shall be treated as signed complaint.

**4 Action on Complaints Received by Vigilance Department:**

The complaints received directly by Vigilance Department have to be marked or forwarded to CVO (in original) for deciding the further course of action.

**5 Action on Complaints Received by Sections / Departments of Division, Complex, RO / DO:**

- (a) Nodal Agency :** Under the Complaint Handling Policy of BEML Ltd. the CGM (HR) – ('KH') is notified as the Nodal Agency. He will receive the complaints from the respective HR chief of the Complex / Division / ROs / DOs in original and send the same to CVO as and when received to decide upon the existence of a vigilance angle in the format as prescribed at **Annexure-43**.
- (b) Any Complaint, as defined, received by the Heads of Sections / Departments of Complex should invariably be forwarded to the respective Complex HR Heads. Similarly, for Marketing & Defence HQ / ROs / DOs and Corporate Office, the same will be forwarded to MK and KP(E&M) respectively. Every complaint, irrespective of source, should be entered in the Complaint Register in the prescribed format (Annexure-II) Respective HR department shall then forward the complaints as and when received, to the CGM (HR) – ('KH') in the format as prescribed at Annexure-I. No other action on the complaint should be initiated by the respective HR department at this stage.**

**6 Scrutiny of Complaints:**

- (a) All complaints including Anonymous / Pseudonymous received by / forwarded to the Nodal Agency will be sent to CVO as and when received.**



- (b) No action is required to be taken on the anonymous complaints irrespective of the nature of allegations and such complaints need to be simply filed.**

- (c) Complaints containing vague allegations could also be filed without verification of identity of the complainant.**

- (d) If a complaint contains verifiable allegations, CVO will take cognizance of such complaint.**

- (e) In such cases, the complaint will be first sent to the complainant for owning / disowning, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous.**

- (f) The decision with regard to the existence of a vigilance angle in such complaint case will be taken by the CVO. The CMD or his nominee, may, if there are valid reasons, within a period of 15 days, differ from the CVO. In case of difference between CVO and CMD, the matter will be referred to the CVC for advice. Else, the Complaint will be registered in the Vigilance Complaint Register, the CVO will then process the matter further to decide as to whether the allegations or the matter requires further investigation or should be entrusted to the CBI or local police or taken up departmentally.**

- (g) A case may be entrusted to the CBI with the approval of the CMD, if the allegations:**

- (i) Are criminal in nature (e.g. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known sources of income, cheating, etc.); or**
- (ii) Require inquiries to be made from non-official persons; or**
- (iii) Involve examination of private records; or**
- (iv) Need expert police investigation for arriving at a conclusion; or need investigation abroad.**

A decision in this regard shall be taken by the CMD within 15 days from the date on which papers are received by him for consideration and decision.

- (h) A complaint involving a Board-level appointee, alone or with others, shall be forwarded to the CVO of the Administrative Ministry.**

**7 Methods of Receiving Complaints in BEML:**

- (a) Through Vigilance Portal of BEML Web site 'www.bemlindia.com'.**
- (b) Through the Drop Boxes placed at various locations.**
- © Directly/By Post/source.**

**8 Methods of Receiving Complaints by CVC:**

- (a) Through complaint handling portal of CVC web site <http://www.cvc.nic.in>**



- (b) *PROJECT VIGEYE. Please refer VigEYE website (www.vigeye.com) for any clarification/details.*
- (c) *Public Interest Disclosure and Protection of Informers Resolution (PIDPIR) – popularly known as Whistle Blower Complaint. A copy of detailed notification is available on the web-site of the Commission <http://www.cvc.nic.in>.*

## 7.5 Preliminary Inquiry (P.I)

7.5.1 The purpose of preliminary investigation is to ascertain existence of Vigilance angle in the complaint, and this should be done within ONE MONTH from the date of receipt of the complaint CVC Circular No.000/VGL/18, dated 23rd May, 2000). **(Annexure-44).**

7.5.2 Each complaint will be examined by the CVO to see whether there is any substance in the allegations made in it which merit being looked into. Where allegations are vague and general and prima facie unverifiable, the Investigating Officer may decide, with the approval of CVO, that no action is necessary and the complaint should be dropped. However, in respect of such complaints pertaining to the officers in whose case CVC's advice is necessary, as well as complaints received from the CVC, or CBI, the P.I. Report will be forwarded to the CVC (with the views of the CMD), CVO, CBI as the case may be. The CVO who will take a decision based on the recommendations of IO regarding 'Lodging' or 'Filing' of a complaint, but under information to the CVC / CBI, as the case may be.

7.5.3 Whenever P.I. Report is required to be sent to the CVC, the Investigating Officer should conclude his investigation within a period of two weeks and forward the Report to the CVO so that the decision on existence of Vigilance angle is taken within the stipulated period of one month.

7.5.4 A Preliminary Inquiry may result in one of the following decisions :

- The complaint is lodged (having No Vigilance angle).
- The complaint with No Vigilance angle is forwarded to the concerned department for administrative action.
- Prima facie Vigilance angle is found and the case is taken up for detailed investigation and registered as an RC.

7.5.5 Preliminary Inquiry Guidelines : The Preliminary Inquiry may be done keeping in view the matters having Vigilance angle as indicated in the CVC Vigilance Manual. The investigation process is a comprehensive activity involving :

- Information Collection
- Application of Logic.
- Exercise of Sound Reasoning.

7.5.5.1 The objective is to seek answers to the basic questions, What, Who, Where, When, How and Why.

- WHAT - Happened ? (Wrongful Omission / Commission).
- WHO - Did it / Was responsible (Persons, i.e. Employees of the Company or Outsiders).



- WHERE - To look for & find Information? (Location/documents /files).
- WHEN - The Incident occurred / act was committed? (Time period).
- HOW - The act was committed? Means? (Methodology).
- WHY - The act was committed? Motive? (Malafide or Bonafide).

7.5.5.2 Answer to the above investigative questions can be developed through observation or by communication.

7.5.5.3 On receipt of complaint, the following checklist may be prepared by the Investigation Officer within three days in consultation with the EA to CVO :

- Veracity of the complainant.
- List out allegations made, departments and persons involved against each allegation.
- Inspect the site / office / premises for possible evidence.
- Collect the files and documents with reference to the allegation for examination. Seizure of files / documents to be taken possession of by I.O. should be done at the earliest.
- Study the system / rules / guidelines on the subject.
- Study the past practices.
- Study delegation of powers. Whether any discretionary power has been used?
- Gather information from persons around (selection of persons is important). Recording of statement at this stage may not be necessary.
- Analyze the facts and conclude about existence of the Vigilance angle in the complaint.
- Prepare and submit P.I Report within two weeks.

## 7.6 Registration of Regular Case (RC)

7.6.1 After it has been decided, with the approval of the CVO, that the allegations contained in a complaint should be looked into departmentally, the IO should proceed to make a detailed investigation. The DGM (Vig.) may conduct the detailed investigation himself or entrust it to one of the Vigilance Officials as an Investigating Officer.

7.6.2 The detailed investigation may be made in several ways depending upon the nature of the allegations and the judgement of the Investigating Officer.

- If the allegations contain information which can be verified from documents, files or other departmental records, the I.O. should, without loss of time, secure such records etc. for personal inspection. If any paper is found to contain evidence supporting the allegations, it should be taken over by him for retention in his personal custody to guard against the possibility of the available evidence being tampered with later on. If the papers in question are required for any current action, it may be considered whether the purpose would be served by substituting authenticated copies of the relevant portions



of the record, the originals being retained by the Investigating Officer in his custody. If that is not feasible, the officer requiring the documents or papers in question for current action should be made responsible for their safe custody after retaining authenticated copies for the purpose of Inquiry.

- (b) In cases where the alleged facts are likely to be known to any other employee of the department, the Investigating Officer should interrogate them orally or ask for their written Statement. In case of oral interrogation, a full record of the interrogation may be kept and the person interrogated may be asked to sign as a token of his confirmation of his Statement.
- (c) If necessary, important facts disclosed during oral interrogation or in the written Statement should be sought to be corroborated.
- (d) If it is necessary to make enquiries from the employees of any other Government department or organization or PSE or Bank, the Investigating Officer should seek the assistance of the CVO / nodal authority concerned for providing the necessary facilities.
- (e) During the course of the detailed investigation, the concerned employee, as a fundamental administrative requirement, should also be given an opportunity to tender his version of the facts so as to find out if he has any plausible explanation. In the absence of such an explanation, the concerned employee may be proceeded against unjustifiably. There is, however, no question of making available to him any document at this stage. Such an opportunity need not be given in cases in which a decision to institute departmental proceedings is to be taken without any loss of time, e.g. in cases in which the public servant is due to superannuate soon and it is necessary to issue charge-sheet to him before his retirement.
- (f) Where a case involves both criminal misconduct as well as flagrant violation of systems and procedures of the organization, further investigation into the former should be left to CBI. The PSE concerned may, however, simultaneously consider the latter and initiate appropriate disciplinary proceedings, in accordance with the prescribed procedure, if required. The CVO of the PSE and the DIG concerned of the CBI should coordinate their efforts to ensure that violation of rules, regulations and PSE norms which are best covered under RDA are left to the disciplinary authority to deal with CBI on the other hand should focus their investigation on the criminal aspects of the case.

### 7.7 Investigation Procedure (Questionnaire)

- (a) **What is the Task ?** : The first and foremost requirement is to understand the task properly. It should be clear to the I.O. as to what exactly is the scope and purpose of the investigation.
- (b) **How to Approach ?** : The I.O. should adopt an objective and analytical approach, must make the suspected employee confident that he is not biased against him. If the suspected employee volunteers "Administration", it should be recorded and his signatures obtained thereon.



- (c) **How to Plan ?** : The I.O. must plan his work carefully before beginning to record the evidence. He must know what are the documents required and who the persons are whose evidence may be recorded.
- (d) **What are the Documents to Inspect ?** : In departmental proceedings, the documentary evidence is of paramount importance. A witness may lie but a document will not. In departmental proceedings, a case built on documentary evidence is always on a stronger ground than the one based on oral depositions. A careful study of documents will help in planning future steps.
- (e) **Whom to Examine ?** : After a thorough scrutiny of the documents, the I.O. should be in a position to reconstruct the situation and find out the various persons involved in the matter. This I.O. should be able to spot whom to examine and about what.
- (f) **How to Examine the Witnesses ?** : Before examining the witnesses, the I.O. should acquaint himself fully with the relevant rules and procedures governing the situation. Keeping in view these factors and the role analysis of the witnesses done earlier, the I.O. may plan his investigation. The I.O. should be courteous and gentle to the witnesses. Intimidating or browbeating a witness must be avoided. The witness should be asked to offer the facts in her / his possession.
- (g) **How to Examine Suspected Employee ?** : The suspected employee should be taken into confidence before his evidence is recorded. He may be examined as the last witness after collecting all other evidence. The examination of the suspected employee is a very important process & is extremely useful in processing the case further.
- (h) **How to Analyse the Evidence ?** : The objective of the I.O. is to find out the truth. He should, after collecting all documentary and oral evidence, analyze and draw up his conclusions. He must avoid presenting a motivated and coloured Report and thus should not do injustice to the suspected employee. In a reasonable manner, the Report should contain an analysis of the various pieces of evidence recorded and the conclusions drawn there from. In his Report, the I.O. should not say that the allegations stand proved against the employee concerned, at best he can say that, on the basis of the evidence on record, the allegations prima facie appear to be correct.

### 7.8 Investigation Technique

#### Introduction :

7.8.1 Investigation of complaints is not always a straightforward matter. Investigation techniques are acquired by experience & a strong will to investigate. A good investigation is essential to unearth the hidden truth behind a complaint. In order to achieve this goal, the investigators should be properly trained and they should develop basic investigation skills and capacities. A skilled investigator can pick up valuable clues which a normal investigator may not be able to see, even if such clues are lying clear on the surface.



### 7.8.2 Investigation Module

- (a) Examination and recording of allegation :
  - (i) Examine the complaint for the allegations made. Identify / bring out the allegations, which may be one or more.
  - (ii) Record the allegations in clear, well directed and specific terms.
  - (iii) Record names of persons (s), department etc. against whom the allegations have been made.
- (b) Based upon the allegation :
  - (i) List out Files to be examined and immediately seize them from their location.
  - (ii) List out any documents / records to be scrutinized and take them into possession without delay.
  - (iii) List out persons directly involved in the allegations for interrogation in future, but make no immediate communication with them till the Files / documents / records are examined in totality.
  - (iv) If any File / record could not be seized due to non-availability at their location, send a written demand for the same to the custodian .
- (c) Examination of Files / records :
  - (i) Keep the specific allegation in mind and flag pages wherever related matter appear in Files / records.
  - (ii) Carefully go through the Files / records page by page and note down the events / notings etc. date wise, i.e., prepare a short history of the events separately.
  - (iii) There may be points arising out of the scrutiny having some Vigilance angle which can form an allegation other than / separate, from those in the complaint.
  - (iv) Flag those pages and record all such points separately. Bring out the allegation in clear cut terms from all such points and enlist it in the list of allegations with a note mentioning its source.
- (d) **Results of the Examination** : Examination done at (c) above will result in either of the following :
  - (i) No evidence substantiating the allegation are found.
  - (ii) \*Evidence substantiating the allegations are found.

7.8.3 Action Taken After Investigation: Based on above result, the following actions may be taken :

- (a) Depending on the merit of the complaint / allegations made, the case can be either closed or further pursued. If the allegations are such that they could



only be established through evidences in Files / records etc. and the basis of the complaints rests on these alone, then the investigation can be concluded with the approval of the EA to CVO.

- (b) \*If the basis of the complaint does not rest on Files / records scrutinized alone, then the persons / agencies who can contribute to substantiating the allegations or from whom further clues can be obtained will have to be identified.
- (c) Both the situations marked \* above, will lead to obtaining statements from persons or interrogation of persons involved.

### 7.8.4 Interrogation

- (a) Call the person to be interrogated, giving her / him the date, time, venue etc. through written intimation to her / his superior / Sectional Head / HOD. In the case of exigency, the same can be done over telephone. No disclosure is to be made about the nature of the complaint / allegations in this intimation. Only in cases where personal documents like Birth Certificate, School Leaving Certificate etc. are required to be seen / examined, she / he shall be asked to bring them with her / him.
- (b) The Statements / replies obtained during the interrogation are extremely valuable. Therefore, these have to be recorded at the time of interrogation and, as per the norm, one copy of the same has to be handed over to the person interrogated.
- (c) Keeping the allegation fully in focus, prepare a list of queries which must be raised and the clarifications that need to be obtained well in advance of the interrogation, so that no point is missed. Though the necessity of calling the same person more than once cannot be ruled out, try to cover all aspects of the allegations in the very first interrogation, to avoid giving her / him a feeling of harassment.
- (d) When the person to be interrogated arrives :
  - (i) Welcome her / him heartily.
  - (ii) Do not let her / him feel that you are prejudiced about her / his guilt / misconduct.
  - (iii) Give no indication about the allegation to begin with, till the same becomes essential for further questioning.
  - (iv) Keep cool while putting questions even when the answers given are irrelevant and go on recording them. Repeat your queries in specific terms till satisfactory replied.
  - (v) If documents etc. are shown to her / him for verification / authentication, the same must be recorded in the proceedings. Such documents should also be signed by her / him as "SEEN".





- (vi) If the person under interrogation names some other person, get the same recorded with full details. If she / he refers to Files etc. not in hand, record these and take her / his commitment to submit the same within a fixed date.
- (vii) Ensure all points are covered. Most of the time, the reply given leads to the next question to be asked. Even, in some situations, queries may get directed to a completely new dimension, issue or area of concern.
- (viii) During the course of interrogation even a fresh case may crop up, be prepared for that.
- (e) At the end of the Interrogation :
  - (i) Ensure correctness of recording of all Statements.
  - (ii) Read out the replies / Statements given by the person interrogated.
  - (iii) Get each page signed and also at the end with date.
  - (iv) Hand over the copy after obtaining a receipt for the same.
- (f) The result of the interrogation shall now be analyzed in totality along with the result of scrutiny of Files / records wherever applicable. This may lead to the following:
  - (i) The allegations are not established.
  - (ii) The allegations are established in full or partly established.
  - (iii) New cases with separate charges may evolve.
- (g) In all the situations, a comprehensive report with recommendations has to be submitted to the CVO, enclosing all the documents and Statements.
  - (i) For case at f(i) recommendation shall be to close the complaint.
  - (ii) For case f(ii), depending upon the severity of misconduct, the recommendation can be either initiation of RDA for Minor Penalty including 'censure', Minor Penalty other than 'censure' or Major Penalty proceedings.
  - (iii) For f(iii), begin with another investigation afresh with the allegations evolved.

### 7.9 Regular Case (RC) Report

7.9.1 The objective of the Investigating Officer is to find out the truth. After the detailed investigation has been completed, the I.O. should prepare a self-contained Report, containing inter alia the material to controvert the defence and his own recommendations.

7.9.2 The structure of the Report may be formulated as under :

- (a) Specific allegations on each of the issues contained in the complaint.
- (b) Facts on each allegation along with documentary and oral evidence relied upon.



- (c) Analysis with respect to relevant Rules, procedures, guidelines and the explanation of the suspected employee.
- (d) Findings, clearly bringing out the wrongful omissions / commissions on the part of each of the suspected officials and the wrongful loss caused to the Company.
- (e) Need for system improvements, if any, with recommendations.

7.9.3 The Report of the Investigating Officer should be comprehensive and completely documented so as to enable the Disciplinary Authority to form an opinion as to whether to take disciplinary or any other action. Seized documents and the Statements of the witnesses and the suspected employee recorded during the investigation should be enclosed with the Investigation Report.

7.9.4 CVC have provided detailed guidelines vide their Circular No.21/8/09 communicated vide letter N.006/PRC/1 dated 6th August, 2009 (**Annexure-45**) on the documents to be submitted for seeking their First Stage Advice in cases involving officers under their jurisdiction (Two levels below Board level : In the case of BEML, officials at the level of General Manager and above). These guidelines detail the parameters according to which a Vigilance Report needs to be submitted. For ease of application and understanding, all Vigilance Reports (whether or not relating to the cases to be referred to CVC for advice) will conform to these parameters which are reproduced below :

7.10 **Vigilance Report:** Constituents of Vigilance Report are as given below :

- (a) Source.
- (b) Gist of Allegations.
- (c) Facts.
- (d) Observations.
- (e) Response of the Officials Concerned.
- (f) Counter to the Response.
- (g) Conclusion.
- (h) Responsibility of Officials.
- (i) Recommendation for Action.
- (j) Recommendation for Systemic Improvement.

7.10.1 Source : Background of the Report, whether based on source information, complaint referred to by the CVC, CTE / CTE type inspection or direct Inquiry.

7.10.2 **Gist of Allegations :**

- (a) Specific and Verifiable allegations be extracted from the complaint.
- (b) One Allegation shall correspond with one alleged act of commission / willful Omission.
- (c) The allegations will drive the points to be probed.



### 7.10.3 Facts

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

### 7.10.4 Observations

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

### 7.10.5 Response of Officials Concerned

- (a) 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 objective 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.
- (b) Response of the Management is also necessary in order to clarify differences in interpretation / understanding of the issues between Vigilance and the Management.



### 7.10.6 Counter to the Response

- (a) 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.

### 7.10.7 Conclusion

- (a) 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.
- (b) 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.

### 7.10.8 Responsibility of Officials

- (a) 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 the officers should be clearly stated in this para.
- (b) 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 held responsible equally and collectively.
- (c) Comments of Disciplinary Authority should invariably be included.

### 7.10.9 Recommendation for Action

- (a) Recommendation for closure of the case, if it is found that there is no discernable Vigilance angle or criminal misconduct, should be clearly spelt out.
- (b) Bio data of the officials reported against in the investigation report should be included in the given format.

### 7.10.10 Recommendation for Systemic Improvement

- (a) 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.

### 7.11 Action on Investigation Report

7.11.1 The following actions are required to be taken on Investigation Report :



- (a) The EA to CVO will process the detailed Investigation Report with recommendations for further action and submit it to the CVO who, after perusal of the Report, will take appropriate decision for closure or processing further to recommend RDA and also to make preventive recommendations.
- (b) As per the provision under Article 311 of the Constitution of India which applies to the employees of PSUs, action against employees is to be taken only by the authority who has appointed them and who is called the Disciplinary Authority (DA).
- (c) For the various categories of employees, the details of the Disciplinary Authorities, Appellate and Reviewing Authorities are listed in the BEML Employees' Service Regulations.
- (d) For cases falling within the CVC's jurisdiction (officers who are two levels below Board level), a reference to the CVC needs to be made for their First Stage Advice, after obtaining the comments of the DA. The Bio data of the suspected officials, an Assurance Memo signed by the CVO and draft Charge-Sheet to be issued to the delinquent should also be sent along with the Report, along with Tabular Statement as prescribed vide CVC's Circular dated 1st December, 2008, which contains the names of the delinquents, the allegations levelled against them, the findings of the Vigilance Investigation, with the recommendations of the CVO and the DA.
- (e) Other cases may not ordinarily be referred to the CVC unless, due to special reasons, the Commission calls for a Report or in cases the PSE would like to seek the advice of the Commission. (Ref. CVC letter No.98/VGL/51 dated 11 August, 1999). **(Annexure-46)**.
- (f) As per CVC's instructions, in a composite case which includes officers / Staff who are not within the commission's jurisdiction along with other officers who come within the Commission's jurisdiction, reference would be required to be made to the CVC in respect of these 'other' officers and Staff too.
- (g) On receipt of a Report in an RC, the CVO will submit the case to the CMD with recommendations for action who in turn forwards it to the DA. The Disciplinary Authority is required to carry out their duties. She / he is also required to assess the gap between what the managers at different levels of the decision making hierarchy actually did, and what they were required to do in accordance with the Manuals / guidelines / orders. They may follow the following criteria for the purpose and highlight in their Reports if the answer to any of the questions is in the affirmative.
  - (i) Can Malafide Intentions be inferred or presumed from the actions of any of the concerned officials?
  - (ii) Could any of the officials be said to have engaged in a misconduct or misdemeanor?
  - (iii) Was the conduct of any of the officials reflective of lack of integrity?



- (iv) Did the official act in excess of their delegated powers / jurisdiction and fail to report the same to the competent authority?
- (v) Did they or any of them show any gross neglect of their official functions?
- (vi) Is there any material to indicate that any of them acted recklessly?
- (vii) Has the impugned decision caused any undue loss to the organization?
- (viii) Has any person / party or set of persons / parties, either within the organization or outside it, been caused any undue benefit?
- (ix) Have the norms or systems and procedures of the organization been flagrantly violated?

7.11.2 In case the DA does not agree with the recommendations made by the CVO, or there is a difference of opinion between the CVO and DA on any issue pertaining to Vigilance / disciplinary matters in regard to cases which are not to be referred to the CVC, the CMD will resolve the issue in consultation with the CVO. If the difference of opinion still persists, the CMD would bring the matter to the notice of the Board. In case the CMD himself is the DA in a particular case and there is disagreement between the CVO and CMD, the matter will be forwarded to the CVC for a resolution.

7.11.3 The Disciplinary Authority would consider the detailed Investigation Report and the First Stage Advice of the CVC and decide on :

- (a) Punitive action – Regular departmental action for Minor / Major Penalty.
- (b) Preventive action – Improvement of system, procedure.
- (c) Issue of Advisory letter / warning / caution.
- (d) Action against private parties.
- (e) Closure of the Vigilance case.

#### 7.12 Prior Consultation of CVO in Disciplinary Proceedings

- (a) There are various stages in Disciplinary Proceedings consequent to a Vigilance recommendation where the Competent Authority is required to consult the CVO before proceeding further.
- (b) Once the Competent Authority takes a decision to implement the Vigilance recommendations for award of Penalties, a draft Show Cause Notice is to be referred to the CVO for vetting. No Show Cause Notice will be issued without it being vetted by CVO.
- (c) If the Competent Authority feels that the explanation received is not satisfactory and decides to proceed with the issuance of charge-sheet, the draft charge-sheet will also be similarly forwarded to the CVO for vetting. If it is felt that, despite the delinquent accepting all the charges, it is necessary to proceed with a departmental Inquiry, the issuance of such charge-sheet will also be guided by the above Rule.



- (d) If, however, the Competent Authority feels that the explanation offered by the delinquent is satisfactory and that departmental action is not required, the same has to be referred to the CVO for consultation within the time limits stipulated by the CVC. In case the CVO does not agree with the views of the Competent Authority in the matter, it will be referred by the CVO to the CMD for a decision.
- (e) Once the Competent Authority receives the Inquiry Report from the Inquiry Officer / Committee in a disciplinary proceeding based on Vigilance recommendations, she / he is expected to go through the Report and apply her / his mind before arriving at a decision to impose a penalty on the delinquent.
- (f) After application of mind and after going through the Personal File and history of performance of the delinquent, the Competent Authority will arrive at the appropriate penalty to be imposed on the delinquent in keeping with the laws of Natural Justice.
- (g) It is necessary that all cases with Vigilance angle be regulated by the Vigilance Department in order to maintain consistency in the penalties imposed and ensure that penalties imposed are appropriate w.r.t. to the gravity of the misconduct. Prior Vigilance consultation is, therefore, necessary before the award of the penalty and hence the Competent Authority should seek the concurrence of the CVO by forwarding the proposed Penalty detailing the justifications for her / his decision.
- (h) The final Show Cause Notice to be issued to the delinquent shall be issued only after the CVO has been consulted with respect to the quantum of punishment.
- (i) In cases where the Vigilance recommendations are for RDA for Minor Penalty or RDA for Minor Penalty other than Censure, the Competent Authority may proceed with the issue of the penalty without any reference to / consultation with the CVO as long as the penalty being awarded is in consonance with the CVO's recommendations.
- (j) So far as action against private parties is concerned, it shall be done by the concerned authority as an administrative action.

### 7.13 BEML Portal - Complaint Registration

7.13.1 All complaints relating to corruption, lack of integrity / fairness / transparency in dealing with BEML Limited (which necessarily have vigilance angle) have to be made in writing to:

Chief Vigilance Officer  
BEML Limited, BEML Soudha,  
23/1, 4th Main, SR Nagar,  
Bangalore - 560 027.  
Fax No: 080-22963277  
Email: bemlvig@beml.co.in



7.13.2 Complaints can also be lodged online on this portal through the Vigilance Complaint Form on BEML Website – [www.bemlindia.com](http://www.bemlindia.com)

7.13.3 The complaints will be acknowledged with a duly assigned number. Based on the merit of the complaints, further course of action will be taken as per the Company Policy. Nevertheless, the status of the complaints can be viewed at this portal through Complaint status.

\* \* \* \* \*





## ANNEXURES, FORMATS AND CIRCULARS

Annexure	Letter & Circular No	Date	Subject	Ref Pg	Page No
1	CVC vide Office Order No. 23/04/04 & Office Order No. 74/12/05	12.04.2014 21.12.2015	Vigilance Angle-Definition		118
2	O.M. No. 142/10/97-AVD.I	14.01.1998	Sanction for Prosecution		120
3	Order No. 4/2/09	27.02.2009	Govt of India Resolut-ion on Public Interest Disclosures & Protect-ion of Informer		121
4	Order No. 57/8/04	31.08.2014	Time limit for Investi-gation of Complaints		122
5	15(7)/98(GL-009) GM	25.09.1998	Model Vigilance Structure for PSU		123
6	Circular No 16/3/06	28.03.2006	Protection Against Victimization of officials of the Vigilance Units		125
7	O.M. No.321/77/91-ADV.III	09.06.1992			127
8	Circular No. 1542	03.09.2013	Functions of Chairman, DVC		128
9	Omno. 22011/5/86-Estt.(D)	10.04.1989	Confirmation of Order		130
10	DoPT OM no. 22011/4/91-Estt.(A)	14.09.1992	Promotion		136
11	DoPTO.M. No. 28034/4/94-Estt.(A)	31.05.1994	Acceptance of Resignation		140
12	Clause 6.14.1 of CVC Vigilance Manual 2005	2005			142
13	No. 25013/7/77-Estt. (A)	26.08.1977	Scheme of Voluntary Retirement		143
14	25013/3/79-Ests. (A)	28.07.1979		148	
15	No. 25013/10/85-Estt. (A),	05.07.1985		159	
16	25013/3/2003-Estt. (A),	17.06.2003		150	
17	Sub Rule 4 of the Rule 9 & Sub-Rule3 of Rule 39 of the CCS(Leave) Rules, 1972		Provisional Pension		151



## VIGILANCE AWARENESS WEEK



Annexure	Letter & Circular No	Date	Subject	Ref Pg	Page No
18	OMsno.11012/11/2007-EsttA	14.12.2007	Nomination of Officers for Foreign Deputation		152
19	OMsno.11012/11/2007-EsttA	27.09.2011			155
19 A	BEML circular No: 1235	19.05.2006	Acquisition of movable, immovable, and valuable properties by officers.		156
19 B	BEML circular No : 1632	25.04.2017	Declaration of Assets & Liabilities and intimation/Obtaining sanction during buying/ disposal of properties.		157
20	AB 14017/101/91-Estt(RR)	14.05.1993	Forwarding of Application		159
21	CVC letter no. 98/VGL/60	15.04.1999	Rotation of officials working in Sensitive Posts		161
22	CVC letter no. 98/VGL/60	02.11.2001			162
23	Para 2.13 (v) of CVC Vigilance Manual, 2005	2005			163
24	Rule 18(1) (ii) of CCS (Conduct) Rules 1964		CCS(Conduct) Rules 1964		164
25	OM no. VI/401/01/05/2008	05.10.2009	Issue of Identity Certificate (IC) OR NOC for issue of Ordinary Passport		167
26	Section 6(2) of the Passport Act 1967				169
27	O.M. no. 11013/7/94-Estt (A)	05.10.2009	Prior Permission to visit Abroad		170
28	O.M. no. 11013/8/2000-Estt (A)	07.11.2000			171
29	No. 11013/7/2004-Estt (A)	05.10.2004			172
30	Supreme Court in the case of Allahabad Bank	11.11.1974	Moral Turpitude		173
31	Observations of Allahabad High Court in State of U.P. v. Jai Singh Dixit (1976) 2 LLJ(ALL)246	13.03.1997	Pendency of Departmental / Disciplinary Proceedings		201
32	Rule 9 (6) (b) of CCS (Pension) Rules		Institution of Judicial Proceedings		206
33	General Bulletin No 1228	19.04.2011	Vigilance Clearance for executives/ Employees		207
34	005-VGC-101	11.08.2005	handling of Pseudonymous / Anonymous Complaints		209



Annexure	Letter & Circular No	Date	Subject	Ref Pg	Page No
35	No.104/76/2011-AVD.I	18.10.2013	Guidance regarding Handling of Complaints in Ministries/Departments		210
36	Circular No. 10/5/09	18.05.2009	Adoption of Integrity Pact		212
37	Orders No. 41/12/07	04.12.2007			217
38	Circular No 43/12/07	28.12.2007			219
39	Circular No. 18/05/08	19.05.2008			220
40	Circular No. 18/05/08	05.08.2008			221
41	Circular No.3/2/07	23.02.2007	Investigation of Complaints		223
42	Circular No. 01/01/2015(98/DSP/09)	23.01.2015	Procedure for Dealing with Complaints		224
43	General bulletin 1581	30.01.2015	BEML Complaint Handling Policy		225
44	No.000/VGL/18	23.05.2000	Schedule of Time Limit in Conducting Investigations		231
45	No.21/8/09	06.08.2009	References to Commission for First Stage Advice		233
46	No.98/VGL/51	11.08.2009	Special Chapter on Vigilance Management in PSE		235

## FORMATS

Format	Description	Reference Page No	Page No
01	Annual Property Scrutiny Format		236
02	Vigilance Complaint Register Format		237
03	Investigation/Preliminary Inquiry Report Format		238
04	Fact Verification Report Format		241
05	Monthly Report Format		243
06	Vigilance Clearance Formats (a) For the PESB interview / selection		257
07	(b) For other purposes like confirmation/promotion / outside employment,		258
08	(c) For the purpose of obtaining Passport /Visa / Travel to be made by the individual (With Appendix)		259
09	CTE format		262



ANNEXURE - 01

No. 004/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-1100 23.  
Dated: 13<sup>th</sup> April, 2004

Office Order No. 23/04/04

[read with modification vide Office Order No. 74/12/05]

**Subject: Vigilance angle – definition of.**

As you are aware, the Commission tenders advice in the cases, which involve a vigilance angle. The term "vigilance angle" has been defined in the Special Chapters for Vigilance Management in the public sector enterprises, public sector banks and public sector insurance companies. The matter with regard to bringing out greater quality and precision to the definition has been under reconsideration of the Commission. The Commission, now accordingly, has formulated a revised definition of vigilance angle as under:-

"Vigilance angle is obvious in the following acts: -

- (i) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings, or his subordinates have official dealings or where he can exert influence.
- (iii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.
- (iv) Possession of assets disproportionate to his known sources of income.
- (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.

2(a)\*\* There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or willful negligence, recklessness in decision making, blatant violations of systems and procedures, exercise of discretion in excess, where no ostensible public interest is evident, failure to keep the controlling authority/superiors informed in time – these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

2(b) Any undue/unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.

\*\* as modified vide Officer Order No. 74/12/05 dated 21/12/05.

3. The *raison d'être* of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona-fides. A negative reply, on the other hand, might indicate their absence.

4. Absence of vigilance angle in various acts of omission and commission does not mean that the concerned official is not liable to face the consequences of his actions. **All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules."**

5. The above definition becomes a part of the Vigilance Manual and existing Special Chapter on Public Sector Banks and Public Sector Enterprises brought out by the Commission, in supersession of the existing definition.

CVOs may bring this to the notice of all concerned.

Sd/-  
(Anjana Dube)  
Deputy Secretary

All Chief Vigilance Officers





ANNEXURE - 02

DOPT's O.M. No.142/10/97 AVD I dated 14.1.98 on  
Sanction for prosecution.

- Under Section 19 of the Prevention of Corruption Act, 1988 as also Section 197 of the Cr. PC, it is necessary for the prosecuting authority to have the previous sanction of the competent authority for launching prosecution against a public servant in order that the Court concerned can take cognizance of the matter.
- The Supreme Court in WP (Criminal) No.340-343 of 1993 Vineet Narain and Others Vs. Union of India and another has inter alia given the following direction vide judgment dated 18.12.97:-

"Time limit of 3 months in grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General or any other Law Officer in the AG's Office."

- The above direction of the Supreme Court is hereby brought to the attention of all Ministries and Departments for the purpose of strict compliance and with the request that it may, similarly, be brought to the attention of all Organisations under the Ministries and Departments vested with the authority of sanction for prosecution under the Prevention of Corruption Act, 1988 and the Code of Criminal Procedure, 1973. It is further emphasized that while the Supreme Court has laid down the maximum limit, the efforts should be to convey the decision regarding such requests as early as possible in each case.

Sd/- (Arvind Varma)  
Secretary(P)



ANNEXURE - 03

No.004/VGL/26  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 27<sup>th</sup> February 2009

Office Order No.4/2/09

**Subject:- Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.**

Please refer to the Commission's Office Order No.33/5/2004 dated 17.5.2004 wherein the Government of India authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. CVOs of the Ministries/Depts./Orgns. were required to submit their investigation report on complaints forwarded by the Commission under the PIDPI Resolution within a period of two weeks.

2. The issue regarding submission of investigation reports on PIDPI complaints has been reconsidered in the Commission and taking in view the difficulties being faced by the CVOs in submission of reports, it has now been decided by the Commission to extend the time limit for submission of reports. Henceforth, CVOs would submit the reports within a period of one month from the receipt of reference of the Commission.

3. All CVOs should adhere to the Commission's above time limit for strict compliance.

*Shalini*  
27/2/09  
(Shalini Darbari)  
Director

All Chief Vigilance Officers



ANNEXURE - 04

Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, I.N.A.,  
New Delhi - 110023  
Dated, the 31<sup>st</sup> August 2004

Office Order No. 57/8/04

To

All the CVOs of:

- (i) Public Sector Undertakings
- (ii) Public Sector Banks

**Sub: Time limit for investigation for complaints- regarding.**

Sir/Madam,

The DOPT in their OM No. 27(12)EO/94/ACC dated 30.7.99 regarding guidelines for processing cases of Board level appointments in PSEs have taken cognizance of the fact that there are sometimes spate of complaints against individuals whose names are being considered/finalized by the PESB. It has also come to the notice of the Commission that sometimes when an official is due for promotion, some old complaints are taken cognizance of and investigations started against the official. This matter was also discussed in the meetings to review the performance of the CVOs wherein suggestions for modification in the time period were made.

2. The matter has been considered by the Commission and to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion/selection the Commission has decided that:

- (a) as a rule, complaints/cases which are more than 5 years old and no action has been taken till then, should not be investigated. However, the limit of 5 years will not apply to cases of fraud and other criminal offences, and
- (b) no cognizance should be taken of any complaint which is received 6 months prior to the initiation of selection process for senior posts.

Yours Faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax 24651010



ANNEXURE - 05

(DPE O.M. No.15(7)98(GL-009)GM dated 25th September, 1998)

6DPE/Guidelines/II(g)/6 Model vigilance structure for PSUs.

The Government having expressed its concern to tackle corruption and make the functioning of investigating and vigilance agencies more independent, effective, credible and prompt entrusted the Department of AR & PG to conduct a study on vigilance set up in respect of CPSUs. The study observed that the nature of functions and operations of PSUs is different, dissimilar and largely of a heterogeneous type. Nevertheless, it stated that the vigilance division in PSUs by and large deals with investigations, disciplinary proceedings, anti-corruption work, preventive vigilance and in some cases technical and audit work and all vigilance units in the PSUs should have adequate personnel to carry out all these functions. The study concluded that it would be impractical to recommend a uniform vigilance set up for all PSUs but emphasised the need for a vigilance set up in each PSU to have the desired manpower requirements of skilled and trained vigilance personnel and recommended the following model of vigilance set up for the PSUs as a broad guideline to be adopted with such modifications as may be appropriate to their requirement:-

**1. CORPORATE OFFICE:**

- i. Chief Vigilance Officer
- ii. Dy. CVO (For Schedule 'A' and 'B' PSUs)
- iii. Vigilance Wings

**a) Investigation Wing**

- Sr. Vigilance Officer One
- Investigators Two
- Steno Two

**b) Anti-Corruption and Vigilance Wing**

- Sr. Vigilance Officer One
- Vigilance Assistant Two
- Steno One

**c) Disciplinary Proceedings Wing**

- Sr. Vigilance Officer One
- Vigilance Assistant Two
- Steno One



**d) Preventive Vigilance Wing**

- Sr. Vigilance Officer One
- Vigilance Officer One
- Steno One

**e) Technical Wing** (This is applicable to PSUs engaged in engineering and other technical operations).

- Sr. Vigilance Officer One
- Vigilance Officer One
- Expert One
- Steno One

**2. Regional/Project/Plant Office:** (This is applicable to Schedule 'A' and 'B' PSUs only)

- Sr. Vigilance Officer One
- Investigator One
- Steno One

3. This recommendation has been examined in this Department and it has been decided that PSUs should take immediate steps for adoption of the model vigilance structure with suitable modifications depending upon the size, function and operation of the organisation.

4. All the Administrative Ministries/Departments, therefore, are requested to advise the PSUs under their administrative control to take necessary action on the above lines and furnish action taken report to the DPE within a period of six months from the date of issue of this OM

No.006/VGL/022  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 28<sup>th</sup> March 2006

**Circular No.16/3/06**

**Sub: Protection against victimisation of officials of the Vigilance Units of various Ministries/Departments/organisations.**

The Commission has viewed seriously certain instances of harassment and attempts at victimisation of vigilance officials of certain organisations. The need to allow the vigilance officials to work independently and freely without any fear, which is the foundation for effective vigilance administration in any organisation, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that "those posted to the Vigilance Organisations should not have the fear of returning to their parent cadre with the possibility of facing the anger and displeasure of those against whom they made inquiries". The Committee had also recommended that "those working in Vigilance Organisations should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification".

2. The Commission has considered the problem of possible victimisation of Vigilance officials after they finish their tenure in the Vigilance Department and revert to their normal duties. In the case of CVOs, already, the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his ACR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVOs' response before coming to any conclusion on the need to investigate such complaints.

3. In order that the required degree of protection is conferred on the Vigilance officials supporting the CVO and keeping in view the spirit of the Santhanam Committee which with commendable foresight had anticipated very clearly some of these issues, the Commission issues the following consolidated instructions in exercise of its powers under Section 8 (1) (h) of the CVC Act:

- (i) All personnel in Vigilance Units will be posted only in consultation with and the concurrence of the CVOs. They will be for an initial tenure of three years extendable up to five years. Any premature reversion before the expiry of such tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.

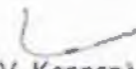
Contd....2/-



: 2 :

- (ii) The ACR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.
- (iii) Since the problem of victimisation occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:
- On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer/s.
  - All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.
  - All Vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organisation to the Commission if they perceive any victimisation as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the vigilance department.

4. The above instructions may be noted for strict compliance. The CVO should report promptly to the Commission, the details of any real or perceived victimisation of any official who is working in the Vigilance Unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Unit, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/superseded in matters of promotion.

  
(V. Kannan)  
Director

All CMDs of Public Sector Undertakings/Public Sector Banks  
All Chief Vigilance Officers

(DOPT O.M. NO 321/77/91-AVD.III Dt 03 Jun 1992)

ASSOCIATION OF CHIEF VIGILANCE OFFICER WITH WORK OF DEPARTMENTAL DUTIES, HANDLING SENSITIVE MATTERS

- It has been observed, that Vigilance functionaries such as CVOs, VO's etc. are sometimes associated with the work of various committees constituted to perform several administrative jobs such as finalisation of tenders, projects, market surveys etc, dealing with purely administrative/performance matters such as procurement of materials from suppliers, placement of work orders, awarding of contracts, disposal of scraps and other unserviceable materials and other matters of similar nature. The desirability of permitting the CVOs and other vigilance staff to associate themselves with the functions of such nature has been examined by the Government in consultation with the Central Vigilance Commission.
- It is considered, that participation in decision making or close association therewith on the part of the vigilance staff in such matters over which, they may be required, at a later stage to sit in judgment from vigilance point of view, should be avoided. Accordingly, it has been decided, that the vigilance functionaries should not be party to processing and decision making processes or in other similar administrative transactions of such nature which are likely to have a clear vigilance sensitivity. While it should not be difficult for full time vigilance officer to comply with this requirement by dissociating themselves with decision making process in the substantive work of sensitive nature in their organisations, similar compliance of these instructions could be achieved in respect of part time vigilance functionaries also by confining their duties (other than those connected with vigilance work), as far as possible to such items of work, that are either free from vigilance angle or preferably serve as input to vigilance activity for example, inspections and audit etc.



ANNEXURE - 08

Circular No. 1542

03<sup>rd</sup> September 2013

**Sub: Reconstitution of Divisional Vigilance Committee and In-house Committees for CTE Type Inspections**

- Ref : (i) Circular No. 1257 dated 25.07.2006  
(ii) Circular No. 1258 dated 25.07.2006  
(iii) Circular No. 1344 dated 11.12.2007  
(iv) Circular No. 1370 dated 11.08.2008  
(v) Circular No. 1390 dated 17.03.2009  
(vi) Circular No. 1453 dated 28.09.2010

Management has accorded approval to reconstitute the following Committees as detailed below, due to the transfers and separations of its Members :-

- (I) The Divisional Vigilance Committees (DVC); and  
(II) In-house Committees for CTE Type Inspections.

**(I) The Divisional Vigilance Committees (DVC) :-**

- a) The Divisional Vigilance Committees (DVCs) have been reconstituted, vide Circular indicated under ref. (i) above.  
b) The Committees are reconstituted, as indicated vide Annexure-I.  
c) The roles & functions of the DVCs as notified, vide Annexure-1 of the above referred Circular are appended herewith for reference.

**(II) In-house Committees for CTE Type Inspections :-**

- a) The In-house Committees for CTE Type Inspections have been constituted / reconstituted vide Circulars indicated under ref (i) to (vi) above.  
b) The Committees are hereby reconstituted, as indicated vide Annexure-II.  
c) The Committees will perform its activities as specified in para-3.0 of Circular indicated at ref. no. (ii) above, which are reproduced below :-  
(i) From the quarterly reports received from Unit Vigilance, the Corporate Vigilance will randomly select the High Value Purchase Orders / Civil Works which are considered to be sensitive & important from the vigilance angle and refer the case to the above said inspection teams for conducting intensive examination. The references received from the CVC / MOD / CMD will also be sent to the Committees for examination / inspection.

.... 2



..... Continuation to Circular No. 1542 dated 03.09.2013

:: 2 ::

- (ii) Each Committee will inspect at least 2 High Value Purchase Orders / Civil Works every quarter. The team will submit the intensive examination reports to the Corporate Vigilance in the format prescribed by CVC within one month from the date of inspection.

(2) The Chairman of the respective Divisional Vigilance Committees will conduct the Meetings regularly, duly recording its Minutes.

(3) This will come into force with immediate effect.

(4) This issues with the approval of Competent Authority.

  
(A.K. RANDA)  
General Manager (HR)

End : as above



ANNEXURE - 09

- 2 -

F.No.35034/7/97-Estt(D)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training

New Delhi - 110 001  
February 8, 2002

OFFICE MEMORANDUM

Subject:- Procedure to be observed by Departmental Promotion Committees (DPCs) - No supersession in 'selection' promotion - Revised Guidelines regarding.

(i) DoP&T O.M.No.  
22011/5/86-  
Estt(D) dated  
10.3.1989  
(ii) DoP&T O.M.No.  
22011/5/86-  
Estt(D) dated  
10.4.1989  
(iii) DoP&T O.M.No.  
22011/5/91-  
Estt(D) dated  
27.3.1997

The undersigned is directed to invite reference to the Department of Personnel and Training (DoP&T) Office Memorandum (O.M.) No.22011/5/86-Estt(D) dated March 10, 1989 and O.M. of even number dated April 10, 1989 [as amended by O.M.No.22011/5/91-Estt(D) dated March 27, 1997] which contain the instructions on the Departmental Promotion Committees (DPCs) and related matters. In regard to the 'selection' mode of promotion ('selection-cum-seniority' and 'selection by merit'), the aforesaid instructions prescribe the guidelines (as briefly discussed in paragraph 2 below) for overall 'grading' to be given by the DPC, 'bench-mark' for assessment of performance and the manner in which the 'select panel' has to be arranged for promotions to various levels of post/grade.

2. Existing Guidelines

2.1 As per the existing (aforementioned) instructions, in promotions up to and excluding the level in the pay-scale of Rs.12,000-16,500 (excepting promotions to Group 'A' posts/services from the lower group), if the mode happens to be 'selection-cum-seniority', then the bench-mark prescribed is 'good' and officers obtaining the said bench-mark are arranged in the select panel in the order of their seniority in the lower (feeder) grade. Thus, there is no supersession among those who meet the said bench-mark. Officers getting a grading lower than the prescribed bench-mark ('good') are not empanelled for promotion.

2.2 In the case of promotions from lower Groups to Group 'A', while the mode of promotion happens to be 'selection by merit', the bench-mark prescribed is 'good' and only those officers who obtain the said bench-mark are promoted in the order of merit as per grading obtained. Thus, officers getting a superior grading supersede those getting lower grading. In other words, an officer graded as 'outstanding' supercedes those graded as 'very good' and an officer graded as 'very good' supercedes officers graded as 'good'. Officers obtaining the same grading are arranged in the select panel in the order of their seniority in the lower grade. Those who get a grading lower than the prescribed bench-mark ('good') are not empanelled for promotion.

2.3 In promotions to the level in the pay-scale of Rs.12,000-16,500/- and above, while the mode of promotion is 'selection by merit', the bench-mark prescribed is 'very good' and only those officers who obtain the said bench-mark are promoted in the order of merit as per the grading obtained, officers getting superior grading supersede those getting lower grading as explained in paragraph 2.2 above. Officers obtaining the same grading are arranged in the select panel in the order of their seniority in the lower grade. Those who get a grading lower than the prescribed bench-mark ('very good') are not empanelled for promotion.

3. Revised Guidelines

The aforementioned guidelines which permit supersession in 'selection' promotion ('selection by merit') have been reviewed by the Government and after comprehensive/extensive examination of relevant issues it has been decided that there should be no supersession in matter of 'selection' (merit) promotion at any level. In keeping with the said decision, the following revised promotion norms/ guidelines, in partial modification (to the extent relevant for the purpose of these instructions) of all existing instructions on the subject (as referred to in paragraph 1 above) are prescribed in the succeeding paragraphs for providing guidance to the Departmental Promotion Committees (DPCs).



### 3.1 Mode of Promotion

In the case of 'selection' (merit) promotion, the hitherto existing distinction in the nomenclature ('selection by merit' and 'selection-cum-seniority') is dispensed with and the mode of promotion in all such cases is rechristened as 'selection' only. The element of selectivity (higher or lower) shall be determined with reference to the relevant bench-mark ("Very Good" or "Good") prescribed for promotion.

### 3.2 'Bench-mark' for promotion

The DPC shall determine the merit of those being assessed for promotion with reference to the prescribed bench-mark and accordingly grade the officers as 'fit' or 'unfit' only. Only those who are graded 'fit' (i.e. who meet the prescribed bench-mark) by the DPC shall be included and arranged in the select panel in order to their inter-se seniority in the feeder grade. Those officers who are graded 'unfit' (in terms of the prescribed bench-mark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those who are graded 'fit' (in terms of the prescribed bench-mark) by the DPC.

3.2.1 Although among those who meet the prescribed bench-mark, inter-se seniority of the feeder grade shall remain intact, eligibility for promotion will no doubt be subject to fulfilment of all the conditions laid down in the relevant Recruitment/Service Rules, including the conditions that one should be the holder of the relevant feeder post on regular basis and that he should have rendered the prescribed eligibility service in the feeder post.



### 3.3 Promotion to the revised pay-scale (grade) of Rs.12,000-16,500 and above

- (i) The mode of promotion, as indicated in paragraph 3.1 above, shall be 'selection'.
- (ii) The bench-mark for promotion, as it is now, shall continue to be 'very good'. This will ensure element of higher selectivity in comparison to selection promotions to the grades lower than the aforesaid level where the bench-mark, as indicated in the following paragraphs, shall be 'good' only.
- (iii) The DPC shall for promotions to said pay-scale (grade) and above, grade officers as 'fit' or 'unfit' only with reference to the bench-mark of 'very good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. Thus, as already explained in paragraph 3.2 above, there shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed bench-mark of 'very good'.

### 3.4 Promotion to grades below the revised pay-scale (grade) of Rs.12,000-16,500 (including promotions from lower Groups to Group 'A' posts/grades/services)

- (i) The mode of promotion, as indicated in paragraph 3.1 above, shall be 'selection'.
- (ii) The bench-mark for promotion, as it is now, shall continue to be 'good'.
- (iii) The DPC shall for promotion to posts/grades/services in the aforesaid categories, grade officers as 'fit' or 'unfit' only with reference to the bench-mark of 'good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. Thus, as already explained in paragraph 3.2 above, there shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed bench-mark of 'good'.



- 5 -

### 3.3 Zone of consideration

DoP&T O.M.No.  
22011/1/90-  
Estt(D) dated  
12.10.1990

The guidelines relating to the 'zone of consideration' in its existing form (twice the number of vacancies plus four) shall continue to have general application. However, in view of the modifications in promotion norms indicated in paragraph 3.3 above, the following stipulation [as is already applicable in the case of promotions below the revised pay-scale (grade) of Rs.12,000-16,500/- vide DoP&T O.M.no.22011/8/98-Estt(D) dated November 6, 1998] is also made in the regard to the zone of consideration for promotion to the revised pay-scale (grade) of Rs.12,000-16,500/- and above:

"While the zone of consideration would remain as already prescribed, the DPC, in the aforesaid category of cases, may assess the suitability of eligible employees in the zone of consideration (in the descending order) for inclusion in the panel for promotion up to a number which is considered sufficient against the number of vacancies. With regard to the number of employees to be included in the panel, the DPC may also be required to keep in view the instructions issued vide Department of Personnel and Training Office Memorandum No. 22011/18/87-Estt(D) dated April 9, 1996 relating to norms for preparing extended panel for promotion. In respect of the remaining employees, the DPC may put a note in the minutes that "the assessment of the remaining employees in the zone of consideration is considered not necessary as sufficient number of employees with prescribed bench-mark have become available."

4. Provisions of the paragraph 1 (vi) of the DoP&T O.M.No.AB-14017/2/97-Estt(RR) dated May 25, 1998 stand modified in accordance with these revised instructions. In addition to this, if the guidelines contained in this Office Memorandum come in conflict with the provisions of any other executive instructions (O.M.) issued by DoP&T on this subject, the same shall be taken to be modified to the extent provided herein.

5. The instructions contained in this Office Memorandum shall come into force from the date of its issue.

... 6

- 6 -

6. Ministries/Departments are requested to give wide circulation to these revised instructions for general guidance in the matter so that immediate steps are taken to amend the Service Rules/Recruitment Rules of various services/posts/grades so as to appropriately incorporate the mode of promotion as 'selection' (in accordance with these instructions) in place of 'selection by merit' and 'selection-cum-seniority' (as was hitherto prescribed by the aforementioned O.M. dated March 27, 1997) as the case may be. The powers to amend Service Rules/Recruitment Rules in this regard are delegated to the Ministries/Departments. DoP&T need not be consulted to carry out the required amendments.

(ALOK SAXENA)

Deputy Secretary to the Government of India

To

All Ministries/Departments of the Government of India

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Prime Minister's Office, New Delhi.
3. The Cabinet Secretariat, New Delhi.
4. The Rajya Sabha Secretariat, New Delhi.
5. The Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Audit General of India, New Delhi.
7. The Union Public Service Commission, New Delhi with reference to their letter No.10/7/2001-AU/(C) dated 30.10.2001 (20 copies).
8. The Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions
10. Establishment Officer & Secretary, ACC (10 copies) (Smt Chitra Chopra)
11. All Officers and Sections in the Department of Personnel and Training.
12. Establishment (RR) Section, DoP&T (10 copies). They may also issue separate instructions in terms of the position indicated in paragraph 4 above.
13. Facilitation Centre, DoP&T - 20 spare copies
14. NIC (DOP&T Branch) for placing this Office Memorandum on the website of DoP&T.
15. Establishment (D) Section, DoP&T (500 copies)





ANNEXURE - 10

53

No.22011/4/91-Estr.(A)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel & Training

North Block, New Delhi-110001  
Dated, the 14<sup>th</sup> Sept., 1992

OFFICE MEMORANDUM

Subject: Promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation - Procedure and guidelines to be followed.

The undersigned is directed to refer to Department of Personnel & Training O.M.No.22011/2/86-Estr.(A) dated 12<sup>th</sup> January, 1988 and subsequent instructions issued from time to time on the above subject and to say that the procedure and guidelines to be followed in the matter of promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation have been reviewed carefully. Government have also noticed the judgment dated 27.8.1991 of the Supreme Court in Union of India etc. Vs. K.V. Jankiraman etc. (AIR 1991 SC 2010). As a result of the review and in supersession of all the earlier instructions on the subject (referred to in the margin). The procedure to be followed in this regard by the authorities concerned is laid down in the subsequent paras of this O.M. for their guidance.

2. At the time of consideration of the cases of Government servant for promotion details of Government servant in the consideration zone for promotion falling under the following category should be specifically brought to the notice of the Departmental Promotion Committee:

- i) Government servants under suspension
- ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending, and
- iii) Government servants in respect of whom prosecution for criminal charge is pending.

2.1 The Departmental Promotion Committee shall assess the suitability of Government servants coming within the purview of the circumstances mentioned above along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC including 'unfit for promotion' and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed 'Findings regarding suitability for promotion to the grade/post of .....in respect of Shri..... (name of the Government servant). Not to be opened till the terminator of the disciplinary case/criminal prosecution against Shri.....'. The proceeding of the DPC need only contain the note 'The findings are contained in the attached sealed cover'. The authority competent to fill the vacancy should be separately advised to fill the

DoP&T's O.M. No.20011/1/2008-Estr.(D) Dated 11<sup>th</sup> November 2010



54

vacancy in the higher grade only in an officiating capacity when the findings of the DPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

2.2 The same procedure outlined in para 2.1 above will be followed by the subsequent Departmental Promotion Committee convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

3. On the conclusion of the disciplinary case/criminal prosecution which results in dropping of allegations against the Government servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary, by reverting the junior most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so. It is not possible to anticipate and enunciate exhaustively all the circumstances under which such denials of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. These are only some of the circumstances where such denial can be justified.

3.1 If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

3.2 It is also clarified that in a case where disciplinary proceedings have been held under the relevant disciplinary rules, 'warning' should not be issued as a result of such proceedings. If it is found as a result of the proceedings, that some blame attached to the Government servant; at least the penalty of 'censure' should be imposed.

4. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalize expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should

DoP&T's O.M. No.20011/1/2008-Estr.(D) Dated 11<sup>th</sup> November 2010



review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental Promotion Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite the completion.

5. In spite of the six monthly review referred to in para 4 above, there may be some cases, where the disciplinary case/criminal prosecution against the Government servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC, which keeps its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of given him ad-hoc promotion keeping in view the following aspects:-

- Whether the promotion of the officer will be against the public interest;
- Whether the charge are grave enough to warrant continued denial of promotion;
- Whether there is any likelihood of the case coming to a conclusion in the near future;
- Whether the delay in the finalization of proceedings, departmental or in a court of law, is not directly or indirectly attributable to the Government servant concerned; and
- Whether there is any likelihood of misuse of official position which the Government servant may occupy after adhoc promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau.

5.1. In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad-hoc promotion to the Government servant, his case should be placed before the next DPC hold in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad-hoc basis. Where the Government servant is considered for ad-hoc promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecutions against him.

5.2. After a decision is taken to promote a Government servant on an ad-hoc basis, an order of promotion may be issued making it clear in the order itself that:-

- the promotion is being made on purely ad-hoc basis and the ad-hoc promotion will not confer any right for regular promotion; and

DoP&T's O.M. No 20011/1/2008-Estt.(D) Dated 11<sup>th</sup> November 2010

- the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserve the right to cancel the adhoc promotion and revert at any time the Government servant to the post from which he was promoted.

5.3. If the Government servant concerned is acquitted in the criminal prosecutions on the merits of the case or is fully exonerated in the departmental proceeding, the ad-hoc promotion already made may be confirmed and the promotion treated as a regular one from the date of the ad-hoc promotion will all attendant benefits. In case the Government servant could have normally got his regular promotion from a date prior to the date of his ad-hoc promotion with reference to his placements in the DPC proceedings kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC. He would also be allowed his due seniority and benefit of notional promotion as envisaged in para 3 above.

5.4. If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, the ad-hoc promotion granted to him should be brought to an end.

6. The procedure outlined in the preceding paras should also be followed in considering the claim for confirmation of an officer under suspension, etc. A permanent vacancy should be reserved for such an officer when his case is placed in sealed cover by the DPC.

7. A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions contained in this O.M. will be applicable in his case also.

8. In so far as the personnel serving in the Indian Audit and Accounts Department are concerned, these instructions have been issued after consultation with the Comptroller and Auditor General of India.

9. Hindi version will follow.

Sd/-  
(M.S. Bali)  
Director

DoP&T's O.M. No 20011/1/2008-Estt.(D) Dated 11<sup>th</sup> November 2010

ANNEXURE - 11

Attn: Mr. Anshu Kumar

No.26034/4/94-Estt.(A)  
Government of India  
Ministry of Personnel, Pub. Grievances & Pensions  
(Department of Personnel & Training)

New Delhi, the 31st May, 1994

OFFICE MEMORANDUM

Subject - Acceptance of resignation - Procedure in respect of.

The undersigned is directed to say that questions have been raised from time to time regarding the requirement of obtaining vigilance clearance in respect of an official, before acceptance of resignation submitted by him from Government service. The matter has been carefully examined and the position is clarified in the following paragraphs.

2(i) Under existing instructions it is provided that where a Government servant who is under suspension submits his resignation, the competent authority should examine, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as officers are placed under suspension only in cases of grave delinquency, it would not be correct to accept the resignation from an officer under suspension. Exceptions to this rule would be where the alleged offences do not involve moral turpitude or where the quantum of evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would be removed or dismissed from service, or where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

(ii) Existing instructions on the subject of acceptance of resignation of officials against whom inquiry/ investigation is pending (whether he had been placed under suspension or not) provide that where such an official submits his resignation, such resignation should not normally be accepted. Where, however, acceptance is considered necessary, in the public interest, the competent authority shall examine the case with reference to the fulfilment of conditions mentioned at para 2(i) above.

-2/-

-2-

3. In recent times, cases have come to notice where resignation of officials not falling in the two categories mentioned in the preceding paragraph, have been accepted without insisting on vigilance clearance and subsequently it came to light that the said official while in service had been involved in serious irregularities. In view of this, it has now been decided that in all cases of acceptance of resignation, the competent authority, shall insist, as a mandatory measure, on prior vigilance clearance, before taking a decision on the request for resignation. When an authority refers a case for vigilance clearance, the authority competent to accord vigilance clearance should ensure expeditious consideration of the request.

4. In all cases where acceptance of resignation is considered necessary, the resignation may be accepted with the prior approval of the Head of Department in respect of Group 'C' and 'D' posts and that of the Minister-in-charge in respect of holders of Group 'A' and 'B' posts. In so far as officers of Group 'A', 'B', 'C' and 'D' cadres of the Indian Audit & Accounts Department are concerned, the resignation may be accepted by the Heads of Department as designated by the Comptroller & Auditor General of India. Concurrence of the Central Vigilance Commission should be obtained before submission of the case to the Minister-in-charge/Comptroller and Auditor General, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions issue after consultation with the Comptroller and Auditor General of India.

Hindi version will follow.

*Krishna Menon*  
( Krishna Menon )  
Under Secretary to the Govt. of India.

To

1. All Ministries/Departments of the Government of India.
2. Comptroller & Auditor General.
3. Central Vigilance Commission.
4. Secretary, Railway Board.

...3/-

ANNEXURE - 12

**ACCEPTANCE OF RESIGNATION/ NOTICE FOR VOLUNTARY RETIREMENT DURING**

6.14.1 If an officer against whom an inquiry or investigation is pending (whether he has been placed under suspension or not) submits his resignation, such resignation should not normally be accepted. Where, however, the acceptance of resignation in such a case is considered necessary in public interest because one or more of the following conditions are fulfilled, the resignation may be

66

ANNEXURE - 13

No. 25013/7/77-3stt.(A)  
Government of India  
Ministry of Home Affairs  
Department of Personnel & A.R.

New Delhi-110001, dated 26.8.1977

OFFICE MEMORANDUM

Subject: Scheme of Voluntary Retirement for Central Government employees.

The undersigned is directed to say that the Administrative Reforms Commission had recommended in its report on Personnel Administration, as follows

" 59(1): A civil servant may be allowed to retire voluntarily if he has completed 15 years of service and given proportionate pension and gratuity."

2. The above recommendation of the Administrative Reforms Commission was considered by Government and it has been decided that Government servants may be allowed to retire voluntarily after 20 years of qualifying service on proportionate pension and gratuity with a weightage of up to 5 years towards qualifying service where applicable, subject to certain conditions.

3. The following instructions will regulate the voluntary retirement of Central Government servants in pursuance of the Government's decision on recommendations 59(1):

- (i) Government servants who have put in not less than 20 years qualifying service may, by giving notice of three months in writing to the appointing authority, retire from service voluntarily. The scheme is purely voluntary the initiative resting with the Government servant himself. The Government does not have the reciprocal right to retire Government servant on its own, under this Scheme.
- (ii) The benefit of 'retiring pension' will be admissible to Government servants retiring under this scheme.
- (iii) A notice of less than three months may also be accepted by the appointing authority in deserving cases, with the concurrence of the Ministry of Finance (Department of Expenditure).

...2/-



- 2 -

- (iv) If a Government servant retires under the Scheme of voluntary retirement while he is on leave not due, without returning to duty, the retirement shall take effect from the date of commencement of the leave not due and the leave salary paid in respect of such leave not due shall be recovered as provided in Rule 31 of the CCS (Leave) Rules, 1972.
- (v) Before a Government servant gives notice of voluntary retirement with reference to these instructions, he should satisfy himself by means of a reference to the appropriate administrative authority that he has, in fact, completed 20 years' service qualifying for pension.
- (vi) A notice of voluntary retirement may be withdrawn subsequently only with the approval of the appointing authority provided the request for such withdrawal is made before the expiry of the notice.
- (vii) A notice of voluntary retirement given after completion of 20 year' qualifying service will require acceptance by the appointing authority if the date of retirement on the expiry of the notice would be earlier than the date on which the Government servant concerned could have retired voluntarily under the existing rules applicable to him (e.g. FR 56(K), Rule 42 of the Pension Rules, Article 459 (1) of CSRs or any other similar rules) such acceptance may be generally given in all cases except those (a) in which disciplinary proceedings are pending or contemplated against the Government servant concerned for the imposition of a major penalty and the disciplinary authority, having regard to the circumstances of the case, is of the view that the imposition of the penalty of removal or dismissal from service would be warranted in the case; for (b) in which prosecution is contemplated or may have been launched in a court of law against the Government servant concerned. If it is proposed to accept the notice of voluntary retirement even in such cases, approval of the Minister-in-charge should be obtained in regard to Group 'A' and Group 'B' Government servants and that of the Head of the Department in the cases of Group 'C' and Group 'D' Government servants. Even where the notice of voluntary retirement given by a Government servant

...3/-

-3-

requires acceptance by the appointing authority, the Government servant giving notice may procure acceptance and the retirement shall be effective in terms of the notice unless the competent authority issues in order to the contrary before the expiry of the period of notice.

- (viii) While granting proportionate pension to a Government servant retiring voluntarily under this scheme, weightage of upto five years would be given in addition to the qualifying service actually rendered by him. The grant of weightage of upto five years will, however, be subject to the following conditions:
- (a) The total qualifying service after allowing the weightage should not, in any event exceed 30 years' qualifying service and
- (b) The total qualifying service after giving the weightage should not exceed the qualifying service which he would have had, if he had retired voluntarily at the lowest age/minimum service limit applicable to him for voluntary retirement prescribed under FR 56 (k) or Article 459(1) of the CSRs or Rule 48 of the CCS(Pension) Rules or any other similar rule applicable to him.

#### ILLUSTRATIONS:

- (a) If a Government servant who could be prematurely retired under FR 56(j)(i) or could have voluntarily retired under FR 56(k) seeks voluntary retirement under this scheme after he has attained the age of 47 years and has rendered 28 years of service, the weightage in pension would be limited only upto three years.
- (b) If a Government servant who could be prematurely retired under FR 56(j)(ii) or could have voluntarily retired under FR 56(k) seeks voluntary retirement under this scheme after he has attained the age of 51 years and has rendered 24 years of service, the weightage in pension would be admissible upto four years.
- (c) If a Government servant belonging to Group 'C' who could have voluntarily retired under Rule 46 of the CCS(Pension) Rules, 1972 seeks voluntary retirement under this scheme after he has rendered 25 years of service and has attained the age of 48 years, the weightage in pension would be admissible upto five years.

...4/-



-4-

- (ix) The weightage given under this scheme will be only in addition to the qualifying service for purposes of pension and gratuity. It will not entitle the Government servant retiring voluntarily to any national fixation of pay for purposes of calculating the pension and gratuity which will be based on the actual emoluments calculated with reference to the date of retirement.
- (x) The amount of pension to be granted after giving the weightage will be subject to the provisions of Rule 6 of the CCS(Pension) Rules, 1972. The pension will also be subject to the provisions of Rules 8 and 9 of these Rules.
- (xi) The scheme of voluntary retirement under these orders will not apply to those who retire voluntarily under the provisions of Rule 29 of the CCS(Pension) Rules, 1972.
- (xii) The scheme of voluntary retirement under these orders will also not apply to those Government servants on deputation to autonomous bodies/public sector undertakings etc. who propose to get absorbed in the autonomous bodies/public undertakings etc. The absorption of Government servants on deputation to public undertakings/autonomous bodies etc. in such autonomous bodies/undertakings etc. and the grant of retirement benefits to them in respect of their service under government will continue to be governed by the separate set of instructions issued by the Ministry of Finance in this regard.
- (xiii) A Government servant giving notice of voluntary retirement may also apply, before the expiry of the notice, for the leave standing to his credit which may be granted to him to run concurrently with the period of notice. The period of leave, if any, extending beyond the date of retirement on expiry of notice but not extending beyond the date on which the Government servant should have retired on attaining the age of superannuation, may be allowed as terminal leave as per Rule 35(6) of the CCS(Leave) Rules, 1972. The leave salary for such terminal leave shall be payable in accordance with the provisions of the para 5 of Ministry of Finance (Department of Expenditure) O.M. No. 16(1)B-IV(a)/76 dated the 23.1.1976.

...5/-

-5-

- (xiv) Group 'A' Government servants retiring voluntarily under this scheme would continue to be subject to the provisions in the Pension Rules relating to post retirement commercial employment. However, in their cases, permission for the post retirement commercial employment will be granted more liberally than in the case of other Govt. servants retiring under the provisions of FR 56 or Rule 48 of the Pension Rules.
4. In the light of the provisions of this O.M. action to make suitable provision in the CCS(Pension) Rules, 1972 and the CCS(Leave) Rules, 1972 will be taken separately by the Ministry of Finance (Department of Expenditure).
  5. In so far as the persons serving in the Indian Audit and accounts Department are concerned, these orders issued in consultation with the Comptroller and Auditor General.
  6. Ministry of Commerce etc. are requested to bring the contents of this O.M. to the notice of all concerned by giving it wide publicity.
  7. Hindi version will follow.

sd/-

(R.C.Gupta)  
Deputy Secretary to the Govt. of India.

No. 25013/3/79- Ests(A)  
Government of India, Bharat Sarkar  
Ministry of Home Affairs, Grih Mantralaya  
Department of Personnel and Administrative Reforms  
(Karmik Aur Prashasnik Sudhar Vibhag)

New Delhi-1 dated 28 July, 1979

## OFFICE MEMORANDUM

Subject: Scheme of Voluntary Retirement for Central Government Employees.

The undersigned is directed to refer to para 3(U) of the Ministry of Home Affairs' O.M.No. 25013/7/77-Estt(A), dated 26.8.77, which lays down that before a government servant gives notice of voluntary retirement, he should satisfy himself by means of a reference to the appropriate administrative authority that he has, in fact, completed 20 years' service qualifying for pension. In order to ensure the correctness of the length of qualifying service for pension under the new scheme, it has been decided that the Ministry of Commerce etc. should follow the instructions contained in the Ministry of Finance's O.M.No. 12(A) SFA/50 dated 6.7.1960 (copy enclosed).

Hindi version will follow.

(Miss S. Trikha)  
Under Secy to the Govt. of India

To All Ministries and Departments (with usual number of copies)  
No. 25013/3/79-Estt(A) New Delhi, the 28 July, 79

Copy to:-  
C & A.E. W.R.t. U.O.No.792-T-A/12-78 dt.16.6.79.  
UPSC  
CVC  
Comm. for L.M. Allahabad  
All U.T. Adms.  
All Zonal Councils.  
Lok Sabha, Rajya Sabha Sectt.  
Supreme Court of India  
All attached and subordinate offices of  
MHA & DOPAR  
All Sections of MHA & DOPAR

(Miss S. Trikha)  
Under Secretary to the Government of India

F.No. 25013/10/85-Estt. (A)  
Government of India  
Ministry of Personnel & Training  
Administrative Reforms & Public  
Grievances and Pension.  
(Department of Personnel & Training)

New Delhi, dated 5-7-85

## OFFICE MEMORANDUM

Subject: Scheme of Voluntary retirement for Central Government Employees.

Attention of all the Ministries/Departments is invited to the provisions contained in para 3 (xiii) of the Department of Personnel & A.R.'s O.M. No. 25013/7/77-Estt. (A) dated 26.8.77 which inter-alia stipulates that a government servant giving notice of voluntary retirement may also apply, before the expiry of the notice, for the leave standing to his credit which may be granted to him to run concurrently with the period of notice. Cases have come to the notice of this department where the government servants either apply for voluntary retirement while already being on extra-ordinary leave on private affairs or on medical grounds or they apply for such leave during the period of the notice for voluntary retirement given by them which is granted to them and is allowed to run concurrently with the period of such notice. It is clarified that, for the purpose of the instructions contained in O.M. referred to above, the 'Extra-ordinary leave' of any kind cannot be termed as leave standing to the credit of a government servant and, therefore, it cannot run concurrently with the period of notice given by him for seeking voluntary retirement.

2. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issued in consultation with the Comptroller and Auditor General of India.

(Miss S. Trikha)  
DIRECTOR

To All Ministries/Departments of the Govt. of India  
with usual number of spare copies.

No. 25013/10/85-Estt. (A) Dated, the 5-7-85

Copy forwarded with usual number of spare copies for information and necessary action to :-

1. Comptroller & Auditor General of India New Delhi.
2. Union Public Service Commission, New Delhi.



ANNEXURE - 16

No. 25013/3/2003 -Estt. (A)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
(Department of Personnel & Training)

New Delhi, dated the 17<sup>th</sup> June, 2003

**OFFICE MEMORANDUM**

Subject:- Scheme of Voluntary Retirement for Central Government employees.

Attention of all Ministries/Departments is invited to the provisions contained para 3(xiii) of Department of Personnel & Training O.M. No. 25013/7/77-Estt.(A) dated 26.8.1977 and clarifications contained in O.M. No. 25013/10/85-Estt.(A) dated 5.7.1985 on the above subject. It has been laid down in the Office Memoranda referred to above, that a Government servant giving notice of voluntary retirement may also apply, before the expiry of the notice, for the leave standing to his credit which may be granted to him to run concurrently with the notice period except in the case of Extra-ordinary Leave as such leave whether on medical ground or on private affairs can not be termed as leave standing to the credit of a Government servant. The matter has been reviewed and it has been decided to modify the provisions contained in para 3 (xiii) of O.M. No. 25013/7/1977-Estt.(A) dated 26.8.1977 and O.M. No. 25013/10/85-Estt.(A) dated 5.7.1985 as follows:-

Para 3(xiii) A Government servant giving notice of voluntary retirement may also apply, before the expiry of the notice, for the leave standing to his credit which may be granted to him to run concurrently with the period of notice. Extra-ordinary leave is not termed as leave standing to his credit and therefore, it cannot run concurrently with the period of notice given by him for seeking voluntary retirement. In case, a Government servant applies for voluntary retirement while already on extra-ordinary leave other than on medical ground, the notice period need not be insisted upon and his request may be accepted with immediate effect provided he is clear from vigilance angle. However, if a Government servant while already on extra-ordinary leave on medical ground, applies for voluntary retirement, the notice period, if any, given may be accepted and he may be allowed to retire after the expiry of the notice period subject to vigilance clearance.

2. In so far as persons serving in the Indian Audit and Accounts department are concerned, these orders issue in consultation with the Comptroller and Auditor General of India.

( V.A. PILLAI )  
Under Secretary to the Government of India



ANNEXURE - 17

Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

2. Cases can occur where a permanent Government servant who has been granted invalid pension under Rule 38 or compensation pension on abolition of permanent post under Rule 39 of the CCS (Pension) Rules, 1972, at a comparatively younger age, is re-employed subsequently and after rendering temporary service of not less than 20 (now 10) years is either declared to be permanently incapacitated for further service, or finally retires from service on attaining the age of superannuation. Such a servant will become eligible to earn a second pension in respect of his temporary service. A question arises whether such a person will be eligible to exercise the option available to a re-employed pensioner under sub-rule (1) of Rule 18 of the CCS (Pension) Rules, 1972, which is to be exercised by a re-employed pensioner within three months of his confirmation in a permanent post. The exercise of such option enables him either -





ANNEXURE - 18

**MOST IMMEDIATE**

No. 11012/11/2007-Estt. (A)  
Government of India  
Ministry of Personnel & Public Grievances & Pensions  
(Department of Personnel & Training)

New Delhi,  
Dated the 14<sup>th</sup> December, 2007

**OFFICE MEMORANDUM**

Subject:- Guidelines regarding grant of vigilance clearance to members of the Central Civil Services/Central Civil posts.

The undersigned is directed to say that the matter regarding guidelines for giving vigilance clearance to members of the Central Civil Services/ Central Civil posts has been reviewed by the Department of Personnel & Training and it has been decided that the following guidelines for the grant of vigilance clearance to the Government servants belonging to the Central Civil Services/ Central Civil posts shall be applicable with immediate effect:

1. These orders regarding accordance of vigilance clearance to members of the Central Civil Services/posts shall be applicable with respect to (a) empanelment (b) any deputation for which clearance is necessary, (c) appointments to sensitive posts and assignments to training programmes (except mandatory training). In all these cases, the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

2. The circumstances under which vigilance clearance shall not be withheld shall be as under:

- a) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Department may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding (i) corruption (ii) possession of assets disproportionate to known sources of income (iii) moral turpitude (iv) violation of the Central Civil Services (Conduct) Rules, 1964.
- b) Vigilance clearance shall not be withheld if a preliminary inquiry mentioned in 2(a) above takes more than three months to be completed.

...2/-



-2-

c) Vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) a chargesheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending (iii) orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of passing such order (iv) chargesheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending (v) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of initiating proceedings (vi) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter (vii) an FIR has been filed or a case registered by the concerned Department against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case and (viii) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.

d) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a chargesheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent court of law.

e) Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges within a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the parent cadre in case he is on deputation and not for any other dispensation listed in para 1 of this O.M.

3. In cases where complaints have been referred to the administrative authority concerned, and no substantive response has been received from such administrative authority concerned within three months from the date on which the reference was made, the Disciplinary Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

4. Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity

...3/-



- 3 -

of the charges and the facts and circumstances, in the following situations:

- a) where the investigating agency has found no substance in the allegation but the Court refuses to permit closure of the FIR; and
- b) where the investigating agency/inquiry officer holds the charges as proved but the competent administrative authority differs, or the converse.

5. While considering cases for grant of vigilance clearance for the purpose of empanelment of members of the Central Civil Services/Central Civil posts of a particular batch, the vigilance clearance/status will continue to be ascertained from the respective Cadre Authority. In all such cases, the comments of the Central Vigilance Commission will be obtained. However, if no comments are received within a period of three months, it will be presumed that there is nothing adverse against the officer on the records of the body concerned.

6. Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers upto one level below their seniority in service. In the case of officers of the level of Additional Secretary/Secretary, this will be issued with the approval of the Secretary. In case of doubt, orders of the Secretary will be obtained keeping in view the purpose for which the vigilance clearance is required by the indenting authority.

7. Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

8. Insofar as the personnel serving in the Indian audit and accounts Department are concerned, these instructions have been issued after consultation with the Comptroller and Auditor General of India.

9. All the Ministries/Departments are requested to bring the above guidelines for the notice of all concerned for information and compliance.

(P. Prabhakaran)  
Deputy Secretary to the Government of India

No. 11012/11/2007-Est.A  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training

New Delhi, Dated 27<sup>th</sup> September, 2011

**OFFICE MEMORANDUM**

Subject: **Guidelines regarding grant of 'Vigilance Clearance' to members of Central Civil Services / Posts.**

The undersigned is directed to say that it has been decided by the Government that officers who have not submitted the Annual Immovable Property Returns by the prescribed time would be denied vigilance clearance and will not be considered for empanelment for senior level posts in Government of India.

2. Accordingly, in this Department's OM No. 11012/11/2007-Est.A dated 14.12.2007, laying down guidelines regarding grant of vigilance clearance to members of Central Civil Services / Posts, in para 2 a new sub-para (f) will be inserted as under:

(f) Vigilance clearance shall be denied to an officer if he fails to submit his annual immovable property return of the previous year by 31<sup>st</sup> January of the following year, as required under Government of India decisions under Rule 18 of the Central Civil Services (Conduct) Rule, 1964.

(U.S. Chattopadhyay)

Under Secretary to the Government of India

All Ministries / Departments

Copy to:

1. Prime Minister's Office (w.r.t. their I.D. No. 600/31/C/33/2011-ES2, dated 15.03.2011)
2. Cabinet Secretariat
3. Secretary, CVC
4. UPSC
5. C&AG
6. MIC (DOP&T Cell) with the request to upload this O.M. on the website of DOP&T



**ANNEXURE - 19A**

BHARAT EARTH MOVERS LIMITED  
BEML SOUDHA  
BANGALORE – 560 027

Circular No. 1235

19<sup>th</sup> May 2005

Sub: Acquisition of movable, immovable and valuable properties by officers.

Rule 16 of BEML Conduct, Discipline and Appeal Rules, 1976 interalia provide that no executive will enter into any immovable property transaction without prior intimation to the Management and obtain prior permission of the Management before entering into any transaction concerning movable and immovable property with a person having official dealings with the employee or his subordinate.

02. It is observed by the Management that the executives are generally not keeping the Management informed before entering into immovable property transaction nor they inform the Management after the transactions are over. The same is in violation of Rule 16 of BEML Conduct, Discipline and Appeal Rules, 1976.

03. It is therefore once again brought to the notice of all the executives that provision of the said rule should be strictly complied with and are reproduced once again for ready reference of all executives.

- (a) No employee of the Company shall, except with the previous knowledge of the competent authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.
- (b) No employee of the Company shall, except with the previous sanction of the competent authority enter into any transaction concerning any immovable or movable property with a person or a firm having official dealings with the employee or his subordinate.
- (c) Every employee of the Company shall report to the competent authority every transaction concerning movable property owned or held by him in his own name or in the name of a member of his family, if the value of such property exceeds Rs. 15,000/-.

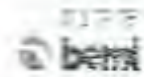
04. All executive are informed that the Rule 16 is to be strictly complied with as above and violation of said rule shall be construed as neglect / misdemeanour and the executives are liable themselves for consequent action.

  
(N.K. Rustagi)  
Director (HR)



**ANNEXURE - 19B**

BEML LIMITED  
BEML SOUDHA  
BANGALURU – 560 027



Circular No. 1032

25<sup>th</sup> April 2017

Sub: Declaration of Assets & Liabilities and Intimation / obtaining sanction during buying / disposal of properties.

In terms of existing rules of the Company, all Executives are required to submit Declaration of Assets & Liabilities at the time of first appointment in the Company and as on 31<sup>st</sup> March of every year. Besides this, Executives are also required to intimate regarding acquire / disposal of movable / immovable properties in terms of Conduct, Discipline & Appeal Rules of the Company applicable to Executives, which reads as below :-

Rule 16 (1) of CDA Rules	No employee of the Company shall, except with the previous knowledge of the competent authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.
Rule 16 (2) of CDA Rules	No employee of the Company shall, except with the previous sanction of the competent authority, enter into any transaction concerning any immovable or movable property with a person or a firm having official dealings with the employee or his subordinate.
Rule 16 (3) of CDA Rules	Every employee of the Company shall have to intimate any transaction in movable property either in his own name or in the name of any member of his family to the Divisional HR Department within one month of such transaction if the value such property exceeds Rs 20000/-.

2) While perusing the Annual Property Returns (APRs) submitted by some of the Executives, the following discrepancies have been observed :-

- (a) The Property Returns as on Joining Time and thereafter during 1990's are not available.
- (b) Pre-intimation / sanction as required under CDA Rule 16(1) or 16(2) is invariably not complied.
- (c) Pre-intimation for purchase of sites from BECS is also not given.
- (d) In some of the cases, reasons recorded for non-submission of APRs in time is peak production period.



7) It is also noted while perusing some of the clarifications from the Executives for not complying with the requirement in terms of above said rules that they have indicated the purpose in the cash availing format from BEML Provident Fund Trust and also they were allotted size by BECS etc and indicating that the same should be taken as intimation. However, it should be noted that such intimations are not in compliance with the Company Rules.

8) Therefore with a view to strictly follow the requirements under Rule 18(1), (2) & (3) of CDA Rules of the Company, all Executives are hereby advised to specifically comply with the requirements in terms of Rule 18 (1), 18 (2) & 18 (3) of CDA Rules of the Company to obtain prior sanction intimate the details of transaction of property (both Movable / Immovable as applicable) while buying / disposing; also to ensure submission of Declaration of Assets & Liabilities every year in the prescribed format on or before the last date until the same is replaced / amended by the Authority concerned.

9) It may be noted that non-compliance with regard to the above will attract action as deemed fit as per rules of the Company.

5) Hindi version will follow.

  
U.K. HASNANI  
Chief General Manager (HR)

23/1  
✓

AB 14017/101/91-Estt. (RR)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
(Department of Personnel & Training)  
2023008

New Delhi, the 14 July, 1993.

OFFICE MEMORANDUM

Subject: Forwarding of applications for other posts - principles regarding.

\*\*\*\*

The undersigned is directed to say that the question regulating the forwarding of applications to the Ministries/ Departments/other Government offices or to the UPSC from candidates serving under the Government has been reviewed.

2. It has been decided to consolidate the instructions on the subject. Therefore, the following instructions in supersession of the instructions contained in this Department's DMs\* mentioned in the margin are issued for guidance of all the Administrative Authorities.

No. 11012/  
10/75-  
Estt.  
(A) dt.  
18.10.75

3. Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/forwarded if:-

- (i) He is under suspension; or
- (ii) Disciplinary proceedings are pending against him and a charge sheet has been issued; or
- (iii) Sanction for prosecution, where necessary has been accorded by the competent authority; or
- (iv) Where a prosecution sanction is not necessary, a charge sheet has been filed in a court of law against him for criminal prosecution.

4. When the conduct of a Government Servant is under investigation (by the CBI or by the controlling Department) but the investigation has not reached the stage of issue of charge sheet or prosecution sanction or filing of charge sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations and it should also be made clear that in the event of actual selection of the Government servant, he would not be released for taking up the appointment, if by that time charge sheet for imposition of penalty under CCS (CCA) Rules, 1965 or sanction for prosecution is issued or a charge sheet is filed in a court to prosecute the Government Servant, or he is placed under suspension.

.....2/-




। 2 ।

ANNEXURE - 21

5. Where Government servants apply directly to UPSC as in the case of direct recruitment, they must immediately inform the Head of their office/Department giving details of the examination/post for which they have applied, requesting him to communicate his permission to the Commission directly. If, however, the Head of the Office/Department considers it necessary to withhold the requisite permission, he should inform the Commission accordingly within 45 days of the date of closing for receipt of applications. In case any situation mentioned in para 3 is obtaining, the requisite permission should not be granted and UPSC should be immediately informed accordingly. In case a situation mentioned in para 4 is obtaining, action may be taken to inform UPSC of this fact as also the nature of allegations against the Government servant. It should also be made clear that in the event of actual selection of Government servant, he would not be relieved for taking up the appointment, if the charge sheet/prosecution sanction is issued or a charge sheet is filed in a court for criminal prosecution, or if the Government servant is placed under suspension.

6. The administrative Ministries/Departments of the Govt. of India may also note that, in case of Direct Recruitment by selection viz., "Selection by Interview" it is the responsibility of the requisitioning Ministry/Department to bring to the notice of the Commission any point regarding unsuitability of the candidate (Govt. servant) from the vigilance angle and that the appropriate stage for doing so would be the consultation at the time of preliminary scrutiny i.e. when the case is referred by the Commission to the Ministry/Departments for the comments of the Ministry's Representative on the provisional selection of the candidates for interview by the Commission.

7. In so far as personnel serving in Indian Audit & Accounts Departments are concerned, these instructions are issued in consultation with the Comptroller and Auditor General of India.

  
Y.G. PARANDE )  
DIRECTOR (E)  
Tel: 3011479

To  
All Ministries/Departments of the Government of India.  
(200 spare copies)  
  
All Members of Staff Side of the Departmental Council  
(JCM)

98/VGL/60  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi - 110 023  
Dated the 15<sup>th</sup> April 1999

To  
  
All Chief Vigilance Officers  
  
Subject: Rotation of officials working in sensitive posts.

\*\*\*\*\*

Instructions have been issued from time to time by the Central Vigilance Commission and the Department of Personnel and Training for making rotational transfers in respect of the officials posted on sensitive posts at periodic intervals. These instructions are not being strictly followed and fallen into disuse.

2. In order to implement these instructions in a letter and spirit, it has been decided by the Commission that a list of sensitive posts in various Departments/Organisations should be identified by the Chief Vigilance Officer of the Department/Organisation. A list of posts so identified by the CVOs may be intimated to the Commission immediately. Thereafter CVOs in consultation with the Chief Executives would ensure that officials posted on sensitive posts are rotated every two-three years to avoid developing vested interests. In case officials posted on the sensitive posts continue to function in violation of the existing orders, the Commission may be apprised so that it may take up the matter with the concerned Departments/Organisations for implementing these instructions.

  
(P.S. FATEHULLAH)  
DIRECTOR

**ANNEXURE - 22**

No.: 98/VGL/60  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi - 110 023.  
Dated the 2<sup>nd</sup> November, 2001.

To

All Chief Vigilance Officers

Subject: Rotation of officials working in sensitive posts.

\*\*\*\*\*

Attention is invited to Circular No. 98/VGL/60 dated 15<sup>th</sup> April 1999 of the Central Vigilance Commission regarding rotation of officials working in sensitive posts.

2. It is hereby clarified that postings in the vigilance wings/departments are classified as sensitive. Therefore, the above instructions should be strictly followed while transferring officials to and from vigilance.

3. Accordingly, personnel deputed to the vigilance wing from operational wings are to have a tenure of three years following which they are to be reverted to operational areas. In the case of organizations that have a separate cadre for vigilance, the rotation should be done across regions on expiry of tenure of three years in a particular office.

4. CVOs may certify annually that this exercise has been carried.

5. This is for strict compliance by all concerned.

This issued with the approval of the Commission.

Sd/-  
(C.J. Mathew)  
Deputy Secretary

**ANNEXURE - 23****PREVENTIVE  
VIGILANCE**

preventive.

2.13 Santhanam Committee, while outlining the preventive measures, that should be taken to significantly reduce corruption, had identified four major causes of corruption, viz. (i) administrative delays; (ii) Government taking upon themselves more than what they can manage by way of regulatory functions; (iii) scope for personal discretion in the exercise of powers vested in different categories of government servants; and (iv) cumbersome procedures of dealing with various matters which are of importance to citizens in their day to day affairs. The CVO is thus expected to take following measures on preventive vigilance side:

- (i) To undertake a study of existing procedure and practices prevailing in his organisation with a view to modifying those procedures or practices which provide a scope for corruption, and also to find out the causes of delay, the points at which delay occurs and device suitable steps to minimize delays at different stages;
- (ii) To undertake a review of the regulatory functions with a view to see whether all of them are strictly necessary and whether the manner of discharge of those functions and exercise of powers of control are capable of improvement;
- (iii) To device adequate methods of control over exercise of discretion so as to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner;
- (iv) To educate the citizens about the procedures of dealing with various matters and also to simplify the cumbersome procedures as far as possible;
- (v) To identify the areas in his organisation which are prone to corruption and to ensure that the officers of proven integrity only are posted in those areas;
- (vi) To prepare a list of officers of doubtful integrity-The



**The Central Civil Services (Conduct) Rules, 1964**

**18. MOVABLE, IMMOVABLE AND VALUABLE PROPERTY:**

(1) (i) Every Government servant shall on his first appointment to any service or post submit a return of his assets and liabilities, in such form as may be prescribed by the Government, giving the full particulars regarding -

(a) the immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;

(b) shares, debentures and cash including bank deposits inherited by him or similarly owned, acquired, or held by him;

(c) other movable property inherited by him or similarly owned, acquired or held by him; and

(d) debts and other liabilities incurred by him directly or indirectly.

NOTE 1.- Sub-rule (1) shall not ordinarily apply to Group 'D' servants but the Government may direct that it shall apply to any such Government servant or class of such Government servants.

NOTE 2.- In all returns, the values of items of movable property worth less than Rs.10000 may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books, etc. need not be included in such return.

NOTE 3.- Where a Government servant already belonging to a service or holding a post is appointed to any other civil service or post, he shall not be required to submit a fresh return under this clause.

(ii) Every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.

(2) No Government servant shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with him.

[(3) Where a Government servant enters into a transaction in respect of movable property either in his own name or in the name of the member of his family, he shall, within one month from the



date of such transaction, report the same to the prescribed authority, if the value of such property exceeds two months' basic pay of the Government servant:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with him.]

[Sub-rule (3) amended vide the Central Civil Services (Conduct) Amendment Rules, 2011 - Notification No. G.S.R. 370 (E), 9th May, 2011, F.No. 11013/8/2009-Estt(A)]

(4) The Government or the prescribed authority may, at any time, by general or special order, require a Government servant to furnish, within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the Government or by the prescribed authority, include the details of the means by which, or the source from which, such property was acquired.

(5) The Government may exempt any category of Government servants belonging to Group 'C' or Group 'D' from any of the provisions of this rule except sub-rule (4). No such exemption shall, however, be made without the concurrence of the Cabinet Secretariat (Department of Personnel).

Explanation I - For the purposes of this rule -

(1) the expression "movable property" includes-

(a) jewellery, insurance policies, the annual premia of which exceeds [two months' basic pay of the Government servant], shares, securities and debentures.

[For the letters, figures and words "Rs.10,000, or one-sixth of the total annual emoluments received from Government, whichever is less", the words "two months' basic pay of the Government servant", substituted vide the Central Civil Services (Conduct) Amendment Rules, 2011 - Notification No. G.S.R. 370 (E), 9th May, 2011, F.No. 11013/8/2009-Estt(A)]

(b) all loans, whether secured or not, advanced or taken by the Government servant;

(c) motor cars, motor cycles, horses or any other means of conveyance; and

(d) refrigerators, radios radiograms and television sets.

2. "Prescribed authority" means -

(a) (i) the Government, in the case of a Government servant holding any Group 'A' post, except where any lower authority is specifically specified by the Government for any purpose;

(ii) Head of Department, in the case of a Government servant holding any Group 'B' post,



No.VI/401/01/05/2008  
Government of India  
Ministry of External Affairs  
(CPV Division)

Patiala House Annex  
New Delhi 110 001

5<sup>th</sup> October 2009

Office Memorandum

**Sub: Issue of ordinary passport to Central and State Government Servants, PSU employees, employees of constitutional bodies, Municipal Corporations, et al - Requirement of Identity Certificate (IC) or No Objection Certificate (NOC).**

With a view to expediting the issue of passport, the Ministry had in October 2006 revised the procedures in respect of Government servants/PSU employees, et al, by introducing Identity Certificate (IC) in lieu of No Objection Certificate (NOC), thereby exempting them from police verification. The Office of an employee was required to certify that the provisions of Section 6(2) of the Passports Act (enclosed) are not attracted, and the Government Servant/dependent also needed to provide a notarized affidavit (Annexure I). The spouses of such employees, and dependent children up to the age of 21 years, had an option to submit IC for expeditious issue of passport. However, many subordinate offices of both Central and State Governments and PSUs have been found to be reluctant or declining to issue the prescribed IC to their staff, thereby defeating the very purpose of introduction of IC.

2. Government servants, et al, were required to submit fresh IC (earlier NOC) at the time of re-issue of passport (on expiry of existing passport, on exhaustion of visa pages, etc) if they were employed in a sensitive office. Military personnel too were required to submit IC for reissue of passport. Passport Offices were facing difficulty at the time of reissue of passport to Govt servants, et al. In arriving at a conclusion whether they were working in sensitive departments and, therefore, fresh IC was required or not. It is not possible to define sensitive departments or seats in an exhaustive manner.

3. In view of the foregoing, with a view to achieving transparency and facilitating issue of passports to the Government servants, et al, it has been decided that:

- (a) The Government employees/PSU employees/employees of Municipal Corporations/constitutional bodies, et al, would have an option to submit either existing IC (format modified to include nationality, and is enclosed) or NOC [without certification of Section 6 (2) of Passports Act; format is enclosed]. If IC is submitted, passport will be issued without police verification; and if NOC is submitted, passport will be issued on post-police verification basis.
- (b) Annexure I in respect of employees themselves and children (upto 18 years) is dispensed with. However, spouse will require Annexure I, if IC is submitted.

(iii) Head of Office, in the case of a Government servant holding any Group 'C' or Group 'D' post;

(b) in respect of a Government servant on foreign service or on deputation to any other Ministry or any other Government, the parent department on the cadre of which such Government servant is borne or the Ministry to which he is administratively subordinate as member of that cadre.

Explanation II- For the purpose of this rule 'lease' means, except where it is obtained from, or granted to, a person having official dealings with the Government servant, a lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.

18-A. Restrictions in relation to acquisition and disposal of immovable property outside India and transactions with foreigners, etc.

Notwithstanding anything contained in sub-rule (2) of Rule 18, no Government servant shall, except with the previous sanction of the prescribed authority:-

(a) acquire, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property situated outside India;

(b) dispose of, by sale, mortgage, gift or otherwise or grant any lease in respect of any immovable property situated outside India which was acquired or is held by him either in his own name or in the name of any member of his family;

(c) enter into any transaction with any foreigner, foreign Government, foreign organisation or concern,-

(i) for the acquisition, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property;

(ii) for the disposal of, by sale, mortgage, gift or otherwise, or the grant of any lease in respect of any immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.





- (c) Dependents viz. spouse, and children upto 18 years of age (against 21 yrs at present, to align with minor passport regulations) only have the option of submitting IC. Otherwise, they can apply under the normal process (as any other public).
- (d) NOC (not IC) is required for reissue of passport to Government employees, et al, on expiry of passport/exhaustion of visa pages etc. However, no police verification is required at reissue stage. For reissue, dependents should provide fresh IC (and Annexure I also by spouse) or apply under normal process [No pre-police verification is normally required for reissue under normal process].
- (e) While IC should be issued on official stationery (letterhead); NOC on plain paper with signature/stamp can be accepted, on the assumption that such offices are using plain paper for day to day correspondence. However, telephone/fax and e-mail (to the extent available) be indicated in NOC for the purpose of confirmation, if called for, at the discretion of the Passport Office, which should be replied to immediately.
- (f) Military personnel with c/o APO address (e.g. 56 APO/99 APO) may submit applications at their station of posting or at their permanent address, and write their permanent address in passport [against present address otherwise], provided IC [NOC at reissue] is submitted and permanent address is certified by their office. Spouse of such personnel [and adult children, when spouse has expired/divorced] may receive the passport, with authority letter, either by hand or by post. This would apply to similarly placed Air Force/Navy personnel as well.
- (g) If Govt/PSU employees, et al, are transferred after submission of the passport application or passport is returned undelivered due to such transfer, the same be re-dispatched, on request (along with copy of transfer order), at the new address, after correction/endorsement of address. Such persons need not submit miscellaneous form & fees for address correction. However, if police verification was required and was not completed, it will be done at the new place.
- (h) The validity of IC/NOC will be six months from date of issue. Expired IC/NOC will not be accepted.

4. Ministries of the Central Government, and the State Governments/ Union Territories are requested to circulate these instructions to all the employees working under them, including those in attached and subordinate offices, and statutory bodies.

5. This supercedes all previous instructions on the subject of issue of IC/ NOC for the purpose of issue of ordinary passport.

*K.R.*

(K.R.Rajan Pillai)  
Deputy Secretary to the Government of India  
Telefax: 011 23387013

To

All Ministries/Departments of the  
Government of India (Attn: Joint Secretary/Adm)

The Chief Secretary  
All State Governments/UTs

Copy to RPOs/POs.

### Section 6(2) in The Passports Act, 1967

- (2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—
- that the applicant is not a citizen of India;
  - that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;
  - that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
  - that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
  - that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
  - that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;
  - that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;
  - that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;
  - that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.

No. 11013/7/94-Estt. (A)  
Government of India  
Ministry of Personnel, Public  
Grievances & Pensions  
(Department of Personnel & Training)

New Delhi, dated the 18th May, 94

OFFICE MEMORANDUM

Subject: Requirement of taking prior permission by Government servants for leaving station/headquarters - clarification regarding.

The undersigned is directed to say that doubts have been expressed by Ministries/Departments as to whether a Government servant is required to take permission before leaving station/headquarters during leave or otherwise, especially for visits abroad.

2. Attention of the Ministries/Departments is invited in this connection to the provisions of FR 11 which provides that 'unless in any case it be otherwise distinctly provided the whole time of a Government servant is at the disposal of the Government which pays him.....' Article 56 of the Civil Service Regulations also provides that 'no officer is entitled to pay and allowance for any time he may spend beyond the limits of his charge without authority.' It is implicit in these provisions that a Government servant is required to take permission for leaving station/headquarters. It is thus clear that such permission is essential before a Government servant leaves his station or headquarters and more so when he proposes to go abroad during such absence, as such visit may have wider implications.

3. However, separate permission may not be necessary where a Government servant has indicated his intention of leaving headquarters/station alongwith leave address while applying for leave. The leave application form prescribed under the CCS(Leave) Rules, 1972 contains necessary columns in this regard. In case the leave applied for the purpose of visiting foreign country is sanctioned, it would imply that permission for going abroad is also granted and therefore leave sanctioning authorities should keep this aspect in mind while granting the leave applied for. In the case of officers who are competent to sanction leave for themselves they should obtain permission for leaving station from their superior authority.

Failure to obtain permission of competent authority before leaving station/headquarters especially for foreign visits is to be viewed seriously and may entail disciplinary action.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all Government servants serving under their control and ensure that these are strictly followed by all concerned.

Hindi Version will follow.

(KRISHNA MEMON)  
UNDER SECRETARY TO THE GOVT. OF INDIA.

No. 11013/8/2000-Estt. (A)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
(Department of Personnel & Training)

New Delhi, dated the 7th November, 2000

OFFICE MEMORANDUM

Sub. : Requirement of taking prior permission by Government servants for leaving station/headquarters - Clarification regarding.

The undersigned is directed to refer to this Department's O.M. No. 11013/7/94-Estt. (A) dated 18th May, 1994 on the subject mentioned above in which it has inter-alia been clarified that separate permission may not be necessary where a Government servant has indicated his intention of leaving headquarters/station alongwith leave address while applying for leave. It has also been clarified that in case leave applied for the purpose of visiting foreign country is sanctioned, it would imply that permission for going abroad is also granted and, therefore, leave sanctioning authority should keep this aspect in mind while granting the leave applied for.

2. The above instructions have been reviewed and it has been decided that 'while granting leave the sanctioning authority shall take prior approval, if required, for permitting the officer to go abroad as per the existing instructions.'

3. All Ministries/Departments are requested to bring these instructions to the notice of all concerned under their control and ensure that these are strictly followed.

(Smt. S. Bandopadhyay)  
Director

To



ANNEXURE - 29

No. 11013/7/2004-Estt. (A)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
(Department of Personnel & Training)

New Delhi, dated the 5<sup>th</sup> October, 2004

**OFFICE MEMORANDUM**

Sub. : Requirement of taking prior permission by Government servants for leaving station/headquarters.

The undersigned is directed to refer to this Department's O.M. No. 11013/7/94-Estt. (A) dated the 18<sup>th</sup> May, 1994 in which it has inter alia, been clarified that the Government servant should take permission for leaving station/headquarters especially for private visits abroad. It has also been clarified in O.M. No. 11013/8/2000-Estt. (A) dated the 7<sup>th</sup> November, 2000 that the leave sanctioning authority while granting leave shall take prior approval, if required, for permitting the officer to go abroad as per the existing instructions. Despite these instructions, instances have come to the notice of the Government where Government servants have left their headquarters without taking prior permission and proceeded abroad.

2. The High Court of Delhi, in its judgment dated the 28<sup>th</sup> May, 2004 in the Criminal Writ Petition No. 1004/03 (Chandra Kumar Jain Vs. Union of India,) has observed that a Government servant who had visited some foreign countries 161 times on private visits without permission was never questioned and no one in the customs and the other departments suspected why a Government servant was so frequently (161 times) making private visits without permission. The High Court has, therefore, directed the Central Government to frame guidelines on foreign private visits of the Government servants.

3. Keeping in view the observation of the High Court the Ministries/Departments are requested to bring the existing instructions on the subject matter to the notice of all concerned and ensure that Government servants take prior permission before leaving for visits abroad as required under these instructions. When such permission to visit abroad is sought the Government servant is required to furnish information relating to the proposed and previous private visits as per the **proforma** (enclosed).

Hindi version will follow.

*P. Mohan*  
(Smt. Pratibha Mohan)  
Director (E-11)

State Of Uttar Pradesh vs Jai Singh Dixit on 11 November, 1974  
Equivalent citations: (1976) 111 J 246 All  
Author: D Mathur



ANNEXURE - 30

Bench: D Mathur, K.Asthana, S Chandra, Y Nandan, N Ojha  
JUDGMENT D.S. Mathur, C.J.

1. These four Special Appeals Nos. 129, 137, 189 and 234 of 1974 arise out of writ petitions under Article 226 of the Constitution, wherein order of suspension pending inquiry was challenged. Jai Singh Dixit, respondent in Special Appeal No. 129 of 1974, Rama Kant Saxena, respondent in Special Appeal No. 137 of 1974, and Ganesh Dutt Joshi, respondent in Special Appeal No. 234 of 1974, were suspended under Rule 49A of the U.P. Civil Services (Classification, Control and Appeal) Rules (to be referred hereinafter as C.C.A. Rules), while Inder Deo Tiwari, respondent in Special Appeal No. 189 of 1974, under Rule 1A of the U.P. Punishment and Appeal Rules. The order of suspension pending inquiry was quashed in the first two Special Appeals because the respondent was suspended before the framing of charges or completion of the preliminary inquiry, and there were no compelling or exceptional circumstances to depart from the normal rule not to place a Government servant under suspension before the framing of the charges. The order of suspension was quashed in the other two special appeals on the basis of the Full Bench decision in the State of U.P. v. Jawahar Lal Bhargava (1974) A.L.J. 282. The State of Uttar Pradesh and the heads of departments or authorities concerned, who were respondents in the writ petitions, have preferred these special appeals which came up for hearing before a Division Bench which felt that in view of the deletion of the Note to Rule 49A of the C.C.A. Rules with retrospective effect, the decision in the above Full Bench case required reconsideration. Similarly, the Division Bench felt that the observation made in the Full Bench case regarding absence of inherent power to suspend an employee required reconsideration. The Division Bench did not frame any question of law, but referred all the special appeals for hearing by a larger Bench. This is how the matter has come up before this Full Bench of five Judges.

3. The hearing of the special appeals on merits by all of us sitting together will result in unnecessary waste of time. We are, therefore, expressing our opinion on the question of law involved and thereafter the special appeals can be heard and decided by a Division Bench.

4. The material part of Rule 49A of the C.C.A. Rules runs as below:

A Government servant against whose conduct an inquiry is contemplated, or is proceeding, may be placed under suspension pending the conclusion of the inquiry in the discretion of the appointing authority :

Provided that in the case of any Government servant or class of Government servants, not belonging to a State service the appointing authority may delegate its power under this rule to the next lower authority.



N.B. As a rule, suspension should not be recorded to unless the allegations against the Government servant are so serious that in the event of their being established, they may ordinarily be expected to warrant his dismissal, removal or reduction. Suspension, where deemed necessary, should, as far as possible, immediately precede the framing of charges and their communication to the Government servant charged.

5. Rule 1A of the U.P. Punishment and Appeal Rules has been similarly worded.
6. The Note below Rule 49A of the C.C.A. Rules was deleted under Notification. No. 16 111-1973-Apptt. (3) dated March 23, 1974, and the Note below Rule 1A of the Punishment and Appeal Rules was deleted under Notification No. 18/111-1973 (3) Aptt. (3) dated March 23, 1973, and in both the cases the deletion was to take effect from October 29, 1968.
7. In all these special appeals the meaning and scope of these rules is in issue.
8. The learned advocate for the respondents in the special appeals (who shall hereinafter be referred to as Government servants) has raised two points with regard to the propriety of the constitution of a larger Full Bench to reconsider the points recently decided by a Full Bench, not only while deciding the main special appeal but also an application for review of the judgment, and the nature of jurisdiction exercisable by the Full Bench. It is contended that this Full Bench is not sitting as a Court of Appeal against the judgment in the earlier Full Bench case of the State of U.P. v. Jawahar Lal Bhargava (supra) and on the principle of stare decisis the earlier precedent, namely, the decision by the Full Bench, should not be interfered with.
9. The interpretation of Rule 49A of the C.C.A. Rules and Rule 1A of the Punishment and Appeal Rules has been raised in these Special Appeals also and, therefore, what this Full Bench is entertaining is not an appeal against the decision in the earlier Full Bench case but is reconsidering the correctness of all the matters arising in the special appeals on such appeals being referred to a larger Full Bench. It shall have to be kept in mind that the decision of a single Judge of this Court is also a decision of the Court provided its correctness is not challenged in appeal. If challenged in appeal the matter can be reheard exercising the same jurisdiction which the single Judge possessed while originally entertaining the writ petition. (See Lachmeshwar Prasad Shukul v. Keshwar Lal Chaudhuri A.I.R. 1941 Federal Court 5, Gummalapura Tagina Matada Kotturuswami v. Satra Veerayya and Amarjit Kaur v. Pritam Singh . Further, as enunciated in these decisions the appellate Court is entitled to take into consideration any change in the law subsequent to the decision of the judgment appealed against. In short, while deciding the special appeals we can exercise the same jurisdiction as the single Judge, based on the law as amended and in force at the time of the hearing of the special appeals. The fact that the impugned order was

quashed by the single Judge will make no difference. While re-hearing the case we must proceed from the facts as were, in the eye of law, in existence at the time the jurisdiction of this Court under Article 226 was invoked.

10. At this place it may be observed that the law altered by a subsequent Amending Act, applied retrospectively, was given effect to even at the stage of the review of the judgment under Order 47, Rule 1, C.P.C. in the Full Bench case of Mohammad Azamat Azim Khan v. Raja Shatranji (1963) A.L.J. 92.
11. It cannot be denied that the Bench hearing the special appeals has the jurisdiction not to base its judgment on the earlier decisions if in its opinion, the view expressed therein is erroneous. However, if the earlier decision is by a concurrent or larger Bench, the case or the question of law involved must be referred to a larger Bench for reconsideration. Thus, where the earlier decision is by a Bench of lesser number of Judges, the larger Bench hearing the case may not follow the precedent and arrive at its own findings, keeping in mind that frequent changes in the interpretation of law by the High Court can cause injustice to persons to have acquired rights or have acted in accordance with the law laid down by the Court. This principle was recognized in the Text-Book of Jurisprudence by G.W. Paton, Third Edition, at page 192, as below:  
  
Undoubtedly, reversal of a precedent may cause injustice to those who have shaped their conduct in reliance upon it, but this is an argument for extreme care in overruling precedents rather than for a complete denial of the power.
12. The observations of Blackstone quoted in Law In The Marketing by Sir C.K. Allen, Sixth Edition, at pages 224 and 225, are similarly as below:  
  
It is an established rule to abide by former precedents' except when former are 'contrary to reason' or 'unless flatly absurd and unjust.
13. Similarly, the observation of Lord Tenterden, C.J., quoted at page 184 of the Law Quarterly Review, Volume 50 is :  
  
The decisions of our predecessor's the Judges of former times, ought to be followed and adopted, unless we can see very clearly that they are erroneous, for otherwise there will be no certainly in the administration of the law.
14. In the State of Uttar Pradesh v. Firm Deo Dutt Lakhan Lal (1965) A.L.J. 862; it was observed by a Full Bench of this Court :  
  
Similarly a High Court in India is not bound to follow its own earlier decision and may depart from it. The departure is done by a Bench of a larger number of Judges.
15. With regard to the applicability of the principle of stare decisis in the Supreme Court, the majority view in Bengal Immunity Co, Ltd. v. State of Bihar , is that in a proper case it is permissible for the Supreme Court to go back upon its previous decision,



though it should not lightly dissent from a previous pronouncement of the Court; and if on re-examination of the question it comes to the conclusion, that the previous majority decision was plainly erroneous then it will be its duty to say so.

16. Our attention was also drawn to Chapter V, Rule 6 of the Rules of Court to suggest that we must express our opinion on all points raised in the Referring Order. Under this rule, either the whole case or a question of law can be referred to a larger Bench. Where the whole case has been referred to a larger Bench, we need not decide all the questions raised in the Referring Order. When the whole case is before us, we have to decide only those points which need be decided in the case: there can also be no objection, to save the time of the Court, to decide the questions of law involved in the case leaving it open for the Division Bench to hear the special appeals on merits accepting the decision of the Bench on the questions of law on which an opinion is expressed.
17. As already mentioned above, the Note below Rule 49A of the C.C.A. Rules and Rule 1A of the Punishment and Appeal Rules was deleted retrospectively from October 29, 1968. Both the Notifications deleting the Note were issued under the proviso to Article 309 of the Constitution and, therefore, the changes made are in the Conditions of Service Rules as contemplated by Article 309 of the Constitution, and not by an administrative order. It is a settled law that the Conditions of Service Rules can, by virtue of the proviso to Article 309 of the Constitution, be amended retrospectively. See *B.S. Vadera v. Union of India*, and *Ram Lal Wadhwa v. The State of Haryana A.I.R. 1972 S.C. 1982*.
18. In the *State of Mysore v. Padma-nabhacharya*, the impugned notification or rule was regarded as a rule not made under the proviso to Article 309 and, therefore, it was held that it could not have a retrospective effect. The case of *K.A. Krishnaswami v. The Director of Technical Education, Chempauk, Madras (1968) L.I.C. 1377*, is of the Madras High Court: however, it can be distinguished on the ground that the rules regarding qualification for the post were amended after the Government servant had already entered the department service. They are merely the Conditions of Service Rules framed under the proviso to Article 309 which can be given retrospective effect, and not the administrative instructions (vide *Ex-Major N.C. Singhal v. Director General, Armed Forces Medical Services, New Delhi*).
19. It was further contended that the two Notifications deleting the Note below Rule 49A and 1A did not contain any validation clause and, therefore, the amendment cannot be given a retrospective effect. A validation clause is invariably incorporated in an enactment to upset a decree or decision which may have already been passed or taken and which has become final, and in absence of the validation clause, decrees or orders which have become final will not be affected by the amendment even though



the amendment has been given effect to retrospectively. For amendment of the decree or order, the parties shall have to take other steps, if permissible under the law. In the instant cases, the orders passed by the single Judge have not become final and while deciding the special appeals we can take into consideration the amended rule.

20. Section (5) of the U.P. General Clauses Act can be of no help as the section by itself provides that the provisions contained therein shall be applicable unless a different intention appears from the amending or repealing enactment. In the instant case, the intention to give retrospective effect has been expressed in clear words.
21. Another legal question which may be disposed of at this stage is the effect of the administrative instructions of the Government whether they have the effect of reducing the scope of the Conditions of Service Rules or are mere guiding principles, departure wherefrom can be made in suitable circumstances. The law on this point can be said to be beyond controversy. In *Commissioner of Income-tax, Madras v. K. Srinivasan* it was laid down :

The interpretation placed by the department on these sub-sections cannot be considered to be a proper guide in a matter like this when the construction of a statute is involved.

Similarly as observed in *State of Haryana v. Shamsher Jang Shukla*.

The Government is not competent to alter the rules framed under Article 309 by means of administrative instructions.

However, the right of the Government to fill up a gap in the Conditions of Service Rules by means of administrative instructions has been recognised by implication, in this case and directly in *Union of India v. K.P. Josaph*. The material observations are as below :

Generally speaking, an administrative order confers no justiciable right, but this rule, like all other general rules, is subject to exceptions. This Court has held in *Sant Ram Sharma v. State of Rajasthan (1988) 1 S.C.R. 41 : A.I.R. 1957 S.C. 1918*, that although Government, cannot supersede statutory rules by administrative instructions, yet, if the rules framed under Article 309 of the Constitution are silent on any particular point, the Government can fill up gaps and supplement the rules and issue instructions not inconsistent with the rules already framed and these instructions will govern the conditions of service.

To say that an administrative order can never confer any right would be too wide a proposition. There are administrative orders which confer rights and impose duties. It is because an administrative order can abridge or take away rights that we have imported the principle of natural justice of *audi alteram partem* into this area....



We should not be understood as laying down any general proposition on this question. But we think that the order in question conferred upon the first respondent the right to have his pay fixed in the manner specified in the order and that was part of the conditions of his service. We see no reason why the Court should not enforce that right.

22. Briefly speaking, it can be laid down as a safe rule that no administrative instruction can override, enlarge or reduce the scope of a rule duly framed under the proviso to Article 309 of the Constitution, though the administrative instructions may be regarded as a guide for the exercise of jurisdiction under and in pursuance of the Conditions of Service Rules duly framed.
23. Rule 49A of the C.C.A. Rules and Rule 1A of the Punishment and Appeal Rules were incorporated under Notification, dated January 30, 1953, duly made in exercise of the powers conferred by the proviso to Article 309 of the Constitution, to implement the recommendations of the Disciplinary Proceedings Inquiry Committee. They were amended from time to time. To implement the recommendations contained in the Report of the Disciplinary Proceedings Inquiry Committee, the Government issued certain instructions under G.O. No. C-305 IIP- 1953 dated January 31, 1953. A perusal of Annexure I to III to the G.O. makes it clear that Annexure I and II were issued under the proviso to Article 309 while the instructions in Annexure III were mere executive instructions. It was provided in cl, 8 of the G.O. that:  
  
Suspension pending inquiry ' should not ordinarily be resorted to unless the allegations are serious enough to warrant dismissal, removal or reduction, and should in such cases immediately proceed the framing of charges and their communication to the accused Government servant.  
  
and in para 2(a) of Chapter IV of Annexure III that The charge or charges should be handed over to the charged officer within 15 days from the date of taking the decision to start formal proceeding (at the same time a decision should be taken whether the officer should be placed under suspension pending inquiry).
24. Similarly, it was reiterated in a Government order dated 2-7-1971, Annexure " A " to the Writ Petition in Special Appeal No. 137 of 1974, that suspension pending inquiry should be on objective consideration and resorted to where a decision has been taken to start a formal departmental enquiry, and prior to that, if necessary, the Government servant can be transferred from the station.
25. Rule 49A of the C.C.A. Rules and Rule 1A of the Punishment and Appeal Rules are complete by themselves conferring jurisdiction in the appointing authority to suspend pending inquiry a Government servant. These Rules previously contained a Note below them. There was, in substance, no gap in the rule which could be filled

up by executive instructions. Consequently, none of the executive instructions can have the effect of amending the Conditions of Service Rules duly framed under Article 309 : the maximum that can be said is that the G.Os. give out the policy of the State Government, but they are not such as can be enforced in a Court of law. The executive instructions contained in the two G.Os. can simply be regarded as a guide for the appointing authority, being of an advisory nature.

26. To avoid any controversy in the future it shall be proper to first of all consider the unamended rules and thereafter the effect of the deletion of the Note.
27. At this place it may, however, be observed that the Note appended to a rule or to an enactment does not, ordinarily, restrict or enlarge the scope of the main provisions : it generally serves as a guide line for the officers authorised to take action under the rule. The Note has, however, to be read along with the main provision. Consequently, where the Note is directory and not mandatory, it shall, in no way, restrict the powers conferred under the main provision; but if the Note has been worded in a manner which restricts the power conferred under the main provision, and is as mandatory as the provision itself, it can be said that the Note is an important part of the rule and has the effect of placing restrictions in the exercise of jurisdiction. To put it differently, if the directions contained in the Note are directory by nature, they shall not have the effect of restricting the scope of the main provision, though while exercising the jurisdiction, the guiding principles contained in the Note must be kept in mind. The difference is only this that the breach of the directory provisions of the Note will not by itself invalidate the order.
28. Coming to the instant case, the Note has two parts :
  - (1) As a rule, suspension should not be resorted to unless the allegations against the Government servant are so serious that in the event of their being established they may ordinarily be expected to warrant his dismissal, removal or reduction.
  - (2) Suspension, where deemed necessary, should, as far as possible, immediately precede the framing of charges and their communication to the Government servant charged.

It shall be noticed that the rule-making authority has used different words in the two parts-" as a rule " in the first part and " as far as possible " in the other. Even if the first part is regarded as mandatory, the same cannot be said about the other. The second part being directory cannot restrict the scope of the main provision and in suitable circumstances suspension pending inquiry can be ordered even though informal preliminary inquiry or the fact finding inquiry is not complete and no firm final decision has been taken to initiate departmental proceeding against the Government servant. In other words, there can be suspension pending inquiry even



before the framing of charges and the communication thereof to the Government servant charged.

29. The question for consideration now is : What is meant by the words " inquiry " and " contemplated " used in Rule 49A and Rule 1A ?
30. To avoid any confusion it may here be noted that Rule 49B of the C.C.A. Rules was deleted under Notification No. 3419/II-B-19(I)-58 dated September 9, 1958; even then it has been wrongly printed in the Official publication of the C.C.A. Rules. Rule 49B is, therefore, being disregarded.
31. The word " inquiry " has also been used in Rules 55 and 55A of the C.C.A. Rules. Rules 55 and 55A relate to formal departmental inquiry where major punishment of dismissal, removal or reduction can be imposed. Such an inquiry is invariably preceded by framing of charges. It is of significance that in the other rules governing cases in which minor punishment can be awarded the word " inquiry " has been omitted and the rules merely provide for the award of punishment. It is true that most of the minor punishments shall be awarded after some inquiry, but when the rule-making authority intentionally avoided making a reference to this term in the other rules and used the word " inquiry " in Rule 49A and also Rules 55 and 55A the underlying intention was that the inquiry contemplated by Rule 49A is the one held under Rules 55 and 55A. It must, therefore, be held that the power under Rule 49A can be exercised only in those cases where one of the major punishment - dismissal, removal or reduction shall ordinarily be imposed.
32. The inquiry contemplated by Rule 49A cannot have reference to an informal preliminary inquiry or a fact finding 'inquiry preceding the actual disciplinary proceeding, otherwise it shall be permissible to suspend a Government servant pending such informal inquiry, but not after charges have been framed and regular departmental proceeding is pending. This shall lead to an anomalous situation. We are, therefore, of opinion that the " inquiry " contemplated by Rules 49A and 1A has reference to the formal departmental inquiry, and not to any informal preliminary or fact finding inquiry preceding the initiation of the formal disciplinary proceeding.
33. The scope of Rule 49A or 1A does not appear to have come up for consideration before the Supreme Court, out the difference between contemplated " and " initiated " was noticed in P.N. Nayak v. Union of India . This is a case governed by the All India Services (Discipline and Appeal) Rules, 1969 where suspension during disciplinary proceeding could be ordered if such proceeding had been initiated, and not, as in the present cases, where such proceeding was under contemplation. It was observed in para 15 of the Report:

It does not suggest that suspension can be ordered merely when disciplinary proceedings are contemplated ....

The legislative scheme...is thus clearly indicative of the intention of the rule-making authority to restrict its operation only to those cases in which the Government concerned is possessed of sufficient material whether after preliminary investigation or otherwise and the disciplinary proceedings have in fact commenced and not merely when they are contemplated....

...Again the fact that in other rules of service an order of suspension may be made when 'disciplinary proceedings were contemplated' should not lead us to take the view that a member of an All India Service should be dealt with differently.

It was further observed in para 19:

But independently of this consideration we think that the plain language of Rule 3(1)(a) and (b) which concerns us does not authorise suspension when disciplinary proceedings have not been initiated but are only contemplated.

The meaning of the word " contemplate " has been given in Shorter Oxford English Dictionary, Volume I, as :

1. To look at the continued attention, gaze upon, observe. BEHOLD. 2. To view mentally; to meditate upon, ponder, study. 3. To consider in a certain aspect, regard. 4. To have in view; to expect, take into account as a contingency ; to purpose and in the New International Dictionary, Volume I, as :
1. To view with sustained attention : gaze at though fully for a noticeable time; observe with ostensibly steady reflection,
2. To view mentally with continued thoughtfulness, attention, or reflection : muse or ponder about. 3. to view mentally in a stated or implied way with thoughtfulness and reflection; A to think about or regard from a certain view point or in a certain light or respect, b : to have in view as a purpose anticipate doing or performing : plan on: INTEND, PLAN. c. to dream of as a cherished aim : ENVISION-d: to presume or imply as a concomitant or result: POSTULATE PRESSION-d: to presume or imply as a concomitant or result POSTULATE, PRE-SUP-POSE 4. to view or regard (as an object or an objective fact) with detachment.
34. The proper meaning which can be assigned to the word "contemplate" used in Rule 49A or in Rule 1A, therefore, is to have in view " " to expect," "take into account as a contingency." Therefore, whenever it is in the mind of the appointing authority that in due course a formal departmental inquiry shall be held or there exists a contingency for such an inquiry, one can say that a formal departmental inquiry is contemplated. It is, however, necessary that there should be application of mind, in the eye of law, in good faith, and not arbitrarily.
35. A formal departmental inquiry is invariably preceded by an informal preliminary inquiry which itself can be in two phases. There can be a summary investigation to



find out if the allegations made against the Government servant have any substance. Such investigation or inquiry is followed by a detailed preliminary or fact finding inquiry whereafter final decision is taken whether to initiate disciplinary proceeding. The first preliminary inquiry may be in the shape of secret inquiry and the other, of an open inquiry. In the alternative, when complaints containing serious allegations against a Government servant are received, the authority may peruse the records to satisfy itself if a more detailed preliminary inquiry be made.

36. In many instances the appointing authority will be in a position to form an opinion after the summary investigation, secret inquiry or inspection of records that the allegations made against the Government servant have substance and in due course formal departmental action shall be taken against him. These all would be cases covered by Rule 49A, i.e., cases where formal departmental inquiry is contemplated.
37. In a few cases it may be possible for the appointing authority to form such an opinion at an earlier stage also, i.e, at the stage of receiving or entertaining a complaint. These also shall be cases where it can be said, in good faith, that formal departmental inquiry is contemplated.
38. To put it in brief, a departmental inquiry is contemplated when on objective consideration of the material the appointing authority considers the case as one which would lead to a departmental, inquiry, irrespective of whether any preliminary inquiry, summary or detailed, has or has not been made or if made, is not complete. There can, therefore, be suspension pending inquiry even before a final decision is taken to initiate the disciplinary proceeding i.e., even before the framing of the charge and the communication thereof to the Government servant.
39. This view finds support, not only from the difference in the phraseology noticed in P.N. Nayak v. Union of India but also from the provisions contained in Rule 43A and Rule 1A. A departmental inquiry proceeds from the stage a "final decision is taken to initiate " such inquiry, in any case, when charges are framed and communicated to the Government servant. If the rule making authority had intended that the power to suspend under Rule 49A was to accrue on taking a firm and final decision to hold an inquiry it would not have incorporated therein the expression " an inquiry is contemplated " ; in any case, would have in its place used the expression " an inquiry has been decided upon." No part of the rule can be regarded as superfluous. Hence the word " contemplated " must be given its ordinary meaning, as already indicated above,
40. Naturally, it shall depend upon the facts and circumstances of each case whether, prior to the framing of the charge and communication thereof to the Government servant, it can be said that a departmental inquiry is expected.



41. This leads us to the consideration of earlier decisions of this Court. The Full Bench case of State of U.P. v. Jawahar Lal Bhargava (supra) was summed up by Gopi Nath, J. as below:

A Full Bench of this Court in Special Appeal No. 214 of 1973 decided on February 25, 1974 explained the scope of Rule 49A and held that the enquiry mentioned in that rule means the departmental inquiry as envisaged by Rule 55. When the preliminary enquiry is over and a decision is reached that formal departmental proceedings should commence the question of placing an officer under suspension arises. At any point of time prior to that stage the question of placing an officer under suspension does not arise.

42. As already discussed above, that is the stage for initiating the departmental inquiry and the stage contemplated by Rule 49A is much earlier when the appointing authority is satisfied that disciplinary proceeding would eventually be taken against the Government servant.
43. The Full Bench approved of the decision in Rajendra Shanker Nigam v. State of U.P. (1973) A.W.R. 271 and disagreed with the view of the Division Bench expressed in the special appeal arising therefrom, that is, in the State of V.P. v. Rajendra Shanker Nigam, (1973) A.L.J. 703. While approving Rajendra Shanker Nigam v. State of U.P. the Full Bench observed as below:

Seth, J. in Rajendra Shanker Nigam v. State rejected such an argument. He held that the inquiry referred to in Rule 49A means an inquiry under Rule 55 and the expression an ' inquiry is contemplated' would mean that an inquiry under Rule 55 is expected, that is the appointing authority has decided that in the circumstances of the case it would proceed to hold an inquiry as provided under Rule. 55.

The learned Judge finally observed that:

I am accordingly of opinion that merely because serious complaints against a Government servant are received by his appointing authority and it decides to obtain a report with regard to it from the vigilance or some other authority it does not necessarily follow that the appointing authority contemplates to hold an inquiry against the Government servant under Rule 55 of the Civil Services ((Classification, Control and Appeal) Rules. Such a report is called for enabling the appointing authority to make up its mind whether or not to initiate regular departmental proceedings.

44. It shall be noticed that in the opinion of the Full Bench also, the expression an " inquiry is contemplated " means an inquiry is expected. However, a restricted view was taken of the expression to mean the decision to hold an inquiry under Rule 55 or the decision to initiate regular departmental proceeding. Once a firm and final





decision has been taken to hold a formal departmental inquiry, such an inquiry is certain and not merely expected. Consequently, we are in respectful disagreement with the view expressed by the Full Bench regarding the scope of Rule 49A or Rule 1A.

45. The Full Bench also accepted the submission made on behalf of the Government servant that " the contents of the Note ought to be given full effect in construing the material provisions of Rule 49A," and held that an inquiry is contemplated against the conduct of the Government servant when a decision is taken by the appointing authority to start formal proceedings and at the same time it is decided whether the officer be placed under suspension pending inquiry. It was further observed that at any point of time prior to the taking of such a decision, it could not be said that an inquiry under Rule 55 was contemplated. At another place it was observed :

The Note does not permit the appointing authority to suspend a Government servant before it decides to initiate a formal inquiry under Rule 55 against the Government servant. The Note fixes the earliest point of time for the exercise of the power of suspension. The phrase "as far as possible " cannot be construed as leaving a power with the appointing authority to suspend a Government servant at a point of time earlier than the earliest point of time fixed by the Note.

46. Under Rule 49A suspension pending inquiry is permissible where the departmental inquiry is proceeding or where the departmental inquiry is contemplated. Once the charges have been framed and communicated to the Government servant, the inquiry comes into existence and is being proceeded with. Consequently, if the intention of the makers of the rule was not to permit suspension pending inquiry before the framing of the charges, it was not necessary to authorise such suspension when the inquiry was contemplated.
47. The Full Bench interpreted the word " allegations " used in the first part of the Note " as allegations having substance revealed by the investigation of an informal nature ", and not " allegations contained in the complaint received against a Government servant." When allegations are substantiated and charges are framed, allegations take the shape of charges and they are invariably called charges, and not mere allegations. There is, therefore, no reason why a restricted meaning be given to the word " allegations " used in the Note.
48. While not accepting the view of the Division Bench in State of U.P. v. Rajendra Shanker Nigam, (supra) the Full Bench observed:
- For the above reasons it is also not possible to accept the view of the Division Bench in the case of State of Uttar Pradesh v. Rajendra Shanker Nigam that if there are compelling and exceptional circumstances the power of suspension can be exercised



even before deciding to hold a departmental inquiry under Rule 55 against a Government servant for, that will again leave the matter to the subjective satisfaction of the appointing authority and to call upon it to justify the exercise of its power by establishing the existence of compelling and exceptional circumstances' will hardly be of any benefit to the Government servant against whom the power of suspension is exercised. Even a review by a Court of law in this regard will hardly be an adequate safeguard against discrimination as the content of ' compelling and exceptional circumstances' being elusive in its import and somewhat ephemeral in its content will introduce uncertainty in the situation which Rule 49A with the Note appended aims to avoid.

49. In case the matter is considered in the manner already suggested by us above there shall always be objective satisfaction of the appointing authority before the Government servant can be suspended pending inquiry. To suspend a Government servant on receipt of complaints containing allegations of dishonesty or if misconduct, without the appointing authority being satisfied that the allegations made have substance, which would later justify taking disciplinary proceedings, shall be on subjective consideration and has to be disapproved by the Courts of law. But where there exist circumstances to satisfy the appointing authority that the allegations made have substance, suspension pending inquiry shall be on objective consideration, and not subjective. It is a different thing that the appointing authority may like to have the matter investigated or further investigated so that the total material may come on the record and a proper departmental inquiry can be held.
50. While construing the Note to Rule 49A, which has since been deleted, the Division Bench deciding the case of State of U.P. v. Rajendra Shanker Nigam, (supra) observed at one place :

The use of the phrase " as far as possible leaves latitude to the authority to exercise the preexisting power of suspension even before the framing and communication of the charges. But, of course, this is not to be done as a normal rule, but in an emergent situation.

and at another place observed :

It, indicates a stage where an inquiry into the conduct of a Government servant is imminently expected with a view to impose some punishment upon him.

51. From the observations made by the Division Bench subsequently, it is clear) that in using the word " emergent " what the Division Bench meant was that where there is to be a departure from the ordinary rule' there should be an " exceptional or compelling circumstance." Likewise, the word " imminently " referred to above, is to be read in the light of the observations made in the same paragraph to the effect -



When the Government sets in motion its machinery for investigation the alleged complaint so that it may hold a formal enquiry is clearly contemplated and the power to suspend comes into play.

52. Even Seth, J., in *Rajendra Shanker Nigam v. State of U.P.* (supra) was of the view that it is permissible under Rule 49A to suspend a Government servant pending inquiry, of course, in suitable circumstances, even where no informal preliminary enquiry has been conducted and the stage for framing of charges has not arisen as will be clear from the following observations made by him:

In appropriate cases, the appointing authority may make up its mind to hold a departmental enquiry even on the basis of the information contained in the complaint made against the Government servant concerned whether calling for a report or holding an informal enquiry and in such cases it will be open to it to pass order for his suspension.

In a particular case the question whether or not an order of suspension has been passed in contemplation of an enquiry under Rule 55, will depend upon its facts. Clearly it is for the appointing authority to indicate that after receipt of complaint against the Government servant and before making the suspension order it intended to hold a departmental enquiry against him,

53. For the reasons indicated above, we are of the opinion that even when the Note below Rule 49A or Rule 1A was a part of the main rule it did not restrict the scope of the relevant rule. The power of suspension pending inquiry under this rule could be exercised at an early stage also, i.e., before the framing of charges and communication thereof to the Government servant, provided that on objective consideration of the material the appointing authority was satisfied that after investigation or further investigation there shall be a formal departmental inquiry under Rules 55 and 55A. This power was to be ordinarily exercised in the manner contemplated by the Note.
54. While deleting the Note below Rule 49A or Rule 1A, under notifications dated March 24, 1974, the Government did not amend the executive instructions contained in the two G. Os. referred to in the earlier part of this judgment. These instructions are still in existence, but they cannot in any way affect the scope of Rule 49A or Rule 1A. They can be utilised as laying down guiding principles for the information of the appointing authority. As such they can, to the most, be said to be advisory in nature, of course, entitling the State Government to pass a proper order on a representation being made to it by aggrieved Government servant.
55. For purposes of these Special Appeals it is not necessary for us to express a final opinion on the question whether a Government servant can be suspended pending



inquiry in exercise of the inherent or implied power of suspension vesting in the appointing authority. The inherent power of suspension recognised in the case of *V.P. Gindroniya v. State of Madhya Pradesh A.I.R. 1970 S.C. 1944*, is the power to suspend the Government servant from performing the duties of his office without adversely affecting his rights and privileges. Such suspension is not covered by the conditions of service Rules, which contemplate suspension accompanied by reduction of emoluments,

56. To conclude, suspension pending inquiry under Rule 49A of the U.P. Civil Services (Classification, Control and Appeal) Rules or Rule 1A of the U.P. Punishment and Appeal Rules can be ordered at any stage prior to or after the framing of charges, when on objective consideration the authority concerned is of the view that a formal departmental inquiry under Rules 55 and 55A of the C.C.A. Rules or Rules 5 and 5A of the U.P. Punishment and Appeal Rules is expected, or such an inquiry is proceeding. At what stage the power under the above rules can be exercised shall always depend on the facts and circumstances of each case.
57. The records of the Special Appeals shall now be sent to the Division Bench concerned with our opinion on the question of law involved.

N.D. Ojha, J.

58. I agree.

Satish Chandra, J.

59. I have read the opinion of My Lord the Chief Justice. I would like to add a few words.
60. By a notification dated January 30, 1953, the Governor added Rules 49A and 49B to the U.P. Civil Services (Classification, Control and Appeal) Rules. The material part of Rule 49A stated ::

49A(1). A Government servant against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry in the discretion of the appointing authority :

Provided ...

Note-As a rule, suspension should not be resorted to unless the allegations against the Government servant are so serious that in the event of their being established, they may ordinarily be expected to warrant his dismissal, removal or reduction. Suspension, where deemed necessary, should, as far as possible, immediately precede the framing of charges and their communication to the Government servant charged.

By the same notification of January 31, 1953, the Governor issued administrative instructions to the appointing authorities. One of them was that suspension pending



an inquiry should not be ordinarily resorted to unless the charges are serious enough to warrant dismissal, removal or reduction and the same should precede the framing of charges and their communication to the accused Government servant.

61. Another instruction provided that the charge or charges should be handed over to the charged officer within 15 days from the date of taking the decision to start formal proceedings. (At the same time a decision should be taken whether the officer should be placed under suspension pending inquiry), These administrative instructions were virtually identical with the note appended to Rule 49A.

62. Rule 49A came up for consideration in *Rajendra Shanker Nigam v. State of U.P.* (supra). The learned single Judge held that the inquiry referred to in Rule 49A means an inquiry under Rule 55. The expression an "inquiry is contemplated occurring in Rule 49A, would mean that the appointing authority has decided to hold an inquiry under Rule 55. It was observed:

Merely because serious complaints against a Government servant are received by his appointing authority and its decision to obtain a report with regard to it from the Vigilance or some other authority it does not necessarily follow that the appointing authority contemplates to hold an inquiry against the Government servant under Rule 55. Such a report is called for enabling the appointing authority to make up its mind whether or not to initiate regular departmental proceedings.

Thus, the word "contemplated" was equated with decided or initiated.

63. This decision was taken up in Special Appeal in *State of U.P. v. Rajendra Shanker Nigam*. The Division Bench held the term inquiry under Rule 49A is not confined to an inquiry held under Rule 55. It also includes an inquiry which may ultimately result in a lesser punishment being awarded. It was held that the word contemplated means "to have in view," "expected" "to take into account as a contingency." When the Government sets in motion its machinery for investigating the alleged complaints so that it may hold a formal inquiry more properly, the formal inquiry is clearly contemplated. In support reliance was placed upon *S.C. Kharbanda v. State of U.P.* Special Appeal No. 441 of 1972, decided on 21st July, 1972. It was further held that the Note appended to Rule 49A was a part of the Rule and had statutory force. It imposed a limitation upon the exercise of power, The phrase "as far as possible" occurring in the Note suggests that normally the power shall be exercised at the mentioned point of time, namely, after framing of charges and its communication. But in an exceptional situation the power can be exercised at an earlier point of time also. If the Government exercises the power at an earlier point of time, it has to establish that it was not possible to comply with the condition of the Note because of some compelling reason or circumstance.



64. The matter was reconsidered by a Full Bench of this Court in *State of U.P. v. J.D. Bhargava* (supra). The Full Bench dissented from the Division Bench decision in *R.S. Nigam's case*. It held that the words "allegations" used in the first part of the Note did not mean the allegations contained in the complaint received against a Government servant, but would mean the allegations having substance received by the investigation of an informal nature. It was also held that the phrase "as far as possible" occurring in the Note does not permit an appointing authority to suspend before it decides to initiate an inquiry under Rule 55. It only authorises the authority to defer the decision to suspend to a date after the framing and communication of the charges. It was held that the term inquiry refers to an inquiry under Rule 55 only and that the phrase "inquiry is contemplated" can only mean an inquiry is initiated. This stage is reached when a decision has been taken on the basis of the material collected on preliminary investigation and the appointing authority is prima facie satisfied that they have substance and the starting of the formal proceedings would be justified. At any point of time prior to the taking of such a decision, it cannot be said that the inquiry under Rule 55 was contemplated.

65. The Full Bench rendered its decision on February 25, 1974. Within a month on March 23, 1974, the Governor issued a notification under the proviso to Article 309 of the Constitution, repealing the Note appended to Rule 49A as well as Rule 1A of the Punishment and Appeal Rules retrospectively with effect from October 29, 1968. The position is that with effect from October 29, 1968 Rule 49A and 1A to be deemed on the statute book without the Note. Evidently this retrospective amendment was brought about because the Governor did not accept the theory of compelling circumstances enunciated by the Division Bench in *R.S. Nigam's case* because of the term "as far as possible" occurring in the Note. It is also apparent that the Governor did not accept the construction placed upon the Rule by the Full Bench.

66. Though, after the repeal of the Note it is academic to say anything about its correct construction or its impact upon the main part of the Rule, but we agree with My Lord the Chief Justice that the word "allegations" occurring in the Note mean the allegations contained in the complaint: because after it is decided to hold formal inquiry those allegations become charges.

67. We also agree with My Lord the Chief Justice as to the interpretation of the terms "as far as possible." Rule 49A confers a discretionary power to suspend while an inquiry was contemplated as also when an inquiry was proceeding. The power to suspend could be exercised at any time after the inquiry has been commenced and was proceeding. In this view the phrase "as far as possible" was superfluous if it was intended to give discretion to order suspension at any time after the framing of charges. The term as far as possible operated as an exception to the general rule that the power of suspension should be exercised at the time when the charges have



been framed and communicated, with the result that in special circumstances it could be exercised at an earlier point of time also.

68. After the repeal of the note the position is that Rule 49A as well as Rule 1A conferred discretionary power to place an officer under suspension when an inquiry is contemplated or is proceeding. The power has not been confined on the appointing authority to his subjective satisfaction. It is exercisable only if on an objective consideration the appointing authority takes the view that an inquiry is contemplated or is proceeding. This position being based on an objective consideration is open to judicial review.
69. Rule 49A as well as Rule 1A refer to an inquiry. A perusal of the various Rules in the both sets of Rules shows that Rules 55 and 55A use the term inquiry. An inquiry is to be held under them in order to impose the major punishment of dismissal, removal or reduction in rank. The other Rules laying down the procedure for imposing minor punishment do not characterise the proceedings as an inquiry. This suggests that the inquiry referred to in Rule 49A is the departmental inquiry contemplated under Rules 55 and 55A. The power of suspension is hence available in relation to an inquiry under Rule 55 or Rule 55A held with a view to impose the major punishments of dismissal, removal or reduction in rank. The administrative instruction saying that suspension pending inquiry should not be resorted to unless the charges are serious enough to warrant dismissal, removal or reduction in rank, only makes explicit what is implicit in Rule 49A and Rule 1A. The power accrues when such an inquiry is either contemplated or is proceeding. It is immaterial as to what punishment is imposed as a result of the inquiry.
70. The next question is as to the correct connotation and significance of the term contemplated in the phrase "inquiry is contemplated or is proceeding." It is obvious that contemplated cannot mean the same thing as "proceeding" in relation to the inquiry; else the term "contemplated" would be superfluous. In this context the word "contemplated" refers to a stage of the inquiry different than when it is proceeding. From the moment the inquiry has been commenced, it can be said to be proceeding. In my opinion an inquiry commences when it is set in motion or is initiated. Formal departmental proceedings start when a decision to hold them is taken; because the decision directly leads to and sets in motion the various ministerial steps of the proceeding, like framing and communication of charges, calling for an explanation, hearing witnesses, etc., etc. The decision to hold a formal departmental inquiry sets it in motion or initiates it. From this point of time onwards the inquiry proceeds.
71. In this view, the word "contemplated" occurring in the phrase "inquiry is contemplated or is proceeding" must refer to a stage earlier than when the inquiry is proceeding. The term contemplated means "to have in view" "expected",



"to take into account as a contingency." A person can have an inquiry in view, or expect an inquiry before he decides to hold it. This also corroborates the interpretation that the word "contemplated" occurring in the phrase inquiry is contemplated or is proceeding points to a stage when the inquiry is expected; that is, prior to the taking of the decision to hold the inquiry. We are unable to share the view expressed by the Full Bench in J.L. Bhargava's case that the word contemplated is equivalent to decide.

72. The question as to when is an inquiry in view or expected is a question of fact dependant on the circumstances of each case. In law such an expectation can happen on receipt of information of commission of misconduct or during or after a preliminary inquiry.
73. The existence of power should not be confused with the abuse. In case of abuse, the particular exercise of the power will be bad and will be quashed. But that has no bearing on the question of law as to when, in a proper construction of the Rule, does the power arise.
74. Though by the notification dated March 23, 1974 the Note appended to Rule 49A was repealed, the Government did not amend the executive instructions, that suspension pending inquiry should immediately precede the framing of the charges and their communication to the accused Government servant and that the decision to place an officer under suspension should be taken at the time when the charges are framed and serial. The question is what is the effect of this instruction ?
75. In Sant Ram Sharma v. State of Rajasthan, (supra) the Supreme Court ruled that the statutory rules cannot be superseded by administrative instructions made by the Government. In Union of India v. K.P. Joseph, (supra) the Supreme Court reiterated the above principle but pointed out that if the Rules framed under Article 309 of the Constitution are silent on any particular point the Government can fill up gaps and supplement the Rules and issue instructions not inconsistent with the Rules.
76. It is thus clear that in law administrative instructions cannot supersede or amend the Rules or whittle down, or enlarge their ambit and scope. In the present case, the instruction, when it says that suspension should immediately precede the framing and service of the charges, has the effect of repealing or nullifying the phrase "inquiry is contemplated" occurring in the Rules. It is clearly inconsistent with the Rules. It does not fill up any gaps in the Rules. It will hence be ineffective. If in a particular case the power of suspension is exercised prior to the framing of charges, the order of suspension cannot be held illegal and quashed on the ground that it was passed in contravention of the administrative instruction. In other words, the administrative instruction being inconsistent with the statutory rule, is void and unenforceable.



77. Reliance was placed on K.P. Joseph's case for the proposition that an administrative order which confers a right is enforceable by Courts. It was submitted that the aforesaid administrative instruction confers a right upon the Government servant not to be placed under suspension till the service of charges. In K.P. Joseph's case it was declared that generally speaking an administrative order confers no justiceable right, but this general rule has exceptions. If an administrative order abridges or takes away rights, then the principles of natural justice become applicable to it and their violation will be enforceable in a Court. This really is not a case of enforcing the administrative order, but nullifying the violation of the principles of natural justice. In the next place, it was held that if an administrative order confers a right which becomes part of the service conditions, such an order will be enforceable in Courts. It will be seen that an administrative order should not merely confer a right but should become part of the conditions of service. This is a question of fact not amendable to any presumption. In the present appeals it has not even been alleged by the Government servants that the executive instruction in question had become part of their service conditions.
78. In K.P. Joseph's case the Supreme Court was considering the effect of an administrative order, dated 15th July, 1960 laying down the manner of fixation of pay. The fixation of pay was not governed by any statutory rules. The only available literature on the topic was the aforesaid order. It was in this context that the Court held that the order conferred a benefit or right upon the Government servant to have his pay fixed in accordance with it.
79. The fact that the Court specifically referred to its decision in Sant Ram Sharma's case and reaffirmed the principle that administrative instructions cannot supersede statutory Rules and that if they are inconsistent with the Rules they would be ineffective, shows that the principle that an administrative order which confers a right and is part of service conditions, is enforceable, has no application to a situation where the particular condition of service is covered by statutory Rules. The statutory Rule will have its full play. Its ambit could not validly be affected by an administrative instruction. If there is inconsistency between a statutory Rule and an administrative instruction, the instruction would be void. The statutory Rule alone will be enforceable in Courts.
80. The remedy for breach of such an administrative instruction is not judicial. It lies on the executive side. Under the Manual of Government Orders, the Government has a right to interfere with all administrative orders either by way of an appeal or a representation. If an order of suspension is passed in breach of administrative instructions the Government can look into the matter and set things right. Further if an appointing authority passes an order in breach of Government instructions' it may be liable to be hauled up by the Government for committing misconduct.

81. With respect we agree with my Lord the Chief Justice that this Full Bench is competent to reconsider the decision of a smaller Full Bench and that the principle of stare decisis is not applicable to the present case; that it is open to this Bench to decide the controversial questions of law and leave the disposal of the appeal to the Division Bench, and that the Rules framed under Article 309 can be amended retrospectively. What has been said above in respect of Rule 49A applies equally to Rule 1A of the U.P. Punishment and Appeal Rules for Subordinate Services.
82. To conclude, the power of suspension arises when on an objective consideration the appointing authority is of the view that a formal disciplinary enquiry is expected or is proceeding.
- K.B. Asthana, J.
83. I have the benefit and advantage of reading the opinions prepared by the learned Chief Justice and by brother Satish Chandra, While agreeing with their conclusion that the word " inquiry " occurring in Rule 49A (1) of the U.P. Civil Services (Classification, Control and Appeal) Rules, hereinafter referred to as the " Rules", means the formal inquiry under Rule 55 of the Rules as also with their conclusion that the order of suspension in the exercise of power under Rule 49A of the Rules can be passed only on objective considerations, with respect, I find myself in disagreement in regard to the observations made by them in elaboration of the various aspects and facts of the problem or the problems arising while considering the scope, the extent and the timing of the order of suspension. I would, therefore, like to add some words of my own.
84. A Full Bench of the Court in the case of State of Uttar Pradesh v. Jawdhar Lal Bhargava, (supra) approved of the decision of Seth, J. in Rajendra Shanker Nigam v. State of Uttar Pradesh, (supra) and held that if the material which comes to light after the completion of the informal inquiry on the basis of which a decision could be taken as to the seriousness of the allegations deserving major punishment of dismissal, removal or reduction in rank in the ordinary course was not before the Appointing Authority when the order of suspension was passed, the order would violate Rule 49A of the Rules and would be void ab initio. After the decision of Full Bench in Jawahar Lal Bhargava's case the Governor of Uttar Pradesh issued a Notification purporting to be under Article 309 of the Constitution deleting the Note below Rule 49A of the Rules with retrospective effect, which Note was an integral part of that Rule. The said Note was as follows :
- N.B. As a rule suspension not to be resorted to unless the allegations against the Government servant are so serious that in the event of their being established, they may ordinarily be expected to warrant his dismissal, removal or reduction. Suspension, where deemed necessary, should, as far as possible, immediately



precede the framing of charges and their communication to the Government servant charged.

85. Then an application for review was filed by the State Government on the ground that the Note having been deleted with retrospective effect, the decision of the Full Bench in Jawahar Lal Bhargava's case, limiting the exercise of power of suspension under Rule 49A when the informal inquiry has been completed revealing the material on the basis of which a decision could be taken as to the seriousness of the allegations deserving of major punishment of dismissal, removal or reduction in rank in the ordinary course, was rendered nugatory thus the order of suspension passed prior to that stage could not in law be held as void ab initio. This application for review was again listed before the same Full Bench, which decided Jawahar Lal Bhargava's case, and the application was rejected. The latter Full Bench observed :

Now coming to the merits, we must point out that the learned Chief Standing Council assumed that our judgment is based on the Note to Rule 49A. That is not so. We have in our judgment analysed the main clauses of Rule 49A and construed them according to our wisdom. Even if the Note to Rule 49A were not here our conclusion would not have been different. Mere deletion of Note even with retrospective effect, therefore, does not bring about any substantial alteration or charge in law.

86. When another set of petitions questioning the validity of the order of suspension passed against the petitioners in these petitions were heard before another Division Bench of the Court in the form of special appeals, it appears to have been urged on behalf of the State that with the retrospective repeal of the Note the view taken by the Full Bench in Jawahar Lal Bhargava's case was no longer operative and that the Appointing Authority had an inherent power to suspend a Government servant even beyond Rule 49A of the Rules. The learned Judges constituting the Division Bench held that the matters required reconsideration and the questions involved being of general importance and frequent occurrence, the Special Appeals be referred to a larger Full Bench.
87. It may be noted here that in one of the special appeals similar questions in regard to the construction of Rule 1A of the U.P. Punishment and Appeal Rules for subordinate Services were also involved and the Note below that Rule in terms similar to the Note below Rule 49A of the Rules had also been deleted with retrospective effect.
88. It appears to me on a reading of the order of reference of the Division Bench that in the operative portion of the order though it referred the special appeals but what really it intended was to refer two questions, viz. :
- (1) Whether the retrospective repeal of the Note under Rule 40A of the Rules rendered the Full Bench decision in Jawahar Lal Bhargava's case inoperative and (2) Whether

the Appointing Authority has inherent power to suspend an employee in the sense that it has unfettered discretion to require a Government servant not to attend to his work provided he was paid the emoluments according to the rate of pay admissible to him ?

89. With respect to the learned Chief Justice and brother Satish Chandra, I find that the opinions prepared by them do not answer finally the second question culled out by me from the order of reference. As regards the first question, their opinions elaborate the various aspects of the controversy involved and they have approached the matter as if , the referring order doubted the correctness of the Full Bench in Jawahar Lal Bhargava's case in all its implications and ramifications.

90. On the question " whether the Appointing Authority is vested with any inherent power of suspending a Government servant." I will stick to the view taken in Jawahar Lal Bhargava's case that there is no such power. The power of suspending a Government servant can only, be conferred by law. The Chief Standing Council neither in Jawahar Lal Bhargava's case nor in the instant reference canvassed before us for an inherent power in the sense as contemplated by the learned Judges in their referring order. Asking the Government servant not to work or perform his duties and at the same time permitting him to draw his salary is not a suspension from service. The right of the master not to take work from his servant is an implied right flowing from the contract of employment. It is not an inherent right. In the case of V.P. Gindroniya v. State of Madhya Pradesh (supra) in paragraph 8 at page 1496 as follows:

It is now well-settled that the power to suspend, in the sense of a right to forbid an employee to work, is not an implied term in an ordinary contract between master and servant, and that such a power can only be the creature either of a statute governing the contract, or of an express term in the contract itself. Ordinarily, therefore, the absence of such a power either as an express term in the contract or in the rules framed under some Statute would mean that an employer would have no power to suspend an employee of his and even if he does so in the sense that he forbids the employee to work, he will have to pay the employee's wages during the period of suspension.... The distinction between suspending the contract of service of a servant and suspending him from performing the duties of his office on the basis that the contract is subsisting is important. The suspension in the latter was is always an implied term in every term of contract of service. When an employee is suspended in this sense, it means that the employer merely issues a direction to him that he should not do the service required of him during a particular period. In other words the employer is regarded as issuing an order to the employee which because the contract is subsisting, the employee must obey.



91. As I read the above observations extracted out from the judgment of the Supreme Court, the said observations, to my mind, negate any inherent right of the master to suspend a servant when the master intends to suspend the contract of service. When it is not intended to suspend the contract but it is intended to keep it subsisting, then in directing the servant not to do service required of him will only mean that the employer is issuing an order to the employee which because the contract is subsisting, the employee must obey. It is clear from the declaration of law by the Supreme Court that the power to suspend a Government Servant pending an inquiry into his misconduct can only be conferred by statute. There is no inherent right. The only answer, therefore, to question No. 2 can be that there is no inherent power. The kind of suspension contemplated in the question is nothing but issuing an order to the Government servant not to do the service required of him during a particular period which because of the relationship as master and servant subsisting, the Government servant is bound to obey. This would be nothing but a part of the condition of his service. In case the service was contractual, it would be nothing but an implied term of the contract of service.
92. What is the effect of the retrospective deletion of the Note below Rule 49A, may now be considered. As already observed above, the Full Bench while rejecting the application for review in Jawahar Lal Bhargava's case held that even if the Note to Rule 49A were not there, the conclusion arrived at on the substantive part of the Rule would not have been different. This would be sufficient answer to the question but in deference to the opinions recorded by the learned Chief Justice and brother Satish Chandra, I will assume that it is not only a question or questions that have been referred to\* us but the Special Appeals have been referred and this Bench constituted of larger number of Judges is free to come to its own conclusions on the interpretation and construction of Rule 49A of the Rules. In this view of the matter, it is not necessary for me to advert to the arguments advanced before us to the effect that the rule of stare decisis should prevent us from reconsidering the decision of Full Bench in Jawahar Lal Bhargava's case.
93. The basic question that arises on the interpretation and construction of Rule 49A when elaborating upon the extent of power of suspension and the time of passing the order will turn on What meaning is to be given to the words " an inquiry is contemplated," occurring in Rule 49A. The material text of the Rule may be quoted here with profit :
- A Government servant against whose conduct an inquiry is contemplated, or is proceeding, may be placed under suspension pending the conclusion of the inquiry in the discretion of the Appointing Authority.
94. It is unnecessary to quote Rule 1A of the U.P. Punishment and Appeal Rules as it is



similar in terms and the considerations which will apply to the interpretation of Rule 49A of the Rules would equally apply to the interpretation of Rule 1A of the Punishment and Appeal Rules.

95. It cannot be denied that for different classes of Government servants there are numerous Appointing Authorities, both of high rank and lower rank, depending upon the class of a Government servant to be suspended. To my mind, it is duty of the interpreter of the Rule to give certainty to it so that the Appointing Authority, high or lower in rank, varying in responsibility and intelligence, should be able to apply the Rule uniformly and not indiscriminately or arbitrarily as the Rule confers an unfettered discretion on the Appointing Authority to place a Government servant under suspension against whose conduct an inquiry is contemplated or is preceding. It would be seen that the power to suspend operates upto the conclusion of the inquiry. We all agree that the inquiry that is meant in this Rule is a formal departmental inquiry and not a fact finding preliminary inquiry, which usually precedes the formal inquiry. This is a pointer towards a legitimate inference that what ends with the conclusion of the inquiry should begin when the inquiry has begun or is about to begin. We also agree that it is on an objective consideration that the Appointing Authority forms the opinion that a formal inquiry is to be initiated. The rule does not permit forming an opinion on subjective considerations that the formal inquiry is likely to be held. It is only when a formal inquiry is to begin that the discretion of the Appointing Authority comes into play to suspend or not to suspend a Government servant. When a formal inquiry is proceeding and the Appointing Authority in its discretion suspends a Government servant pending conclusion of that inquiry, no problem arises. The Rule is clear on this score. The problem arises only when the formal inquiry has not begun or initiated. The rule-makers have used the words "against whose conduct an inquiry is contemplated, or is proceedings." The word " contemplate" has some what a vague import. Various meanings of this word have been reproduced from standard dictionaries by the learned Chief Justice in his opinion. " Contemplation ", the noun of the verb " contemplate ", is always a mental process. The process of mind or mental process can work subjectively as well as objectively. The objectivity of the mental process is occasioned by thinking or contemplating on something which can be physically observed or perceived. The subjectivity of the mental process is occasioned by something which is imagined and which cannot be physically observed or perceived by senses. It follows that when we say that a formal disciplinary inquiry is in view the meaning which is Sought to be given to the words " an enquiry is contemplated" and the view is to be based on objective considerations - it follows that there must be material which can be physically observed and perceived to form the basis of the formal inquiry. Since subjective consideration is eliminated, the mere hope or a mere theoretical formation



of opinion that a formal inquiry will be held without any material basis for it being available is ruled out. One can say that when a mariner starts his journey on the high seas for a fixed destination somewhere in the middle of high seas, no doubt he is contemplating a journey to the Island of his intended destination. He can be said to be contemplating to reach the Island, which is his destination. One can also express it in different words, that the journey is with a view to reach his destination on the high seas. The Island of destination would only come in view when the mariner physically sees it or perceives its outline when he reaches near the Island. It is this sense that the formal inquiry would be in view of the Appointing Authority based on the objective material before him can be said to be contemplation. When a person takes a decision, the taking of that decision is also a mental process. To my mind, there is nothing wrong in holding, as Seth, J, held in Nigam's case, that an enquiry is contemplated when the mental process of the Appointing Authority has worked and he formed an opinion that formal inquiry is to be held. This is nothing but saying that the Appointing Authority decides that a formal inquiry be held. I do not think the interpreter strains the language of Rule 49A or misinterprets, or misconstrues it when he holds " an inquiry is contemplated " as synonymous with " an inquiry is decided upon." The decision to hold an inquiry will not amount to initiation of the inquiry. While the decision is a mental process, the initiation is a physical process, that is when the decision is put into practice. It is in that sense that I conceive the Supreme Court in P.R. Nayak v. Union of India distinguished the phrase " an inquiry is initiated" from "an inquiry is contemplated." I again repeat what we held in Jawahar Lal Bhargava's case that the Supreme Court in P.R. Nayak's case having observed that they did not agree with the decision in Tarak Nath Ghosh's case, A.I.R. 1971 S.C. 823, it is quite clear that in P.R. Nayak's case they were not defining what was meant by " an enquiry is contemplated." Rather their disagreement with the decision in Taraknath Ghosh's case militates against the view that an inquiry can be contemplated at a stage prior to the collection of the appropriate material which would warrant a punishment of dismissal removal or reduction in rank of a Government servant, when the evidence furnished by that material was established to be true at a formal inquiry, I am unable to read anything in P.R. Nayak's case, decided by the Supreme Court, which would amount to a declaration of law as to the meaning of the words " an inquiry is contemplated."

96. If at all, the deletion of the Note retrospectively has any effect, then it has affected the decision of the Special Bench in Rajendra Shanker Nigam's case as the learned Judges constituting the Special Appeal Bench heavily learnt on phraseology. of the Note in coming to the conclusion that the Note was a pointer that the Rule-makers intended to confer power of suspension on the Appointing Authority in exceptional and compelling circumstances even before the material was collected furnishing



evidence that the conduct of the Government servant was such that it warranted the punishment of dismissal, removal or reduction in rank. The Note having been deleted the basis for the said conclusion vanishes.

97. Any procedure prescribed regulating the exercise of power for suspension by Rules or by departmental instructions will, in my opinion, be binding on the Appointing Authority. The argument put forward on behalf of the State that the appointing authority will be justified in ignoring the procedure prescribed by the department instructions if otherwise it has acted within the scope of the Rule which confers a discretion to it of the widest amplitude has hardly any tenability. Any departmental rule or instruction in the nature of regulation of the wide amplitude of discretion cannot be said to be repugnant to the Rule. To regulate the exercise of discretion by departmental instructions issued by the highest authority of the State cannot be construed as derogating from the rule and the disregarded of it by the lower authorities ought not to be countenanced by the Court and should always be discouraged. I think it is the essence of the power of Judicial review of administrative action by Courts to see to it that a discretion vesting in any instrumentality of the State be exercised in accordance with settled practice or principle and if that principle is prescribed by the highest authority of the State such as the Governor. The Court in the exercise of its power of judicial review ought to be able to control the administrative action which runs counter to that regulation. The appointing authority is to be kept under discipline. In my way of thinking the matter is not to be approached from the point of view that the Government servant has no right to enforce a departmental instruction. In all the cases cited of the Supreme Court or of the High Courts in which a view has been taken that mere departmental instructions do not amount to a binding rule of law, it would be seen that it was the Government servant who was claiming a right under the Rules which right was being whittled down by departmental instruction. A right conferred by statute cannot be curtailed by mere departmental instructions or executive order but a power administrative in nature conferred on an authority can certainly be regulated by departmental instructions. Rule 49A does not confer any right on the Government servant or on the appointing authority. It confers a disciplinary power. Any instruction issued by the Governor as to when the appointing authority will exercise the power does not curtail the right of any person. What is claimed by the State Government before us is that even if the order of suspension is passed ignoring the instructions of the Governor that would not be invalid and ought to be respected by the Court as not being amenable to the judicial review by the Court. I can only, in despair, observe that it is a said commentary on the administrative process of the Government when it pleads before the Court of law to ignore the directive of the Governor. The learned Chief Justice in his opinion has referred to the instructions given by the Governor,





contained in Appendix IV to the Rules. The G.O. No. O1923/II-641-4, dated January 30, 1953 says that the Governor has accepted all the recommendations made by the Disciplinary Inquiry Proceeding Committee in their report and based on that approval executive instructions, contained in Appendix IV to the Rule, were issued. Though the said instructions may not have the status of a statutory rule in the sense of having been made under some statute or under Article 309 of the Constitution, yet they will govern the conditions of service not being inconsistent with Rule 49 A and being meant to regulate the plenitude of discretionary power by laying down a time table, so to say, with a view to bring uniformity in application of the rule and keeping the appointing authorities under discipline. I am supported in this view of mine by a decision of the Supreme Court in Union of India v. K.P. Joseph, (supra).

98. Assuming the instructions do not become a condition of service even so they are indicative of what the view of the Government was as to the scope extent and the timing of the exercise of power of suspension under Rule 49A of the Rules. The interpretation of the phrase " an inquiry is contemplated" as given in Jawahar Lal Bhargava's case is supported by the intention as expressed by the Government in the instruction contained in Appendix IV.
99. My conclusion, therefore, is that the deletion of the Note to Rule 49A does not render the decision of the Full Bench in Jawaharlal Lal Bhargava's case as inoperative.
100. By the Court-In view of the majority opinion, the answer to the question of law involved is as below.  
  
Suspension pending inquiry under Rule 49 A of the U.P. Civil Services (Classification, Control and Appeal) Rules or Rule 1A of the U.P. Punishment and Appeal Rules can be ordered at any stage prior to or after the framing of charges, when on objective consideration the authority concerned is of the view that a formal departmental inquiry under Rules 55 and 55A of the C.C.A. Rules or Rules 5 and 5A of the U.P. Punishment and Appeal Rules is expected, or such an Inquiry is proceeding. At what stage the power under the above rules can be exercised shall always depend on the facts and circumstances of each case.
101. The records of the Special Appeals shall now be sent to the Division Bench concerned with our opinion on the question of law involved.

Allahabad Bank And Anr vs Deepak Kumar Bhola on 13 March, 1997

Author: Kirpal.

Bench: J.S. Verma, B.N. Kirpal

PETITIONER:

ALLAHABAD BANK AND ANR.

Vs.

RESPONDENT:

DEEPAK KUMAR BHOLA

DATE OF JUDGMENT: 13/03/1997

BENCH:

J.S. VERMA, B.N. KIRPAL

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T K I R P A L . J .

This is an appeal from the judgment of the Allahabad High Court which had allowed the writ petition filed by the respondent and quashed an order of suspension which had been passed pending prosecution launched against him. Briefly stated the facts are that during the year 1984-85. The respondent was working as Clerk-cum-Typist in Allahabad Bank with on of its branch at Lucknow. An investigation was conducted by the Delhi Special Police Establishment and a case was registered on 29.8.1986. The C.B.I./S.P.E., Lucknow, after investigation, submitted a report whereupon the Superintendent of Police wrote a letter dated 18.9.1987 to the appellant bank for according sanction for prosecution of the respondent and one other person namely Ajay Bhatia inter alia for criminal mis-conduct and cheating.

On the receipt of the aforesaid letter the appellant took steps to accord sanction to prosecute the respondent. It also decided to take action under clause 19.3 (a) of the first Bipartite Settlement 1966 between the management and the Union and to suspend the respondent. Accordingly, the suspension order dated 23.9.1987 was passed which reads as under :



"Since it is revealed that you while functioning as clerk-cum- typist in Allahabad bank. Alam Bagh. Lucknow during the year 1984-

85 entered into a criminal conspiracy with Shri Ajai Bhatia. Clerk-Cum-Cashier under suspension. Shri H.R. Gurnani Advocate, Lucknow and some unknown persons with the common object to commit the offences of criminal misconduct and cheating by adopting corrupt and illegal means or otherwise abusing your position by obtaining undue pecuniary gain for yourself and or others and since steps to get you prosecuted have been taken, you are hereby placed under suspension with First Bipartite Settlement dated 19.10.1966 pending proceedings against you.

During suspension period you will be paid subsistence allowance as per rules. You will also not leave station without prior permission of the competent authority during suspension period. You are also required to submit in writing your local postal address where you want to be communicated hereafter."

Pursuant to the sanction of the prosecution charge sheet dated 29.9.1987 was filed in the court against the respondent. Thereupon, the court issued summons on 26.11.1987 to the respondent filed a writ petition in the Allahabad High Court challenging the aforesaid order of suspension. By the impugned judgment dated 23.4.1991 the High Court came to the conclusion that by the mere fact that a person had entered into the criminal conspiracy, it could not be regarded that an offence involving "moral turpitude" had been committed and, therefore, the appellant had no jurisdiction to pass the order of suspension. The High Court, accordingly, quashed the suspension order and directed the payment of full salary and allowances to the respondent. This appeal arises as a consequent of special leave having been granted to the appellant.

It has been contended by the learned counsel for the appellant that the respondent had committed an offence involving moral turpitude and, therefore, the appellant had the jurisdiction to suspend the respondent. The submission of Mr. R.K. Jain, learned senior counsel on behalf of the respondent, however was that on the facts and circumstances of the case when nearly 10 years have elapsed, this court should not interfere. It was further submitted that there had been no application of mind by the bank to the passing of the suspension order and the High Court was, consequently, right in quashing the order of suspension.

The charge sheet, which was filed, specific the acts of commission commissions which were alleged to have been committed by the respondent and others. The acts as specified by the charge-sheet are as follows:

"Shri Ajai Bhatia, while functioning as Clerk-cum-Cashier Allahabad bank. Alam Bagh Branch, Lucknow during the year 1984-85 had shown the issue of cheque books bearing Sl. No. 7771 to 7780 against account no. 2618 in name of Shri Gajraj Sharma, and he

made the endorsement in the cheque issue register against this entry. Shri Deepak Kumar Bhola signed as Rajendra for having received the said cheque book on behalf of A/C holder, the ledgers of S.B. A/C Nos. 2284 belonging to Sri Shanti Prakash and Smt. Prem Lata, show that the cheque book containing cheque Nos. 7631. 7640. 7581 to 7590 and 7551-7560 respectively were issued to these A/C holders when actually none of these account holder had ever applied for any cheque book nor actually cheque book was issued to any of these person and fictitious entries were made in the ledger account.

The cheque no. 7631 amounting to Rs. 9560.62 paisa and cheque no. 7632 for Rs. 7532.00 was purportedly to have been issued by genuine account holder Lekha Ram of Account holder of A/C No. 2484. Another cheque No. 7551 amounting to Rs. 1400.00 cheque No. 7552 amounting to Rs. 14,800.00 purportedly have been issued by Sri Shanti Prakash A/C holder of account No. 1103 and cheque No, 07775 for Rs. 12800.51 purported to have been issued by Sri Gajraj Sharma account holder of A/C No. 2618 were presented in the Corporation Bank. Quiser Bagh Lucknow by Sri Deepak Kumar Bhola aforesaid who was working as Clerk cum Typist in Allahabad Bank Alam Bagh Branch. Lucknow in the name of Rajendra Rathore. Shri H.R. Gurnani, Advocate, Lucknow had introduced Shri D.K. Bhola as Rajendra Rathore at the time of opening of account and Shri H.R. Gurnani Advocate had his own account No. 87 in the said Corporation Bank, Sri Deepak Bhola, aforesaid submitted five pay in slips for depositing the cheque no. 7551 for Rs. 11400.60, 7552 for Rs. 14800.00, 7632 for Rs. 7532, 7631 for Rs. 9560 and 7775 for Rs. 12800.51 through five cheque No. 021721 dated 24.4.84 for Rs. 11000.00, 021762 dated 1.9.84 for Rs. 1500.00 021763 dated 15.8.84 for Rs. 17000.00, 021765 dt. 25.9.84 for Rs. 11000.00, 021762 dated 1.9.84 for Rs. 1500.00, 021763 dated 15.8.84 for Rs. 17000.00, 021765 dated 25.9.84 for Rs. 21900.00 and 021767 dated 25.9.84 for Rs. 203.73 paisa. Said Deepak Kumar Bhola impersonating himself as Rajendra Rathore operated S.B. A/C No. 3206 in Corporation Bank. Quiserbagh Lucknow and withdrew the entire amount. Whereas, the aforesaid account holders Sri Lekharam having A/C No. 2484, Sri Shanti Prakash and Srimati Premlata A/c No. 1103 and Sri Gajraj Sharma A/c No. 2618 never issued these cheques and never availed the cheque facility in operating their respective accounts.

Total sum of Rs. 56,103.77 was withdrawn from said fake account No. 3206 by Sri Deepak Kumar Bhola by issuing five cheques by signing as Rajendra Rathore."

On the basis of the aforesaid allegations, the respondent was charged for offences punishable under Sections 120(B)/429/420/467/468/471 I.P.C. and 5 (2) read with Section 5(1)(d) of Prevention of Corruption Act. 1947.

It will be appropriate to refer clauses 19.2 & 19.3 of the First Bipartite Settlement under which orders were passed suspending the respondent. These clauses read as follows:

"19.2 By the expression "



offence" shall be meant any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provision of law.

"19.3 (a) When in the opinion of the management an employee has committed an offence, unless he be otherwise prosecuted, the bank may take steps to prosecute him or get him prosecuted, the bank may take steps to prosecute him or get him prosecuted, the bank may take steps to prosecute and in such a case he may also be suspended.

(b) If he is convicted, he may be dismissed with effect from the date of his conviction or be given any lessor from of punishment as mentioned in Clause 19.6 below".

It is evident from the bare perusal of the aforesaid clauses that if in the opinion of the management, an employee has committed an offence, then the bank may take steps to prosecute him and in such a case, he may also be suspended. The word "offence" occurring in clause 19.3 (a) has been defined in clause 19.2 to mean any offence involving "moral turpitude" for which an employee is liable to conviction an sentence under any provision of law.

What is an offence involving "moral turpitude" must depend upon the facts of each case. But whatever may be the meaning which may be given to the term "moral turpitude" it appears to us that one of the most serious offences involving "moral turpitude" would be where a person employed in a banking company dealing with money of the general public. commits forgery and wrongfully withdraws money which he is not entitled to withdraw.

This Court in PAWAN KUMAR VS. STATE OF HARYANA AND ANOTHER. (1996) 4 SCC 17 at page 21 dealt with the question as to what is the meaning of expression "moral turpitude" and it was observed as follows"

" "Moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity".

This expression has been more elaborately explained in BALESHWAR SINGH vs. DISTRICT MAGISTRATE AND COLLECTOR. BANARAS, AIR 1959 All. 71 where it was observed as follows:

"The expression "moral turpitude' is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general. If therefore the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly,



his conduct must beheld to be due to vileness and deprivity. It will be contrary to accepted customary rule and duty between man and man"

In our opinion the aforesaid observations correctly spell out the true meaning of the expression "moral turpitude". Applying the aforesaid test, if the allegations made against the respondent are proved, it will clearly show that he had committed an offence involving moral turpitude and, therefore, the appellant had the jurisdiction to suspend him under the aforesaid clause 19.3. The High Court observed that there was nothing on record to suggest that the management had formed an opinion objectively on the consideration of all relevant material available against the petitioner that in the circumstances of the case the criminal acts attributed to the petitioner implied depravity and vileness of character and are such as would involve moral turpitude. It did not regard entering into a criminal conspiracy to commit the aforesaid offences as being an offence involving moral turpitude. We one, to say the least, surprised at the conclusion which has been arrived by the Allahabad High Court. There was material an received before the appellant, in the form of the report of the C.B.I./S.P.E., which clearly indicated the acts of commission and commissions, amounting to "moral turpitude' alleged to have been committed by the respondent. further more the respondent has been charged with various offences allegedly committed while he was working in the bank and punishment for which could extend upto ten years imprisonment (in case the respondent is convicted under Section I.P.C.).

We are unable to agree with the contention of learned counsel for the respondent that there has been no application of mind or the objective consideration of the facts by the appellant before it passed the orders of suspension. As already observed, the very fact that the investigation was conducted by the C.B.I which resulted in the filing of a charge-sheet, alleging various offences having been committed by the respondent, was sufficient for the appellant to conclude that pending prosecution the respondent should be suspended. It would be indeed inconceivable that a bank should allow an employee to continue to remain on duty when he is facing serious charges of corruption and misappropriation of money. Allowing such a employee to remain in the seat would result in giving him further opportunity to indulge in the acts for which he was being prosecuted. Under the circumstances, it was the bounden duty of the appellant to have taken recourse to the provisions of clause 19.3 of the First Bipartite Settlement, 1966. The mere fact that nearly 10 years have elapsed since the charge-sheet was filed. can also be no ground for allowing the respondent to come back to duty on a sensitive post in the bank, unless he is exonerated of the charge.

In our opinion, the High Court was not justified in quashing the orders of suspension. We, accordingly, allow this appeal, set-aside the impugned judgment t the Allahabad High Court and dismiss the Writ Petition No. 6118/1988 which had been filed by the respondent. There will, however, be no order as to costs.

**Rule 9 (6) (b) of CCS (Pension) Rules**

**6. Recovery from Pension of pecuniary loss caused to Government.**

In cases where pension as such is not withheld or withdrawn but the amount of any pecuniary loss caused to Government is ordered to be recovered from pension, the recovery should not ordinarily be made at a rate exceeding one third of the gross pension originally sanctioned including any amount which may have been commuted. This is an administrative decision based more on equitable considerations for, legally speaking, it is permissible under rule 9 of the CCS (Pension) Rules, 1972 to set off the pension in full towards the recovery.

BESL LIMITED  
Corporate Office, BESL Soudha  
Bangalore 560 027

134  
3/5/11  
19th April 2011



General Bulletin No. 12.2.8

**Sub : Vigilance Clearance for Executives / Employees of the Company - Revised Norms**

The existing procedure / norms regarding obtaining Vigilance Clearance in respect of Executives / Employees was regularised, vide General Bulletin No. 1187 dated 18.07.2008.

(2) In supersession to the above mentioned General Bulletin, the following revised procedure will come into force with immediate effect :-

**1. Cases where Vigilance Clearance is required :**

(a) Vigilance Clearance should be obtained in respect of following cases before Management's approval is accorded :-

- (i) Confirmation on appointment / promotion
- (ii) NOC for issue of Passport
- (iii) Deputation within the Country and Foreign assignments, including business / official trips abroad
- (iv) Personal visits abroad
- (v) Training abroad, including Seminars and Conference abroad
- (vi) Forwarding of application through proper channel to other PSUs, Government department (Both Central & State Governments)
- (vii) To attend interviews for selection for employment to other PSUs / Government Departments (Both Central & State Departments)
- (viii) Awards, including National / International
- (ix) Posting to the sensitive areas, including Transfer to / from Sensitive areas / Departments, such as Bills payable, Payrolls, Purchase & Stores, Recruitment & Promotions, Security, Vigilance, Construction & Plant Maintenance, Canteen, Sub-Contract Cell, etc
- (x) Compulsory / Normal / Voluntary Retirement / Resignation
- (xi) Pre-mature retirement
- (xii) Extension / re-employment / commercial employment, after retirement
- (xiii) Recruitment (regular / deputation / contract / assignment basis) to posts in all disciplines of the Company, joining from other PSUs / Government Departments (Both Central / State Government)
- (xiv) Re-employment after retirement from defence services, PSUs and Government Departments (Both Central / State Government)

(b) Further to the above, the following formats should be utilized by the respective HR Departments while seeking Vigilance Clearance from the concerned Vigilance Departments in respect of matters indicated against each below :-

- (i) For the PESH interview / selection : **Annexure - I**
- (ii) For other purposes like confirmation / promotion / outside employment, etc : **Annexure - II**
- (iii) For the purpose of obtaining Passport / Visa / Travel to be made by the individual Employee / Executive : **Annexure - III (With Appendix)**

The HR Departments concerned are requested to adhere to the formats, without which Vigilance Department will not entertain such requests.



Continuation to GB No. 1214 dated 19.04.2011

(2)

ii. Further, it is indicated that Vigilance Clearance is given by the Vigilance Department based upon vigilance cases initiated / pending / contemplated at the time of seeking Vigilance Clearance and such clearance is valid for a period of 30 days. The accordal of Vigilance Clearance would be preceded by the following procedures :-


- (a) Cases investigated and charges proved against the employee / officer and report sent to disciplinary authority, along with gist of charges / punishment awarded, if any, for last 3 years are to be furnished by respective HR Department.
- (b) If the information in respect of 2 (ii) (a) is 'nil', then the Vigilance Department should give Clearance, stating that there is no Vigilance Case against the Employee / Officer for the last 3 years.
- (c) Vigilance Clearance will not be accorded in case of the following :-
  - (i) Contemplation / pending of vigilance cases on the date of vigilance clearance requirement.
  - (ii) Cases pending in terms of CDA Rules / Standing Orders / Service Rules.
  - (iii) Officer / Employee who is under suspension.
  - (iv) Officer / Employee in respect of whom a charge sheet has been issued and disciplinary proceedings are pending.
  - (v) Officer / Employee in respect of whom prosecution for a criminal charge is pending.
  - (vi) Officer / Employee undergoing a penalty imposed by the Disciplinary Authority or sentence ordered by a Court of Law.
  - (vii) Non-submission of up to date Annual Property Returns (applicable for Officers only)
- (d) While seeking Vigilance Clearance relevant points as mentioned in the above paras may be provided by the respective HR Department.
- (e) A photo-copy of note-sheet, alongwith Vigilance Clearance given shall be kept with Vigilance Department for records and reference.

iii. Vigilance Clearance in respect of cases covered under Sl No: 1-a (xiii) & (xiv) shall be obtained from the Vigilance Department of PSUs / Government Departments (Both Central / State Government) through their HR department, from where the Executive / Employee is being recruited OR re-employed after retirement.

iv. Further, at the time of Issuance of Offer of Appointment, the prospective Executive / Employee may be requested to furnish a copy of the Vigilance Clearance given by the Vigilance Department of his / her previous employer. In case the applicant is not in position to furnish copy of Vigilance Clearance as above, same may be referred to his / her previous employer for clearance and if the same is not received within 45 days of joining the Company, the matter may be referred to CVO, BEML for getting the clearance from their end. Probation will get closed only after obtaining the Vigilance Clearance either from the previous employer or from the Vigilance Department of BEML.

v. The existing practice of level of executives viz-a-viz authority according the Vigilance Clearance remains unaltered.

(3) For information and strict compliance please.

  
(A.K. SANDA) 19/4/11  
General Manager (HR)

No. 005-VGC-101  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan,  
GPO Complex, Block-A,  
INA, New Delhi-110 023  
Dated : 11<sup>th</sup> August, 2005

To

All the CVOs of Ministries / Departments, Banks / PSUs / Organisations.

Subj: Grant of Vigilance Clearance – regarding interim additional / concurrent charge.

Sir/Madam,

According to the instructions contained in Department of Personnel & Training OM No.27(5)-EO/86(ACC) dated 4.8.1988 and 27/12/EO/94(ACC) dated 30/7/1999 vigilance clearance is required from the Central Vigilance Commission in respect of officers who are already holding Board level positions and who have been recommended for higher Board level posts. However, the Commission has been considering cases of all officers recommended by PESB for Board in position in PSBs irrespective of their holding Board level or below Board level postings. As per subsequent instructions of DOPT contained in their OM No.1/12/2003-EO(SMII) dated 12.4.2004, approval of ACC is required for additional charge arrangements made for higher posts, if regular appointment to which falls within the purview of ACC.

2. It has been observed that certain Departments/PSEs seek clearance from the Commission for additional/concurrent charge/arrangements. In this connection, it is clarified that whenever some officer is given additional charge of another post for a short duration i.e. upto 3 months, clearance from the CVC will not be required. In such cases, CVO of the organization would give the vigilance clearance.

Yours faithfully,

(MANGE LAL)  
DEPUTY SECRETARY  
Tele fax : 24651010



ANNEXURE - 35

No 104/76/2011-AVD.1  
Government of India  
Ministry of Personnel & Public Grievances & Pensions  
(Department of Personnel & Training)

New Delhi, Dated October 18, 2013

OFFICE MEMORANDUM

Subject:- Guidelines regarding handling of complaints in Ministries/Departments.

The undersigned is directed to say that the instructions regarding dealing with anonymous and pseudonymous complaints as contained in this Department's OM No. 321/4/91-AVD.III, dated 29<sup>th</sup> September, 1992 and as reiterated vide DOP&T's OM No. 371/38/97-AVD.III, dated 3/11/1997, being at variance with instructions issued by CVC in this regard vide circular No.3(V)/99/2 dated 29<sup>th</sup> June, 1999, No. 98/DSP/9, dated 31<sup>st</sup> January, 2002 and 11<sup>th</sup> October, 2002, had been receiving the attention of the Government for the past some time.

2. The matter was examined afresh in consultation with the Central Vigilance Commission. Subsequent to the Public Interest Disclosure & Protection of Informers' Resolution - 2004 (PIDPI), the Commission has created a mechanism for handling complaints where identity of the complainant is kept secret and the complainant is provided protection. This has been endorsed and operationalized by the Central Government with the approval of the competent authority.

3. In view of the fact that complainants who desire to protect their identity now have the protection of the Public Interest Disclosure & Protection of Informers' Resolution - 2004 (PIDPI), the following procedure is laid down for handling anonymous and pseudonymous complaints, in supersession of instructions contained in DoP&T's OM No. 321/4/91-AVD.III dated 29<sup>th</sup> September, 1992:-

- (i) No action is required to be taken on anonymous complaints, irrespective of the nature of allegations and such complaints need to be simply filed.
- (ii) Complaints containing vague allegations could also be filed without verification of identity of the complainant.

(iii) If a complaint contains verifiable allegations, the administrative Ministry/Department may take cognizance of such complaint with the approval of the competent authority to be designated by the Ministry/Department as per their distribution of work. In such cases, the complaint will be first sent to the complainant for owning/disowning, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous by the Ministry/Department.

4. Instructions contained in para-3 above would also be applicable (with appropriate competent authority to be designated under para 3 (iii) above) for dealing with complaints against Secretaries to the Government of India or Chief Executives / CMDs / Functional Director of PSEs/PSBs/FIs, which will continue to be referred to the Cabinet Secretariat for placing before the Group of Secretaries headed by the Cabinet Secretary/Secretary (Co-ordination) in the Cabinet Secretariat, as the case may be, as per procedure given in Department's OM No. 104/100/2009-AVD.1, dated 14/1/2010 and DPE's OM No. 15(1)/2010-DPE(GM), dated 11/3/2010, as amended from time to time.

( G. Srinivasan )

Under Secretary to the Government of India

To,

1. All Ministries/Departments as per standard circulation list
2. Secretary, Central Vigilance Commission
3. Department of Public Enterprises
4. All Desks/Sections of DOP&T
5. Guard File
6. NIC, DOP&T Cell for placing a copy of this OM on the website of the Ministry.

**ANNEXURE - 36**

No. 008/CRD/013  
Government of India  
Central Vigilance Commission

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated: 18/5/09

Circular No. 10/5/09

**Subject:- Adoption of Integrity Pact-Standard Operating Procedure-reg.**

The Commission has formulated "Standard Operating Procedure" for adoption of Integrity Pact in major Govt. Department/organisations. A copy of the same is enclosed for information and necessary action.

Sd/-

(Shalini Darbani)  
Director

All Chief Vigilance Officers

**NOTE: SECTION 6.02 (i) & 6.02 (ii) OF THE SOP ON INTEGRITY PACT HAS BEEN DELETED WITH CIRCULAR No. 31/08/10 DATED 13.8.10.**



**Subject:- Adoption of Integrity Pact -Standard Operating Procedure-reg.**

**1.0 Background**

1.01 The Central Vigilance Commission has been promoting Integrity, transparency, equity and competitiveness in Government/PSU transactions and as a part of vigilance administration and superintendence. Public procurement is a major area of concern for the Central Vigilance Commission and various steps have been taken to put proper systems in place. Leveraging technology, especially wider use of the web sites for disseminating information on tenders, clearly defining the pre qualification criteria and other terms and conditions of the tender are some of the steps recently taken at the instance of the Commission. In this context, Integrity Pact (IP), a vigilance tool conceptualized and promoted by the Transparency International, has been found to be useful. The Commission has, through its Office Orders No. 41/12/07 dated 04.12.07 and 43/12/07 dated 28.12.07 and Circulars No. 18/05/08 dated 19.05.08 and 24.08.08 dated 05.08.2008 (copies appended), recommended adoption of Integrity Pact and provided basic guidelines for its implementation in respect of major procurements in the Government Organizations.

**2.0 Integrity Pact**

2.01 The pact essentially envisages an agreement between the prospective vendors/bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, would be considered competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification. The essential ingredients of the Pact include:

- Promise on the part of the principal not to seek or accept any benefit, which is not legally available;
- Principal to treat all bidders with equity and reason;
- Promise on the part of bidders not to offer any benefit to the employees of the Principal not available legally;
- Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.
- Bidders not to pass any information provided by Principal as part of business relationship to others and not to commit any offence under PC/IPC Act.
- Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates;



- Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary.
- Bidders to disclose any transgressions with any other company that may impinge on the anti corruption principle.

2.02 Integrity Pact, in respect of a particular contract, would be operative from the stage of invitation of bids till the final completion of the contract. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

### 3.0 Implementation procedure:

3.01 Adoption of IP is voluntary for any organization, but once adopted, it should cover all tenders /procurements above a specified threshold value.

3.02 The threshold value for the contracts to be covered through IP should be decided after conducting proper ABC analysis and should be fixed so as to cover 90-95% of the total procurements of the organization in monetary terms.

3.03 Apart from all high value contracts, any contract involving complicated or serious issues could be brought within the ambit of IP, after a considered decision of the management

3.04 The Purchase / procurement wing of the organization would be the focal point for the implementation of IP.

3.05 The Vigilance Department would be responsible for review, enforcement, and reporting on all related vigilance issues.

3.06 It has to be ensured, through an appropriate provision in the contract, that IP is deemed as part of the contract so that the parties concerned are bound by its provisions.

3.07 IP should cover all phases of the contract, i.e. from the stage of Notice Inviting Tender (NIT)/pre-bid stage till the conclusion of the contract, i.e. the final payment or the duration of warranty/guarantee.

3.08 IP would be implemented through a panel of Independent External Monitors (IEMs), appointed by the organization. The IEM would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact.

3.09 Periodical Vendors' meets, as a familiarization and confidence building measure, would be desirable for a wider and realistic compliance of the principles of IP.

3.10 Information relating to tenders in progress and under finalization would need to be shared with the IEMs on monthly basis.

### 4.0 Role /Functions of IEMs :

4.01 IEM would have access to all Contract documents, whenever required. Ideally, all IEMs of an organization should meet in two months to take stock of the ongoing tendering processes.

4.02. It would be desirable to have structured meeting of the IEMs with the Chief Executive of the organization on a monthly basis to discuss/review the information on tenders awarded in the previous month.

4.03 The IEMs would examine all complaints received by them and give their recommendations/views to the Chief Executive of the organization, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal/administrative action.

4.04 At least one IEM should be invariably cited in the NIT. However, for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management

4.05 The recommendations of IEMs would be in the nature of advice and would not be legally binding. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.

4.06 The role of the CVO of the organization shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO in terms of the provisions of the CVC Act or Vigilance Manual, if a complaint is received by him or directed to him by the Commission.

### 5.0 Appointment of IEMs

5.01 The IEMs appointed should be eminent personalities of high integrity and reputation. The Commission would approve the names of IEMs out of the panel of names, initiated by the organization concerned, in association/consultation with the CVO.

5.02 While forwarding the panel, the organization would enclose detailed bio-data in respect of all names proposed. The details would include postings before superannuation, special achievements, experience, etc., in Government sector. It is desirable that the persons proposed possess domain experience





**ANNEXURE - 37**

of the PSU activities or the relevant field with which they may be required to deal.

5.03 A maximum of three IEMs would be appointed for Navratna PSUs and up to two IEMs for others.

5.04 Organizations could propose a panel of more than three names for the consideration of the Commission.

5.05 Persons appointed as IEMs in two organizations would not be considered for a third organization.

5.06 For PSUs having a large territorial spread or those having several subsidiaries, there could be more IEMs, but not more than two IEMs would be assigned to one subsidiary.

5.07 Remuneration payable to the IEMs would be equivalent to that admissible to an independent Director in the organization. This remuneration would be paid by the organization concerned.

5.08 The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. They could be communicated individually to the IEMs concerned.

5.09 The normal term of appointment for an IEM would be 3 years, and it would be subject to renewal by the Commission thereafter.

**6.0 Review System :**

6.01 An internal assessment of the impact of IP shall be carried out periodically by the CVOs of the organizations and reported to the Commission.

6.02 Two additional reviews are envisaged for each organization in due course.

- (i) Financial impact review, which could be conducted through an independent agency like auditors, and
- (ii) Physical review, which could be done through an NGO of tested credibility in the particular field.

6.03 It is proposed to include the progress in the implementation of IP in the Annual Report of the Commission. CVOs of all organizations would keep the Commission posted with the implementation status through their monthly reports or special reports, wherever necessary.

7.0 All organizations are called upon to make sincere and sustained efforts to imbibe the spirit and principles of the Integrity Pact and carry it to its effective implementation.

Enclosures: All earlier guidelines, issued by the Central Vigilance Commission, on the subject.

\*\*\*\*\*

No.007/VGL/033  
 Government of India  
 Central Vigilance Commission  
 \*\*\*\*\*

Satarkia Bhawan, Block-A  
 GPO complex, INA  
 New Delhi-110023  
 Dated the 4<sup>th</sup> December 2007

**Office Order No.41/12/07**

**Subject: Adoption of Integrity Pact in major Government Procurement Activities- regarding.**

Ensuring transparency, equity and competitiveness in public procurement has been a major concern of the Central Vigilance Commission and various steps have been taken by it to bring this about. Leveraging technology specially wider use of the web-sites for disseminating information on tenders, tightly defining the pre-qualification criteria and other terms and conditions of the tender are some of the steps recently taken at the instance of the Commission in order to bring about greater transparency and competition in the procurement/award of tender.

2. In this context, Integrity Pact, a vigilance tool first promoted by the Transparency International, has been found to be useful. The Pact essentially envisages an agreement between the prospective vendors/bidders and the buyer committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the contract. Only those vendors/bidders who have entered into such an Integrity Pact with the buyer would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification. The integrity Pact in respect of a particular contract would be effective from the stage of invitation of bids till the complete execution of the contract.


3. The Integrity Pact envisages a panel of Independent External Monitors (IEMs) approved for the organization. The IEM is to review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact. He has right of access to all project documentation. The Monitor may examine any complaint received by him and submit a report to the Chief Executive of the organization, at the earliest. He may also submit a report directly to the CVO and the Commission, in case of suspicion of serious irregularities attracting the provisions of the PC Act. However, even though a contract may be covered by an Integrity Pact, the Central Vigilance Commission may, at its discretion, have any complaint received by it relating to such a contract, investigated.

4. The Commission would recommend the Integrity Pact concept and encourage its adoption and implementation in respect of all major procurements of the Govt. organizations. As it is necessary that the Monitors appointed should be of high integrity and reputation, it has been decided that the Commission would approve the names of the persons to be included in the panel. The Government Organizations are, therefore, required to submit a panel of names of eminent



persons of high integrity and repute and experience in the relevant field, through their administrative Ministry, for consideration and approval by the Commission as independent External Monitors. The terms and conditions including the remuneration payable to the Monitors need not be a part of the Integrity Pact and the same could be separately communicated. It has also to be ensured by an appropriate provision in the contract, that the Integrity Pact is deemed as part of the contract in order to ensure that the parties are bound by the recommendation of the IEMs, in case any complaint relating to the contract, is found substantiated.

8. A copy of the Integrity Pact, which the SAIL got vetted by the Addl. Solicitor General is available on the Commission's web-site (i.e. [www.cvc.nic.in](http://www.cvc.nic.in)) as an attachment to this Office Order in downloadable form, which may be used in original or may be suitably modified in order to meet the individual organization's requirements.

  
4/12/2007 (Vineet Mathur)  
Deputy Secretary

All Secretaries to the Govt. of India

No.007/VGL/033  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 28<sup>th</sup> December 2007

**Office Order No.43/12/07**

**Subject: Adoption of Integrity Pact in major Government Procurement Activities- regarding.**

Reference is invited to Commission's office order no. 41/12/2007 circulated vide letter of even no. dated 4/12/2007 on the aforementioned subject.

2. The Commission vide para 4 of the aforementioned office order had directed that the organizations were required to forward a panel of names of the eminent persons of high integrity through their administrative ministries for consideration and approval by the Commission as IEMs.

3. The matter has been reconsidered by the Commission and in order to simplify the procedure and avoid delay, it has been decided that the organizations may forward the panel of names of eminent persons for appointment and consideration as IEMs directly to the Commission for approval.

4. Para 4 of the Commission's circular cited above stands amended to this extent.



ANNEXURE - 39

No. 008/VGL/001  
Government of India  
Central Vigilance Commission  
\*\*\*

Satarkta Bhawan, Block-A  
GPO Complex, INA,  
New Delhi-110023  
Dated, the 19<sup>th</sup> May, 2008

Circular No.18/05/08

**Sub:- Adoption of Integrity Pact in major Government Procurement Activities-regarding.**

The Commission vide its office order no. 41/12/07 dated 4/12/07 had circulated a letter no. 007/vgl/033 emphasizing the need to adopt Integrity Pact (IP) by government organizations in respect of their major procurement activities. The Commission had also directed that in order to ensure compliance with the obligations under the pact by the parties concerned, Independent External Monitors (IEMs) are to be appointed after obtaining approval of the Commission for the names to be included in the panel.

2. As the role of IEMs is very important in ensuring implementation of the IP, it is necessary that the persons recommended for appointment have adequate experience in the relevant fields and are of high integrity and reputation.

3. The Commission would, therefore, direct that the organizations, while forwarding the names of the persons for empanelment as IEMs should send a detailed bio-data in respect of the each of the persons proposed. The bio-data should, among other things, include the postings during the last ten years before the superannuation of the persons proposed as IEMs, in case the names relate to persons having worked in the government sector. The bio-data should also include details regarding experience older than ten years before superannuation of the persons proposed as IEMs, if they have relevant domain experience in the activities of PSUs where they are considered as IEMs.

This may be noted for future compliance.

(Rajiv Verma)  
Under Secretary

All Chief Vigilance Officers



ANNEXURE - 40

No. 007/VGL/033  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated, the 05<sup>th</sup> August 2008

Circular No.24/8/08

**Sub:- Adoption of Integrity Pact in major Government procurement activities.**

The Commission, vide its Circulars No. 41/12/07, dated 4.12.07 and 18/5/08 dated 19.5.08, has emphasized the necessity to adopt Integrity Pact (IP) in Government organizations in their major procurement activities. The Commission had also directed that in order to oversee the compliance of obligations under the Pact, by the parties concerned, Independent External Monitors (IEMs) should be nominated with the approval of the Commission, out of a panel of names proposed by an Organization.

2. As more and more organizations begin to adopt the Integrity Pact, several queries and operational issues have been raised. The Commission has examined these issues and suggested the following guidelines:

- i) Adoption of Integrity Pact in an organization is voluntary, but once adopted, it should cover all tenders/procurements above a specified threshold value, which should be set by the organization itself.
- ii) IP should cover all phases of the contract i.e., from the stage of Notice Inviting Tender(NIT)/pre-bid stage to the stage of last payment or a still later stage, covered through warranty, guarantee etc.
- iii) IEMs are vital to the implementation of IP and atleast one IEM should be invariably cited in the NIT. However, for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be referred to the full panel of IEMs, who would examine the records, conduct the investigation and submit a report to the management, giving joint findings.
- iv) A maximum of three IEMs would be appointed in Navratna PSUs and upto two IEMs in other Public Sector Undertakings. The organizations may, however, forward a panel of more than three names for the Commission's approval. For the PSUs having a large territorial spread or those having several subsidiaries, the Commission may consider approving a large number of IEMs, but not more than two IEMs would be assigned to any one subsidiary.



ANNEXURE - 41

- v) Remuneration payable to the IEMs may be similar to the Independent Directors in the organization.
- vi) In view of limited procurement activities in the Public Sector Banks, Insurance Companies and Financial Institution, they are exempted from adopting IP.

3. It needs no reiteration that all organizations must make sustained efforts to realize the spirit and objective of the Integrity Pact. For further clarifications on its implementation or the role of IEMs, all concerned are advised to approach the Commission.

(Rajiv Verma)  
Under Secretary

All CVOs

No.007/VGL/013  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 23<sup>rd</sup> February 2007

Circular No.3/2/07

**Subject: Investigation of complaints by the CVOs - seizure of records reg.**

It has come to the Commission's notice that when a complaint is received by the CVO either from the Commission or from other sources, the time taken by the department for investigating the complaint is unduly long and beyond the time-limit of three months stipulated by the Commission vide its circular No.000/VGL/18 dated 23.5.2000. The main reason cited by the CVOs for the delay is non-availability of records/documents pertaining to that particular complaint/allegation. The Commission vide Para 4.4 (a) of Vigilance Manual, 6<sup>th</sup> Edition has already issued guidelines stating that "if the allegations contain information which can be verified from any document or file or any other departmental records, the investigating / vigilance officer should, without loss of time, secure such records, etc., for personal inspection. If any of the papers examined is found to contain evidence supporting the allegations, such papers should be taken over by him for retention in his personal custody to guard against the possibility of available evidence being tampered with".

2. The Commission observes that these guidelines are not being adhered to and would therefore reiterate its aforementioned guidelines and direct the CVOs to ensure that all relevant records/documents/files etc. are taken into personal custody by the investigating officer **immediately** on receipt of the reference/complaint for processing the allegations, and finalizing the investigation within the stipulated three months' time-limit prescribed by the Commission.

3. The Commission, exercising its authority as contained in para 8(1)(c&d) and para 11 of CVC Act, 2003, also conducts direct inquiry into complaints through Direct Inquiry Officers as nominated by the Commission. It is directed that as soon as a direct inquiry is ordered by the Commission, the CVOs should immediately seize the relevant records pertaining to the case and produce them before the Direct Inquiry Officers (DIOs) without any delay.

4. The above instructions may be noted for strict compliance.

(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers



ANNEXURE - 42

Telegraphic Address:  
SATARKTA, New Delhi  
E-Mail Address:  
cmvigil@nic.in  
Website:  
www.cvc.gov.in  
CPAIRS:  
24660700  
Telephone: 24631166



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता आयोग, जी.पी.ओ. बंगला, नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Building,  
Block A, P.A., New Delhi-110023  
दूरभाष: 24631166  
ईमेल: cmvigil@nic.in  
वेबसाइट: www.cvc.gov.in

संख्या: ए.ए.डी.जी.ए. 10/15/2015

दिनांक: 30 जनवरी 2015

The Government of India, through the Central Vigilance Commission (CVC), has received reports from the State Vigilance Commissions (SVCs) regarding the handling of complaints by the Management. The Commission is concerned about the delay in the disposal of complaints and the lack of proper follow-up. It is directed that the Management should take necessary steps to ensure the timely disposal of complaints and to provide proper feedback to the complainants. The Commission will continue to monitor the progress of the Management in this regard.

As regards the handling of complaints, the Management should ensure that the complaints are disposed of within the prescribed time limit. It is also directed that the Management should ensure that the complainants are provided with proper feedback. The Commission will continue to monitor the progress of the Management in this regard.

It is directed that the Management should ensure that the complaints are disposed of within the prescribed time limit. It is also directed that the Management should ensure that the complainants are provided with proper feedback. The Commission will continue to monitor the progress of the Management in this regard.

*[Signature]*  
J. Y. K. K. K.  
Secretary to Government

All Vigilance Officers in the Ministry are directed to ensure that the complaints are disposed of within the prescribed time limit. It is also directed that the Management should ensure that the complainants are provided with proper feedback. The Commission will continue to monitor the progress of the Management in this regard.



ANNEXURE - 43

BELM LIMITED  
BEML Soudha  
Bangalore 560 027



Circular No. 1549

30<sup>th</sup> January 2015

Sub: Complaint Handling Policy

- Ref : (i) Circular No. 1428 dated 03.02.2010  
(ii) Circular No. 1479 dated 04.07.2011  
(iii) Circular No. 1485 dated 22.08.2011  
(iv) IOM No. KPE/P-32/1163 dated 27.10.2011  
(v) Circular No. 1514 dated 27.06.2012  
(vi) Circular No. 1549 dated 05.12.2013

With the issuance of guidelines regarding handling of complaints by the Ministry vide letter No. 5(2)/2014/D(Coord/DDP) dated 04.07.2014 read with DoPT O.M. No. 104/76/2011-AVD.1 dated 18.10.2013 and 104/76/2011-AVD.1 dated 18.06.2014, it is decided by the Management to bring the existing 'Complaint Handling Policy-revised' in line with the same.

(2) In the above backdrop and in supercession to the above mentioned Circulars / IOM, a revised 'Complaint Handling Policy' is now formulated and the policy document is enclosed.

(3) This may be taken note by all concerned for compliance please.

(4) Hindi version will follow.

*[Signature]*  
(A.K. NANDA)  
Chief General Manager (HR)

Encl - a/a

for information of all HODs

*[Signature]*  
EK-1



Enclosure to Circular No. (19) dated 12.01.2015

Enclosure to Circular No. (19) dated 12.01.2015

## COMPLAINT HANDLING POLICY OF BEM LIMITED

12

### 1. PREAMBLE:

(a) Complaints containing information about corruption, malpractice or misconduct by public servants are received in a decentralized manner. CVOs receive complaints, also from many a decentralized location. According to the prevailing practice what is sent to the CVO from different decentralized locations entirely depends on the appreciation of 'vigilance angle' or otherwise by the officers controlling these decentralized locations.

(b) In such a system there is every chance that a complaint with a vigilance overtone may not be forwarded to the CVO, due to a lack of appreciation or for other bonafide reasons. This has also been revealed through the vigilance audit by the CVC in some organizations.

(c) in order to have uniform practices and procedures in the handling and processing of complaints in an organisation, it is imperative that a 'Complaint Handling Policy' is laid down for receipt, handling and processing of all types of complaints / grievances from the public, contractors, vendors, suppliers etc.

### 2. OBJECTIVE:

Any complaint / grievance received in the organisation by any functionary containing any element of alleged corruption, malpractices or misconduct etc. should necessarily be sent to the CVO of the organisation for scrutiny and / action.

### 3. DEFINITION :

#### (a) COMPLAINT:

Receipt of information about alleged corruption, malpractice or misconduct on the part of public servants, from whatever source, would be termed as COMPLAINT.

#### (b) TYPES OF COMPLAINTS :

(i) IDENTIFIABLE or SIGNED COMPLAINTS : - These are complaints wherein the identity of the complainant is mentioned by virtue of name, contact details, etc. Further, the complainant owns / confirms the details mentioned in the complaint, when the complainant is contacted at the address / contact no. mentioned in the complaint.

2

(ii) PSEUDONYMOUS COMPLAINTS (bearing a false or fictitious name; writing or written under a fictitious name) : - These are complaints wherein the identity of the complainant is mentioned by virtue of name, contact details, etc. However, when the signatory of the complaint is contacted at the address / contact no. mentioned in the complaint, the complaint is either disowned or there is no response within a reasonable time.

(iii) ANONYMOUS COMPLAINTS : - These are complaints where the complainant where the complainant has not revealed, verifiable or traceable or contactable identity while making the complaint.

(iv) SOURCE INFORMATION : - Source information received by the Vigilance Department shall be reduced in writing and shall be treated as signed complaint.

### 4. ACTION ON COMPLAINTS RECEIVED BY VIGILANCE DEPARTMENT:

The complaints received directly by Vigilance Department have to be marked or forwarded to CVO (in original) for deciding the further course of action.

### 5. ACTION ON COMPLAINTS RECEIVED BY SECTIONS / DEPARTMENTS OF DIVISIONS, COMPLEXES ROs / DOs :

(a) Nodal Agency : Under the Complaint Handling Policy of BEM Ltd, the CGM (HR) - 'KH' is notified as the Nodal Agency. He will receive the complaints from the respective HR chief of the Complex / Division / ROs / DOs in original and send the same to CVO as and when received to decide upon the existence of 'vigilance angle' in the format as prescribed at Annexure-I.

(b) Any Complaint, as defined, received by the Heads of Sections / Departments of Complex should invariably be forwarded to the respective Complex HR Units. Similarly, for Marketing & Defence HQ / ROs / DOs and Corporate Office, the same will be forwarded to MK and KP(E&M) respectively. Every complaint, irrespective of source, should be entered in the Complaint Register in the prescribed format (Annexure-II) Respective HR department shall then forward the complaints as and when received, to the CGM (HR) - 'KH' in the format as prescribed at Annexure-I. No other action on the complaint should be initiated by the respective HR department at this stage.

3



Yr. Order No. C-1001/NO.154) dated 30.01.2018

१/३

**6. SCREENING OF COMPLAINTS:**

- (a) All complaints including Anonymous / Pseudonymous received by / forwarded to the Nodal Agency will be sent to CVO as and when received.
- (b) No action is required to be taken on the anonymous complaints irrespective of the nature of allegations and such complaints need to be simply filed.
- (c) Complaints containing vague allegations could also be filed without verification of identity of the complainant.
- (d) If a complaint contains verifiable allegations, CVO will take cognizance of such complaint.
- (e) In such cases, the complaint will be first sent to the complainant for owning / disowning, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous.
- (f) The decision with regard to the existence of a vigilance angle in such complaint case will be taken by the CVO. The CMD or his nominee, may, if there are valid reasons, within a period of 15 days, differ from the CVO. In case of difference between CVO and CMD, the matter will be referred to the CVC for advice. Else, the Complaint will be registered in the Vigilance Complaint Register, the CVO will then process the matter further to decide as to whether the allegations or the matter requires further investigation or should be entrusted to the CBI or local police or taken up departmentally.
- (g) A case may be entrusted to the CBI with the approval of the CMD, if the allegations:
  - (i) are criminal in nature (e.g. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known sources of income, cheating, etc.); or
  - (ii) require inquiries to be made from non-official persons; or
  - (iii) involve examination of private records; or
  - (iv) need expert police investigation for arriving at a conclusion; or need investigation abroad.
 A decision in this regard shall be taken by the CMD within 15 days from the date on which papers are received by him for consideration and decision.
- (h) A complaint involving a Board-level appointee, alone or with others, shall be forwarded to the CVO of the Administrative Ministry.

Yr. Order No. C-1001/NO.154) dated 30.01.2018

१/४

**7. METHODS OF RECEIVING COMPLAINTS IN BEML:**

- (a) Through Vigilance Portal of BEML Web site "www.bemlindia.com"
- (b) Through the Drop Boxes placed at various locations.
- (c) Directly by Post/source.

**8. Methods of receiving Complaints by CVC:**

- (a) Through complaint handling portal of CVC, web site <http://www.cvc.nic.in>
- (b) PROJECT VIGEYE. Please refer VigEYE website ([www.vigeve.com](http://www.vigeve.com)) for any clarification / details.
- (c) Public Interest Disclosure and Protection of Informers Resolution (PIDPIR) - popularly known as Whistle Blower Complaint. A copy of detailed notification is available on the web-site of the Commission <http://www.cvc.nic.in>.

\*\*\*\*\*



ANNEXURE - I

**FORMATS FOR SENDING DETAILS OF COMPLAINTS AS & WHEN RECEIVED**

**UNDER COMPLAINT HANDLING POLICY**

S. No.	Name of Complainant (Indicate if Anonymous / Pseudonymous)	Date of receipt of Complaint	Complaint against	Gist of Complaint	Remarks
1	2	3	4	5	6

ANNEXURE - II

**COMPLAINT REGISTER – FORMAT**

S. No.	Source of Complaint	Date of receipt	Name and Designation Staff No. of Executive / Employee complained against	Date of forwarding the Complaint to Nodal Agency	Action taken	Remarks
1	2	3	4	5	6	7

NS : Remarks column should indicate (a) if there were previous cases / complaints against the same Executive / Employee, the facts should be maintained in the "remarks" column and (b) Date of Chargesheet issued, or details of Disciplinary action taken, wherever necessary.

No.000/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 23<sup>rd</sup> May 2000

To

The CVOs of Ministries/Departments, autonomous organisations and Societies etc.

Subject: Schedule of time limits in conducting investigations and departmental inquiries.

Sir,

Delays in disposal of disciplinary cases are a matter of serious concern to the Commission. Such delays also affect the morale of the suspected/charged employees and others in the organisation. The Commission has issued instructions, vide its communication No. S(1)(g) 99(3) dated 03.03.1999, that departmental inquiries should be completed within a period of six months from the date of appointment of Inquiry Officers. Regarding other stages of investigation/inquiry, the time-schedule, as under, has been laid down in the Special Chapters on Vigilance Management in Public Sector Banks Enterprises, which are applicable to the employees of public sector banks enterprises. The Commission desires that these time-limits should also be adhered to by the Ministry/Departments of Government of India, autonomous organisations and other Cooperative Societies, in respect of their employees, so as to ensure that the disciplinary cases are disposed of quickly.

S.No	State of Investigation or inquiry	Time Limit
1	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the complaint.
2	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	-do-
3	Conducting investigation and submission of report.	Three months.
4	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the CVO Disciplinary Authority.
5	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.





ANNEXURE - 45

7.	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report
8.	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.
9.	Consideration of defence statement.	15 (Fifteen) days.
10.	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11.	Appointment of IO PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12.	Conducting departmental inquiry and submission of report.	Six months from the date of appointment of IO PO.
13.	Sending a copy of the IO's report to the Charged Officer for his representation.	i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved. ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated.
14.	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15.	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.

Yours faithfully,

Sd-

(K.L. Ahuja)  
Officer on Special Duty

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

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 8<sup>th</sup> 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 w/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/-



ANNEXURE - 46

-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

No.98/VGL/51  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
G.P.O. Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 9<sup>th</sup> December, 2003

Office Order No.59/12/03

- To
- (i) The Secretary, Department of Personnel & Training
  - (ii) The Secretary, Department of Public Enterprises
  - (iii) The Secretary, Department of Administrative Reforms & Public Grievances
  - (iv) All Secretaries to the Ministries/Departments of the Govt. of India
  - (v) The Director, CBI
  - (vi) The Chairman, SCOPE
  - (vii) All Chief Executives of Public Sector Enterprises
  - (viii) All CVOs of Ministries/Departments/PSEs

Subject: Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC-Amendment to Para 32.3 thereof.

Sir/Madam,

Special Chapter on Vigilance Management in Public Sector Enterprises, notified by the Commission vide No. 3(v)/99/3 dated 7.7.1999 provide for review of vigilance matters in PSEs by Board of Directors. The provision for review of progress of vigilance work by the Board of Directors of PSEs was withdrawn by the Commission vide circular letter No. 98/VGL/51 dated the 28<sup>th</sup> March, 2002 because too many reviews were felt uncalled for.

2. The matter has been once again reviewed and the Commission has decided that the Board of Directors should review the vigilance work once in six months and CVO will send a copy of the review done by the Board to the Commission. Necessary provision of Special Chapter on Vigilance Management in PSEs relating to review of vigilance matters stands amended to that extent.

3. The report sent by the Chief Vigilance Officer to the Commission would be in the following format. A copy of the Memorandum put up to the Board reviewing vigilance cases should also be endorsed to the report of the CVO.

Name of the PSU	Period of Review	No. of cases reviewed	Specific remarks, if any

Yours faithfully,  
Sd/-  
(Anjana Dube)  
Deputy Secretary



**FORMAT - 01**

**SCRUTINY OF APRs**

Sl. No.	Name & Designation of the Executive	Date of scrutiny	Observation	Action taken	Remarks
01					
02					
03					
04					
05					
06					
07					
08					
09					

VIGILANCE OFFICER



**FORMAT - 02**

**PART - I**

**STATUS OF COMPLAINTS RECEIVED (VIGILANCE COMPLAINTS)**

Sl. No.	Source of Information	Description of Complaint	Complaint Officer		Action taken	Ref & Date	Remarks
			Category-A	Category-B			
01							
02							
03							
04							
05							

**PART - II**

**STATUS OF COMPLAINTS RECEIVED (NON-VIGILANCE COMPLAINTS)**

I. No.	Source of Information	Description of Complaint	Complaint Officer		Action taken	Ref & Date	Remarks
			Category-A	Category-B			
01							
02							
03							
04							
05							



FORMAT

INVESTIGATION REPORT

- (i) When there is a written complaint received and Investigation Report is asked, then this format should be used or
- (ii) When there is a prima-facie case made out from the fact verification report conducted on source information on verifiable facts of anonymous complaint and detail investigation has to be done on the prima-facie case established, then this format should be used for detailed investigation.

**1.0 REFERENCE:**

- 1.1 This should specify the source of Complaint/Name & Designation of the complainant.
- 1.2 Mention on whose order the investigation is taken up. (Divisional Head, Vigilance Committee, Corporate Vigilance, direction of higher authority).

**2.0 ALLEGATION:**

- 2.1 This should specify in brief the allegation contained in the Complaint.
- 2.2 Specify against whom allegation is?
- 2.3 The allegations are to be serially numbered.

**3.0 ADHERENCE TO SCHEDULE:**

- 3.1 State date of receipt of complaint for investigation and Date of sending the Investigation Report (3 months maximum).
- 3.2 Whether allegations substantiated.
- 3.3 State whether allegations are substantiated partly/fully by the Investigation.

**4.0 INVESTIGATION:**

- 4.1 Examination and mention of the:
  - 4.1.1 Rules
  - 4.1.2 Procedures (Purchase/Sub-contract/Works contract)
  - 4.1.3 Guidelines/Directions relevant to the event/transactions  
(Enclose extract of relevant provisions).
- 4.2 Examination of Documents:  
Examination of documents concerning allegations/transactions. Facts emerging from the examination. (Take original records/files and/or authenticated copies in custody).



4.3 Violations of Procedures/Rules/Directions:

From examination of documents, what are the violations vis-à-vis the rules/procedures prescribed in BEML by different persons? If financial loss caused, then estimation of the correct financial loss caused to the Company by each individual and / or gain caused to an individual/vendor/parties.

4.4 Statement of persons involved:

- 4.4.1 Statement of witnesses who corroborate & support charges.
- 4.4.2 Interrogation/Written statement of the concerned delinquent Executives/Employees regarding the violations whether with or without financial loss to the Company. (If oral statements taken, then signature of person making the statement to be taken. Also Investigating Officer should sign after writing "Statement recorded by me").

**5.0 ASSESSMENT OF EVIDENCE:**

After investigation, the documentary/oral evidence should be assessed on the facts, which have emerged from examination of documents & explanations of the concerned parties to arrive at conclusion as to what is proved against whom, allegation wise. Assessment of evidence will focus on the following points:

- 5.1 The allegations taken up.
- 5.2 The allegations prima-facie "Not substantiated" or "Substantiated", including the financial loss/gain.
- 5.3 State the evidences leading to the proof of the allegation (both oral and documentary).
- 5.4 Suspected Officer/Employees version of the case.
- 5.5 Discussion of both versions.
- 5.6 Conclusion of the Investigation Officer on each of the allegations whether proved or not proved.

**6.0 CONCLUSION:**

- 6.1 If allegations are proved then points, which are proved against each delinquent official/employee, enumerated serially. Mention also the relevant misconduct as mentioned in BEML CDA Rules. Also mention financial loss to the Company or gain to individual or vendor.
- 6.2 If allegations not proved, mention accordingly.

**7.0 RECOMMENDATION:**

Recommendation proposed against each delinquent official/employee whether minor penalty/major penalty/criminal prosecution etc.



## 8.0 ANNEXURES:

- 8.1 Copies of relevant documents.
- 8.2 Extracts of relevant guidelines and procedures.
- 8.3 Copies of written statements/interrogation.
- 8.4 Articles of charge proved.
- 8.5 Imputations of misconduct.
- 8.6 List of oral and documentary evidence to prove against delinquent official/employee allegation wise.

**NOTE:** The language of the report should satisfy four basic requirements

- a) Brevity
- b) Clarity
- c) Accuracy
- d) Readability



## FORMAT

### SOURCE INFORMATION – FACT VERIFICATION REPORT

(Whenever some information is given by some source or some verifiable facts are mentioned in the anonymous complaint, which need to be verified, this format should be used for fact verification report).

#### 1.0 REFERENCE:

Mention the reference by which the fact verification is take up.

#### 2.0 ALLEGATION:

- 2.1 This should specify in brief the allegation contained in the source information
- 2.2 Specify against whom allegation is?
- 2.3 The allegations are to be serially numbered.

#### 3.0 ADHERENCE TO SCHEDULE:

State date of receipt of source information for fact verification and date of sending the fact Verification Report (maximum 2 months)

State whether allegations are substantiated partly/fully by the fact verification?

#### 4.0 FACT VERIFICATION:

##### 4.1 Examination and mention of the:

- 4.1.1 Rules
- 4.1.2 Procedures (Purchase/Sub-contract/Works contract)
- 4.1.3 Guidelines/Directions relevant to the event/transactions  
(Enclose extract of relevant provisions).

##### 4.2 Examination of Documents:

Examination of documents concerning allegations/transactions. Facts emerging from the examination. (Take authenticated copies in custody).

##### 4.3 Violations of Procedures/Rules/Directions:

From examination of documents, what are the violations vis-à-vis the procedures prescribed as approved by BEML by different persons? If financial loss caused, then estimation of the correct financial loss.

#### 5.0 CONCLUSION:

- 5.1 If allegations are proved by fact verification, then mention what is proved, against which official/employee and also mention financial loss to the Company or gain to individual or vendors, if any.



5.2 If allegations not proved, mention accordingly.

**6.0 RECOMMENDATION:**

Whether detailed investigation is recommended or if any other action proposed.

**7.0 ANNEXURES:**

7.1 Copies of relevant documents.

7.2 Extracts of relevant guidelines and procedures.

**NOTE:** The language of the report should satisfy four basic requirements

- a) Brevity
- b) Clarity
- c) Accuracy
- d) Readability

**FORMAT - 05**

ADDITIONAL INFORMATION NEEDS TO BE INCORPORATED BY THE DIVISIONS IN THE MONTHLY REPORTS:

**Task 1: Bills Receivable**

CUSTOMER	EQUIPMENT, QTY	DATE	Safe Order No	SAP DOC No	AMOUNT (Rs.)	REMARKS

**Task 2: Bills Payable**

Sn	Firm Name, M/S Po Ref.	Po Item & Qty. Delivered	Payment Terms As Per Po & Delivery Terms [FOR / Ex Works]	Vendor Invoice No. & Invoice Date & Amt claimed	Payment Due Date As Per PO Terms	Inbound No. & Date	GR No. & Date	Inspection Clearance No. & Date	Invoice Process (MIRO) No. Amount & Date	Bank Payment No. & Date	No. Of Days Delay In Invoice Process	Payment made Before Due Date (In days)	Payment made After Due Date (In Days)	Reasons / Remarks

## Task 3:

## a) Earnest Money Deposit:

Sn	Date	Request for Quotation No.	Firm Name	Tender Condition	EMD Received				Purchase Order released Date Against RFQ	EMD Refunded			Whether EMD Refunded In Time	Remarks
					DD Date	Bank Name DD No	SAP Doc. No & Date	Amount (Rs.)		Date	SAP Doc. No	Amount (Rs.)		

- The report should highlight for the previous quarter how many RFQs were floated.
- How many responded against which how many EMDs received and how many EMDs returned.

## b) Bank Guarantee:

Sl no.	M/S. Firm Name	Purchase Order No.	Po Terms Against BG	BG Returned						Whether BG lapsed During the currency of The Contract	Remarks
				BG Date	Bank Name BG Ref No.	Validity Period	Re Validated Period (For Extended Works) If Any	SAP Doc. No & Date	Amount (Rs.)		

- With regard to BG, for the month, how many BGs returned, how many expired and whether re validated (for extended works ) to be highlighted.

## Task 4: Welfare Accounts

Sl. No.	PO No.	As Per Contract how many labourers have to be deployed	How many attended	How many paid	Consumables to be supplied as per Work Order	Consumables supplied as per Gate Entry	Remarks

- For Lump sum contracts like Stores, Shipping which is on Weightment basis (Loading and Un loading) whether payment made on actual to be checked and what tackles have to be brought by the contractor and whether they are being used or company facilities are used to be studied and reported.

## Task 5: Sale Orders

SN	SALE ORDER REF. (SAP SO)	CUSTOMER M/s.	Equipment	SALE ORDER CONDITIONS, FACTORS INFLUENCING REVENUE RECOGNITION	INSPECTING AGENCY	COMPLIANCE T AS9 ACCOUNTING STANDARDS	REMARKS



## Task 6: Receiving Stores:

SN	DATE OF CHECK	STORE	DC, VEP & VEHICLE No.	DESCRIPTION OF MATERIAL & VENDOR	QTY	WEIGHT IN kg			IBD / GR NO	VEH. IN/OUT TIME
						--	TARE	NET		
01										

## Task 7: Rejected stores:

Sl. No.	PDO No. & Date	Firm Name & Po Ref & Date	Part No & Name. & Qty. Rejected	Whether The Rejected Item		SAP Doc No. & Date For Recovery	Amount (Rs.)	DA Doc No. & MGP Date	Reason for Rejection	Remarks
				Initially Cleared By Receiving Stores	Cleared By Source Inspection					

- The report should highlight whether these items were cleared by receiving stores initially and then got rejected during assembly or whether the items were cleared by source inspection and rejected in receiving stores.

## Task 8: Civil Construction Inspection Report:

Sl. No.	Firm Name & Po. No.	Contract Terms	Bill of Quantity	Executed Quantity	Bank Guarantee As per PO terms	% of Progress of Construction Works.	Remarks

- Monthly Physical inspection on progress of construction works vis-à-vis BOQ and contract terms, has to be reported.

## Task 9: Study of AMC

Sl No	Po no	Vendor Name	PO Value	Type of tender	Remarks(In order/Not in order)

## Task 10 : Tenders:

- Inconsistencies in the tender conditions needs to be studied and suggest SI. Further, compliance on the SI's already recommended and circulated, has to be given. Whether tender released as open bid or restrictive bid.

SN	SALE ORDER REF. (SAP SO)	CUSTOMER M/s.	Equipment	SALE ORDER CONDITIONS, FACTORS INFLUENCING REVENUE RECOGNITION	INSPECTING AGENCY	---	COMPLIANCE T ASS ACCOUNTH STANDARDS	REMARKS

## Observations:

- 
- 







**Task: 11 Purchase orders:**

**Summary in the Covering letter:**

Sl No	Po no	Vendor Name	PO Value	Type of tender	Remarks(In order/Not in order)

**PO Verification format:**

<b>PO Ref</b>	
<b>PO VALUE</b>	
<b>REFERENCE</b>	

**REPORT ON VERIFICATION OF PURCHASE ORDER**

	PARTICULARS	OBSERVATIONS
<b>A</b>	<b>PARTICULARS OF PO</b>	
01	Identification of PO (How the PO was identified?) ▶ Make use of SAP	
02	Purchase Order No.	
03	Value of the Purchase Order	
04	Firm's Name and Address	
05	Description of Item & Quantity	
06	Unit rate	
07	Required for Project	
08	Repeat/Regular Order	
09	Whether all the additional information (Annexures) are available on SAP Purchase order	
<b>B</b>	<b>PREVIOUS PURCHASE ORDER</b>	
01	Purchase order no. & date.	
02	Previous supplier	
03	Last purchase price/estimated cost	
04	Whether the present rate (as in A06 Above) is justified as against LPP/Estimated Cost?	
<b>C</b>	<b>Purchase Requisition</b>	
01	PR No. & Date	

	PARTICULARS	OBSERVATIONS
02	PR Position ▶ MPR approval by competent authority Grade as per DOP ▶ Specification, Value, Source	
03	Type of Tender Enquiry	
04	▶ No. of firms contacted ▶ Approved list, Reason for Deviation, if any ▶ How parties are identified and placed in approved list ▶ Dispatch and receipt of letters by Vendors ▶ Proof of dispatch of tender documents ▶ Proof for receipt of tender documents by Vendor (check whether there is no response) ▶ Deciding the Source - Manufacture or Dealer(if applicable)- check for the cheapest source.	
05	Time taken Tender Opening ▶ Availability of tender box ▶ Tender opening committee ▶ Signature/date of Committee members on envelop/ quotation ▶ Corrections duly certified by Committee ▶ Delay aspect, Observation of TC – Tender opening	
06	No. of firms to be contacted as per Purchase Manual	
07	Competent Authority who approved to contact less No. of firms than stipulated	
08	Reason recorded for contacting less number of sources	
09	No. of quotations received	
10	Comparative Statement prepared & its ref. ▶ Price & Landed Costs ▶ Other costs i) Arriving at L1 ii) Post tendering deviations on specification/tender conditions etc iii) If any deviation, whether approved with due justification iv) Negotiation procedure	



	PARTICULARS	OBSERVATIONS
11	▶ Approval - Reference ▶ Observation - minutes of Meeting v) Cost analysis ▶ Complicated case-look for self contained note	
12	Note Sheet – Approval Ref. ▶ Approval of competent authority i) As per DOP ii) Purchase scrutiny co ordination iii) If not co-ordinated, reason thereof ▶ Adverse remarks-follow up with Purchase ▶ Co-ord. of PO by competent authority ▶ MPC remarks, Approval	
13	Splitting of POs and division of patronage Terms and conditions - Approval - Ref. Whether PO is in order	
14	Supply of material (Stores/goods) ▶ Alternate goods/items supply - acceptability- rate variation? ▶ Supply conditions i) Delivery schedule ii) Delivery-Ex works/FOR iii) Physical movement i) Quality checks v) Receipt ▶ Sub-contract POs-Nesting	
15	Payments: Mobilisation advance-(If given) on interest or interest free Whether payment made is linked to PO Payment Conditions ▶ Mode of Payment ▶ Time taken ▶ LD, BG ▶ Delay aspects	
D	<b>FINDINGS OF VIGILANCE OFFICER:</b> Observations: -Nil-	
E	<b>REMARKS OF THE CONCERNED PURCHASE OFFICER IN CASE OF DEVIATION :</b>	

**Task 12: Surprise Check Stores:**

- Surprise check at stores to be conducted for Class A, Class B and Class C items. Obsolete and non-moving items also to be checked.

**Task 13: e-Procurement & e-Payment**

**e-procurement:**

The study should highlight how many Pos totally released against which how many are e-Procurements (Nos) and for not on e-mode reasons to be recorded.

Sl No	Total No of POs released	e-mode	Other than e-mode	Reasons for not on e-mode

Observations:

- 1)
- 2)

**e-Payment**

Sl No	Total Payment made	Total amount paid thru e-payment	% e-Payment	Total amount paid other than e-payment	Reasons for not on e-mode

## Task 14: Scrutiny of TA/DA Claims

SN	NAME DEPT & STAFF No.	GRADE/ GROUP	APPROVAL REFERENCE	PLACE OF OUTSTATION DUTY	DURATION		-	AMOUNT PAID Rs.	REMARKS
					FROM	TO			
1									

## Task 15: Scrutiny of APRs

## THIRD LEVEL SCRUTINY

<b>NAME:</b>	
<b>STAFF NUMBER:</b>	
<b>DESIGNATION:</b>	
<b>DATE OF APPOINTMENT:</b>	
<b>DATE OF SUPERANNUATION</b>	

## MOVABLE PROPERTY DETAILS

S n o.	APR as on	Openin g of the year Investm ent details	Investment Addition / Deletion / No Change in the investment	Invest ment Declar ed or Not?	Descriptio n of Investmen t	If not in own name, state in whose name held and his/her relationship, if any to the employee	Value of Investment	How & when acquired (Source of acquisition)	Remarks

## Task 16: ERP System for RED FLAG:

- Each module on a monthly has to be checked for manual interventions vis-à-vis process flow ought to be on SAP-ERP. Eg. F-Note not being generated SAP-ERP, Sale order details not captured fully on SAP-ERP, possibility of seeing the Price bid during extension of bid, PO not linked to PR, whether shelf life items are picked from the system etc.



## Task 17: Shipping Department

Sl. No.	Transporter Name	Vehicle Deployed	Vehicle IN Time	Vehicle OUT Time	Whether type of vehicle deployed is justified	Whether contract is in regular period or extended period	Whether the BG submitted as per PO terms / Valid	Whether Hindrance Register is maintained, and that justifies unequal load distribution	Remarks

## Task 18: Receiving Inspection

Sl. No.	Inspection Lot No. & Date	Vendor Po Ref. Part No. & Material	Inspection Lot Size (Qty)	Usage Decslon/ Date of Clearance	Whether The Item Cleared or Rejected As Per Drawing Requirement (Based on Inspection Reports)	Remarks

- Is the decision whether to use or not is justified?
- Which authority decides when to inspect and use?

## Task 19: Weighbridge Check

SN	DATE OF CHECK	VEHICLE No.	VEP No. VEHICLE IN/OUT TIME	IN BOUND No. / DATE	WEIGHING PARTICULARS IN kg			STORE	WEIGHING CARD/REG S/N
					GROSS	TARE	NET		
1									

## Task 20: Part Disposal Orders (PDOs)

Sl. No.	PDO No. & Date	Firm Name & Po Ref & Date	Part No & Name. & Qty. Rejected	SAP Doc No. & Date for Recovery	Amount (Rs.)	DA Doc No. & MGP Date	Reason for Rejection	Remarks

- What was the alternate for these items?
- If procured afresh to meet production demand, then at what price and from whom and how?
- If at a higher price whether risk purchase clause invoked?
- As per contract whose responsibility is it to lift the material. Whether this cost recovered when items sent by BEML?
- If there is no payment due to the vendor how amount can be recovered in case of BEML material?





**FORMAT - 06**

**Vigilance clearance formats (a) For the PESB interview/ selection  
Particulars of the officers for whom Vigilance Clearance is obtained**

1. Name of the Officer (in full) : \_\_\_\_\_
2. Father's Name : \_\_\_\_\_
3. Date of Birth : \_\_\_\_\_
4. Date of Retirement : \_\_\_\_\_
5. Date of Entry into Service (BEML) : \_\_\_\_\_
6. Positions held (during ten preceding years) : \_\_\_\_\_

Sl. No.	Organisation	Designation and Place of Posting	From	To

7. Whether the officer has been placed on the "Agreed List" or "List of Officers of Doubtful Integrity" (If yes, full details may be given) : \_\_\_\_\_
8. Whether any allegation of misconduct involving Vigilance Angle was examined against the Officer during the last 10 years and if so, with what result (\*) : \_\_\_\_\_
9. Whether any punishment was awarded to the officer during the last 10 years and if so, the date of imposition and details of the penalty (\*) : \_\_\_\_\_
10. Is any disciplinary/ criminal proceedings or charge sheet pending against the officer, as on date. (If so, details to be furnished including reference no., if any of the Commission). : \_\_\_\_\_
11. Is any action contemplated against the officer as on Date. (If so, details to be furnished) (\*) : \_\_\_\_\_

Date: \_\_\_\_\_ (Name and Signature)

(\*) If vigilance clearance had been obtained from the Commission in the past, the information may be provided for the period thereafter.

**Task 21: Scrutiny of Shelf life items**

SN	PART No./ DESCRIPTION/ MAKE	PO NO	QTY RECEIVED	GR NO DATE	MFG DATE ON PACK	ISSUED BEFORE	WHETHER FIFO MAINTAINED
1.							

**Task 22: LD Deductions: (Trend Analysis)**

Sl. No.	M/s. Firm Name & Purchase Order	Part No. & Material & Qty	Delivery Schedule as per PO	Inbound Delivery Date (FOR)	Invoice Date (Ex Works)	Delay in Days	LD Amount	Remarks



**FORMAT - 07**

**APPLICATION FORM FOR VIGILANCE CLEARANCE**

Ref No & Date: KPE/Vig Clearance/ Date:

**Part A To be filled by the HR Department**

Complex/ Division :  
 Name of the Applicant :  
 Dept. & Staff No :  
 Designation & Grade/Group :  
 Purpose for seeking Vigilance Clearance :  
 (lany other details, as applicable :  
 Whether any Disciplinary proceedings contemplated/initiated :  
 against the individual (Also indicate previous record, if any)  
 If Yes, indicate details / status :  
 Whether under punishment period :  
 Whether any local police case filed by BEML/Pending :  
 Whether Property Returns Submitted in time :  
 In case of resignation, the employee/officer is bound :  
 by obligation/agreement to serve the Company.

Date : (Signature of the Chief of HR Dept.)

**Part B To be filled by Vigilance Department**

Remarks of Vigilance Department (Indicate :  
 Complete Status and Recommendations,  
 if any. Attach separate Sheet, if required)  
 Vigilance Clearance : ACCORDED / NOT ACCORDED  
 V.C. Report No:

Date : (Signature of Vigilance Dept.)

**INSTRUCTIONS:**

Applications for Vigilance Clearance being initiated by HR Dept for nomination for member in Promotion, Confirmation, Resignation, Superannuation, Voluntary Retirement, etc. should be filled by the HR Dept.

All application for Vigilance Clearances to be issued by the CVO, Vigilance Department will be routed through Division/Complex Vigilance Dept, as applicable. HR Dept, may forward this application directly to VO, Vigilance Dept in the respect of the employees in the Divisions/Complex.



**FORMAT - 08**

**APPLICATION FORM FOR VIGILANCE CLEARANCE FOR OBTAINING PASSPORT**

Ref No & Date: KPE/Vig. Clearance/ Date

**Part A To be filled by the Applicant**

Complex/ Division : Corporate Office  
 Name of the Applicant :  
 Dept. & Staff No :  
 Designation & Grade/Group :  
 Purpose for seeking Vigilance Clearance :  
 (i) Passport NOC Form/Permission for -  
 Private Travel Abroad attach  
 Relevant Form as applicable  
 Any other, as applicable :

Date : 27.07.2015 (Signature of the Applicant)

**Part B To be filled by HR Department**

Whether any Disciplinary proceedings contemplated/ :  
 initiated against the individual (Also indicate previous  
 record, if any)  
 If Yes, indicate details / status :  
 Whether under punishment period :  
 Whether any local police case filed by BEML/Pending :  
 Whether Property Returns Submitted in time :  
 Whether leave sanctioned, period of leave :

Date : (Signature of the Chief of HR Dept.)



**Part C To be filled by Vigilance Department**

**FORMAT - 08**

Remarks of Vigilance Department :  
(Indicate Complete Status and  
Recommendations, if any. Attach separate  
Sheet, if required)

Vigilance Clearance : ACCORDED / NOT ACCORDED

V.C. Report No:

Date : (Signature of Vigilance Dept.)

Instructions Overleaf

INSTRUCTIONS :

All application for Vigilance Clearances to be issued by the CVO, Vigilance Department will be routed through Division/Complex Vigilance Dept, as applicable. HR Dept, may forward this application directly to VO, Vigilance Dept in the respect of the employees in the Divisions/Complex.

**APPLICATION FOR OBTAINING VIGILANCE CLEARANCE - TREAVEL ABROAD**

01	Name (BLOCK LETTERS)	
02	P.B. No	
03	Designation	
04	Department	
05	Residential Address	
06	Father's / Husband's Name	
07	Passport No	
08	Country of Visit (Please indicate address(es) of place(s) where you intend to visit)	
09	Purpose of Visit	
10	Name of person(s) and Relationship being visited abroad	
11	Arrangements for stay	
12	Duration of stay / visit (vide Sl Nos. 8 & 10 above)	
13	Expenditure being incurred for the visit (to include travel and stay expenses separately)	
14	Source of Finance for the visit	
15	Details of previous private foreign travel, if any, undertake during the last one year	
16	Photocopy of the Visa Application attached	

Place : Bangalore

Signature of Applicant

Date :



**FORMAT - 09**

**ANNEXURE-I**

**GENERAL INFORMATION**

01	PARTICULARS OF WORK	
1.1	Name of the work	
	Agreement no./Contract ref. & date & Reference on SAP, if any	
	Reference on SAP, if any	
	Name of the Contractor	
	Estimated cost (Rs.)	
	Tendered cost (Rs.)	
	Date of start for completion of work	
	Due date of completion of work	
	Present progress (%)	
1.2	DEPARTMENTAL AUTHORITIES	
	NAME	DESIGNATION
	Zone (Chief of the Complex)	
	Circle (Head of MM/Contract Purchase)	
	Division (Manager, Contract Purchase)	
	Sub-division (Asst. Manager, CP)	
1.3	OFFICIALS IN CHARGE OF WORK	
	NAME	DESIGNATION
	Chief Engineer (Chief of the Complex)	
	Superintending Engineer (Head of Plant Maintenance)	
	Executive Engineer (Head of Civil Maintenance/Constn.)	
	Assistant Engineer	
	Junior Engineer	
	Divisional Accountant (Head of Finance & Accounts)	
	Surveyor of works in SSW's office (Approving Authority)	
	Surveyor of works in Circle (Inspecting Authority)	
	Asst. Surveyor of works in Division (Asst. Inspecting Officer)	



1.4	OTHER OFFICIALS WHO WOULD CO-ORDINATE WITH CTE TEAM				
	DESIGNATION	NAME	E-MAIL	SAP ID	CELL NO.
	Head of Matl. Mgmt./ Contract Purchase				
	Purchase Officer (who processed the contract)				
	Head of Plant Maintenance				
	Officer (Construction/ Civil Services, who executed the contract)				
	Head of Finance & Accounts				
	Officer (who maintains records of payments, BG,SD etc.wrt contract)				





**FORMAT - 09**

**ANNEXURE-II**

**TECHNICAL INFORMATION**

SN	REQUIREMENTS	DETAILS
01	Name of the work	
02	Agreement no./Contract ref. & date and reference on SAP, if any	
03	Name of the contractor	
04	Estimated cost (Rs.)	
05	Tendered cost (Rs.)	
06(a)	Date of commencement	
06(b)	Stipulated date of completion	
06(c)	Percentage of Progress	
07	Ref. Memo & date of Sanction of Project	
08	Ref. & date of technical sanction	
09	Date of approval of NIT	
10	Date of publication of NIT in press	
11	Date of receipt of tenders	
12	No. of tenders sold	
13	No. of tenders received	
14	Whether work awarded to the Lowest tender	
15	Whether market rate justification available on record	
16	Works manual adopted	
17	SN & date of last running bill paid	
18	Whether AHR/ALR items identified (Abnormally High Rate & Abnormally Low Rate)	



19	No. of statements	Extra items (substituted Items)	Deduction Items
a	Sanctioned		
b	Proposed		
20	Test check carried out up to latest RAR Bill	Prescribed	Actual
a	% Test check by AE		
b	% Test check by EE		
c	% Test check by SE		

**NOTE:** Please send copy of:

ANNX	DOCUMENT	CHECK WHETHER	
		SUPERSCRIBED	ENCLOSED
II-A	Approval for administrative/budget sanction for the project		
II-B	Approval for technical sanction of the project		
II-C	Approved copy of Tender Document & NIT		
II-D	Agreement/Approved Work Order		
II-E	Recommendation for payment of latest running bill paid		
II-F	Report of final inspection, if completed; else, latest inspection report based on which RAR payment made		



**FORMAT - 09**

**ANNEXURE-III**

**DOCUMENTS FOR INSPECTION AT SITE OFFICE**

SN	DESCRIPTION	AVAILABILITY
01(A)	Press Cuttings, including extended dates, if any:	
i)	For pre-qualification of Architects/consultants	
ii)	For pre-qualification of Contractors	
iii)	Call of Tenders	
01(B)	Register of sale of tenders	
01(C)	Register of opening of tenders	
02	File giving reference to Financial Sanction and approval of competent administrative authority-Preliminarily estimated	
03	Copy of detailed estimate and its Technical Sanction by competent technical authority	
04	Approval of NIT (Notice inviting Tenders) in Original	
05	Rejected tenders and comparative statements for:	
(a)	Selection of Architects/Consultants	
(b)	Short-listing or prequalification of tenders	
(c)	Other tenders	
06	Justification statement and corresponding noting in support of tenders/offer accepted	
07	Details of negotiations, if any, made before acceptance of tenders	
08	Original contract with consultant & contractor	
09	Guarantee Bond etc. towards security for work machinery/ mobilisation advance etc., including extension of validity	
10	Insurance policies for work, materials, equipment, men etc., including extension of validity	
11	Guarantee for water tightness, termite proofing etc.	
12	Standard specifications	
13	Standard Schedule of Rates	
14	Drawings-Architectural and Structural	



SN	DESCRIPTION	AVAILABILITY
15	All connected Measurement Book, Level Books, Field Books and Lead Charts	
16	All Running Accounts Bills with all connected statements/vouchers	
17	Statements showing details of check of measurements by superior officers-copies of order laying down such requirements	
18	Materials at site accounts/cement, steel bitumen, paints, water proofing compound, pig lead, anti-termite chemical etc.	
19	Site Order Books/Test Records/Log Books	
20	Details of extra/substituted items and of deviated quantities being executed considered for execution in work along with Analysis of rates	
21	Hindrance Register	
22	Office, correspondence files and inspection notes, if any, issued by inspecting officer	
23	Complaint records, if any	
24	Any other documents relevant to the works	
25	Details of payments in pro-forma 'A'	
26	Cement consumption statement in pro-forma 'B'	
27	Steel consumption statement in pro-forma 'C'	
28	Statement of test material in pro-forma 'D'	

FORMAT - 09

PROFORMA 'A'

## DETAILS OF PAYMENT

SN of Bill	CR No. date	ACCOUNT PAYABLE				Total	Chequ e amount	DETAILS OF DISBURSEMENT & RECOVERIES						
		- -	Advance payment	Secured Advanc e	Mobilisation Advance			Adv. I/Tax	Cost of Materials	Secured Advanc e	Mob. Advanc e	Deposit	- other	

SIGNATURE:

ROUTING:

NAME:

FORMAT - 09

PROFORMA 'B'

## CEMENT CONSUMPTION STATEMENT FOR LAST (SN) BILL PAID

CEMENT				
LAST DATE OF MEASUREMENTS	THEORETICALLY REQUIRED	ACTUALLY CONSUMED	RECOVERED	REMARKS

SIGNATURE:

ROUTING:

NAME:



FORMAT - 09

PROFORMA 'C'

TOR STEEL

Diameter in mm	8	10	12	16	20	22	25	28	32	36	38	40	42	44
Quantity issued by orgn. (MT)														
Quantity measured for payment (MT)														
Quantity Recovered from Bill (MT)														

NOTES:

1. If mild steel reinforcement is used, information may be furnished in same pro-forma as for TOR Steel.
2. If structural steel is used, information may be furnished in similar pro-forma for various sections instead of various diameters.

SIGNATURE:

ROUTING:

NAME:

FORMAT - 09

PROFORMA 'D'

STATEMENT OF THE TESTS OF MATERIALS

S N	Description of materials	Quantity Consumed till date	Description of testing as per BIS/ Agreement Provisions	Frequency Tests as per BIS/ Agreement Provisions	No. of tests		Lab from where tests conducted	Whether lab approved by Govt.	Status of Test Results	If failed What action taken	Whether testing charges borne by dept/agency (Ref. to agreement Provisions)	Recovery Proposed for shortfall in test/failed result
					Req- uired	Condu- cted						
1	2	3	4	5	6	7	8	9	10	11	12	13

SIGNATURE:

ROUTING:

NAME:



## IMPORTANT LINKS

- 1) Central Vigilance Commission : <http://cvc.nic.in>
  - ▶ CVC Vigilance Manual : <http://cvc.nic.in/man04.pdf>
  - ▶ CVC Instructions : [http://cvc.nic.in/cvc\\_instruct.htm](http://cvc.nic.in/cvc_instruct.htm)
    - a) Acts/Resolutions : [http://ccis.nic.in/CP\\_Circular\\_Report.asp?MinCode=4&DepCode=6&DivCode=0&SecCode=\(0\)&CNCode=1&MctCode=20&SctCode=232&ArchCode=2](http://ccis.nic.in/CP_Circular_Report.asp?MinCode=4&DepCode=6&DivCode=0&SecCode=(0)&CNCode=1&MctCode=20&SctCode=232&ArchCode=2)
    - b) Data/Reports : [http://cvc.nic.in/data\\_inst.htm](http://cvc.nic.in/data_inst.htm)
    - c) Complaints : [http://cvc.nic.in/comp\\_policy\\_inst.htm](http://cvc.nic.in/comp_policy_inst.htm)
    - d) Disciplinary Matters : [http://cvc.nic.in/dep\\_inquiry.htm](http://cvc.nic.in/dep_inquiry.htm)
    - e) Guidelines on tenders : [http://cvc.nic.in/proc\\_works.htm](http://cvc.nic.in/proc_works.htm)
    - f) Banking Sectors & Insurance Companies: [http://cvc.nic.in/spdir\\_banks.htm](http://cvc.nic.in/spdir_banks.htm)
    - g) PSUs : [http://cvc.nic.in/spdir\\_psu.htm](http://cvc.nic.in/spdir_psu.htm)
    - h) Miscellaneous : <http://cvc.nic.in/misclous.htm>
    - i) DoPT's Instructions on Vigilance Matters: [http://ccis.nic.in/CP\\_Circular\\_Report.asp?MinCode=2&DepCode=2&DivCode=5&SecCode=\(45,46,47,48\)&CNCode=1&MctCode=0&SctCode=0&ArchCode=2](http://ccis.nic.in/CP_Circular_Report.asp?MinCode=2&DepCode=2&DivCode=5&SecCode=(45,46,47,48)&CNCode=1&MctCode=0&SctCode=0&ArchCode=2)
  - ▶ CVC Acts/Manuals : [http://cvc.nic.in/v\\_act\\_man.htm](http://cvc.nic.in/v_act_man.htm)
  - ▶ CTE's Manuals : [http://cvc.nic.in/cte\\_menu.htm](http://cvc.nic.in/cte_menu.htm)
- 2) Ministry of Defence : <http://mod.nic.in>
  - Guidelines on Procurement : <http://mod.nic.in/dpm/welcome.html>
  - DPP-2013 : <https://mod.nic.in/forms/List.aspx?Id=58&displayListId=58>
- 3) Department of Public enterprise : [www.dpe.gov.in](http://www.dpe.gov.in)
  - DPE Guidelines** :
  - Corporate Governance : <http://www.dpe.gov.in/dpe-guidelines/corporate-governance>
  - Personal Policies : <http://www.dpe.gov.in/dpe-guidelines/personnel-policies>
  - Service Matters : <http://www.dpe.gov.in/dpe-guidelines/service-matters>
  - Conduct Discipline and Appeal Rules : <http://www.dpe.gov.in/dpe-guidelines/conduct-discipline-and-appeal-rules>
  - Vigilance Policies : <http://www.dpe.gov.in/dpe-guidelines/vigilance-polices>
  - Vigilance : <http://www.dpe.gov.in/documents/vigilance>
  - Financial Policies : <http://www.dpe.gov.in/dpe-guidelines/financial-policies>



- 4) Government e-market : <https://gem.gov.in/>
- 5) Ministry Of Company Affairs : <http://www.mca.gov.in/>
- 6) Ministry of Labour and Employment : <http://www.labour.nic.in/>
- 7) Ministry of Personnel, Public Grievances & Pensions : <http://persmin.nic.in/>
  - a) Department of Personnel & Training : <http://dopt.gov.in/>
  - b) Declaration of assets and Liabilities under Lokpal : <http://dopt.gov.in/lokpal-list>
  - c) Public Enterprises Selection Board : <http://pesb.gov.in/>
- 8) Central Bureau of Investigation: <http://cbi.nic.in/>
- 9) Ministry of Finance : <http://finmin.nic.in/>
  - a) General Financial Rules : [http://www.mof.gov.bd/en/index.php?option=com\\_content&view=article&id=48&Itemid=1](http://www.mof.gov.bd/en/index.php?option=com_content&view=article&id=48&Itemid=1)
- 10) BEML Ltd : <http://www.bemlindia.nic.in>
  - i) Report On Corporate Governance : [http://www.bemlindia.com/cg\\_report.php](http://www.bemlindia.com/cg_report.php)
  - ii) HR Manual : <http://www.bemlindia.com/documents/aboutus/HR%20Hand%20Book.pdf>
  - iii) Purchase manual : [http://www.bemlindia.com/documents/purchase/purchase\\_manual.pdf](http://www.bemlindia.com/documents/purchase/purchase_manual.pdf)
  - iv) Vigilance : <http://www.bemlindia.com/vigilance.php>
  - v) Right to Information : <http://www.bemlindia.com/rti.php>
  - vi) Integrity e-pledge on CVC Website : <https://pledge.cvc.nic.in/>

