



ABSTRACT

Public Servants – Allegation of Corruption – Complaints / Petitions received – Procedure to be followed consequent to introduction of section 17A(1) in the Prevention of Corruption Act, 1988 (as inserted by Central Act 16 of 2018) – Guidelines – Issued.

Personnel and Administrative Reforms (N) Department

G.O. (Ms.) No.173

Dated: 19.12.2018

விளம்பி மார்கழி - 04

திருவள்ளூர் ஆண்டு 2049

Read:

1. Prevention of Corruption (Amendment) Act, 2018 (Central Act 16 of 2018) notified in the Gazette of India Extraordinary, dated 26th July, 2018.
2. From the Directorate of Vigilance and Anti-Corruption Letter No.29879 / VAC-4 / 2018, dated 20.08.2018.

ORDER:

Preventing / controlling / eradicating corruption in public service has always been the endeavour of the Government for ensuring good and transparent governance. It is an institutional necessity to inculcate the highest principles of honesty, integrity and devotion to duty, among public servants. For achieving the goal of zero tolerance for corruption in public service, several instructions were issued earlier.

2. The Government of India have now introduced a new Section 17A (1) in the Prevention of Corruption Act, 1988 (as inserted by Central Act 16 of 2018) which is extracted below for reference:

"17A. (1) No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval-

- (a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;*
- (b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;*

- (c) *in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:*

Provided that 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 undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month."

3. In compliance with Section 17A(1) of the Prevention of corruption Act, 1988, the Government have carefully examined the issue by revisiting the existing procedures for conducting Preliminary Inquiry / Detailed Inquiry / Registering of Regular Case, etc. and accordingly prescribe the following guidelines to be adopted for processing the complaints of alleged corruption against public servants:

i) On receipt of complaint / allegation / source report relating to offences alleged to have been committed under the Prevention of Corruption Act, 1988, the Directorate of Vigilance and Anti-Corruption shall initially take up a factual verification in the first instance and shall weed out baseless, vague, frivolous, vexatious complaints.

ii) No action is required to be taken on anonymous complaints, irrespective of the nature of allegations and such complaints need to be filed.

iii) If a complaint contains verifiable allegations, it shall be verified with the complainant for owning / disowning, as the case may be, and if no response is received from the complainant within a reasonable time, the said complaint may be filed as pseudonymous.

iv) Repeated complaints regarding the same allegations and previously disposed, may be filed.

v) Complaints / Petitions received against the elected members of the Local Bodies and the Officers and employees working under the local bodies, shall be forwarded to the Tamil Nadu Local Bodies Ombudsman for further action under the Tamil Nadu Local Bodies Ombudsman Act, 2014.

4. After factual verification as laid down in para 3 above and on admitting the complaints / petitions by the Directorate of Vigilance and Anti-Corruption, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, for the purpose of obtaining previous approval under Section 17A(1) of the Prevention of Corruption Act, 1988, the Directorate of Vigilance and Anti-Corruption shall adopt the following procedure:

i) where an enquiry or inquiry is proposed against a Group A or Group B Officer, who is or was employed at the time when the offence was alleged to have been committed, the Directorate of Vigilance and Anti-Corruption shall forward the materials to the authority competent to remove him from his office, through Vigilance Commission.

ii) where an enquiry or inquiry is proposed against a Group C or Group D Officer or institutional staff, i.e., officers and employees of any Body or Board or Corporation or Authority or Company or Society or Public Sector Undertaking or Trust or University or Autonomous Body, established by an Act, who is or was employed at the time when the offence was alleged to have been committed, the Directorate of Vigilance and Anti-Corruption, shall forward the materials to the authority competent to remove him from his office, with a copy marked to the monitoring authority concerned as indicated in para 6 below and to the Vigilance Commission.

iii) where an enquiry or inquiry is proposed against officers belonging to different categories (Groups A, B, C, D and Institutional Staff) in the same department, who are jointly involved, the Directorate of Vigilance and Anti-Corruption, shall forward the materials to the authority competent to remove the officer who holds the highest post, by adopting the procedure laid down above in (i) or (ii), as the case may be.

iv) where an enquiry or inquiry is proposed against an Officer of the All India Service, who is or was employed at the time when the offence was alleged to have been committed, the Directorate of Vigilance and Anti-Corruption, shall forward the materials to the Secretary to Government concerned, Public/Home/ Environment and Forests Department, through the Vigilance Commission.

v) where an enquiry or inquiry is proposed against Public Servants other than those mentioned above, the Directorate of Vigilance and Anti-Corruption, shall forward the materials to the Secretary to Government, Public (SC) Department, through the Vigilance Commission.

vi) where it is proposed to register a Regular Case for investigation against Public Servants, the Directorate of Vigilance and Anti-Corruption, shall forward the materials to the authority competent to remove him from his office, through the Vigilance Commission, with a copy marked to the monitoring authority concerned as indicated in para 6 below.

5. The competent authority, on receipt of materials, shall arrive at a conclusion for it to be conveyed, within the time limit prescribed in the second proviso to section 17A(1) of the Prevention of Corruption Act, 1988, directly to the Directorate of Vigilance and Anti-Corruption, with a copy marked to the Secretary to Government / Head of the Department concerned, as the case may be and to the Vigilance Commission.

6. The Government directs that, such cases shall be monitored in the following manner:

i) In respect of Group C and Group D Officers for whom the District level officer is the Competent Authority, the Head of the Department concerned shall monitor the requests sought by the Directorate of Vigilance and Anti-Corruption, periodically once in a month, with such district level officer and send the minute of the meeting to the Secretary to Government of the Administrative Department concerned, the Directorate of Vigilance and Anti-Corruption and the Vigilance Commission.

ii) In respect of Group C and Group D Officers for whom the Head of the Department is the Competent Authority and in respect of the institutional staff, the Secretary to Government of the Administrative Department concerned shall monitor the requests sought by the Directorate of Vigilance and Anti-Corruption, periodically once in a month, with such Head of the Department and send the minute of the meeting to Directorate of Vigilance and Anti-Corruption and Vigilance Commission.

iii) In respect of all other public servants, the Vigilance Commissioner shall monitor the requests sought by the Directorate of Vigilance and Anti-Corruption, periodically once in a month, with the Head of the Department / Secretary to Government of the Administrative Department concerned, as the case may be. The Directorate of Vigilance and Anti-Corruption shall be kept informed accordingly.

(BY ORDER OF THE GOVERNOR)

**S.SWARNA
SECRETARY TO GOVERNMENT**

To
The Vigilance Commissioner and
Commissioner for Administrative Reforms, Chennai-09.
All Additional Chief Secretaries / Principal Secretaries / Secretaries to Government,
Chennai-09.
The Directorate of Vigilance and Anti-Corruption , Chennai-16.
All Departments of Secretariat, Chennai-09.
All Heads of the Departments.
All Boards / Corporations / Universities / PSUs / Societies.

Copy to
The Hon'ble Chief Minister's Office, Secretariat, Chennai-09.
The Senior Personal Assistant to Minister (Fisheries, Personnel and Administrative Reforms), Chennai-09.
The Vigilance Commission, Chennai-09.
The Principal Private Secretary to Secretary,
Personnel and Administrative Reforms Department, Chennai-09.
The Personnel & Administrative Reforms (L1, L2, L3 & AR-II) Department,
Chennai-09.
The Law (P&AR-Scrutiny) Department, Chennai-09.
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// Forwarded / By Order //

K. Aravindan
SECTION OFFICER

19/12/18