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केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,
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सं./No..... 003/DSP/9

दिनांक / Dated..... 16/04/2015

Circular No.05/03/15

Subject:- Difference of opinion pertaining to requests for sanction for prosecution sought by CBI/other investigating agencies. – regarding.

- Reference:-
- (i) DoPT O.M. No. 134/2/85-AVD-I dated 15/17.10.1986;
 - (ii) Commission's Office Order No. 1/1/04 dated 08.01.2004;
 - (iii) Commission's Office Order No. 23/6/06 dated 23.06.2006;
 - (iv) DoPT O.M. No. 399/33/2006-AVD-III dated 06.11.2006 & 20.12.2006;
 - (v) Commission's Office Order No.31/5/05 dated 12.05.2005 and
 - (vi) Commission's Circular No.07/03/12 dated 28.03.2012

The Central Vigilance Commission has been emphasising the need for quick and expeditious decisions on requests of sanction for prosecution received from CBI / other investigating agencies under the Prevention of Corruption Act, 1988 and also to strictly adhere to the time limit of three (3) months for grant or otherwise of sanction for prosecution in terms of the orders of the Supreme Court in Vineet Narain & Ors. Vs.Union of India. Despite these instructions and regular follow-up of such pending matters, the Commission observes that the Competent Authorities take unduly long time in deciding these matters.

2. In cases of difference of opinion between the Competent Authorities in the Ministries / Departments / Organisations and CBI/other investigating agencies, where the latter have after investigation sought sanction for prosecution of public servants, the Commission resolves such difference of opinion by holding a joint meeting with the representatives of CBI and concerned Department / Organisation. The Commission has, however, observed that generally no new facts are brought out during these meetings and there are considerable delays on the part of the Departments / Organisations concerned in adhering to the laid down time limits for various activities for examining / considering such requests for sanction for prosecution and in making a reference for consultation with the Commission for advice, etc.

3. In view of above, the Commission, on a review of the existing mechanism has decided to dispense with the mechanism of holding joint meetings with the representatives of CBI and the concerned Department / Organisation and henceforth, all such matters of difference of opinion with CBI / Investigating Agencies would be dealt and resolved by the Commission on the basis of available documents / materials and tentative views of the Competent Authorities of the concerned Ministry / Department / Organisation. The Commission would also draw attention to

the guidelines issued by the Commission to be followed by the sanctioning authorities, vide its Office Order No.31/5/05 dated 12th May, 2005 and reiterated vide Circular No.07/03/12 dated 28th March, 2012 in processing requests for sanction for prosecution.

4. Accordingly, on receipt of investigation reports from CBI / other investigating agencies requesting sanction for prosecution of public servants who are non-Presidential appointees, the Competent Authority shall within three weeks formulate its tentative views regarding the action to be taken and in all matters involving difference of opinion with the recommendations of CBI / Investigating Agencies, seek the advice of the Commission for resolution of difference of opinion. The CVO of the Department / Organisation concerned would ensure that the time limits as above are complied with in taking decisions by the concerned Administrative Authorities either to grant sanction for prosecution and to convey the same to the agency concerned or to ensure a reference is made to the Commission for advice forwarding the tentative views of the Administrative Authorities for resolving the difference of opinion.

5. Further, in all cases, where Commission advises sanction for prosecution, in terms of DoPT instructions referred above, and provisions of the Vigilance Manual, the concerned Ministry / Department is required to refer the case to the Commission for reconsideration only in exceptional cases when new facts come to light. As per the existing mechanism in place, such reconsideration proposals are examined by the Committee of Experts and the Commission renders appropriate advice, thereafter to the Competent Authorities. The Commission has observed over the years that in practice, majority of the cases referred back for reconsideration are on the same facts/materials as was available to the Competent Authority and the Commission initially. In other words, such reconsideration proposals do not contain any new fact(s) warranting change in the views/advice of the Commission tendered earlier. Such routine references/proposals for reconsideration of the Commission's advice need to be strictly avoided. In order to ensure that cases for grant for sanction for prosecution are decided quickly, the Commission would, therefore, entertain only those cases for reconsideration wherein new facts and circumstances which warrant any change are brought out by the Competent Authorities / Administrative Authorities specifically while making such proposals to the Commission.

6. The Commission is of the considered view that compliance to the above said principles would facilitate in reducing delays in deciding matters/ requests of sanction for prosecution by the Administrative Ministries/Departments/Organisations.



[J. Vinod Kumar]

Officer on Special Duty

1. All Secretaries of Ministries/Departments of Government of India.
2. All CMDs/CEOs of CPSUs/Public Sector Banks/Insurance Companies/Organisations, etc
3. All CVOs of Ministries/Departments/ CPSUs/Public Sector Banks/Insurance Companies Organisations, etc.

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1. The Joint Secretary (S&V), Department of Personnel & Training, North Block, New Delhi.
2. The Joint Director(Policy), Central Bureau of Investigation, North Block, New Delhi.