

GOVERNMENT OF TELANGANA
GENERAL ADMINISTRATION (SC.C) DEPARTMENT



Memo.No.465/SC.C/A2/2015-1, Dated: 26-6-2015

Sub: CVC-Guidelines for checking delay in grant of sanction of prosecution-Reg

- Ref: 1. From CVC, New Delhi Circular No 07/03/12 dated 28.3.2012.
2. From the CVC, New Delhi Office order NO 31/5/05 dated 12.5.2015.

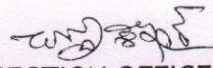
Copies of the references cited are enclosed. The DGP/PCCF are informed that as per the scheme of vigilance, the departments have to consult the Vigilance Commission, on the action to be taken on the reports of ACB, furnishing their remarks/comments on the same within 21 days from the date of receipt of the report of the A.C.B. The Commission has to consider the report of the A.C.B. and the remarks of the Department and tender appropriate advice to the departments. The Departments, in turn, have to issue sanction of prosecution wherever advised to do so by the commission after considering all the facts. Wherever the departments decide to deviate from the advice of the Commission, a Speaking Order needs to be issued rejecting sanction of prosecution after following the due procedure prescribed in Rule-32(1)(X) of A.P. Government Business Rules. Further, the Departments are required to either issued the sanction of prosecution or orders of rejection of the same, within 45 days from the date of receipt of the advice of the Commission.

2. All Heads of Departments under the control of GAD are requested to adhere to the instructions issued in the references cited.

VIKAS RAJ
SECRETARY TO GOVERNMENT(POLL)

To
The Director General of Police/Principal Chief Conservator of Forests,
Telangana State, Hyderabad(w.e.)
All the HODs under General Administration Department(w.e)
Copy to:
PS to Principal Secretary to CM(w.e.)(with a request to appraise to the
Principal Secretary)
SC/SF

//FORWARDED BY ORDER//


SECTION OFFICER(SC)





GOVERNMENT OF TELANGANA
GENERAL ADMINISTRATION (G.A.) DEPARTMENT

Memo No. 48812C/GA/2013, Dated: 26-9-2013

213. CVC-Guidelines for checking delay in grant of sanction of prosecutive pay

Ref: Final Order No. Dofr/Circular No. 04/03/13 dated

Dated 19.9.2013

Copy of the reference order enclosed. The DOP/PC are directed to ensure that the sanction of pay is granted on the basis of the Finance Commission's report on the same within 30 days from the date of receipt of the report of the A.C.B. The Commission has to consider the report of the A.C.B. and the report of the Department and tender appropriate advice to the Government. The Department is to take into consideration all the facts and circumstances of the case and to grant sanction of pay accordingly. The Government is directed to ensure that the sanction of pay is granted within 30 days from the date of receipt of the report of the A.C.B. and the report of the Department.

All Heads of Departments under the control of GAD are requested to adhere to the instructions issued in the reference cited.

Yours faithfully,
SECRETARY TO GOVERNMENT (GAD)

To
The Director General of Police/Principal Chief Conservator of Forests
(Hyderabad)

Circular No. 07/03/12

Sub: Guidelines for checking delay in grant of sanction for prosecution

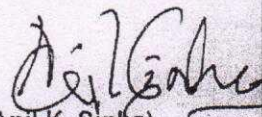
The Central Vigilance Commission has been emphasising the need for prompt and expeditious disposal of requests of sanction for prosecution received from CBI/other investigating agencies under the Prevention of Corruption Act, 1988. It may be recalled that the Supreme Court had in the case of Vineet Narain & Ors. Vs. Union of India in its judgment dated 18.12.1997, issued directions to the effect that "Time limit of three months for 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 (AG) or any other Law Officer in the AG's

2012

2. The Central Vigilance Commission under the CVC Act, 2003 has been empowered to review the progress of applications pending with the Competent Authorities for sanction of prosecution under the PC Act, 1988. Taking into account delays involved and the lack of appreciation on the part of Competent Authorities as to what is to be done while processing such requests, the Commission had prescribed detailed guidelines based on various decisions of the Supreme Court including the Vineet Narain case, to be followed strictly by the Competent Authorities while processing requests for sanction for prosecution vide its office order No. 31/5/05 dated 12.05.2005.

3. In the recent judgment of the Supreme Court, dated 31.01.2012, in the matter of Dr. Subramanian Swamy Vs. Dr. Manmohan Singh & another (Civil Appeal No. 1193 of 2012) while reiterating the time limits prescribed for grant or otherwise of sanction for prosecution, the Apex Court, also observed that the guidelines laid down by the Central Vigilance Commission in its office order dated 12.05.2005 (copy enclosed) are in conformity with the law laid down by the Apex Court. The grant of sanction is an administrative act and the purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise and the sanctioning authority has only to see whether the facts would prima facie constitute the offence.

4. In view of the above, the Commission would reiterate its guidelines dated 12.05.2005 and also advise all concerned Competent Authorities that while processing requests of sanction for prosecution under Section 19 of PC Act, 1988, the time limits laid down by the Apex Court are adhered to in letter and spirit.



(Anil K. Sinha)
Additional Secretary

Encl: as above.

To

- (i) All the Secretaries of Ministries/Departments
- (ii) All CMDs of Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/Societies and Local authorities etc.
- (iii) All Chief Vigilance Officers of Ministries/Departments/Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/ Societies and Local authorities etc.
- (iv) Department of Personnel and Training [Joint Secretary (S&V)]
- (v) CBI [Joint Director (Policy)]

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Washington, D.C. 20545

Document No. 01-00118

2. The Commission has already granted a motion for prosecution.

The Commission has also granted the motion for a writ of habeas corpus in the case of *United States v. [Name]*, No. 01-00118. It may be recalled that the Supreme Court in the case of *United States v. [Name]*, No. 01-00118, granted a writ of habeas corpus in the case of [Name].

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Additional Documents

- (a) All the members of the Commission.
- (b) The State of New York.
- (c) The State of New Jersey.
- (d) The State of New Mexico.
- (e) The State of New York.
- (f) The State of New Jersey.
- (g) The State of New Mexico.
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- (u) The State of New Jersey.
- (v) The State of New Mexico.
- (w) The State of New York.
- (x) The State of New Jersey.
- (y) The State of New Mexico.
- (z) The State of New York.

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No. 005/VGL/11
Central Vigilance Commission
Coordination I

Satarkta Bhawan, Block 'A'
INA, New Delhi-110023
The, 12th May, 2005.

OFFICE ORDER NO. 31/5/05

Sub:- Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.

The Commission has been concerned that there have been serious delays in according sanction for prosecution under section 19 of the PC Act and u/s 197 of CrPC by the competent authorities. The time limit prescribed by the Hon'ble Supreme Court for this is 3 months generally speaking. The Commission feels this delay could be partly due to the lack of appreciation of what the competent authority is expected to do while processing such requests.

There have been a number of decisions of the Supreme Court in which the law has been clearly laid down on this issue:-

1. Jagjit Singh Vs. State of Punjab, 1996 Cr.L.J. 2962.
2. State of Bihar Vs. P.P. Sharma, AIR 1991 SC 1260.
3. Superintendent of Police (CBI) Vs. Deepak Chowdhary, AIR 1996 SC 186.
4. Vineet Narain Vs. Union of India, AIR 1998 SC 889.

2. The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-

- i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitutes the offence.
- ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.
- iii) When an offence alleged to have been committed under the P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by

the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

- iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.
- v) **The accused person has the liberty to file representations when the matter is pending investigation.** When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.
- vi) **A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.**
- vii) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper, and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.
- viii) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court in Vineet Narain's case.

The Commission has directed that these guidelines as at para 2(i)-(vii) should be noted by all concerned authorities for their guidance and strict compliance.

Sd/-
(Sujit Banerjee)
Secretary

To

Secretaries of All Ministries/Departments
CMDs/CEOs of all PSEs/PSUs/PSBs/Financial Institutions
Autonomous Organisations
All CVOs