

मध्य प्रदेश शासन
सामान्य प्रशासन विभाग
मंत्रालय

क्र. एफ 15-01/2014/1-10

भोपाल, दिनांक 21/11/2024

प्रति,

शासन के समस्त विभाग,
समस्त संभागीय आयुक्त,
समस्त विभागाध्यक्ष,
समस्त जिलाध्यक्ष,
मध्य प्रदेश।

विषय:- भ्रष्टाचार निवारण अधिनियम 1988 (वर्ष 2018 में संशोधित) की धारा-19 के अंतर्गत लोक सेवक के विरुद्ध अभियोजन स्वीकृति प्रदान करने के संबंध में होने वाले विलंब के संबंध में।

संदर्भ:- सामान्य प्रशासन विभाग का पत्र क्रमांक एफ. 15-01/2014/1-10 दिनांक 05/09/2014.

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उपरोक्त संदर्भित पत्र का कृपया अवलोकन करें, जिसके द्वारा शासकीय अधिकारी/कर्मचारियों के विरुद्ध अभियोजन स्वीकृति जारी करने के निर्देश जारी किये गये हैं।

2/ भारत सरकार, कार्मिक लोक शिकायत तथा पेंशन मंत्रालय के पत्र दिनांक 18/10/2024 में उल्लेख किया गया है कि भ्रष्टाचार निवारण अधिनियम 1988 की धारा-19 में वर्ष 2018 में संशोधन किया गया है। संशोधन के मुख्य पहलू निम्नानुसार हैं:-

- (a) Sanction for prosecution shall also be required in respect of persons who have ceased to be public servants or those who cease to hold the positions held by them when the offence is alleged to have been committed, i.e. those who have retired, resigned or have been transferred;
- (b) Sanction for prosecution can also be sought by a person other than a police officer or an officer of an investigating agency i.e., a private person, after following the due procedure as laid down under first and second provisions of the amended section 19 of the Act;
- (c) The third proviso under the amended section 19 mandates that the appropriate Government or any competent authority, shall, after the receipt of the proposal requiring sanction for prosecution of a public servant, endeavor to convey the decision on such proposal within a period of three months from the date of its receipt and further the fourth proviso thereunder allows for extension of such period by one month where, for the purpose of grant of sanction for the prosecution, legal consultation is required and for which reasons are required to be recorded in writing;

3/ यह भी उल्लेख किया गया है कि भ्रष्टाचार निवारण अधिनियम 1988 की धारा-19 (संशोधन 2018) के अंतर्गत अभियोजन स्वीकृति जारी करने में विलंब किया जाता है। अभियोजन स्वीकृति जारी करने में होने वाले विलंब के परीक्षण हेतु उक्त निर्देशों से सभी विभाग/संभागीय आयुक्त/विभागाध्यक्ष/जिलाध्यक्ष एवं जांच एजेंसियों को अवगत कराये जाने का लेख किया गया है। अतः भारत सरकार, कार्मिक लोक शिकायत तथा पेंशन मंत्रालय के पत्र क्रमांक 428/10/2021-A.V.D.-IV(B) दिनांक 18/10/2024 की छायाप्रति आवश्यक कार्यवाही हेतु संलग्न प्रेषित है। कृपया पत्र में दिये गये निर्देशों का कड़ाई से पालन सुनिश्चित किया जाय।
संलग्न: उपरोक्तानुसार

(नमः शिवाय अरजरिया)

उप सचिव,

म.प्र.शासन, सामान्य प्रशासन विभाग

क्र. एफ 15-01/2014/1-10

भोपाल, दिनांक २/ 11/2024

प्रतिलिपि-

1. अपर मुख्य सचिव, मुख्यमंत्री कार्यालय, मध्य प्रदेश, भोपाल।
2. प्रमुख सचिव, मध्य प्रदेश शासन, वित्त विभाग की ओर भेजकर निवेदन है कि कृपया उक्त निर्देशों को अधिनस्थों को अवगत कराने का कष्ट करें।
3. अपर सचिव, भारत सरकार, कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय, कार्मिक एवं प्रशिक्षण विभाग, नई दिल्ली के पत्र क्र. 428/10/2021-A.V.D.-IV(B) दिनांक 18/10/2024 के संदर्भ में सूचनार्थ प्रेषित।
4. महानिदेशक, लोकायुक्त संगठन (विशेष पुलिस स्थापना) म.प्र., भोपाल।
5. महानिदेशक, आर्थिक अपराध प्रकोष्ठ, भोपाल,
6. सचिव, लोकायुक्त संगठन, मध्यप्रदेश भोपाल,
7. संचालक जनसंपर्क, मध्यप्रदेश भोपाल,
8. अवर सचिव, मध्यप्रदेश शासन, सामान्य प्रशासन विभाग (स्थापना शाखा) की ओर विभाग की वेबसाईट पर अपलोड किये जाने हेतु प्रेषित।

9. स्टॉक फाइल।

की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

उप सचिव,

मध्य प्रदेश शासन,

सामान्य प्रशासन विभाग

क्रमांक...../अमुस/सा.प्र.वि.
दिनांक.....30-10-2024

मुख्य सचिव कार्यालय
CS/Gen-Cell 9978
Date 29/10/2024

No. 428/10/2021-AVD-IV(B)

भारत सरकार / Government of India

कार्मिक लोक शिकायत तथा पेंशन मंत्रालय

Ministry of Personnel, Public Grievances and Pensions

कार्मिक और प्रशिक्षण विभाग

Department of Personnel and Training

पंजी क. 237008

दिनांक 04/11/20

समाच्य प्रशासन विभाग (कक्ष-1C)

North Block, New Delhi
Dated the 18th October 2024

To

The Chief Secretaries of all State Governments/
Union Territory Administrations
(As per standard Mailing List)

Subject: Checking delays in grant of sanction for prosecution in respect of a public servant under Section 19 of the Prevention of Corruption Act, 1988 (as amended in 2018) - Regarding

Sir/ Madam,

I am directed to state that instructions have been issued from time to time for streamlining processes for checking delays in processing of cases for grant of sanction for prosecution under Section 19 of the Prevention of Corruption Act, 1988 (as amended in 2018).

2. The Prevention of Corruption Act, 1988 was amended by the Prevention of Corruption (Amendment) Act, 2018 and after the Presidential assent thereto has been brought into force from the 26th July, 2018. It may be recalled that the amendments inter alia, include amendment to the provisions of section 19 of the Act. The salient aspects of the amendment to the aforesaid provision are as follows:

(a) Sanction for prosecution shall also be required in respect of persons who have ceased to be public servants or those who cease to hold the positions held by them when the offence is alleged to have been committed, i.e., those who have retired, resigned or have been transferred;

(b) Sanction for prosecution can also be sought by a person other than a police officer or an officer of an investigating agency i.e., a private person, after following the due procedure as laid down under first and second provisos of the amended section 19 of the Act;

(c) The third proviso under the amended section 19 mandates that the appropriate Government or any competent authority, shall, after the receipt of the proposal

(2)

requiring sanction for prosecution of a public servant, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt and further the fourth proviso thereunder allows for extension of such period by one month where, for the purpose of grant of sanction for the prosecution, legal consultation is required and for which reasons are required to be recorded in writing;

3. The amended law also spells out the requirement for having in place guidelines as may be considered necessary for the purpose of sanction for prosecution and hence in order to bring in better clarity to the existing instructions and enable uniform implementation, an effort has been made to review, consolidate at one place and reiterate the instructions as have been issued so far on the subject.

4. The consolidated instructions as contained herein broadly cover the following aspects -

- i. Action points in respect of the Investigating agency;
- ii. Format of Investigation Report;
- iii. Laying down of single window procedure;
- iv. Check List for submitting proposals under section 19;
- v. Action points and processing stages in respect of competent Government or Authority for processing requests for sanction for prosecution;
- vi. Legal Consultation;
- vii. Issuance of Speaking Order; and
- viii. Requests for sanction for prosecution by private persons.

5. All Administrative Authorities, including Ministries and Departments of the Central and the State Governments and the Investigating Agencies are requested to take note of these consolidated instructions, as appended herewith and bring the same to the notice of all concerned, including subordinate and autonomous statutory bodies and PSEs/ PSBs under their respective control for compliance.

Encl: as above.

Yours faithfully



(A.P. Das Joshi)

Additional Secretary to the Government of India

Copy to:

1. Secretaries to the Government of India, All Ministries/ Departments with the request that these consolidated instructions may be given wide publicity and may be circulated to all concerned including all subordinate and attached offices

- and organisations under the administrative control of respective Ministries/ Departments/ Organisations for compliance.
2. Director, CBI with the request that all field Units may be apprised of these consolidated instructions for compliance.
 3. Central Vigilance Commission.
 4. Secretaries, GAD, of all State Governments/Union Territories, with the request that these consolidated instructions may be given wide publicity and may be circulated to all concerned including all subordinate and attached offices and organisations under the administrative control of respective Ministries/ Departments/ Organisations for compliance.

Consolidated Instructions for processing cases of sanction for prosecution of a public servant under Section 19 of the Prevention of Corruption Act, 1988 (as amended in 2018).

1. Objective:

(i) The objective is to bring in uniformity in processing procedures adopted for consideration of the proposals of the sanction for prosecution across all investigating agencies seeking such sanction, as also, within the administrative set up of the Central and State Governments and other administrative authorities.

(ii) These instructions collate and clarify the existing instructions of the Government on the subject, which the investigating agencies and competent authorities may consider adopting, towards simplifying processing procedures, inter alia suggesting restructuring of the proposal to facilitate easy access to relevant evidence and record by the competent authority and thereby ensuring adherence of statutory timelines.

2. Action points in respect of the Investigating agency seeking previous sanction under the Prevention of Corruption Act, 1988 (as amended in 2018) for prosecution in respect of a public servant -

(i) The Investigation Report shall be approved and countersigned by an officer of appropriate level.

(ii) In case the public servant is or was not employed, at the time of alleged commission of an offence, with the government or organisation which is competent to accord sanction, the Investigation Report to be submitted to the authority competent to grant sanction, shall also include comments of that Administrative Authority/State Government, where the public servant is or was employed at the time of the alleged commission of offence.

(iii) If no such comments are received from such Administrative Authority/State Government, the reasons for not enclosing such comments and the details of efforts made by Investigating Agency shall be submitted along with the proposal.

(iv) If it is so required under any existing instructions of that government, the said Report shall also be simultaneously forwarded to the Central Vigilance Commission or specialized Vigilance Body or Department or Unit, as the case may be.

(v) The Investigation Report shall include all relevant material including sanction, if any, as obtained under section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [section 197 of the Code of Criminal Procedure, 1973].

(vi) The Investigation Report shall be submitted by hand in sealed cover through the single window mechanism along with a duly signed check list as

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specified in Annexure through an authorized Officer, who is fully conversant with the facts relating to the case.

(vii) The Authorized Officer shall be available for facilitating removal of doubts, if any, of the sanctioning authority.

3. Format of the Investigation Report

(i) The Investigation Report along with evidence as may be submitted for seeking sanction for prosecution, may -

(a) spell out the offences specifically alleged against the suspect officer, both under the PC Act and under the other statutes, if any.

(b) contain a tabulated statement *inter alia* including the following fields:

- The act of omission/commission allegedly constituting an offence;
- The statutory provision violated by such act of the suspect officer;
- The documentary evidence corroborating commission of such offence; and
- The oral evidence corroborating such allegation.

(c) specifically identify and reflect the evidence which would be material for being considered for offences qua the suspect officer.

(d) have cross-referencing of such documentary and oral evidence. Evidence collated to meet procedural requirements of the courts and which may not be of administrative relevance for establishing a prima facie case qua the public servant, viz., seizure memos, witnesses identifying documents or signatures, etc., may be submitted in a separate folder.

(e) also contain the legal or any other expert opinion that has been obtained towards finalising the Investigation Report, (*e.g. the views of Prosecution Wing in case of matters investigated by the CBI*).

(f) provide authenticated translation, in the language as may be desired by the competent authority, if the evidence or any material collected during the investigation is in any vernacular language.

(ii) Separate proposals shall be made in respect of each public servant, where an offence is alleged against more than one public servant.

4. Single Window Procedure - Initial scrutiny

(i) Competent Authority may designate an officer for receiving proposals seeking sanction for prosecution. The name, designation and contact details, including the e-mail id of the designated officer, shall be placed in public domain by the concerned competent authority.

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(ii) The proposals shall be scrutinized by the designated officer to ascertain the completeness of the proposal verifying the records in accordance with the Check List submitted along with the proposal.

(iii) Incomplete proposals shall be returned for addressing inadequacies and deficiencies.

(iv) The timelines as laid down by the third proviso under section 19(1) of the Act for processing of the proposal shall be reckoned from the date of receipt of complete proposal duly acknowledged by the designated officer.

5. Check List

The Check List, as is annexed, is an 'At a glance' tabulation of documents required to be submitted for processing of cases by the Competent Authority to ascertain completeness of the proposal submitted for seeking sanction for prosecution.

6. Processing of cases by the competent authority - stage wise processing timelines

(i) The competent authority shall endeavour to formulate its tentative view, within a period of **three weeks** from the date of receipt of complete proposal under the single window mechanism.

Note: In case, after consideration of the entire relevant material any doubt arises, the competent authority, specifying the doubt, may seek clarification.

(ii) If the comments, referred to in paragraphs 2 (ii), are not available with the proposal submitted by the Investigating Agency, the authority competent to accord sanction may, based on the details provided by Investigating Agency, presume that such Administrative Authority/ State Government has no comments to offer and proposal will be processed accordingly.

(iii) The Competent Authority may seek advice of Central Vigilance Commission or specialized Vigilance Body or Department or Unit, as the case may be, if the same is so mandated under any existing instructions.

(iv) The Central Vigilance Commission or specialized Vigilance Body or Department or Unit, as the case may be, shall endeavour to tender advice on the proposal received by it within **ten days** of the receipt of the proposal.

Note: In case the Investigation Report has already been received by the Central Vigilance Commission or specialized Vigilance Body or Department or Unit, as the case may be, it may tender its *suo motu* advice to the competent authority, in the absence of receipt of any proposal from the competent authority as referred to above. Such *suo*

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motu advice may be considered to be furnished within a period of **ten days**.

(v) The competent authority, after having considered the relevant material placed before it along with the advice so received, shall endeavour to take and convey decision on the proposal within the time period specified under section 19(1) of the Act.

(vi) Disagreement between the competent authority and Central Vigilance Commission or specialized Vigilance Body or Department or Unit, as the case may be, may be resolved in accordance with existing instructions of the Government, if any, within a period not exceeding **three weeks**.

(vii) The competent authority may issue or cause to be issued a Speaking Order to convey its decision.

7. Legal Consultation

(i) In cases where any legal consultation is required to be undertaken by the competent authority to address any complex question of law while deciding on the proposal, such legal consultation may be undertaken in accordance with procedures of the Appropriate Government or Authority.

(ii) For this purpose, the period as referred to in the third proviso under section 19(1) of the Act, is extendable by a further period of one month in terms of fourth proviso to the said sub-section.

(iii) The Appropriate Government or Authority shall take due diligence to maintain secrecy at all stages including the legal consultation to maintain integrity of all processes.

8. Speaking order

The signatory to the Order shall sign each page of the document and also reflect in the order the rules/ orders which authorise such officer to issue the orders in the name of the competent authority.

9. The competent authority may devise a mechanism to monitor and check delays in processing of cases and meeting the timelines as laid down under section 19 (1) of the Act.

10. Proposal from a private person for prosecution sanction in terms of the provisions under section 19 of the PC Act:

(i) Proposal from a private person requesting prosecution sanction under the PC Act may also be considered in the same manner following the provisions of the statute.

(ii) Such cases may be processed by the competent government or authority in accordance with the following parameters, -

(a) The proposer shall submit a structured proposal to the concerned Government or Authority, along with personal details of the proposer, for seeking sanction for prosecution in respect of the concerned public servant.

(b) The proposal shall be accompanied with the copy of the order of the competent court finding merit in the matter and directing for seeking of sanction for prosecution in respect of a public servant for an offence alleged to have been committed under the Prevention of Corruption Act, 1988 (as amended in 2018).

NOTE:

(1) Proposal without the certified copies of the orders of the court of competent jurisdiction shall not be entertained.

(2) The Competent Authority or Administrative Ministry may seek additional information from the proposer as deemed appropriate for consideration of the proposal.

(iii) In parallel, such proposal shall also be submitted to the administrative authority where the public servant is or was employed at the time of the alleged commission of offence.

(iv) The timelines for individual processing stages for relevant intermediate levels and authorities, as applicable for proposals received through single window system shall be adhered to.

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Annexure

Check list for submission of proposal for seeking previous sanction for prosecution under section 19 of the Prevention of Corruption Act, 1988 (as amended in 2018) in respect of(name),(Designation)....., Organization.....

[as referred to in para 2]

S. No.	Item	Whether placed on record (Y/N)	Particulars	Folder/ Document No.	Number of Pages/ Page No.
1.	FIR				
2.	Whether the public servant has been listed as suspect/ accused?				
3.	Registration of the Case				
4.	Investigation Report			Details of enclosures	Pages
5.	Tabulated statement as referred to in para 3(i)(b)				
6.	Whether documents and statements of witnesses corroborating the acts of public servant have been duly authenticated and cross-referenced?				
7.	If the relevant documents are in vernacular languages, whether authenticated translation of the document has been provided?				
8.	Statement of the suspect/ accused public servant				
9.	Whether such statement has been recorded before the Investigation Officer or before a Magistrate u/s 183 of BNSS [u/s 164 CrPC]?				
10.	Analysis and rebuttal of contentions of the suspect/ accused public servant.				
11.	Statement(s) in respect of other co-accused.				
12.	Legal advice /opinion of the Legal Wing / Prosecution Wing of the Investigating Agency. [if any]				

S. No.	Item	Whether placed on record (Y/N)	Particulars	Folder/ Document No.	Number of Pages/ Page No.
13.	Name of the administrative authority where suspect/ accused public servant is/was serving at the time of alleged commission of offence, i.e. organization/ Department/ Ministry/ Government				
14.	Position held by suspect/ accused public servant at the time of the alleged commission of the offence.				
15.	Cadre Controlling authority of the suspect/ accused public servant.				
16.	Whether the copy of the proposal was submitted to the concerned administrative authority, where the suspect/ accused public servant is/was serving at the time of commission of the alleged offence? <u>[in respect of para 2(ii) of the consolidated instructions]</u>				
17.	Comments of such Administrative Authority/ State Government <u>[in respect of para 2(ii) of the consolidated instructions]</u>				
17(a)	Reasons for not enclosing comments of Administrative Authority/ State Government.				
17(b)	Details of efforts made by the Investigating Authority to obtain such comments from Administrative Authority/ State Government.				
18.	Legal advice /opinion as may have been obtained by the administrative authority. <u>[if any]</u>				
19.	Whether the copy of the proposal was submitted to the Central Vigilance Commission or specialized Vigilance Body or Department or Unit, as the case may be? (if so required)				
20.	Other criminal offences (under the Bharatiya Nyaya Sanhita/the Indian Penal Code or other statutory provisions) alleged against the suspect/accused public servant.				

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S. No.	Item	Whether placed on record (Y/N)	Particulars	Folder/ Document No.	Number of Pages/ Page No.
21.	Sanction as obtained under section 218 OF BNSS [section 197 of the CrPC] or any other law (if any). (Please specify - Yes/No/Under process)				
22.	Any other relevant information				

Signature _____

Name of the Officer signing this statement

(in block letters) _____

**Designation _____

Address _____

Telephone No. _____

Email ID: _____

Date: _____

** To be signed by an officer not below the rank of Secretary to the State Government/ Joint Secretary to the Government of India.