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GOVERNMENT OF KERALA

Abstract

VIGILANCE DEPARTMENT—SET UP, WORKING AND PROCEDURE—
REVISED ORDERS—ISSUED

VIGILANCE (C) DEPARTMENT

G. O. (P) 14/83/Vig. Dated, Trivandrum, 7th October, 1983.

Read:—1. G.O. (P) 26/71/Vig. dated 28-12-1971.

2. Letter No. B6/27796/82-2 dated 18-5-1983 from the Director of Vigilance Investigation.

ORDER

In the G.O. read as 1st paper above Government have issued orders prescribing the procedure relating enquiries by the Vigilance Department. In his letter read as 2nd paper above the Director of Vigilance Investigation has proposed several modification to the above G.O. taking into account the subsequent changes in the organisational set-up of the Vigilance Department. Government have examined the question and the following orders are issued on the organisation, working and procedure relating to the enquiries by the Vigilance Department.

Part I

1. Organisation, Control and Supervision of the Vigilance Department

(i) Organisation.—The Vigilance Department with the following Zonal areas and jurisdiction will function under the control and supervision of the Director of Vigilance Investigation who will be assisted by such number of Deputy Inspectors General of Police and Superintendents of Police as the Government may, from time to time, decide.

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Zonal area	Jurisdiction
1. Trivandrum	Trivandrum Revenue District
2. Quilon	Quilon and Pathanamthitta Revenue Districts
3. Alleppey	Alleppey Revenue District
4. Kottayam	Kottayam Revenue District
5. Ernakulam	Ernakulam Revenue District
6. Trichur	Trichur Revenue District
7. Palghat	Palghat Revenue District
8. Kozhikode	Kozhikode Revenue District
9. Malappuram	Malappuram Revenue District
10. Cannanore	Cannanore Revenue District
11. Idukki	Idukki Revenue District
12. Wynad	Wynad Revenue District

The Director of Vigilance Investigation, the Deputy Inspectors General of Police, the Superintendents of Police, Headquarters and the officers of the Headquarters Vigilance Unit will exercise jurisdiction throughout the State in so far as the work of the Vigilance Department is concerned. The Range Superintendents of Police, Range Deputy Superintendents of Police and Range Inspectors will likewise exercise jurisdiction over their respective Ranges. The Deputy Superintendents of Police in charge of Zonal Units and the subordinates under them will exercise jurisdiction over their respective Zonal areas.

(ii) The strength of each of the Zonal Units will be as determined by Government on the recommendation of the Director of Vigilance Investigation from time to time.

(iii) The selection of the personnel to be drawn from the Police Department will be made by the Director of Vigilance Investigation after ascertaining from the Director General of Police and the Government the availability of the required officers for posting to the Vigilance Department.

(iv) The officers and men selected for the Vigilance Department will work in that Department normally for three years, unless before the expiry of the period they are found unsuitable by the Director of Vigilance Investigation for retention in that Department.

2. Nature of duties.—The object of the Vigilance Department is to combat effectively corruption and misconduct on the part of Government servants and public servants, particularly in the higher grades. The work of the Vigilance Department will be confined to:—

(i) Government servants of the State in respect of crime cases and allegations of misconduct; and

(ii) other public servants as defined in clause 12 of Section 21 of the I.P.C. and Criminal Law Amendment Act in respect of offences coming under the Prevention of Corruption Act and the I.P.C. The Vigilance Department can however bring to the notice of the appropriate authorities cases of corruption or misconduct among the servants of the Central Government. The Vigilance Department will not except on the specific request of the Departments concerned, enquire into the conduct of officers of the following Departments:—

1. The Judicial Department;
2. The Legislature Secretariat; and
3. The Kerala Public Service Commission.

Allegations of misconduct against the aforesaid three Departments/Institutions which do not amount to crimes will be brought to the notice of the concerned authorities of these Departments/Institutions at the discretion of the Government. These organisations will be free to request Government to cause the Vigilance Department to enquire into these charges; and Government will, except for special reasons, cause such enquiries to be made and will make available the result of the enquiries to the concerned Departments/Institutions.

3. *Addressing communications.*—All communications to the Vigilance Department should be addressed to the Director of Vigilance Investigation, Vigilance Department, Headquarters, Trivandrum.

4. *Procedure for initiating Vigilance enquiries and related matters*

(i) Investigation of cases coming under the Prevention of Corruption Act and the Indian Penal Code will be undertaken by the Vigilance Department under the provisions of the Criminal Procedure Code;

(ii) In regard to enquiries into cases other than crimes, the Vigilance Department should not initiate action *suo-motu*, even when a complaint is made in person or in a signed petition. The Vigilance Department should report such cases to the Government in Vigilance Department which will issue necessary instructions in the matter;

(iii) The Director of Vigilance, Investigation need initiate only a preliminary enquiry in cases referred to him for enquiry. He may himself order a detailed enquiry in such cases when it becomes evident that there is scope for a detailed enquiry;

(iv) Petitions for enquiry by Vigilance Department received by Heads of Departments and others should be forwarded to the Government in the Vigilance Department for further action, except in cases disclosing the Commission of any cognisable offence on which the Vigilance Department may have to register a case after the necessary preliminary enquiry:

(v) The Vigilance Department will keep under surveillance, Officers of doubtful integrity;

(vi) Vigilance enquiries in respect of Regional Officers and above will be conducted either personally by an officer not below the rank of the Superintendent of Police or under such officer's personal supervision through selected subordinate officers. In all such cases, however, the questioning of the accused officer will be done by the Superintendent of Police himself;

(vii) Vigilance Department reports regarding officers of and above the rank of Regional Officers should be drafted by an officer not below the rank of a Superintendent of Police.

5. *Requisitioning of Records by the Vigilance Department*

(i) If in any case, the records of the Secretariat are required the Director of Vigilance Investigation may address the Secretary to Government of the Department concerned requesting facility to peruse or to hand over the records to an officer of the Vigilance Department authorised for the purpose;

(ii) If the records in the offices of the Heads of Departments are required the Deputy Inspectors General of Police or the Superintendents of Police, Vigilance Department may address the Head of the Department concerned requesting facility to peruse or to hand over the records to any officer of the Vigilance Department authorised for the purpose;

(iii) If the records in the offices of the Regional or other subordinate offices are required the Deputy Superintendent of Police in charge of the Zonal Unit of Vigilance Department or the Headquarters Unit concerned will contact the Head of the Office concerned who will arrange to make them available at such place and in such manner as may be found most convenient;

(iv) The records should ordinarily be made available to the Vigilance Department within one week of requisitioning. In cases of delay, the Vigilance Department will be free to make personal visits to the offices where the records are kept for the purpose of securing them;

(v) If the records are not made available to the Vigilance Department even after 15 days of the initial request, action may be taken as indicated below:

(a) (i) In case the documents are required in a crime case, legal steps may be initiated after giving due warning in writing to the Head of Office concerned, with a copy to the Head of the Department;

(ii) In the case of Secretariat Departments, legal steps will be initiated only with the approval of Government in the Vigilance Department.

(b) In case the documents are required for an enquiry, the matter should be taken up with the Head of Department concerned who will issue specific and clear instructions to the officer concerned. Cases of causing deliberate hindrance or delay to the enquiry will be reported to Government for initiating Departmental action against the officer/officers concerned.

6. *Types of cases.*—The Vigilance Department shall take up investigation/enquiry of cases falling under the following categories:—

- (i) Illegal gratification in any form;
- (ii) Nepotism;
- (iii) Causing wrongful loss to Government property or revenue or claims or dues;
- (iv) Making false claims against Government such as false T.A., House rent etc.;
- (v) Any dishonest or intentionally improper conduct on the part of a Government servant or abuse of his powers as a Government servant;
- (vi) Causing avoidable delay in the disposal of Government business;
- (vii) Misappropriation or misuse of any Government property;
- (viii) Gross negligence or dereliction of duty;
- (ix) Any illegal or improper conduct, and
- (x) Abetment of the above offences.

7. *Enquiry Report*

(1) A time limit of three months is fixed for completing an investigation/enquiry. If the investigation/enquiry is not completed within this period, the Director of Vigilance Investigation will forward a special report to Government in the Vigilance Department showing the result of the investigation/enquiry so far made and indicating the probable time required for completing the investigation.

(2) After completion of an enquiry, the Deputy Superintendent of Police of the units concerned shall forward a detailed report showing the allegations, the evidence collected and the result of the enquiry on each item to the Superintendent of Police, Vigilance Department concerned who will scrutinise it and forward the same with his report to the Director of Vigilance Investigation through the Deputy Inspector General concerned for transmission to Government. Statements of witnesses questioned shall be recorded.

(3) All Investigation/enquiry reports of the Vigilance Department after examination and approval by the Director of Vigilance Investigation shall be forwarded by him to the Secretary to Government, Vigilance Department. On receipt of the Vigilance Report, the Government will decide

what further action should be taken in the matter. The case shall be referred to the Tribunal for Disciplinary Proceedings or for departmental enquiry according to merits for further action as provided for in the relevant rules.

(i) Where the recommendation in a factual report is for prosecution, the Director of Vigilance Investigation will also forward along with the report;

(a) F.I.R.

(b) Statements of witnesses, Mahazars and all other connected documents relied upon for the proposed prosecution.

(ii) Where the recommendation in a report is for prosecution or for a Tribunal enquiry the opinion of the Legal Adviser to the Vigilance Department will also be attached.

(iii) Where the recommendation in a report is for Tribunal enquiry a draft charge with a statement of allegations will also be attached to the enquiry report besides forwarding all documents relied upon for the proposed Tribunal enquiry.

8. *Registration of cases*

(1) On complaints dealt with by the Vigilance Department, preliminary enquiries will be made. If at any stage during the preliminary enquiry there are reasonable grounds to believe that the accused Government servant has committed an offence under the Prevention of Corruption Act or under Sections 161, 165 and 165A of the Indian Penal Code, the preliminary enquiry will be stopped at that stage and a crime registered by the Deputy Superintendent of Police concerned. The investigation of such cases will ordinarily be taken by the Deputy Superintendent of Police himself.

(2) After completion of the investigation, a report giving the facts, evidence and circumstances in each case both for and against the prosecution shall be forwarded by the Deputy Superintendent of Police of the Zonal Unit concerned to the Superintendent of Police concerned who will submit the same to the Director of Vigilance Investigation through the Deputy Inspector General concerned for transmission to Government. In cases personally investigated by the Deputy Inspector General of Police, or Superintendent of Police the factual report will be prepared by them.

(3) In cases where it is decided to prosecute an Officer for the above offences, a charge sheet will be laid before the Special Judge after obtaining the necessary legal sanction.

9. *List of suspect officials*

In cases where there is information that an Officer is corrupt and it is felt that a watch maintained by the Vigilance Department may lead to the detection of his corrupt practices, the Deputy Inspector General of Police

The Superintendent of Police, Vigilance concerned shall direct a chosen officer of the Vigilance Department to make confidential enquiries about the conduct of the officer from time to time and record the results of such enquiries in a dossier to be maintained by and kept in the personal custody of the Deputy Inspector General of Police or the Superintendent of Police, Vigilance Department. Whenever such dossiers are opened, the fact should be reported to the Director of Vigilance Investigation. Enquiries made in this behalf should be very confidential and secret.

10. Identity Cards

Identity Cards under the hand and seal of the Director of Vigilance Investigation shall be issued to the Officers of the Vigilance Department.

11. Anonymous petitions

Anonymous petitions which are vague or general in nature should be ignored altogether. Such petitions containing specific allegations which are capable of verification will be followed up.

12. Reference to Vigilance Department Officers

The Department Vigilance Officers shall not ordinarily depend upon the Vigilance Department for making any enquiry with regard to matters to be examined and dealt with by them. They should adopt the following procedure in such cases:—

- (a) Where there is strong suspicion regarding the commission of an offence under the Prevention of Corruption Act the information should be furnished to the Officer-in-charge of the local unit of the Vigilance Department under intimation to the Director of Vigilance Investigation.
- (b) Other cases in which the assistance of the Vigilance Department is considered necessary, will be referred to the Government in the Vigilance Department who will issue necessary instructions to the Director of Vigilance Investigation.

13. Departmental action

(1) When an investigation/enquiry against a Government servant is pending in the Directorate of Vigilance Investigation, the Head of the Department/Office concerned shall not initiate any parallel departmental enquiry on the same allegations but shall wait for the completion of the investigation/enquiry by the Director of Vigilance Investigation.

(2) When departmental action against an officer is taken up on a report from the Vigilance Department the Officer conducting the enquiry should intimate the Director of Vigilance Investigation the exact date of enquiry sufficiently in advance so that arrangements may be made by the Vigilance

Department for the production of witnesses and for the Vigilance Department Officer who conducted the enquiry to be present at the time of the departmental enquiry to assist the enquiry officer. This procedure should be treated as a facility to be availed of if required rather than an obligation to be enforced.

(3) Government in the Vigilance Department will have the power to review the punishment awarded by the Heads of Departments and subordinate offices in all cases of Departmental Enquiries, initiated on the basis of a report from the Director of Vigilance Investigation.

(4) Departmental action on the basis of Vigilance enquiry reports will be taken at the level of the Administrative Department concerned of the Secretariat only and the matter should not be left to be dealt with by Heads of Departments or officers below. Before the Administrative department issues orders in the disciplinary cases initiated on the basis of Vigilance reports the file should be circulated to Vigilance Department also. When the views of the Vigilance Department differ from those of the Administrative Department, the matter should be placed before the Council of Ministers for decision.

14. Scrutiny of Records

In most cases it may suffice for the purpose of investigation or enquiry to refer to records without taking them over. Certified copies of such records would alone be required in some cases. The safety of such records would also be of importance, if they are required to be produced during the trial or enquiry. The Administrative Authority having the custody of any record required in connection with an investigation or enquiry by the Vigilance Department and which are not taken over by the latter shall make satisfactory arrangements for their safe custody. If it is considered desirable that the records shall be transferred to the custody of a different or higher authority in the interest of the safety of the records, the Administrative Authority may do so on his own initiative or the Director of Vigilance Investigation may address the Administrative Authority concerned.

15. Suspension or Transfer of Government servants against whom proceedings are taken

Whenever a case of corruption is registered or an enquiry is initiated against any Government servant(s) by the Directorate of Vigilance Investigation and the Directorate feels it necessary that in the interests of a fair investigation or enquiry, the Government servant(s) concerned should be either placed under suspension or transferred, the Director of Vigilance Investigation may forward a report to the Government in the Vigilance Department recommending such a step. The Government after considering the recommendation will issue necessary orders on the matter. The Heads of Department/Office Government Undertaking concerned shall without fail and with the least delay, comply with such directions, ordering the suspension/transfer of the official(s) concerned and report compliance to the Government in the Vigilance Department, under intimation to Director of Vigilance Investigation. The

statement of the Government servant and/or his/her reposting in the same place from where he/she was suspended/transferred shall be ordered only by Government in Vigilance Department in consultation with the Director of Vigilance Investigation.

16. *Surprise Check*

(1) Where information is received by the Vigilance Department about a suspected case of corruption in which there is no individual to come forward and furnish details sufficient to register a case, but there may be scope to establish the truth by a surprise check, an officer of the Vigilance Department may meet an appropriate higher authority of the Department concerned and furnish him with the relevant details and the type of surprise check which is recommended in the case.

(2) In the absence of either the head of the office or the superior officer, the Vigilance Officer may avail the service of an officer of equal rank belonging to that Department and available locally, but who may not have administrative control over the office where surprise check has to be conducted. Failure to Co-operate with the officials of Vigilance Department will be punishable under section 100(8) CPC and Section 187 IPC.

(3) Ordinarily if the request is made to the Head of a Department the officer of the Vigilance Department will deliver a letter from the Director of Vigilance Investigation containing the above mentioned facts. A similar letter from the Superintendent of Police will be delivered in the case of other departmental officers. Where in emergent cases action is required before the letter can be obtained from the Director or the Superintendent of Police the request will be made in person by an officer not below the rank of Deputy Superintendent of Police who will also hand over a letter containing all the particulars mentioned above.

(4) The authority who is approached thus shall either immediately conduct the surprise check as requested by the Vigilance Department or give a reply in writing to the Officer of the Vigilance Department who meets him stating the grounds why it is not conducted in the manner requested. The Officer of the Vigilance Department should also be present during the arrangements made for the surprise check and the actual check.

(5) On completion of the surprise check, the authority conducting the check should submit a report to the Head of the Department (with a copy to the Deputy Superintendent of Police Vigilance concerned) *within 10 days positively* indicating inter alia the following:—

- (i) Irregularities noticed, if any,
- (ii) Officer/Officers responsible,
- (iii) Action proposed to be taken.

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(6) On completion of departmental action, the result should be intimated by the Head of the Department to Government in Vigilance Department and to the Director of Vigilance Investigation.

17. *Collection of information about prevalence of corruption and malpractices*

In the course of the general watch kept by the Vigilance Department information may also be received regarding malpractices of an individual or general misconduct on the part of a category of Government servants or employees of Public Sector Undertakings and Government companies. The Director of Vigilance Investigation will communicate all such information confidentially to the Government in the Vigilance Department for appropriate action.

18. *Scrutiny of property statements*

In G.O. (Ms) No. 36/public dated 16-1-1962 it has been ordered that the Heads of Departments and Officers should scrutinise the property statements immediately on their receipt and that suspicious cases should be referred to the Vigilance Department for investigation. Heads of Departments and Officers who on scrutinising the property statements received by them from their subordinates find suspicious grounds should refer such cases to the Vigilance Department for enquiry/investigation through Government in the Vigilance Department. The reports of investigation or enquiries conducted on such references may also be forwarded to Government by the Vigilance Department.

By order of the Governor,

N. KALEESWARAN,

Commissioner & Secretary to Government.

To

The Director of Vigilance Investigation
The Director General of Police
All Heads of Department, All Officers in the Secretariat
All Departments (All Sections of the Secretariat including Law and Finance).