

29

No.C.31011/13/2009-C.V.O
GOVERNMENT OF PUDUCHERRY
CONFIDENTIAL AND CABINET DEPARTMENT
CHIEF VIGILANCE OFFICE

Puducherry, the 18 JAN 2010

OFFICE MEMORANDUM

Sub: Issue of vigilance clearance -Revised Instructions-
Issued.

Vigilance clearance is being sought for in respect of the officials of this administration by the employers/organizations for the purpose of promotion, regularization/confirmation, retirement on superannuation, voluntary retirement, resignation, issue of Identity Certificate for obtaining passport/NOC to go abroad etc.

2. The Government of India, Ministry of Personnel & Public Grievances & Pensions (Department of Personnel & Training) vide their O.M.No.104/33/2005-AVD-I, dated 29.10.2007 (communicated by the Government of India, Ministry of Home Affairs, New Delhi in their letter No.26011/40/2009-IPS-II, dated 3.11.2009) issued specific guidelines for issue of vigilance clearance in respect of All India Service Officers. As the guidelines issued by the Government of India is specific and comprehensive in nature, it has been decided to follow the same principle in respect of the employees of Government of Puducherry. The following will be the guiding principle for issue of vigilance clearance by this office for the purpose stated at para 1 above.

- (i) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least preliminary inquiry or on the basis of any information that the concerned Government Department/organisation may already have in its possession, that there is prima facie substance to verifiable allegations regarding (i) Corruption (ii) Possession of assets disproportionate to known sources of income (iii) Moral turpitude (iv) violation of Conduct Rules
- (ii) Vigilance clearance shall not be withheld if a preliminary enquiry mentioned above takes more than three months to be completed.

- (iii) Vigilance clearance shall not be withheld unless :
- (a) the officer is under suspension
 - (b) the officer is on the "Agreed List" provided that in all such cases the position shall be mandatorily revisited after a period of one year
 - (c) a charge sheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending
 - (d) orders for instituting disciplinary proceedings against the officer have been passed by the Disciplinary Authority provided that the charge sheet is served within three months from the date of passing such order
 - (e) charge sheet has been filed in a court by the Investigating Agency in a criminal case and the case is pending
 - (f) orders of instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of initiating proceedings
 - (g) Sanction for investigation or prosecution has been granted by the Competent Authority in a case under Prevention of Corruption Act or any other criminal matter
 - (h) An FIR has been filed or a case registered by the concerned Government department/organisation against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case
 - (i) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.
- (iv) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a charge sheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent court of law.
- (v) Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges even after a period of two years.
- (vi) Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the

h ...3/-

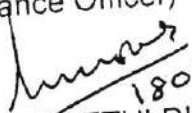
sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:

- a. Where the Investigating Agency has found no substance in the allegation but the Competent Court refuses to permit closure of the FIR.
- b. Where the Investigating Agency/IO holds the charges as proved but the Disciplinary Authority differs on the converse.

(vii)

Vigilance clearance will not normally be given for a period of three years after the currency of punishment, if a minor penalty has been imposed on an officer. In case a major penalty has been imposed, vigilance clearance will not be given for a period of five years, after the currency of punishment.

(By order of Chief Secretary/Chief Vigilance Officer)


1801 X
(G. THEVA NEETHI DHAS)
SPECIAL SECRETARY TO GOVERNMENT
(VIGILANCE)

To

The Under Secretary to Government (Vigilance),
Chief Secretariat,
Puducherry.

Copy to

1. All Vigilance Officers/Secretaries/Special Secretaries to Government, Puducherry.
2. All Secretariat Departments,
3. The Superintendent of Police, Vigilance and Anti-Corruption Police Unit, Puducherry with a direction to finalise the enquiries within the time limit prescribed above.
4. The Private Secretary to Chief Secretary/Chief Vigilance Officer, Puducherry.

Mast Immediate

No. 104/33/2005-AVD.I
Government of India
Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated October 29, 2007

OFFICE MEMORANDUM

Subject:- Guidelines regarding grant of 'Vigilance Clearance' to AIS Officers.

The undersigned is directed to say that the matter regarding guidelines for giving vigilance clearance to All India Services officers has been under consideration of the Department of Personnel & Training in consultation with the Central Vigilance Commission. The Competent Authority has approved the following guidelines for the grant of vigilance clearance in respect of All India Services officers with immediate effect:

1. These orders regarding accordance of vigilance clearance to AIS officers shall be applicable with respect to (a) inclusion in the offer list (b) empanelment (c) any deputation for which Central Government clearance is necessary, including deputation under Rule 6(1) and 6(2)(ii) of the AIS (Cadre) Rules (d) appointments to sensitive posts (e) assignments to training programmes (except mandatory training) (f) premature repatriation to the cadre. In all these cases, the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

2. The circumstances under which vigilance clearance shall not be withheld shall be as under:

- a) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Government may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding (i) Corruption (ii) Possession of assets disproportionate to known sources of income (iii) Moral turpitude (iv) violation of AIS Conduct Rules.
- b) Vigilance clearance shall not be withheld if a preliminary inquiry mentioned in 2(a) above takes more than three months to be completed.

- (7)
- c) Vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) the officer is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year (iii) a chargesheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending (iv) orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of passing such order (v) chargesheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending (vi) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of initiating proceedings (vii) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter (viii) an FIR has been filed or a case registered by the concerned Government against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case. (i) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.
- d) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a chargesheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent court of law.
- e) Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges even after a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the cadre and not for any other dispensation listed in Para 1 above.

3. In cases where complaints have been referred to the State, and no substantive response has been received from the State within three months from the date on which the reference was made, the Cadre Controlling Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

4. Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:

- a) Where the investigating agency has found no substance in the allegation but the Court **refuses** to permit closure of the FIR.
- b) Where the Investigating **Agency/IO** holds the charges as proved but the **State Government** differs on the converse.

5. While considering cases for grant of vigilance clearance for the purpose of empanelment of **AIS** officers of a particular batch, the vigilance **clearance/status** will continue to **be** ascertained from the respective State Government. In respect of officers serving in connection with the affairs of the Central Government, the vigilance **status/clearance** will be obtained from the respective Ministry. In all cases, the comments of the CVC will also **be** obtained. However, if no comments are received within a period of three months, it will be presumed that there is nothing adverse **against** the officer on the records of the body concerned.

6. Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers **upto** one level below their seniority in service. In the case of officers of the level of **AS/Secretary**, this will be issued with the approval of **the** Secretary . In case of doubt, order of Secretary will be **obtained** keeping in view the purpose for which the 'vigilance clearance' is required by the indenting authority.

7. Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

(Handwritten Signature)
 (Kabindra Joshi)
 Under Secretary to the Govt. of India

- ✓ Prime Minister's Office (W.r.t. their I.D. No. 600/68/13/07-ESII, dated 24.10.2007)
- ✓ Cabinet Secretariat
- ✓ Ministry of Home Affairs — *PS to Secy 23/10/07*
- ✓ Ministry of Environment & Forests
- ✓ Secretary, Central Vigilance Commission

- Copy to:
- (i) PS to MOS(PP) — *[Signature]*
 - (ii) PPS to Secretary(P) — *[Signature]*
 - (iii) PPS to AS(S&V) — *30/10/07*
 - (iv) EO & AS, DOP&T — *[Signature]*
 - (v) PS to JS(V) — *30/10/07*

