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No.C.31011/11/2016-C.V.O  
GOVERNMENT OF PUDUCHERRY  
CONFIDENTIAL AND CABINET DEPARTMENT  
CHIEF VIGILANCE OFFICE

Puducherry,

Date: 24 JAN 2017

I.D.NOTE / OFFICE MEMORANDUM

Sub: Checking of delays in issue of sanction for prosecution-  
Instructions-Issued.

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While perusing a proposal for grant of sanction for prosecution against an official involved in a criminal misconduct, Hon'ble Lieutenant Governor, Puducherry had noted with concern that there has been un-reasonable delay caused at various stages and various levels in processing the case for grant of sanction. In terms of the orders of the Hon'ble Supreme Court of India in the case of Vineet Narain and Others Vs Union of India(1998) (SCC 226), the time limit is three months for grant or otherwise of sanction for prosecution. Additional time of one month may be allowed where consultation is required with Law Officers etc. Despite the above, it is observed that the Competent Authorities take unduly long time in processing/ deciding/issue of sanction for prosecution. In order to avoid delay in processing such proposals seeking sanction for prosecution under Section 19 of Prevention of Corruption Act, 1988 and under Section 197 of Cr. PC 1973, and to decide such matters as per time schedule stipulated by the Hon'ble Supreme Court of India in the case referred above, the Administrative Authorities who process such cases and submit the same to the Competent Authorities for approval are requested to prepare the check list as enclosed and submit the case to the Competent Authorities.

2. Further, as declared by the Hon'ble Supreme Court of India and as directed by the Central Vigilance Commission, New Delhi, the Competent Authorities shall comply with the following guidelines while processing cases for sanction for prosecution:-

- (i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and

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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 (Investigating Officer) 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 Prevention of Corruption Act, 1988 has been investigated by the C.B.I, the report of the I.O is invariably scrutinised by the DIG, IG and thereafter by the DG(C.B.I). Then the matter is further scrutinised by the concerned Law Officers in C.B.I.
- (iv) When the matter has been investigated by such a specialised agency and the report of the IO of such agency has been scrutinised 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

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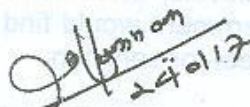


it, entertains any doubt on any point the Competent Authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper and not for the purpose 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 Hon'ble Supreme Court of India in Vineet Narain's case.

3. It is also instructed that the Administrative Secretariat/Department concerned has to track the file and ensure that the proposal reaches the Competent Authority/Hon'ble Lieutenant-Governor in time. In the event of delay if any, in the en-route, the directives of the Hon'ble Supreme Court should be brought to the notice of the concerned under intimation to the Competent Authority/Hon'ble Lieutenant-Governor.

(By Order)

  
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(M.KANNAN)

UNDER SECRETARY TO GOVERNMENT

Enclosure: As above.

To

All Secretaries/Special Secretary to Government, Puducherry.

All Heads of Departments, Puducherry.

All Chief Executive Officers of PSUs/Local Bodies/Autonomous Bodies etc.,  
Puducherry.

Check List to be furnished by the Administrative Secretariat/Department at the time of forwarding the proposal for sanction for prosecution to the Competent Authority along with their views and recommendations in respect of the public servant.

Sl.No.	Head	Yes/No/Details	Folder/File No./Page No.
1.	Date of receipt of proposal from the Investigating Agency.		
2.	Whether the complete case records, were received from the investigating agency? If not, the date of receipt of complete proposal.		
3.	Whether any additional information was sought from the Investigating Agency? If yes, details thereof.		
4.	Whether such additional documents have been included in the proposal?		
5.	Whether the complete case records, (including additional documents sought) above, have been forwarded along with the proposal?		
6.	Whether the proposal contains the complete Investigation Report including the copy of the FIR?		
7.	Whether any Executive Summary of the Investigation Report enclosed?		
8.	Whether authenticated copies of complete case records essential and relevant for determining the culpability of Officer(s) for alleged offence under the Prevention of Corruption Act, 1988 enclosed?		
9.	Whether the Report clearly spells out the offences specifically alleged against the officer(s), both under the Prevention of Corruption Act, 1988 and under the other statutes?		
10.	Whether list of relevant documentary evidence has been attached?		
11.	Whether list of relevant oral evidence has been attached –specifying as to whether such statements have been recorded before the Investigating Officer or before a Magistrate u/s 164 Cr.P.C.?		

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12.	Whether the Investigation report specifically identifies and reflects the relevant documentary and oral evidence against the officer(s) concerned which would be material for being considered for offences qua the Officer(s)?		
13.	Whether version of the accused officer(s) and comments of Investigating Officer to rebut his contentions enclosed?		
14(a)	Whether the Investigating Officer had received any representation for the Officer? If so, whether the same has been taken into consideration?		
14(b)	Whether copies of such representation and views of the Investigating Officer thereon have been enclosed?		
15.	Whether Specific sanction has been sought by the Investigating Agency under the provisions of Section 197 of Code of Criminal Procedure?		
16.	Whether the Administrative Secretariat/Department has obtained any legal opinion in the matter		
17.	If so, whether the copy of such legal opinion, if any, has been enclosed?		
18.	Whether, the sanction u/s 197 of Cr. P.C. is sought by the Investigating Agency, has been accorded?		
19.	Whether such sanction is unequivocal and clear without any riders?		
20.	Date and number of sanction so accorded/denied by the Authority concerned.		

Signature  
Name/Designation Of the  
Officer signing this statement