

HAND BOOK FOR VIGILANCE OFFICERS

Scheme of Vigilance Commission

The Scheme of the Vigilance Commission set out in the State Government GO Ms No. 421 GA(SC.D) Dept., dated 3.8.1993 is an integrated and fairly comprehensive scheme, intended to deal with corruption in the public services in the State, to give an honest and clean administration to the people. The scheme visualised the appointment of Chief Vigilance Officers in the Secretariat Departments and Vigilance Officers in the Directorates, Public Enterprises and Autonomous Bodies to play a very pivotal role in the task assigned to the Commission.

Vigilance Cell/ Divisions

With a view to giving sharp focus to and prioritizing vigilance work and the disciplinary and criminal proceedings arising therefrom, the Government decided that reorganization of work in the Secretariat, offices of the Directorates, the Public Enterprises and other bodies within the jurisdiction of Commission shall be undertaken in such a way that all vigilance and disciplinary matters are separated from other service matters and centralized in clearly identifiable Vigilance Sections or Divisions. Depending on the volume of work, all matters relating to corruption, criminal misconduct and misappropriation in each Secretariat Department, offices of Heads of Departments, Public Enterprises and other bodies should be dealt with in one or more Sections exclusively reporting to one or more Assistant Secretaries in the Secretariat and supervisory officers in the Directorates etc., in turn reporting to the Chief Vigilance Officer in the Secretariat Department or Vigilance Officer in the office of the Head of the Department or Enterprise or other authority as the case may be. This way Commission and the Government hope to achieve unified handling of vigilance matters and their effective disposal.

Full time Chief Vigilance Officers and Vigilance Officers preferable

The Chief Vigilance Officers are to be in complete charge of the entire vigilance and disciplinary function of the whole Department and report to the Secretary or Secretaries in charge of the Department in respect of vigilance matters concerning them. Similarly, Vigilance Officers shall also be in full charge of the subject and report to the Head of the Department or the Chief Executive of the Public Enterprise or other institutions as the case may be. It is the intention of the Government and Commission that the Chief Vigilance Officers and Vigilance Officers shall as far as practicable, be full-time officers in full charge of all aspects of vigilance. This objective is by and large to be achieved in major Departments with large number of officers by re-allocation of subjects for the time being. To begin with, the Government decided that there shall be full-time Chief Vigilance Officers in the Secretariat Departments of Revenue, Home, Municipal Administration & Urban Development; Health, Medical & Family Welfare, Irrigation and Command Area Development; Transport, Roads and Buildings; and Panchayati Raj and Rural Development. The Chief Vigilance Officers

appointed as full-time officers should not be entrusted with any other subject in these Departments. A couple of Directorates and Enterprises also already have full-time Vigilance Officers. Commission is confident that major Directorates and large public enterprises will similarly be in a position to have full time Vigilance Officers by reallocation of work. In most cases the Vigilance Officer is allotted other work also. Although the Head of the Department/Directorate/Public Undertaking must remain ultimately responsible for dealing with corruption in his organisation, considering the heavy burden of work on them, it is imperative that the Vigilance Officer should discharge much of the responsibility of the Secretary, the Head of the Department or the Chief Executive not in a routine way but taking necessary initiative, though under due guidance of the Head. It is suggested that if a Vigilance Officer is burdened by a lot of other work he should ask his Head of the Department or Chief Executive to suitably lighten his other work to enable him to do proper justice to vigilance work.

Appointment

The Chief Vigilance Officers and the Vigilance Officers shall be appointed in consultation with the Commission. The Chief Vigilance Officers may not be lower in rank than a Deputy Secretary to Government. Similarly a Vigilance Officer shall be second or third in the hierarchy of the organisation as far as practicable and shall be of impeccable integrity. No person whose appointment as Chief Vigilance Officer or Vigilance Officer is objected to by the Commission, shall be so appointed. No officer against whom there have been any punishments or against whom allegations of misconduct are pending investigation or enquiry shall be nominated as a Chief Vigilance Officer or a Vigilance Officer. The Chief Vigilance Officer and the Vigilance Officer, besides being the link between the Commission and the Departments, act as Special Assistants to the Secretary to Government, the Head of the Department, Head of the Government Undertaking/ Government Company/ Institution as the case may be.

Collectors are Chief Vigilance Officers

Collectors of Districts shall be the Chief Vigilance Officers within their jurisdiction. Their functions will be:-

- (i) to entrust any complaint, information or case for expeditious enquiry to the concerned Departmental Officers at the district level as per the instructions to be issued by the Government from time to time. Where the Collector considers it necessary to entrust such an enquiry to the Anti-Corruption Bureau, he shall forward the complaint, information or case with his views to the Vigilance Commission as to further action;
- (ii) to co-ordinate with the Officers of the Anti-Corruption Bureau

in his jurisdiction, the efforts to prevent corruption; and

- (iii) to ensure that the existing procedures in the district offices are examined with a view to eliminate factors which provide opportunities for corruption and malpractices.

**Functions of Chief
Vigilance Officers
and Vigilance
Officers**

The Government have issued a detailed order on the role of the Chief Vigilance Officers and the Vigilance Officers in G.O.Ms.No.104 G.A. (Spl.B) Dept. dt. 4-4- 2003 which outlines their functions in the twin areas of preventive vigilance and punitive vigilance. Today only punitive vigilance work is attended to by departments, no importance being attached to preventive aspects of vigilance work. While detection of corruption and other malpractices and punishment of officials indulging in corruption and misconduct, which are measures constituting punitive action, are certainly important, taking of “preventive action” is equally important. Preventive vigilance work seeks to reduce or eliminate scope for corruption. Briefly stated on the punitive side, the Chief Vigilance Officer’s/ Vigilance Officer’s responsibilities will be to ensure timely and proper processing and disposal of all vigilance cases at all stages in consultation with the Vigilance Commission. Decision whether a case has vigilance angle should be decided with reference to the Government U.O. Note No 235/Spl.B/2001-1, dated 26.7.01. In case of doubt the Secretary to the Department or the Head of Department/Chief Executive as the case may be, should be consulted. Final decision on whether the case has vigilance angle is decided by the V.C. Commission reserves the right to call for any file or information which in its view has a vigilance angle. A public servant is proceeded against for misconduct. But all cases of misconduct do not have a vigilance angle.

**Punitive and
Preventive
Vigilance**

Non-vigilance cases

The following types of cases need not be referred to Vigilance Commission. A public servant is proceeded against for misconduct. But all cases of misconduct do not have vigilance angle. All cases of criminal misconduct have vigilance angle as they do not have vigilance angle.

- i) Delay and negligence per se without any loss to Government
- ii) Unauthorised absence
- iii) Insubordination
- iv) Inefficiency

Vigilance cases

The following can be categorised as cases having vigilance angle.

- i. Demand and/or acceptance of illegal gratification
- ii. Misappropriation of Government money and property
- iii. Breach of trust in respect of public fund
- iv. Forgery or falsification of document for getting undue advantage for self or somebody else.
- v. Showing false expenditure of Government money with improper motive.
- vi. Incurring unnecessary Government expenditure with motive of giving undue benefit to others.
- vii. Possession of assets disproportionate to known sources of income
- viii. Drawal of false travelling allowance, daily allowance, house rent allowance etc.
- ix. Private trade, business or employment, speculation and investment, promotion and management of companies.
- x. Non-declaration or suppression of assets or submission of false, incorrect or misleading assets statement.
- xi. Omission to report to the Appointing Authority about acquisition of property and acceptance of gifts, when that is necessary under the Conduct Rules.
- xii. Financial impropriety, lack of supervision, negligence of duty, arbitrary action etc. resulting in loss of Government money or facilitating corruption.
- xiii. Unauthorised raising of subscriptions
- xiv. Unauthorised lending and borrowing
- xv. Unauthorised obtaining of patents
- xvi. Abuse of power or authority for deriving improper gain for self, relatives, friends etc.

Familiarising with vigilance work

As soon as Chief Vigilance Officer assumes charge the first thing he has to do is to convey the same to the Vigilance Commissioner. Similarly the Vigilance Officer upon assumption of office should inform immediately of the fact to the Vigilance Commission and the Chief Vigilance Officer of the Department. When he is transferred or demits office intimation of the same should be given so as to facilitate alternate arrangements. The Chief Vigilance Officers and Vigilance Officers shall, soon after assumption of office, acquaint themselves thoroughly with the vigilance work. This handbook would come in handy to give them an introduction to the tasks before them.

**Handbook for
Disciplinary
Authorities**

the manual proper, the second volume containing all orders of Government in the last half a century on the subject, the third volume containing 551 landmark judgments of the Supreme Court, High Courts and the Central Administrative Tribunal on all aspects of vigilance, disciplinary proceedings and criminal proceedings and finally, the last volume comprising extracts of relevant Constitutional provisions, the Acts and the Rules, of which the most important are the APCS(Conduct) Rules, 1964 and the APCS(CCA) Rules, 1991. Commission hopes that the CVOs and V.Os would thoroughly study the volumes and constantly refer to these volumes at work. Commission is also bringing out a Handbook for Disciplinary Authorities, Inquiry Authorities and Presenting Officers which will guide the CVOs and V.Os to enforce disciplinary action effectively.

**Sources of
complaints**

Information about corruption, malpractices and criminal misconduct reaches the CVOs/V.Os from various sources. The main sources of allegation or instances of corruption can be categorised as the following.

1. Complaints from the public,
2. Newspaper reports,
3. Information contained in statements and files,
4. Inspection reports,
5. Reports of Legislature Committees,(Assembly Committees) CAG reports, and
6. Inquiry/investigation reports of the ACB, DG, V&E and other investigating agencies.

The CVO/V.O has to devise a system of securing first-hand information on corruption and misconduct among employees. He should also scan the daily newspaper reports pertaining to the departments and take the information on file treating them just like a complaint.

These allegations or information on corruption fall into two categories (i) those in respect of which no preliminary inquiry is necessary where the allegations can be processed on the basis of documents available, and (ii) those in respect of which preliminary enquiry is necessary to establish the truth.

The CVO/VO has to make arrangements for receiving complaints from the public personally. For this purpose he has to be accessible easily.

**Complaints
requiring
preliminary**

The allegations which need to be enquired into fall into two categories (i) those that can be inquired into by departmental officers and

**enquiry/
investigation**

(ii) those that have to be entrusted to the ACB, local police or the CID for investigation. The following types of cases need to be investigated.

- i. allegations involving offences of bribery, falsification of records,, criminal breach of trust, cheating and forgery etc.
- ii. possession of disproportionate assets
- iii. cases in which inquires have to be made from non-officials and non-Government records or books of accounts have to be examined
- iv. cases of complicated nature requiring expert police investigation.

All cases coming under the Prevention of Corruption Act, 1988 have to be referred to the ACB. Misappropriation cases which come to light in the course of investigation by the ACB will also be investigated by the ACB. Misappropriation generally has to be referred to the local police or depending upon the importance of the case to the C.I.D. Other Indian Penal Code offences will be referred to local police. Preliminary enquiry into allegations or complaints other than those referred to above would be done by the CVO/VO or an officer on his behalf authorised by him.

**Vigilance
Complaints
Register**

All complaints received by the Vigilance Officer whatever be their source, should be immediately entered in the Vigilance Complaint Register and the Chief Vigilance Officer/Vigilance Officer should ensure that the register is regularly put up to him, so that a preliminary enquiry in to these complaints is held and a report to the Vigilance Commission sent without any delay. If a complaint is referred to a department/organization by the Vigilance Commissioner for a preliminary enquiry and report within a prescribed time-limit and if the enquiry cannot be completed within this period, the Vigilance Officer should personally look into the matter and send an interim report to the Vigilance Commission indicating the progress of investigation, reasons for the delay and the date by which the final enquiry report is expected to be sent. Regarding the complaints in respect of which a decision has been taken to look into the allegation departmentally, the Vigilance Officer should see to it that the procedure prescribed is adhered to by the department.

**Review of pending
complaints**

It will also be the CVO's responsibility to obtain information about the disposal and pendency of complaints and vigilance cases from Vigilance Officers of Heads of department and Subordinate Offices/Units under his department.

Preliminary

Allegations relating to misconduct other than a criminal offence which are verifiable in the department/ directorate/office, should be taken

up departmentally for preliminary enquiry.

On receipt of a complaint the departmental Vigilance Officer should hold a preliminary enquiry without any loss of time. If the complaint contain an information which is capable of verification from the records of the department, the departmental Vigilance Officer should immediately collect such records for personal inspection. The departmental Vigilance Officer should take in his personal custody such of the records and documents as appear to have substantiated the allegations, so that these cannot be tampered with.

If the alleged facts are likely to be known to any other employees of the department, the Vigilance Officer should interrogate them orally or ask them to submit their written statement in the matter.

If they are interrogated, the Vigilance Officer should make a complete record of the oral interrogation and obtain the signature of the person concerned as a token of confirmation of his statement. If any important fact is revealed by them, the same should be verified by the departmental Vigilance Officer with the official records.

If it is found necessary to interrogate an employee of any other department or Office, the departmental Vigilance Officer will seek assistance of the department concerned and thereafter interrogate the employee and obtain his written statement.

In certain complaints like those relating to civil work, the departmental Vigilance Officer may have to make a site inspection or a surprise check to verify the facts on the spot. It may also be necessary for him to take suitable action to ensure that the evidence if any, found there is not disturbed.

If in the course of investigation the departmental Vigilance Officer finds that it is necessary to examine some non-official witnesses or to examine any paper or document in the possession of some non-official person, he may refer the matter, through the Disciplinary Authority, to the Vigilance Commission by sending a report on the enquiry already made by him together with the complaint and all connected papers. The Commission on perusal of the report may, if it considers necessary, entrust further investigation to the Anti-Corruption Bureau.

If the Government servant complained against is in charge of stores, equipments etc. and there is a possibility of his tampering with the records, the departmental Vigilance Officer may arrange for his immediate transfer else where by taking up the matter with the

appropriate authority.

During the preliminary enquiry/investigation the Government servant complained against should be given an opportunity to explain any circumstances relating to the allegations. If, at the stage, the Government servant can satisfactorily explain his conduct, the matter may be dropped, further investigation being found unnecessary. If the Government servant is not able to satisfactorily explain his conduct at this stage, further enquiry/ investigation by way of examination of the Government servant concerned and of the records of the department/ office is to be held. The departmental Vigilance Officer for this purpose should personally interrogate the Government servant in question or he may ask him to furnish a written statement. If the Govt. servant refuses to answer his questions or to give a written statement, this fact should be recorded by the departmental Vigilance Officer. If there are compelling circumstances, the disciplinary authority may entrust the preliminary enquiry/investigation to some suitable officer of the department other than the departmental Vigilance Officer.

On completion of the preliminary investigation/ enquiry the departmental Vigilance Officer or the officer who has held the enquiry, will prepare a self contained report stating whether or not there is sufficient evidence in support of the allegation, and submit a report to the disciplinary authority. The Disciplinary Authority should forward the report with his comments along with all relevant documents and papers to the Vigilance Commission for advice regarding further action. On receipt of such advice the Disciplinary Authority should consider the same and decide whether on the basis of the facts brought out in the report the complaint should be dropped or whether regular departmental proceedings should be instituted against the Govt. servant. The Vigilance Commissioner's advice should be obtained even if the Disciplinary Authority considers that the preliminary enquiry/ investigation has not sustained the allegations to justify any further action and that the case should be dropped. This preliminary enquiry is not to be confused with inquiry under the A.P.C.S (CCA) Rules. Preliminary inquiry is held to establish the truth of allegation informally. Inquiry seeks to prove guilt through formal proceedings.

When it is decided by the disciplinary authority after consultation with the Vigilance Commission, where necessary, to draw up departmental proceedings against a Govt. servant, necessary further action should be taken.

**Punitive Vigilance
Functions**

From this stage the Punitive Vigilance functions of the Chief Vigilance Officers/Vigilance Officers will comprise the following broad elements.

1. Seeking Vigilance Commissioner's advice at all required stages in all cases involving vigilance angle irrespective of the source of the case i.e, cases originating within the Department or from the Director General, Vigilance and Enforcement or the Anti-Corruption Bureau or other agency, on the nature of action to be taken on preliminary enquiry, discreet enquiry, regular enquiry reports and investigation reports on allegations of corruption i.e., whether any action is necessary and if so whether minor penalty or major penalty proceedings should be initiated or criminal prosecution. Secondly, at the stage of consideration of the inquiry officer's report and again on the punishment to be awarded. In the event of an appeal or revision the case will be referred to Commission for advice at these stages also.

2. Expeditious action for suspension/ transfer pending enquiry or investigation into serious cases arising within the Department or on request made by the Anti-Corruption Bureau, Vigilance & Enforcement Dept., or the Crime Investigation Department or suggestion to that effect by the Vigilance Commissioner. Although the discretion to place a Government/Public servant under suspension when a disciplinary proceeding against him is either pending or is contemplated is that of the Disciplinary Authority, the CVO should assist the Disciplinary Authority in the proper exercise of the discretion.

In all trap cases orders of suspension of the officers may be issued without advice from V.C forthwith. In disproportionate assets cases suspension may be made on the advice of Commission upon receipt of preliminary report. However, an officer who is arrested on a criminal charge of corruption and remanded to custody and remain so for more than 48 hours shall be deemed to be and formally suspended. The orders of suspension itself should mention the subsistence allowance sanctioned. It is essential to issue unambiguous orders specifying that suspension order is issued in terms of Rule 8 of the APCS(CCA) Rules under sub-rule 8(i)(a) in the case of disciplinary action, and under sub-rule 8(i)(c) pending criminal proceedings to avoid challenge of the orders in the A.P.A.T.

Where transfer of an officer is advised by the V.C. pending enquiry/investigation such transfer should be effected without delay.

Officers are suspended pending enquiry, investigation or

trial. Such cases are required to be reviewed every six months. According to the Government instructions, they could be considered for reinstatement after two years subject to certain conditions. This review has to be done in consultation with the ACB. Commission has to be consulted before reinstatement. As such reviews have not been taking place in time, individual officers approach the concerned which itself leads to malpractices. Timely review of suspension is therefore essential.

3. Proper assistance should be provided to the Anti-Corruption Bureau in the investigation of cases entrusted to them or started by them on their own source of information. The Anti Corruption Bureau seeks information from the Department on the details of pay etc., drawn by the officer, permission sought or granted for acquisition of property, intimation of acquisition of property, loans obtained from the department, details of annual property returns etc., for the purpose of investigation.

4. Expeditious processing of application for permission to attach properties sought by the Anti-Corruption Bureau or other investigating agencies and to secure confiscation of assets in disproportionate assets cases and misappropriation cases where attachment of property was done where the accused officer is punished.

The Criminal Law Amendment Ordinance, 1944 provides for attachment/confiscation of properties acquired by corrupt means including misappropriation. Appropriate use of this must be made in time.

5. Processing sanction for prosecution and issue of orders within the stipulated time of 45 days to the Anti-Corruption Bureau or other investigating agencies.

6. Swift action to appeal against any decision of Courts to suspend trial of corruption cases or to stay conviction in corruption cases. By virtue of the recent decisions of the Supreme Court, courts are barred from staying trial or conviction. In the unlikely event of such stay it should be immediately got vacated.

7. Quick action for dismissal/withholding or withdrawal of pensionary benefits in cases where accused officers are convicted for corruption, for conduct that led to conviction without waiting for any appeal to be filed or decision on the appeal following rule 25(I) of the APCS (CCA) Rules, 1991. Proviso to Rule 9 of APCS(CCA) Rules, 1991 and GO Ms No.2 of GAD, dated

4.1.99 provide that in proven cases of corruption dismissal or removal is mandatory. An officer who awards or recommends lesser punishment without sufficient reason is liable for disciplinary action vide G.A.D. Memo No. 698/Special.B3/99-1, dated 30.08.1999. Even where an appeal has been filed and stay of sentence is granted, but conviction is not stayed by the Court, punishment should not be held-over. There is no longer any need to consult the APPSC in such cases. In the event of undue delay those who are responsible will be liable for recovery of the avoidable expenditure in this regard.

8. Ensuring timely filing of appeal/ Special Leave Petition in cases of acquittal in corruption cases wherever sought by investigating agencies where there are grounds for doing so.

9. To prosecute hostile witnesses or proceed against them departmentally whenever ordered by Courts or suggested by the Vigilance Commission.

10. On the disciplinary inquiry side the next responsibility of the CVO/VO is to ensure first stage consultation with the V.C on the nature of action to be taken if a prima facie case is made out in the preliminary enquiry or material on record. V.C. will advise whether major penalty proceedings or minor penalty proceedings are to be initiated and the agency for enquiry.

11. To make sure that clear charges are framed in disciplinary cases. Once evidence is available through material on record, preliminary enquiry, or reports of investigating agencies the first step is the initiation of disciplinary proceedings in framing of charge.

Most often departments are guilty of framing defective charges which are vaguely worded, not clear or precise, an example being framing the charge that a delinquent officer has not rendered accounts for money in his care where it is a clear case of misappropriation. Separate charges are not framed in respect of different transactions or events or a series of related transactions amounting to misconduct. The articles of charge should first give complete facts leading to a charge and thereafter mention the nature of misconduct or mis-behaviour. In ACB cases draft articles of charge will be furnished by them for guidance of the disciplinary authority.

The articles of charge should be accompanied by a statement of imputations which gives full and precise recitation of relevant

acts of omissions and commissions on the part of the Government servant in support of each charge. A vague accusation that the Government servant is in the habit of doing certain acts in the past is not sufficient.

The articles of charges together with the statement of imputation, list of witnesses and documents and the copies of the statements of witnesses and documents have normally to be delivered to the delinquent officer in person, if he is on duty or by registered post acknowledgement due.

The acknowledgement of the officer should be added to the file.

Upon submission or on failure to make submission if any within the specified time, inquiry officer should be appointed straightaway following the procedure.

12 To ensure that there is no delay in the appointment of the Inquiry Officer, and Presenting Officer where considered necessary; and no dilatory tactics are adopted by the charged officer or the Presenting Officer.

In ACB cases the Bureau will make available the services of an officer for the purpose as presenting officer.

Cases of senior officers and cases of a serious nature should be referred to the T.D.P. or the C.O.I. based on the advice of Commission. It is not necessary to frame charges in a case referred to TDP.

Where more than one officer is involved in a disciplinary case it is essential to order common inquiry under Rule 24(1)

13 All documents required to be forwarded to the Inquiring Officer have to be carefully sorted out and sent promptly to the I.O.

It is often noticed that delay occurs in the office of the Inquiring Authority because of the reason that all the required documents are not forwarded immediately to the Disciplinary Authority while issuing orders nominating him as such. The Rules stipulate that the Inquiring Authority should be provided with (a) a copy of the articles of charge and statement of imputation (b) a copy of the written statement of defense if any (c) a copy of the statements of witnesses if any (d) evidence proving delivery of the charge sheet, statement of imputation with list of witnesses and list of documents and (e) a copy of the

order if a Presenting Officer is appointed.

In a domestic inquiry it shall not be necessary to permit the charged officer to engage an advocate. Care should be taken, however, to avoid Government appointing an advocate. Such appointment of Advocate should only be resorted to in a complex case where serious legal issues are involved.

14. Disciplinary action against public servants on the verge of retirement should not be allowed to get time-barred due to limitation of 4 years. Where action is proposed under the A.P. Revised Pension Rules or where the disciplinary proceedings are continuing under the C.C.A Rules, on retirement provisional pension should be sanctioned straightaway without the officer having to approach for the same.
15. It should be ensured that the period from the date of serving a charge-sheet in a disciplinary case to the submission of the report of the Inquiry Officer should ordinarily not exceed six months.
16. The processing of the Inquiry Officer's report for final orders of the Disciplinary Authority shall be done properly and quickly.

Certain departments and some inquiry officers have a wrong notion about the scope of 'inquiry' under the CCA Rules and the role of the 'inquiry officer' and the standard of proof required in a disciplinary case. There should be no confusion between preliminary 'enquiry' to ascertain facts and 'disciplinary inquiry' under the CCA Rules.

Inquiry Officers are not judges and disciplinary proceedings are not in the nature of criminal proceedings. Clinching evidence or conclusive proof is not necessary and it is enough if there is a preponderance of probability to punish an officer.

In a disciplinary case there is no scope to let off a charged officer on benefit of doubt. Indian Evidence Act does not apply to inquiries. Hearsay evidence even is admissible.

The I.O. is an agent of the disciplinary authority and he

has a responsibility to the disciplinary authority to prove the truth of the allegation while giving a reasonable opportunity to the charged officer of being heard duly observing the principles of natural justice.

The I.O's report should be examined to see whether on the basis of material on record there are any grounds for deviation from the conclusions of the I.O.

17. Advice of Commission should be invariably sought on the decision to be taken on the Inquiry Officer's report i.e whether the report should be accepted or further inquiry ordered, or the I.O's recommendations should be rejected.
18. To ensure timely orders on disciplinary cases. Disciplinary authority has to communicate a copy of the Inquiry Officer's report and in case of deviation from I.O's advice, along with the grounds for deviation calling for representation of the officer, and to take such representation, if any, before awarding a major punishment. After the disciplinary Authority has applied his mind to the Inquiry Officer's report and come to a tentative finding that one of the penalties should be imposed, the case shall be referred to Commission again for advice on penalties.

The final order should be carefully drafted. It should show that the Disciplinary Authority has applied its mind and exercised its independent judgment. No reference should be made to the Vigilance Commission's advice in any order of the Disciplinary Authority.

In proven cases of corruption, bribery, and misappropriation dismissal or removal is mandatory under Rules. Under GO Ms No.2, GAD dated 4.1.99 dismissal is to be imposed. In the event of deviation from the Commission's advice, orders in circulation of the Chief Minister shall be taken through the Chief Secretary and the Minister in charge. Such deviations should be reported to Commission and Commission will include it in its Annual Report to the Legislature.

19. A supervisory function of the Chief Vigilance Officer/Vigilance Officer will be to scrutinise of final orders passed by Disciplinary Authorities subordinate to the Department, with a view to see whether a case for revision is made out. APCS(CCA) Rules have been amended recently

incorporating a provision in Rule 40 to empower the government to enhance penalty awarded by the disciplinary authority which in its opinion warrants higher penalty by virtue of the gravity of the charge proved.

20. To take proper and adequate action with regard to writ petitions/original applications filed by charged officers before the High Court/A.P.A.T. and in particular to expeditiously move for vacation of ex parte stay if any granted without notice, including stay of suspension, and appeal against decisions contrary to established principles and law laid down by the Supreme Court and the High Court.

The Vigilance Officers should take initiative for early disposal of the High Court/APAT orders on writ petitions and O.As filed by Government servants proceeded against. He should ensure that no delay takes place in engaging the Government Pleader and preparing the statement of facts and filing the counter-affidavit and that the same is prepared carefully. It should be the responsibility of the Vigilance Officers to give proper briefing to the Govt. Pleader who prepares the affidavit in opposition and argues the case in court. If necessary, steps should be taken to move the Court for early hearing of the case in consultation with the Government Pleader.

In the event the judgment is contrary to Law immediate appeal should be filed. The Courts are ordinarily barred from interfering in suspensions pending inquiry/ investigation and going into merits of a case or setting aside or reducing penalty.

21. To ensure prompt submission of periodical returns on vigilance cases to Commission and the Government.
22. All pending investigation reports, disciplinary cases O.As and Writs in vigilance cases and other vigilance matters should be reviewed by the CVO/V.O in the first week of every month to take necessary steps for expediting action on the pending matters.
23. Arrange to conduct a quarterly review of the vigilance work done in the Department/Organisation by the Secretary of each Department; the Chief Executive of Public Sector Undertakings the Head of the Department etc.

24. To review from time to time the existing arrangements for vigilance work in the Department and subordinate offices to see if they are adequate to ensure expeditious and effective disposal of vigilance work.

**Preventive
Vigilance
Functions**

Measures of preventive vigilance which the Chief Vigilance Officers and Vigilance Officers are expected to strive for are mainly the following:-

1. A detailed examination of the existing organisation and procedures in relation to the department with a view to eliminate or minimise factors which provide opportunities for corruption or malpractices.
2. Planning and enforcement of regular inspections and surprise visits for detecting acceptance of mamools or extraction of bribes or harassment of general public; misappropriation of funds; inordinate delay in the disposal of applications; failure in quality or speed of work which would be indicative of the existence of corruption or malpractices.
3. Location of sensitive spots or places and points of corruption, regular and surprise inspections of such spots and proper scrutiny of personnel who are posted in sensitive posts which involve dealings with members of the public on a considerable scale.
4. Preparation and maintenance of lists of (i) officers of doubtful integrity and (ii) lists of suspect officers and maintaining proper surveillance over such officers.
5. Action for blacklisting of unscrupulous suppliers and contractors.
6. Enforcement of Conduct Rules relating to integrity covering (i) submission of statements of assets and acquisitions (ii) gifts (iii) relatives employed in private firms or doing private business (iv) benami transactions (v) possession of cash, and the like.
7. Undertaking scrutiny of property statements annually to check acquisition of property without prior permission or intimation and possible disproportionate assets. The progress of many a case of suspected corruption is seriously hampered because of delay or failure to make available the declaration of assets of the suspected Government servant. There are scores of instances where Government servants fail to file their declaration of assets for a number of years. In some cases the officers contend that they had been regularly submitting his declaration and if these cannot

be found, the fault is not his. In such cases to ask the officer to file his declaration of assets for a number of years all at once has been found to be a remedy of questionable value affording as it does, to the officer the opportunity to so spread out the increase in his assets as would conceal any sudden accumulation of ill-gotten wealth.

8. Devising measures to reduce administrative delays through review of existing procedures and practices to find out the cause of delay, the points at which delay occurs and initiate suitable steps at different stages and by setting definite time limits for dealing with files etc.
9. Review of the regulatory functions with a view to see whether all of them are strictly necessary and whether the manner of discharge of these functions and of the exercise of powers of control are capable of improvement, can be undertaken.
10. Devising adequate methods of control over exercise of discretion. The right to act according to discretion does not mean right to act arbitrarily. The fairness of the method by which the discretionary decision was arrived at may certainly be looked into.
11. Citizens should be provided with easy access to administration at various levels without need for intervention of touts and intermediaries. Members of the public should be provided with complete information on the procedures to be followed in regard to the services provided by the Department.
12. Only those whose integrity is above board should be proposed for/ appointed to high administrative positions.
13. While making selections from non-gazetted to gazetted rank for the first time, all those whose integrity is doubtful should be eliminated.
14. Grant of extension / re-employment should be to a person with good reputation for integrity only.
15. Specifying in every department a proper agency which a person with a genuine complaint can approach for redress. Bona fide complainants should be protected from harassment or victimisation.
16. All visitors to offices dealing with licences/permits should be required to enter their names and purpose of their visits in a register to be kept at the Reception Office.

17. To prevent sale of information. Information not treated as secret should be made freely available to the public.
18. Prescribing and enforcing time-limits for the processing of various applications.
19. Prominently exhibiting a notice board at the entrance not to pay bribe and to report any demand for the same forthwith together with the name of the officer who may be contacted in this regard, not only the headquarters but in every office under his charge.
