नवोदय विद्यालय समिति
NAVODAYA VIDYALAYA SAMITI
जयपुर सम्भाग – (राजस्थान, हरियाणा एवं दिल्ली राज्य)
JAIPUR REGION - (RAJASTHAN, HARYANA & DELHI STATES)
मानव संसाधन विकास मंत्रालय, विद्यालयी शिक्षा एवं साक्षरता विभाग का एक स्वायत्त संस्थान
An Autonomous Organization of Ministry of H.R.D., Department of School Education & Literacy
भारत सरकार / GOVT. OF INDIA

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–क्षेत्रीय कार्यालय–
18,संग्राम कॉलोनी, महावीर मार्ग,
सी–स्कीम, जयपुर–302001
(राजस्थान)

-Regional Office-
18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur -302001 (Rajasthan)

F. No. 61-4/ NVS RO Circular/Admn/09/2775

Date 18.11.2019
REGISTERED

To
The Principal,
All Jawahar Navodaya Vidyalayas,
Under Jaipur Region.

Subject:- Guide lines to be followed by Administrative Authorities competent to accord sanction for prosecution u/s 19 of the Prevention of Corruption Act, 1988-reg.

Sir/Madam,

With reference to the subject cited above, I am to enclose herewith a copy of the Navodaya Vidyalaya Samiti's (Hqrs.) letter 12-4/17-NVS(Admn.)/1471 dated 04.11.2019 alongwith a copy of the Under Secretary, Govt. of India letter No. 29-09/2019-UT-3 dated 05.08.2019 alongwith enclosures for information and strict compliance of the instructions contained therein.

Yours faithfully

18/11/19
(B.L. Morodia)
Deputy Commissioner

Encl:- As above

Copy to:-

1. All Section, NVS (RO) Jaipur for information and compliance.
2. Sh. Harish Ku. Jethani, Computer Operator, NVS (RO) Jaipur to upload the same on the website of NVS RO Jaipur.

फैक्सः 0120-2405182
दूरभाषः 0120-2405180,84, 2405929
नवोदय विद्यालय समिति
(मानव संसाधन विकास मंत्रालय
का स्वायत संस्थान
स्कूल शिक्षा एवं साक्षरता विभाग,
भारत सरकार)
बी -15, इंस्टीट्यूशनल एरिया,
सेक्टर 62, नोएडा
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NAVODAYA VIDYALAYA SAMITI
(An Autonomous Organization
under Ministry of Human Resource
Development, Department of
School Education & Literacy)
Govt. of India
B-15, Institutional Area,
Sector-62, NOIDA
Uttar Pradesh-201309

F.No 12-4/17-NVS (Admn)/1471 Dated: 04.11.2019

3475
13/11/19

To,

The Deputy Commissioner,
Navodaya Vidyalaya Samiti,
All Regional Officers.

Sub: Guide lines to be followed by Administrative Authorities competent to accord sanction for prosecution u/s 19 of the Prevention of Corruption Act, 1988-reg.

Sir/Madam,

I am to invite a reference to the subject cited above and to enclose herewith a copy of letter dated 05.08.2019 received from Under Secretary, Govt. of India forwarding therein a copy of Central Vigilance Commission (CVC) O.M. No.C13013/2/2015-Vig dated 10.05.2019 and Circular 08/05/2015 dated 25.05.2015 regarding guidelines to be followed by administrative authorities competent to accord sanction for prosecution u/s 19 of prevention of corruption Act 1988 for information and compliance.

This issues with the approval of Competent Authority.

Yours faithfully,

Raghuvendra
01.11.2019

Raghuvendra Kumar
Assistant Commissioner(Admn.)

Copy to:

1. Chief Vigilance Officer, NVS, Hqrs. Noida.
2. All the Section Head of NVS, Hqrs- for information.
3. DC(IT)-with a request to kindly arrange to upload this letter alongwith its enclosures in the official website of Samiti.

13/11/19

No.F.29-09/2019-UT-3
Government of India
Ministry of Human Resource Development
Department of School Education & Literacy
***

New Delhi, dated the 5th August, 2019

To,

The Commissioner,
Navodaya Vidyalaya Samiti (NVS),
B—15, Sector – 62,
NOIDA, U.P.

Subject: Guidelines to be followed by the administrative authorities competent to accord sanction for prosecution u/s 19 of the Prevention of Corruption Act, 1988- reg.

Sir,

I am directed to forward herewith a copy of O.M. dated 10.5.2019 received from the Vigilance Section of the Ministry on the subject mentioned above forwarding therewith a copy of copy of Central Vigilance Commission's (CVC) Circular No.08/05/15 dated 25.05.2015 regarding the guidelines to be followed by the administrative authorities competent to accord sanction for prosecution u/s 19 of the Prevention of Corruption Act, 1988.

2. NVS is requested to ensure that the guidelines issued by the CVC may be strictly complied with.

Yours faithfully,

(Manoj Kumar)
Under Secretary to the Government of India

Encl: as above

CONFIDENTIAL

FTS- 583255/2019

No.C.13013/2/2015-Vig.
Government of India
Ministry of Human Resource Development
Department of Higher Education
Vigilance Section

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Shastri Bhawan, New Delhi.
Dated the 10th May, 2019

OFFICE MEMORANDUM

Sub: Guidelines to be followed by the administrative authorities competent to accord sanction for prosecution u/s 19 of the Prevention of Corruption Act, 1988- reg.

The undersigned is directed to forward herewith a copy of Central Vigilance Commission's Circular No.08/05/15 dated 25.05.2015 wherein Commission has been emphasizing the need for quick and expeditious decisions on the requests of sanction for prosecution received from CBI/other investigating agencies under Prevention of Corruption Act, 1988 and also to strictly adhere the time limit of three months for grant or otherwise of sanction for prosecution. Commission has been concerned with the serious delays persisting in processing requests for sanction for prosecution by the competent authorities.

2. The Commission vide its office order dated 12.05.2015 (copy enclosed) had brought to the notice of all competent authorities about the guidelines to be followed by the sanctioning authorities and these guidelines are reiterated by the Commission vide its circular No.07/03/2012 dated 28.03.2012 (copy enclosed) and advised to adhere to the time limits for processing requests for prosecution sanction under Section 19 of the PC Act as laid down by the Apex Court in letter and spirit.

3. The Commission has also brought to the notice that the Hon'ble Supreme Court in Criminal Appeal No.1838 of 2013 in the matter of CBI Vs. Ashok Kumar Aggarwal in para 8 of the judgement has issued guidelines to be followed with complete strictness by the competent authorities while considering grant of sanction as below :

a) The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witness, recovery memos, draft charge sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which the competent authority may refuse sanction.

b) The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

c) The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

d) The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.

e) In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind in the same and that the sanction has been granted in accordance with the law.

DS(UT)
DS(Sch.4)
DS(Sch.8)

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Pl. circulate to KVS/NVS

SO(UT-I)

4. The Central Vigilance Commission in terms of its powers and functions under Section 8(1)(f) of the CVC Act, 2003 has directed all administrative authority to scrupulously follow the guidelines contained in para 2(i) to (vii) of Commission's Circular dated 12.05.2005 and recent explicit guidelines laid down for compliance by the Hon'ble Supreme Court as mentioned in para 3 above, while considering and deciding requests for sanction for prosecution. Since non-compliance of the above guidelines vitiates the sanction for prosecution, therefore, competent authority should discharge their obligation with complete strictness and would be held responsible for any deviation/non-adherence and issues questioning the validity of sanction arising at a later stage in matter of sanction for prosecution.

5. In view of the above, it is requested that aforesaid guidelines/instructions may kindly brought to the notice of all the institutions/universities/organizations/subordinate offices under the administrative control of the respective Bureau and may be advised for strict compliance of the aforesaid guidelines as advised by the Commission.

(Sanjay Kumar)
Under Secretary to the Govt. of India
Tel. No.23386317

To

i. All Bureau Heads (Department of Higher Education and Department of School Education & Literacy.

ii. CMIS Unit with the request to upload on the E-Office System.

602940/2019/UT.3 Section

Telegraphic Address :
"SATARKTA: New Delhi

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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi 110023

सं./No. 005/VGL/011

दिनांक / Dated 25th May, 2015

CIRCULAR No.08/05/15

Sub: Guidelines to be followed by the administrative authorities competent to accord sanction for prosecution u/s.19 of the PC Act – 1988 - Hon'ble Supreme Court Judgment in Criminal Appeal No. 1838 of 2013 - reg.

Ref: CVC Office Order No.31/5/05 dated 12.05.2005
CVC Circular No.07/03/12 dated 28.03.2012

The Commission has been emphasising the need for quick and expeditious decisions on requests of sanction for prosecution received from CBI/other investigating agencies under the PC Act, 1988 and also to strictly adhere to the time limit of three months for grant or otherwise of sanction for prosecution laid down by the Hon'ble Supreme Court in Vineet Narain & Ors. Vs. Union of India (AIR 1998 SC 889).Despite these instructions and close monitoring of such pending matters; the Commission has been concerned with the serious delays persisting in processing requests for sanction for prosecution by the Competent Authorities.

2. The Commission had earlier vide its Office Order No. 31/5/05 dt. 12/05/2005 brought to the notice of all competent authorities guidelines to be followed by the sanctioning authorities. Subsequently, the Apex Court in the matter of Dr.Subramanian Swamy Vs. Dr Manmohan Singh & another (Civil Appeal No. 1193 of 2012) referred to the above guidelines of CVC, and observed that, "the aforementioned guidelines are in conformity with the law laid down by this Court that while considering the issue regarding grant or refusal of sanction, the only thing which the Competent Authority is required to see is whether the material placed by the complainant or the investigating agency prima facie discloses commission of an offence. The Competent Authority cannot undertake a detailed inquiry to decide whether or not the allegations made against the public servant are true". Thereafter, the Commission vide circular No.07/03/12 dated 28/03/2012 reiterated its guidelines dated 12/05/2005 and advised all concerned Competent Authorities to adhere to the time limits for processing requests for prosecution sanction under Section 19 of PC Act as laid down by the Apex Court in letter and spirit.

3. The Hon'ble Supreme Court has recently in Criminal Appeal No. 1838 of 2013 in the matter of CBI Vs. Ashok Kumar Aggarwal, in para 7 of the judgment observed that "there is an obligation on the sanctioning authority to discharge its duty to give or withhold sanction only after having full knowledge

of the material facts of the case. Grant of sanction is not a mere formality. Therefore, the provisions in regard to the sanction must be observed with complete strictness keeping in mind the public interest and the protection available to the accused against whom the sanction is sought. Sanction lifts the bar for prosecution. Therefore, it is not an acrimonious exercise but a solemn and sacrosanct act which affords protection to the Government servant against frivolous prosecution. Further, it is a weapon to discourage vexatious prosecution and is a safeguard for the innocent, though not a shield for the guilty".

4. In para 8 of the above judgment, the Court has issued guidelines to be followed with complete strictness by the Competent Authorities while considering grant of sanction as below -

a) The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.

b) The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

c) The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

d). The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.

e) In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

5. The Commission, would therefore, in terms of its powers and functions under Section 8(1) (f) of the CVC Act, 2003 direct all administrative authorities to scrupulously follow the guidelines contained in para 2 (i) to (vii) of Commission's circular No 31/5/05 dated 12/05/2005 and the recent explicit guidelines laid down for compliance by the Hon'ble Supreme Court at para 4 above, while considering and deciding requests for sanction for prosecution. Since non-compliance of the above guidelines vitiates the sanction for prosecution, therefore, competent sanctioning authorities should discharge their obligations with complete strictness and would be held responsible for any deviation / non-adherence and issues questioning the validity of sanction arising at a later stage in matters of sanction for prosecution.

(J Vinod Kumar)
Officer on Special Duty

All Secretaries to the Ministries/Departments of Government of India
All CVOs of Ministries/Departments, CPSEs/Public Sector Banks/ Insurance Companies /Organizations / Societies and Local Authorities etc.

Copy for information to: -

i) The Secretary, Department of Personnel & Training, North Block, New Delhi.

ii) The Director, Central Bureau of Investigation, Lodhi Road, New Delhi.

6.

No. 005/VGL/11
Central Vigilance Commission
Coordination I
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Satarkta Bhawan, Block 'A'
INA, New Delhi-110023
The, 12th May, 2005.

OFFICE ORDER NO. 31/5/05

Sub:- Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.

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The Commission has been concerned that there have been serious **delays in according sanction for prosecution under section 19 of the PC Act and u/s 197 of CrPC by the competent authorities**. The time limit prescribed by the Hon'ble Supreme Court for this is 3 months generally speaking. The Commission feels this delay could be partly due to the lack of appreciation of what the competent authority is expected to do while processing such requests.

There have been a number of decisions of the Supreme Court in which the law has been clearly laid down on this issue:-

1. Jagjit Singh Vs. State of Punjab, 1996 Cr.L.J. 2962.
2. State of Bihar Vs. P.P. Sharma, AIR 1991 SC 1260.
3. Superintendent of Police (CBI) Vs. Deepak Chowdhary, AIR 1996 SC 186.
4. Vineet Narain Vs. Union of India, AIR 1998 SC 889.

2. **The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-**

i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and 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 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 P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by

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the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized 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 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 Supreme Court in Vineet Narain's case.

The Commission has directed that these guidelines as at para 2(i)-(vii)should be noted by all concerned authorities for their guidance and strict compliance.

Sd/-
(Sujit Banerjee)
Secretary

To

Secretaries of All Ministries/Departments
CMDs/CEOs of all PSEs/PSUs/PSBs/Financial Institutions
Autonomous Organisations
All CVOs

8

60X940/2019/UT.3 Section

No. 005/VGL/011
Central Vigilance Commission
****

Satarkta Bhawan, Block 'A'
INA, New Delhi- 110023
the, 28th March, 2012

Circular No. 07/03/12

Sub: Guidelines for checking delay in grant of sanction for prosecution

The Central Vigilance Commission has been emphasising the need for prompt and expeditious disposal of requests of sanction for prosecution received from CBI/other investigating agencies under the Prevention of Corruption Act, 1988. It may be recalled that the Supreme Court had in the case of Vineet Narain & Ors. Vs. Union of India in its judgment dated 18.12.1997, issued directions to the effect that "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other Law Officer in the AG's office".

2. The Central Vigilance Commission under the CVC Act, 2003 has been empowered to review the progress of applications pending with the Competent Authorities for sanction of prosecution under the PC Act, 1988. Taking into account delays involved and the lack of appreciation on the part of Competent Authorities as to what is to be done while processing such requests, the Commission had prescribed detailed guidelines based on various decisions of the Supreme Court including the Vineet Narain case, to be followed strictly by the Competent Authorities while processing requests for sanction for prosecution vide its office order No. 31/5/05 dated 12.05.2005.

3. In the recent judgment of the Supreme Court, dated 31.01.2012, in the matter of Dr. Subramanian Swamy Vs. Dr. Manmohan Singh & another (Civil Appeal No. 1193 of 2012) while reiterating the time limits prescribed for grant or otherwise of sanction for prosecution, the Apex Court, also observed that the guidelines laid down by the Central Vigilance Commission in its office order dated 12.05.2005 (copy enclosed) are in conformity with the law laid down by the Apex Court. The grant of sanction is an administrative act and the purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise and the sanctioning authority has only to see whether the facts would prima facie constitute the offence.

4. In view of the above, the Commission would reiterate its guidelines dated 12.05.2005 and also advise all concerned Competent Authorities that while processing requests of sanction for prosecution under Section 19 of PC Act, 1988, the time limits laid down by the Apex Court are adhered to in letter and spirit.

(Anil K. Sinha)
Additional Secretary

Encl: as above.

To

(i) All the Secretaries of Ministries/Departments
(ii) All CMDs of Public Sector Undertaking/Public Sector Banks/Insurance Companies/ Organisations/Societies and Local authorities etc.
(iii) All Chief Vigilance Officers of Ministries/Departments/Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/ Societies and Local authorities etc.
(iv) Department of Personnel and Training [Joint Secretary (S&V)]
(v) CBI [Joint Director (Policy)]

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