

Chapter-III

Complaints

INTRODUCTION

A complaint is a piece of statement or information containing details about offences alleged to have been committed under the PC Act, 1988, or malpractice / misconducts under Conduct Rules governing specified categories of public servants.

3.1 SOURCE OF COMPLAINTS

3.1.1 Information about corruption, malpractice or misconduct on the part of public servants may flow to the administrative authority, the Commission, the CBI or the police authorities from any of the following or other sources:-

- (a) Complaints received from employee(s) of the organisation or from the public;
- (b) Departmental inspection reports and stock verification surveys;
- (c) Scrutiny of annual property statements;
- (d) Scrutiny of transactions reported under the Conduct Rules;
- (e) Reports of irregularities in accounts detected in the routine audit of accounts; e.g., tampering with records, over-payments, misappropriation of money or materials, etc.;
- (f) Audit reports on Government accounts and on the accounts of public undertakings and other corporate bodies, etc.;

- (g) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings;
- (h) Proceedings of the Houses of Parliament;
- (i) Complaints and allegations appearing in the press, etc.;
- (j) Source information, if received verbally from an identifiable source, to be reduced in writing; and
- (k) Intelligence gathered by agencies like CBI, ACB, Lokayuktas, etc.

3.1.2 In addition, the Chief Vigilance Officer concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation, for collecting information about any malpractice and misconduct among the employees. Similarly, CVOs in all the organisations must also scrutinize the news items relevant to their organisations on a continuous basis to check whether any cases of corruption are revealed in them. Information gathered from reports, returns, news-papers, etc. will be included under the term "complaint" and will be dealt with in the same way as letters of complaints. Information received verbally will be reduced to writing and such information should be registered in the Vigilance Complaints Register to process it like at any other complaint.

3.1.3 Information about corruption and malpractices on the part of Public Servants may also be received from their subordinates or other Public Servants. While normally a Public Servant is required to address communications through the proper official channel, there is no objection in entertaining direct complaints or communications giving information about corruption or other kinds of malpractices. While genuine complainants should be afforded protection against harassment or victimization, serious notice should be taken if a complaint is, after verification, found to be false and malicious. There should be no hesitation in taking severe departmental action or launching criminal prosecution against such complainants.

3.2 ACTION ON AUDIT REPORTS INCLUDING CAG PARAS, NEWS ITEMS, etc.

3.2.1 The reports of internal audit, statutory audit and Comptroller & Auditor General are important tools of preventive vigilance as they provide an independent periodic check of the efficacy of the internal controls within the organisation and create awareness about areas at risk of fraud or weak controls. The Commission has advised CVOs to look into all such reports with the objective of identifying vigilance issues. As a strategy of good governance, the Commission has been advising all Government organisations to evolve a strong internal audit mechanism.

3.2.2 The audit report of the CAG many a time reveals not only administrative and financial irregularities but also actual cases of misconduct and corruption. The CAG reports are generally well documented and would be useful in bringing the corrupt public servants to book. The valuable information available through the CAG's reports in the form of documented cases of misconduct or corruption call for prompt action on the part of the disciplinary authorities.

(CVC Circular No. 3(V)/99/14 dated 16.05.2001)

3.2.3 CVOs in all the organisations must scrutinise internal and external audit reports including audit report of the CAG to check whether any cases of misconduct or corruption are revealed in them. In all such cases, immediate action must be initiated against the public servants concerned through the standard practice of referring vigilance cases to CVC.

(CVC Circular No. 3(V)/99/14 dated 16.05.2001)

3.2.4 All serious cases of malpractices reported by CAG which are perceived to have a vigilance angle would also be sent to the Commission for examination and follow up action. On receiving such references from CAG, the Commission would take follow up action with the disciplinary authorities. In this way, it will be ensured that the cases of corruption and issues having a vigilance angle are not lost sight of and there is effective synergy between CAG and the Commission to strengthen the system to fight corruption.

(CVC Circular No. 3(V)/99/14 dated 16.05.2001)

3.3 COMPLAINT HANDLING POLICY OF COMMISSION

3.3.1 The complaint handling policy of the Commission has been laid down in detail in CVC Circular No. 98/DSP/9 dated 15.12.2014¹ and subsequent modification of the Complaint Handling Policy vide CVC Circular No. 004/VGL/020 (pt.) dated 01.07.2019.

(i) The Commission may inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to specified category of officials wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 and an offence with which he may, under the Code of Criminal Procedure, 1973, be charged at the same trial. Specified category of officials and the organisation falling under the jurisdiction of the Commission are described in *Chapter I*.

²(ii) The Commission does not entertain anonymous or pseudonymous complaints.

³(iii) As the Commission deals only with matters of corruption, redressal of grievances should not be the focus of complaints to the Commission.

⁴(iv) No fee shall be chargeable for lodging complaints with the Commission.

⁵(v) A complaint should preferably be lodged in typed or written form in English or Hindi language for facilitating early action thereon.

⁶(vi) The Commission may dismiss a complaint in-limine which does not meet the prescribed criteria.

⁷(vii) The Commission does not entertain complaints which are against private persons, State Government officials, Members of Parliament or State Legislature, elected representatives of other bodies, members of judiciary

¹ Inserted words “and subsequent...dated 01.07.2019” vide CHP dated 01.07.2019.

² Inserted vide CVC Regulations 2021.

³ Inserted vide CHP 01.07.2019.

⁴ Inserted vide CVC Regulations 2021.

⁵ Inserted vide CVC Regulations 2021.

⁶ Inserted vide CVC Regulations 2021.

⁷ Inserted vide CVC Regulations 2021 [Reg. 3(7)(vii)].

or officials of private organisations. The Commission does not have jurisdiction over them.

- ⁸(viii) Complaints sent on any e-mail ID of officers of the Commission will not be entertained or taken cognizance of by the Commission.
- ⁹(ix) For specific details regarding the procedure for dealing with complaints in the Commission, the Regulation 3 of CVC (Procedure for Dealing with Complaints and Procedure of Inquiry) Regulations, 2021 may also be referred.
- (x) However for complaints from “whistle-blowers” under the Public Interest Disclosure and Protection of Informers Resolution 2004, the Government of India has authorised the Commission, as the Designated Agency, to receive written complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and take action in accordance with the provision of the Resolution.

3.4 ACTION TAKEN ON COMPLAINTS IN THE COMMISSION

- 3.4.1 **Nature of action:** Taking into account the facts and the nature of allegations made in the complaints, the Commission may take any of the following actions: -
 - (i) get enquiry or investigation done through the CBI or any other investigating agency into the allegations levelled in the complaint. It may get the enquiry done through the CVO of the organisation concerned or any other CVO or an officer of the Commission and call for Inquiry Report (I&R); or
 - (ii) send the complaint to the above-mentioned Inquiry / Investigating Agencies for Factual Report (FR) or Discreet Verification and obtain report; or
 - (iii) send the complaint to the respective CVO for necessary action (NA); or
 - (iv) file or close the complaint.

⁸ Inserted vide Complaint Handling Policy (CHP) dated 01.07.2019.

⁹ Inserted vide CVC Regulations, 2021.

3.4.2 **Complaints forwarded for I&R:**

(a) The following criteria are generally applied while taking a decision to send a complaint for I&R: -

(i) Complaints should be against officials and organizations within the jurisdiction of the Commission and containing allegations of corruption or misconduct or malpractice.

(ii) Complaints without specific factual details, verifiable facts and which are vague or contain sweeping or general allegations will not be acted upon.

(iii) Complaint should be addressed directly to the Commission.

(iv) The Commission does not entertain anonymous or pseudonymous complaints.

(v) ¹⁰Deleted

(vi) As regards complaints in the matter of tenders, it is clarified that while the Commission may get the matter investigated, it would not generally interfere in the tendering process. Commission may, in appropriate cases, tender suitable advice to the authorities concerned.

(vii) As the Commission deals only with matters of corruption, redressal of grievances should not be the focus of complaints to the Commission.

(b) Before sending a complaint for investigation and report (I&R), a confirmation would be sought from the complainant for owning or disowning the complaint, as the case may be, together with copy of his identity proof. If no response to the letter seeking confirmation is received from the complainant within 15 days, a reminder is sent. If still no response is received after 15 days of reminder, the complaint may be filed treating it as a pseudonymous complaint.

(c) ¹¹Once the Commission directs to investigate and submit a report on a complaint, a unique complaint number (case sensitive) would be provided

¹⁰ Deleted in view of CHP dated 01.07.2019.

¹¹ Partially modified for clarity.

to the complainant. The complainant can use this complaint number to see the status of action on the complaint by clicking on the 'Complaint Status' displayed on the Commission's website – www.cvc.gov.in. However, the unique complaint number is not provided to the complainants in respect of complaints which have been filed or sent for necessary action or a factual report. The unique complaint number is distinctly separate from the letter or file number mentioned in the correspondence or the complaint serial number assigned to the complaint in electronic mode.

(d) When the complaint has been registered in the Commission, further correspondence in the matter will not be entertained. However, Commission will ensure that the complaints are investigated, and action taken to its logical conclusion.

(e) ¹²The CVOs are required to furnish investigation reports on such complaints within three months from the date of receipt of references from the Commission or within such time as specified by the Commission.

The CVOs should personally review all such complaints pending for investigation in the Organisations in the first week of every month and take necessary steps towards expediting / finalization of reports and its processing. In case, if it is not possible to complete the investigations and refer the matter to the Commission within three months, the CVO should seek extension of time stating the specific reasons / constraints in each case, within 15 days of receipt of reference from the Commission. Such requests from the CVO should be with the approval of the Secretary / CMD / Chief Executive of the Department / Organisation concerned, as the case may be. Non-adherence of the above guidelines and any instance of violation by the CVO would be viewed seriously by the Commission.

(CVC Office Order No. 08/08/2020 dated 14.08.2020)

However, in respect of PIDPI complaints, the time limit for submission of report is ¹³12 weeks.

¹² Substituted vide Circular dated 14.08.2020.

¹³ The words "one month" substituted with the words "12 weeks" vide CVC Circular No. 004/VGL/026 dated 28.09.2018.

(f) After receipt of the report, the Commission may tender its advice or seek further information or clarification (FI) from the CVO. Upon receiving such further report as called for, the Commission would tender its advice. In respect of references made by the Commission to the Ministries, Departments / Organisations for clarification and / or comments, the same should be sent to the Commission within six weeks. If, in any case, it is not possible to do so, the Chief Vigilance Officer concerned should, after satisfying himself / herself of the reasons for delay, write to the Commission for extension of time.

3.4.3 ¹⁴Complaints forwarded for necessary action or closed / filed:

(a) A complaint of the following nature shall not be entertained by the Commission and shall be filed (no action taken) or forwarded to the CVO for necessary action as deemed fit, namely:

- (i) where allegations are administrative in nature such as those relating to transfer, posting, promotion, recruitment, suspension, travelling & other allowances, leave, etc.
- (ii) which are addressed or endorsed to multiple authorities;
- (iii) which are not directly addressed to the Commission;
- (iv) which are anonymous or pseudonymous;
- (v) which are vague, frivolous or not specific in content or nature;
- (vi) contain matters which are sub-judice before any competent Court or Tribunal or Authorities;
- (vii) which are against private persons, State Government officials, members of Parliament or State Legislature, elected representatives of other bodies, members of judiciary or officials or private organizations;
- (viii) which are not against the category of public servants as specified under sub section (2) of section 8 of the Act and the notification issued thereunder; and
- (ix) which are illegible.

¹⁴ Sub para (a) substituted / modified for more clarity and in the light of CVC Regulations 2021.

Complainant may find out the status of those complaints which have been referred by the Commission for necessary action from the CVO of the concerned Organisation / Ministry or Department.

- (b) The Commission expects the CVO to scrutinise the complaints sent by the Commission for necessary action and decide action on such complaints within a period of one month from the date of receipt of complaint from the Commission.
- (c) Complaints referred to CVOs for necessary action must be referred back to the Commission for advice, if they have been investigated and a vigilance angle has come to notice against an officer falling under the jurisdiction of the Commission. If any such complaints are taken up for inquiry / investigation by the CVO, the time limit of ¹⁵three months for completion of investigation and submission of report would apply. Otherwise, such complaints require no further reference to the Commission and are to be disposed of by the Departments / Organisations themselves after taking necessary action. In terms of ¹⁶CVC Circular No. 004/VGL/020/Pt.) dated 13.08.2020, the CVO should update the status of complaints sent for necessary action on the Commission's website at www.portal.cvc.gov.in.
- (d) However, all the complaints made under PIDPI Resolution which have been forwarded to the CVO for necessary action must be referred back to the Commission, irrespective of Commission's normal jurisdiction, for advice if they have been investigated and ¹⁷the allegation of corruption or mis-use of office by an employee has come to notice.

3.4.4 *Procedure for handling Complaints received by the Commission against Secretaries to GoI and Chief Executives / CMDs and Functional Directors of PSEs, PSBs and FIs:*

- (a) Complaints against Secretaries to the Government of India, received by the authorities other than the Commission will be referred to the Cabinet Secretariat for placing before the Group of Secretaries headed

¹⁵ Inserted words “three months”.

¹⁶ Inserted.

¹⁷ Inserted words “the allegation....to notice” to make it sync with PIDPI Resolution 2004.

by the Cabinet Secretary. Similarly, complaints against the Chief Executives and Functional Directors of Public Sector Undertakings and the CMDs & Functional Directors of Public Sector Banks and Financial Institutions received by authorities other than the Commission will be placed before a Group of Officers headed by Secretary (Coordination) in Cabinet Secretariat. The procedure is laid down in DoPT OM No. 104/100/2009-AVD.I dated 14.01.2010 as amended by Corrigendum of the same No. dated 8.03.2010 and in DPE's OM No. 15(1)/2010/DPE(GM), dated 11.03.2010 as amended by OM of the same No. dated 12.04.2010 and dated 11.05.2011.

¹⁸The complaints received in the Commission against Secretaries to Government of India are generally being forwarded to the Cabinet Secretary. Such complaints should not be sent to the CVO of the Administrative Ministry concerned, in which the Secretary against whom the complaint has been made is working or had worked in the past.

The complaints received in the Commission against Chairman / CMDs / MDs / CEOs / Functional Directors of CPSEs / PSBs, etc. would be forwarded to the CVO of the Administrative Ministry.

Complaints referred by the Commission to the Ministries / Departments against aforesaid categories of officials are to be dealt / inquired into and report submitted to the Commission by the respective authorities to whom the complaints are sent by the Commission and such complaints should not be forwarded to the Group of Secretaries or Group of Officers for consideration.

(CVC Circular No. 010/VGL/008 dated 14.03.2011 and 27.07.2010 – regarding clarification on complaints against Secretaries to GoI, etc.)

(b) In large number of cases, complaints are sent to multiple authorities and processed. Therefore, to ensure consistency, any complaint received in CVC against Secretaries to Government of India and where an investigation report is to be sought by CVC, the same should be sought through Secretary, DoPT.

¹⁸ Inserted words “The complaints..... for consideration.” In view of CVC Circular dated 27.07.2010 and 14.03.2011.

(c) In respect of complaints referred by the Commission to the Ministries / Departments against the Chief Executives and Functional Directors of Public Sector Undertaking and the CMDs & Functional Directors of Public Sector Banks and Financial Institutions, the same are to be dealt / inquired into by the Ministries / Departments concerned to whom the complaints have been forwarded by the Commission, and reports submitted to the Commission by the respective authorities.

3.4 A ¹⁹LOKPAL COMPLAINTS

Complaints received from Lokpal are to be dealt with in accordance with the provisions of the Lokpal & Lokayuktas Act, 2013.

3.5 ACTION ON COMPLAINTS RECEIVED BY MINISTRIES / DEPARTMENTS

Complaints received by or cases arising in Ministries / Departments / Offices in respect of the employees under their administrative control may be dealt with by the administrative Ministry / Department concerned. The Central Vigilance Commission is, however, responsible for advising the administrative authorities in respect of all matters relating to integrity in administration. The Commission has also the power to call for reports, returns and statements from all Ministries / Departments so as to enable it to exercise a general check and supervision over vigilance and anticorruption works in Ministries / Departments. It may also take over under its direct control any complaint or cases for investigation and further action.

The matters in which the Central Vigilance Commission should be consulted during the progress of inquiries and investigations and the reports and returns which should be submitted to Central Vigilance Commission to enable it to discharge its responsibilities have been indicated in the relevant paragraphs of the Manual.

3.5.1 *Initial action on complaint received by Ministries / Departments:*

The following procedure may be followed: -

¹⁹ New para inserted for Lokpal referred complaints.

- (a) Every Vigilance Section / Unit will maintain a vigilance complaints register in Form CVO-1, in two separate parts for category 'A' and category 'B' employees. (Refer *Annexure-I* to this Chapter). Category 'A' includes such employees against whom Commission's advice is required whereas category 'B' includes such employees against whom Commission's advice is not required. If a complaint involves both categories of employees, it should be shown against the higher category, i.e., Category 'A'.
- (b) Every complaint, irrespective of its source, would be entered in the prescribed format in the complaints register chronologically as it is received or taken notice of. A complaint containing allegations against several officers may be treated as one complaint for the purpose of statistical returns.
- (c) Entries of only those complaints in which there is an allegation of corruption or improper motive; or if the alleged facts *prima facie* indicate an element or potentiality of vigilance angle should be made in the register. Complaints, which relate to purely administrative matters or technical lapses, such as late attendance, disobedience, insubordination, negligence, lack of supervision or operational or technical irregularities, etc. should not be entered in the register and should be dealt with separately under "non-vigilance complaints".
- (d) A complaint against an employee of a Public Sector Enterprise or an Autonomous Organisation may be received in the administrative Ministry concerned and also in the Commission. Such complaints will normally be sent for inquiry to the organisation in which the employee concerned is employed and should be entered in the vigilance complaints register of that organisation only. Such complaints should not be entered in the vigilance complaints register of the administrative Ministry in order to avoid duplication of entries and inflation of statistics, except in cases in which, for any special reason, it is proposed to deal with the matter in the Ministry itself without consulting the employing organisation.

3.5.2 **Scrutiny of complaints:**

Each complaint will be examined by the Chief Vigilance Officer to see whether there is any substance in the allegations made in it to merit

looking into. Where the allegations are vague and general and *prima facie* unverifiable, the Chief Vigilance Officer may decide, with the approval of the Head of the Department, where considered necessary, that no action is necessary and the complaint should be dropped and filed. Where the complaint seems to give information definite enough to require a further check, a preliminary inquiry / investigation will need to be made to verify the allegations so as to decide whether, or not, the public servant concerned should be proceeded against departmentally or in a court of law or both. If considered necessary, the Chief Vigilance Officer may have a quick look into the relevant records and examine them to satisfy himself about the need for further inquiry into the allegations made in the complaint. Detailed guidelines about the nature of investigation and the agency, which should be entrusted with it, are given in *Chapter V*. The information passed on by the CBI to the Ministry / Department regarding the conduct of any of its officers should also be treated in the same way.

3.5.3 ***Disposal of Complaints:***

(a) A complaint which is registered can be dealt with as follows: (i) file it without or after investigation; or (ii) ²⁰forward it to the CBI for investigation / appropriate action; or (iii) ²¹forward it to the concerned administrative authority for appropriate action on the ground that no vigilance angle is involved; or (iv) to take up for detailed investigation by the Departmental Vigilance ²²Wing. An entry to that effect would be made in columns 6 and 7 of the Vigilance Complaint Register (Form CVO-1) with regard to “action taken” and “date of action” respectively. A complaint will be treated as disposed of in ²³Quarterly Performance Report (QPR) either on issue of charge-sheet or on final decision for closing or dropping the complaint. If a complaint is taken up for investigation by the Departmental Vigilance ²⁴Wing or in cases in which it is decided to initiate departmental

²⁰ Substituted for words “to pass it on”.

²¹ Substituted for words “to pass it on”.

²² Substituted for word “agency”.

²³ The words “monthly / annual returns” substituted with “Quarterly Performance Report (QPR)”.

²⁴ Substituted for word “agency”.

proceedings or criminal prosecution, further progress would be ²⁵monitored through other relevant registers. If there were previous cases / complaints against the same officer, it should be indicated in the remark's column, i.e., column 8.

- (b) Complaints received from the Commission under the *PIDPI Resolution* are not required to be verified for genuineness by the CVO as the process of verification / confirmation is completed in the Commission ²⁶prior to referring it for investigation or further necessary action. Therefore, these should be taken up for investigation by CVO on their receipt from the Commission. Such complaints shall, in other words, be treated as registered, immediately on receipt. The Department is required to send its report to the Commission within ²⁷three months from the date of receipt of the reference.
- (c) Complaints received by the Department where the Commission has called for an "I & R" shall be treated as a signed complaint (not required to be verified for genuineness) and taken up for investigation.

(CVC Circular No. 01/01/2015 dated 23.01.2015)

3.5.4 **Comments / Clarification sought by Commission:**

In respect of references made by the Commission to the CBI / Ministries, etc. for clarification and / or comments, the same should be sent to the Commission within 6 weeks.

3.6 ACTION ON COMPLAINTS RECEIVED BY CPSE, PSB, PSIC, etc.

The following procedure may be followed: -

- (a) Guidelines as laid down in preceding paras are, by and large, common to all and need to be followed by every CVO.
- (b) ²⁸In the first instance, the decision about the existence of a vigilance angle in a case may be taken by the CVO. The Disciplinary Authority (DA)

²⁵ Substituted for word "watched".

²⁶ Substituted for words "on receipt of the complaint under the PIDPI Resolution".

²⁷ Substituted vide CVC Office Order No. 12/09/18 dated 28.09.2018.

²⁸ Sub-para re-written in view of Circular dated 27.04.2015.

may differ with the CVO (if there are valid reasons) within a period of 15 days. However, in case there is difference of opinion between the CVO and the Disciplinary Authority (DA) as to the presence of vigilance angle, the matter as also enquiry reports on complaints having vigilance angle though unsubstantiated would continue to be referred to the Commission for its first stage advice.

(CVC Circular No. 07/04/15 (015-MS-016) dated 27.04.2015)

- (c) After registering the information as a complaint in the Vigilance Complaint Register (physical or electronic form), he would then process the matter further to decide as to whether the allegations are general or vague and deserve to be filed or the matter requires further investigation. In the latter case, he would also have to decide as to whether the investigation into the allegations should be entrusted to the CBI or local police or taken up internally.
- (d) In exercise of its jurisdiction, the Commission has the power to call for a report in respect of any case with a vigilance angle insofar as it relates to any public servant belonging to an organisation falling within its jurisdiction. Wherever, the Commission calls for 'investigation and report' on a complaint, the reports of the investigation should normally be sent to the Commission. However, after the investigation, if it is found that the officials involved in the case do not fall under the jurisdiction of the Commission, the case need not be referred to the Commission and may be dealt with by the CVO. In such cases, action taken by the CVO may be intimated to the Commission in order to monitor compliance. However, in respect of PIDPI complaints where the Commission has jurisdiction over all categories of officials, report in respect of all officials (irrespective of the level) be sent to the Commission.

3.7 HANDLING OF COMPLAINTS AGAINST BOARD LEVEL OFFICIALS

- (a) A complaint involving a Board-level appointee, whether figuring alone or in association with others, may be forwarded by the CVO of the PSE or PSB or FI to the CVO of the administrative Ministry. Under no circumstances should he initiate action against the Board-level appointee on his own initiative. The CVO of the administrative Ministry would initiate

action on such complaints in accordance with the instructions given in para 3.5.

(b) In cases where the Commission calls for investigation and report against a Board-level appointee, the CVO of the Ministry shall initiate inquiries and furnish report in the prescribed format.

(CVC Circular No. 06/03/11 dated 14.03.2011)

(c) If the CVO of an administrative Ministry asks for a factual report against a Board-level appointee from the CVO of the PSE, the latter will send the same to the CVO of the Ministry, after endorsing a copy of the report to the CMD to keep him informed of the developments. The CVO of the Ministry may make a reference to the Commission after collecting all the relevant facts after following the prescribed procedure.

(d) If a complaint against a Board-level appointee is directly received by the PSUs / PSBs / PSICs / Societies, the CVO shall send the same to the CVO of the Ministry for consideration.

(e) In the case of PSEs and PSBs, sometimes, cognisance has been taken of the fact that there is a spate of complaints against individuals whose names are being considered / finalised by the PESB. Similarly, when an official is due for promotion, sometimes old complaints are taken cognisance of and investigations started against the official. In order to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion, selection or empanelment, the Commission has decided that for the purpose of giving vigilance clearance in such cases: -

(i) as a rule, complaints / cases which are more than 5 years old and against which no action has been taken till then, should not be taken into cognisance. However, the limit of 5 years will not apply to cases of fraud and other criminal offences; and

(ii) no cognisance should be taken of any complaint which is received up to 6 months prior to the initiation of selection process for senior posts.

(CVC's Office Order No. 57/8/04 dated 31.8.2004)

3.8 HANDLING OF COMPLAINTS AGAINST CVO, VO, etc.

Any complaint against the CVO should be immediately referred to the Commission and the Commission would decide the further course of action thereon. However, the complaints against the other vigilance functionaries shall be looked into by the CVO personally and further action taken as per normal procedure.

3.9 ACTION ON COMPLAINTS RECEIVED FROM MEMBERS OF PARLIAMENT AND DIGNITARIES

References received from Members of Parliament and Dignitaries are to be dealt as per procedure laid down in Central Secretariat Manual of Office Procedure brought out by the Department of Administrative Reforms and Public Grievances (Refer to Annexure-II to this Chapter). It has, however, been noticed that a number of complaints are being received using letter heads of Members of Parliament / VIPs and with forged signatures of the Hon'ble MPs / VIPs. Hence, as a measure of abundant caution and to provide adequate protection to the officers against whom such complaints have been made, confirmation shall be sought from the dignitary regarding the making of the complaint. On receipt of confirmation, the complaint shall be dealt with on priority as per the procedure referred to above.

3.10 ACTION ON ANONYMOUS / PSEUDONYMOUS COMPLAINTS

3.10.1 The instructions / guidelines issued from time to time in the matter by DoPT / CVC are as follows: -

- (a) DoPT OM No. 321/4/910-AVD.III dated 29.09.1992 states that no action is required to be taken on anonymous / pseudonymous complaints in general. However, it provided the option to inquire into such complaints which contained verifiable details.
- (b) Commission's initial Circular No.3(v)/99/2 dated 29.06.1999 prescribes that no action should be taken on anonymous / pseudonymous complaints and they should just be filed.
- (c) Commission's Circular No. 98/DSP/9 dated 31.01.2002 reiterates that under no circumstances, should any investigation be commenced on anonymous / pseudonymous complaints.

(d) Commission's *Circular No. 98/DSP/9 dated 11.10.2002* reviewing its earlier instructions of 1999, envisaged that if any Department / organisation proposes to look into the verifiable facts alleged in anonymous / pseudonymous complaints, it may refer the matter to the Commission seeking its concurrence through the CVO or the head of the organisation. These guidelines stand withdrawn vide *CVC Circular No. 07/11/2014 dated 25.11.2014*.

(e) *DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013* provides that no action is required to be taken on anonymous complaints irrespective of the nature of the allegations and such complaints need to be simply filed.

(f) Commission's *Circular No. 07/11/2014 dated 25.11.2014* withdrawing *Circular No. 98/DSP/9 dated 11.10.2002*, reiterates previous *Circular No.3(v)/99/2 dated 29.6.1999* and *Circular No. 98/DSP/9 dated 31.01.2002* to the effect that no action should be taken on anonymous / pseudonymous complaints and such complaints should be filed.

(g) As per *DoPT* complaint handling policy issued vide *OM No. 104/76/2011AVD.I dated 18.10.2013*, complaints containing vague allegations could also be filed without verification of identity of the complainant even if identity of complainant is mentioned in the complaint.

3.10.2 The Commission has furnished clarifications through *Circular No.03/03/16 dated 07.03.2016* to Ministries / Departments on action to be taken on anonymous / pseudonymous complaints which were acted upon and were at different stages of process including disciplinary proceedings before issue of *CVC Circular No. 07/11/2014 dated 25.11.2014*. Accordingly, it has been clarified that: -

(a) No action should be taken on anonymous / pseudonymous complaints in line with Commission's present *Circular No. 07/11/2014 dated 25.11.2014*, and such complaints should be filed.

(b) However, where the action was initiated on anonymous / pseudonymous complaints prior to the issue of *CVC Circular No.3(v)/99/2 dated 29.6.1999*, it can be pursued further to its logical end.

(c) Where action was initiated on anonymous / pseudonymous complaints between the period 11.10.2002 and 25.11.2014 with prior concurrence of the Commission but is pending, further action is permissible on such complaints.

(d) Material / evidence gathered during the investigation / verification of anonymous complaints when the action was prohibited on such complaints (i.e., between 29.6.1999 & 11.10.2002), or where such inquiry was initiated without the approval of the Commission, can be utilised for further initiation of disciplinary proceedings on misconducts noticed in such verification / inquiry.

3.10.3 The procedure for handling anonymous / pseudonymous complaints has been modified in view of the fact that complainants who desire to protect their identity now have the protection of the Public Interest Disclosure & Protection of Informers Resolution – 2004 (PIDPIR). Relevant instructions on this have been issued vide DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013.

3.10.4 Any complaint that does not bear the name and address of the complainant is an anonymous complaint. No action is to be taken on anonymous complaints by the Ministries / Departments / Organisations, irrespective of the nature of allegations, and such complaints should be filed. Such complaints shall not be treated as registered complaints.

3.10.5 Similarly, no action is to be taken by the Ministries / Departments / Organisations in the case of complaints which are treated as pseudonymous. A complaint that does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint. Pseudonymous complaints will be referred to the complainant for confirmation / genuineness verification and if no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days of sending the reminder, if still no response is received, the said complaint may be filed as pseudonymous by the concerned Ministry / Department. The relevant Circulars on the subject are CVC's Circular No. 07/11/2014 dated 25.11.2014, DoPT OM No. 104/76/2011-AVDs.I dated 18.10.2013 and CVC Circular No.03/03/16 dated 07.03.2016.

*3.10.6 The Commission vide *Circular No. 98/DSP/09 dated 24.09.2020* has reiterated that no action shall be taken on anonymous / pseudonymous complaint by Ministries / Departments / Organisations in the light of the guidelines issued vide *DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013*. The Commission has observed that some Departments / Organisations are still taking cognizance of anonymous complaints despite strict guidelines of DoPT and CVC. Such non-compliance of guidelines by authorities would be viewed seriously by the Commission.

3.11 INSTRUCTIONS TO COMPLAINANTS FOR MAKING COMPLAINTS TO THE COMMISSION

3.11.1 ²⁹*Lodging of Complaints:*

- (a) Complaints can be lodged by addressing the written communication / letter directly to the Commission or on Commission's portal *www.portal.cvc.gov.in* or through the Commission's website *www.cvc.gov.in* under the link "Lodge Complaint" on home page.
- (b) Complaints sent through written communication / letter should contain complete postal address (mobile / telephone number, if any) of the sender with specific details / information of the matter.
- (c) Complaints sent on any e-mail ID of officers of the Commission will not be entertained or taken cognizance of by the Commission.
- (d) Procedure for lodging complaints under the PIDPI Resolution by the whistle-blowers is given in detail in *Chapter IV*.

3.11.2 *Complainants to be careful before lodging complaints (Guidelines):*

- (a) Complainants are important stake holders for an anti-corruption institution like Central Vigilance Commission. The Commission expects that the complaints lodged with the Commission are genuine and not malicious, vexatious or frivolous; are based on verifiable facts and pertain to the Commission's jurisdiction. Complainants must keep in mind that the resources at the command of the Commission and other

²⁹ Para revised vide CHP dated 01.07.2019 and CVC Regulation 2021.

* New para inserted vide CVC Circular dated 24.09.2020.

vigilance formations are precious; and so, it needs to be used prudently in unearthing serious issues of corruption that would serve the public interest. Apart from using the resources of the Commission, false and frivolous complaints create administrative delays in decision making like in the selection processes, project implementations apart from tarnishing personal reputations of the Government functionaries. Though there are provisions in law to deal with false and frivolous ³⁰complaints, the same are not ³¹invoked ordinarily so that genuine complainants are not deterred. However, in appropriate cases ³²where complaints are lodged with a malafide / ulterior motive to harass or harm an innocent Government servant, necessary action could be taken against such complainants ³³by applying the existing provisions.

3.11.3 ³⁴*Deleted*

- (b) The complaint should not be anonymous or pseudonymous. If the complainant expects that the Commission should not file (take no action) their complaints on the basis of it being anonymous or pseudonymous, the complainants are expected to mention their name, correspondence address and contact details properly / correctly. It is also expected that the complainants will be quick to respond to the verification / confirmation being sought from them by the Commission. The complainants may lodge complaint under *PIDPI Resolution, 2004* if they wish to protect their identity. (Refer *Chapter IV* for more detail)
- (c) Similarly, complaints having incomplete / vague / generic observations are difficult to inquire into or investigate and are normally filed (no action taken). Therefore, it is expected from the complainants to go through the Complaint Handling Policy of the Commission, which is available on its website www.cvc.gov.in, so that only those complaints are lodged which are specific and where adequate evidence is enclosed so that it can indicate a substantive vigilance angle *prima-facie*.

³⁰ Substituted for word “complainants”.

³¹ Substituted for word “used”.

³² Inserted for clarity.

³³ Inserted for clarity.

³⁴ Para 3.11.3 deleted, sub-paras (a) to (i) merged with para 3.11.2 and re-numbered as sub-paras (a) to (j).

- (d) The complaint should not be biased or based on any personal grievances, not having any vigilance angle as such.
- (e) The complaint should be pertaining to Ministries / Departments/ Organisations falling within the normal jurisdiction of the Commission. For example, complaints against any authority or employee pertaining to State Governments do not fall within the normal jurisdiction of the Commission and hence the same would be filed (no action taken). The process of filing complaints and its processing within the Commission may lead to the use of the resources within the Commission in an unproductive manner.
- (f) The complainants who want to make whistle blower complaint under PIDPI Resolution are also expected to familiarise themselves with the proper procedure as enumerated in the Commission's Circular for complaints under PIDPI Resolution. If these procedures are not followed, then the complaints made thereunder will be treated like a general complaint and the identity of the complainant may get revealed. This may put the complainant in a disadvantageous position.
- (g) The complainants are advised to raise only those issues in their complaints to Commission which may not have been raised by anyone before any authority. At times, the complainant addresses his complaint to multiple agencies rather than addressing to the Commission only. In such situations, it becomes very difficult for the Commission to initiate action as it is felt that since the complaint is addressed to other agency / agencies they may take appropriate action in the matter. Therefore, it is expected from the complainant to address their complaints only to the Commission, in those cases where they expect action to be taken by the Commission.
- (h) It has also been the experience of the Commission that some complainants raise a large number of issues in one complaint in a way that all the issues get mixed up / intertwined with each other and it becomes difficult to discern and delineate the specific issues individually. The Commission expects that the complainants, while forwarding their complaints to the

Commission, should mention about the various specific issues one by one in a coherent manner so that any person of normal prudence can understand these issues unambiguously.

- (i) It has also been observed that many a time, hand written complaints received in the Commission are not legible at all and it becomes difficult to understand the contents of complaints and take appropriate action. If a hand-written complaint is forwarded to the Commission, it is expected that it should be legible. The same applies to the enclosures sent along with the complaints. All types of complaints, even if printed or photocopied should be clearly legible.
- (j) The complainants are also expected to lodge complaints regarding only those issues having vigilance angle which are not part of any litigation in any courts, tribunals, etc., i.e., the matter should not be sub-judice.

3.12 ACTION AGAINST PERSONS MAKING FALSE COMPLAINTS

- 3.12.1 If a complaint against a public servant is found to be malicious, vexatious or unfounded, it should be considered seriously whether action should be taken against the complainant for making a false complaint.
- 3.12.2 Under *Section 182 of the Indian Penal Code, 1860*, a person making false complaint can be prosecuted. *Section 182* reads as follows: -

“Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant:

- (a) *to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or*
- (b) *to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.*

Illustrations:

(a) *A informs a Magistrate that Z, a police officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.*

(b) *A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.*

(c) *A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section."*

3.12.3 If the person making a false complaint is a public servant, it may be considered whether departmental action should be taken against him as an alternative to prosecution.

3.12.4 Under section 195(1)(a) of Code of Criminal Procedure, 1973 a person making a false complaint can be prosecuted on a complaint lodged with a court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

3.12.5 In respect of complaints received by the Commission, while dealing with the matters if it comes across any such false complaint, the Commission may advise the administrative authority concerned about appropriate action to be taken. Regarding complaints received by the Departments / organisation, the administrative authorities may also, at their discretion, seek the advice of the Commission in respect of such cases involving public servants.

3.13 WITHDRAWAL OF COMPLAINTS

Some complainants, after confirming the complaint made by them, make a request for withdrawing the same or stopping the inquiry / investigation by the Commission / organisation. It is to be noted that once a complainant confirms the complaint and action has been initiated for inquiry/ investigation by the Commission / organisation, it is not permissible to withdraw / stop such enquiry / investigation even if the complainant withdraws the complaint. The allegations contained in the complaint have to be taken to its logical conclusion irrespective of complainant's request for withdrawal of the complaint.
