

GOVERNMENT OF KERALA

Abstract

**VIGILANCE DEPARTMENT – SET-UP, WORKING AND
PROCEDURES – REVISED ORDERS – ISSUED**

VIGILANCE (C) DEPARTMENT

G.O.(P) No. 65/92/Vig., Dated, Thiruvananthapuram, 12th May, 1992.

- Read:-
1. G.O. (P) No. 14/83/Vig. dated 7.10.1983
 2. G.O. (P) No. 150/90/Vig. dated 5.10.1990
 3. Letter No.TS (2) 21797/91 dated 17.9.1991 from the Director of Vigilance Investigation.

ORDER

In the Government Order read as 1st paper above Government have issued orders regarding the set-up, working and procedure relating to the investigation/enquiries by the Vigilance Department. Subsequently, in the Government Order read as 2nd paper above, Government have brought about certain modifications to para 13 (4) and (5) of the above Government Order. In the letter read as 3rd paper above the Director of Vigilance Investigation has proposed certain modifications to the above Government Orders. Government have examined the question and the following orders are issued on the organisation, working and procedure relating to the investigation and enquiries by the Vigilance Department, in supersession of the Government Orders read above.

PART I

1. Organisation, Control and Supervision of the Vigilance Department:-

(i) Organisation:- The Vigilance Department with the following zonal areas and jurisdiction will function under the control and supervision of the Director of Vigilance Investigation who will be assisted by such number of Inspectors General of Police, Deputy Inspectors General of Police and Superintendents of police as the Government may, from time to time, decide.

Zonal areas	Jurisdiction
1. Thiruvananthapuram	Thiruvananthapuram Revenue District
2. Kollam	Kollam Revenue District.
3. Alappuzha	Alappuzha Revenue District
4. Pathanamthitta	Pathanamthitta Revenue District.
5. Kottayam	Kottayam Revenue District.
6. Idukki	Idukki Revenue District
7. Ernakulam	Ernakulam Revenue District
8. Thrissur	Thrissur Revenue District
9. Palakkad	Palakkad Revenue District.
10. Malappuram	Malappuram Revenue District
11. Kozhikode	Kozhikode Revenue District
12. Wayanad	Wayanad Revenue District
13. Kannur	Kannur Revenue District
14. Kasaragod	Kasaragod Revenue District

(i) The Director of Vigilance Investigation, the Inspectors General of Police the Deputy Inspectors General of Police, the Superintendent of Police (Intelligence), the Superintendent of Police, Headquarters, the Superintendents of Police, Special Cell at Thiruvananthapuram and Kozhikode and the officers attached to their offices will have jurisdiction throughout the State in so far as the work of the Vigilance Department is concerned. The Range Superintendents of Police, Range Deputy Superintendents of Police and Range Inspectors will exercise jurisdiction over their respective Ranges. The Deputy Superintendents of Police in charge of Zonal Units and the subordinates under them will exercise jurisdiction over their respective Zonal areas.

(ii) The strength of each of the Zonal Units will be as determined by Government on the recommendation of the Director of Vigilance Investigation from time to time.

(iii) The selection of the personnel to be drawn from the Police Department will be made by the Director of Vigilance Investigation in consultation with the Director General of Police.

(iv) The officers and men selected for the Vigilance Department will work in that Department normally for three years.

2. Nature of duties: - The object of the Vigilance Department is to combat effectively corruption and misconduct on the part of Government Servants and public servants, particularly at the higher levels. The work of the Vigilance Department will be confined to:-

(i) Government Servants of the State, in respect of crime cases and allegations of misconduct; and

(ii) other public servants as defined in section 2 (c) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and the Kerala Criminal Law Amendment Act 1962 in respect of offences coming under the Prevention of Corruption Act and Indian Penal Code. The Vigilance Department can, however, bring to the notice of the appropriate authorities cases of corruption or misconduct among the servants of the Central Government. The Vigilance Department will not, except on the specific request of the Departments concerned, enquire into the conduct of officers of the following Departments:-

1. The Judicial Department;
2. The Legislature Secretariat; and
3. The Kerala Public Service Commission.

3. Addressing communications:- All communications to the Vigilance Department should be addressed to the Director of Vigilance Investigation, Thiruvananthapuram.

4. Procedure for initiating Vigilance Enquiries and related matters:-

(i) Investigation of cases coming under the Prevention of Corruption Act and the Indian Penal Code will be undertaken by the Vigilance Department under the provisions of the Criminal Procedure Code;

(ii) The Vigilance Department should not initiate enquiries *suo-motu*, even when a complaint is made in person or in a signed petition. The Vigilance Department should invariably report such complaints promptly to Government in Vigilance Department which will issue necessary instructions in the matter;

(iii) The Director of Vigilance Investigation shall initiate a preliminary enquiry¹ in matters referred to him for enquiry. He may himself order a detailed enquiry² when he is satisfied that there is scope for a detailed enquiry.

(iv) Petitions for enquiry by Vigilance Department received by Heads of Departments and others should invariably be forwarded to Government in the Vigilance Department for further action;

(v) Director of Vigilance Investigation on receipt of petitions containing allegations mentioned in para 12 (a) will send them to the Head of the Department concerned for taking appropriate action into the matter and the Head of Department will take necessary action after conducting a proper enquiry;

(vi) The Vigilance Department will keep under surveillance officers of doubtful integrity.

5. Requisitioning of Records by the Vigilance Department:-

(i) If in the course of any enquiry, the records of the Secretariat are required, the Director of Vigilance Investigation or the Inspector General of Police concerned may address the Secretary to Government of the Department concerned requesting facility to peruse or to take over/hand over the records to any officer of the Vigilance Department authorised for the purpose;

(ii) If the records in the office of the Heads of Departments are required, the Deputy Inspector General of Police or the Superintendents of Police, Vigilance Department may address the Head of the Department concerned requesting facility to peruse or to hand over the records to any officer of the Vigilance Department authorised for the purpose;

(iii) If the records in any other subordinate offices are required, the Deputy Superintendent of Police of the Headquarters Units, Special Cells and Zonal Units concerned will request the Head of Office concerned who will arrange to make them available at such place and in such manner as may be found most convenient;

(iv) The records should ordinarily be made available to the Vigilance Department within one week of requisitioning. In cases of delay, the officers of Vigilance Department will be free to make personal visits to the offices where the records are kept for the purpose of securing them;

(v) If the records are not made available to the Vigilance Department even after 15 days of the initial request, action may be taken as indicated below:

¹ Modified as Vigilance Enquiry vide GO.(P)No. 18/97 Vig. dt. 5.4.1997

² Modified as Confidential Verification vide the above G.O.

In case the documents are required for an enquiry, the matter should be taken up with the Head of Department concerned who will issue specific and clear instructions to the subordinate officer concerned. Cases of causing deliberate hindrance or delay to the enquiry will be reported to Government in the Vigilance Department for initiating disciplinary action against the officers/officers concerned;

(vi) Before the original records are handed over to the officers of Vigilance Department, the Head of Offices shall take sufficient photocopies of the required documents in the presence of the Vigilance officers.

6. Types of cases: - The Vigilance Department shall take up investigation/enquiry of cases falling under the following categories: -

(i) Offences of criminal misconduct by public servants as defined in the Prevention of Corruption Act, 1988;

(ii) Any dishonest or intentionally improper conduct on the part of a public servant or abuse of powers as a public servant;

(iii) Gross negligence or dereliction of duty;

(iv) Misuse of any public money or property;

(v) Misappropriation involving Government or public servants in which the amount exceeds Rs25, 000³. All other cases of defalcation of public moneys and properties, including funds of co-operative societies, irrespective of the amount involved will be dealt with by the regular police⁴, unless Government direct other-wise.

(vi) Abetment of the above offences.

7. Enquiry Report:-

(1) A time limit of three months is fixed for completing an investigation/enquiry. If the investigation/enquiry is not completed within this period, the Director of Vigilance Investigation will forward a special report to Government in the Vigilance Department showing the result of the investigation/enquiry so far made and indicating the probable time required for completing the investigation.

(2) After completion of an enquiry, the Deputy Superintendent of Police of the Units concerned shall forward a detailed report showing the allegations, the evidence collected and the result of the enquiry on each item to the Superintendent of Police, Vigilance Department concerned who will scrutinise it and forward the same with his report to the Director of Vigilance Investigation through the Inspector General of Police/Deputy Inspector General of Police concerned for transmission to Government. Statements of witnesses questioned shall be recorded.

(3) All investigation/enquiry reports of the Vigilance Department after examination and approval by the Director of Vigilance Investigation shall be forwarded by him to

³. Modified as Rs. 50,000 vide GO (P) No. 18/97/Vig. dt. 5.04.1997.

⁴. Modified vide GO (P) No. 80/94/Vig. dt. 6.10.1994.

Government in the Vigilance Department. On receipt of the report the Government will decide what further action should be taken in the matter. The case shall be referred to the Vigilance Tribunal or for departmental enquiry according to merits for further action as provided for in the relevant rules,

- (i) Where the recommendation in a factual report is for prosecution the Director of Vigilance Investigation will also forward along with the report;
 - (a) First Information Report.
 - (b) Statements of witnesses, Mahazars and all other connected documents relied upon for the proposed prosecution.
- (ii) Where the recommendation in a report is for prosecution or for a Vigilance Tribunal enquiry, the opinion of the Legal Adviser to the Vigilance Department will also be attached. A draft charge with a statement of allegations will also be attached to the enquiry report besides forwarding all documents relied upon for the proposed Tribunal enquiry.

8. Registration of cases: -

- (1) If at any stage during the preliminary enquiry conducted by the Vigilance Department there are reasonable grounds to believe that the accused Government servant has committed an offence under the Prevention of Corruption Act, the preliminary enquiry will be stopped at that stage, and a crime case registered and investigated after obtaining sanction from the Director of Vigilance Investigation.
- (2) After completion of the investigation, a report giving the facts, evidence and circumstances in each case both for and against the prosecution shall be forwarded by the Deputy Superintendent of Police concerned to the Superintendent of Police concerned who will submit the same to the Director of Vigilance Investigation through the Inspector General of Police concerned for transmission to Government. In cases personally investigated by the Superintendent of Police or other Senior Officers of factual report will be prepared by them.
- (3) In case where it is decided to prosecute an officer for the above offences, a charge sheet will be laid before the Special Judge after obtaining the necessary legal sanction
- (4) When it is considered necessary to transfer a crime case from a local police station/unit to the Vigilance Department, the concerned Superintendent of Police of the District/Unit should forward the same to the Director of Vigilance Investigation, Thiruvananthapuram, who will decide whether it is a fit case to be investigated by the Vigilance Department and if so, take further action by re-registering the case in the Vigilance Department or otherwise return the case to the Local Police/Units.

9. List of Suspect Officials: -

In Cases where there is information that an officer is corrupt and it is felt that a watch maintained by the Vigilance Department may lead to the detection of his corrupt practices, the Inspector General of Police, the Deputy Inspector General of Police or the Superintendent of Police, Vigilance concerned shall direct a chosen

officer of the Vigilance Department to make confidential enquiries about the conduct of the officer from time to time and record the results of such enquiries in a dossier to be maintained by and kept in the personal custody of the Deputy Inspector General of Police or the Superintendent of Police, Vigilance Department. Whenever such dossiers are opened the fact should be reported to the Director of Vigilance Investigation. Enquiries made in this behalf should be very confidential.

10. Identity Cards: -

Identity cards under the hand and seal of the Director of Vigilance Investigation shall be issued to the officers of the Vigilance Department.

11. Anonymous Petitions: -

Anonymous petitions which are vague or general in nature need not be enquired into. Decisions in this regard will be taken only by the Director of Vigilance Investigation. Petitions containing specific allegations which are capable of verification will be followed up.

12. Reference to Vigilance Department: -

The Heads of Departments and Vigilance Officers of the various departments shall not ordinarily depend upon the Vigilance Department for making any enquiry with regard to matters to be examined and dealt with by them.

(a) They will themselves deal with the following matters without referring them to the Vigilance Department.

- (i) Nepotism;
- (ii) Causing avoidable delay in the disposal of Government business;
- (iii) Violation of departmental standing orders.

(b) Where there is strong suspicion regarding the Commission of an offence under the Prevention of Corruption Act the information should be furnished to Government for follow up action by the Vigilance Department.

(c) Other cases in which the assistance of the Vigilance Department is considered necessary, will also be referred to the Government in the Vigilance Department who will issue necessary instructions to the Director of Vigilance Investigation.

(d) When cases are referred to the Vigilance Department by other Departments of the Secretariat, the Secretaries of the Department concerned will record specific reasons in the file, why the particular case cannot be effectively and adequately investigated by the Head of Department/a senior officer of the Department, and why it is necessary for the case to be investigated by the Director of Vigilance Investigation. Proposals for Vigilance Investigation without the specific remarks of the Secretaries concerned will not be entertained by Vigilance Department.

13. Departmental Action: -

(1) When an investigation/enquiry against a Government Servant is pending in the Directorate of Vigilance Investigation, the Head of Department/Officer concerned shall not initiate a parallel departmental enquiry on the same allegations but shall wait for the completion of the investigation/enquiry by the Director of Vigilance Investigation.

(2) Government in the Vigilance Department will have the power to review the punishment awarded by the Heads of Departments and subordinate officers in all cases of departmental enquiries, initiated on the basis of a report from the Director of Vigilance Investigation.

(3) Departmental action on the basis of Vigilance Enquiry reports against officers whose appointing authority is Government will invariably be taken by the concerned Administrative Department in the Secretariat. Final orders will be passed only in consultation with the Vigilance Department. The file should be circulated to the Minister concerned and Minister in-charge of Vigilance before issuing orders.

(4) In case of officers whose appointing authority is the Head of Department or District Collector, the Administrative Department shall immediately send the Vigilance Enquiry report to them for taking departmental action. However, if for any reason the Administrative Department considers that the case should be handled directly by them, it may be done. Departmental action on the basis of Vigilance reports will not in any case be dealt with by a subordinate authority lower than the Head of Department/District Collector. The final decision taken will be intimated by the Head of Department/Collector to the concerned Administrative Department with copy to the Vigilance Department in the Secretariat. If the Administrative Department feels that the punishment imposed is not adequate, action to enhance the punishment imposed may be taken in consultation with Vigilance Department under Rules 31 and 37 of Kerala Civil Services (Classification, Control and Appeal) Rules. The Vigilance Department also may if considered necessary, initiate *suo motu* proceedings to enhance the punishment in consultation with the concerned Administrative Department.

14. Scrutiny of Records: -

In most cases it may suffice for the purpose of investigation or enquiry to refer to records without taking them over. Certified copies of such records would alone be required in some cases. The safety of such records would also be of importance, if they are required to be produced during the trial or enquiry. The Administrative Authority having the custody of any records required in connection with an investigation or enquiry by the Vigilance Department and which are not taken over by the latter shall make satisfactory arrangements for their safe custody. If it is considered desirable that the records shall be transferred to the custody of a different or higher authority in the interest of the safety of the records, the Administrative Authority may do so in his own initiative or the Director of Vigilance Investigation may address the Administrative Authority concerned.

15. Suspension or transfer of Government Servants against whom proceedings are taken: -

Whenever a case alleging corruption is registered or an enquiry is initiated against any Government servant by the Directorate of Vigilance Investigation and he feels it necessary that in the interests of a fair investigation or enquiry, the Government servant concerned should be either placed under suspension or transferred, the Director may forward a report to the Government in the Vigilance Department recommending such a step. Government after considering the recommendation will issue necessary orders in the matter. The Heads of Department/Office/Government Undertakings concerned shall, without fail and with the least delay, comply with such directions, ordering the suspension/transfer of the official concerned, and report compliance to Government in the Vigilance Department, under intimation to Director of Vigilance Investigation. The reinstatement of the Government servant and/or his reposting in the same place from where he was suspended/transferred shall be ordered only with the concurrence of Government in Vigilance Department. In cases where orders of suspension were issued by Government in the Vigilance Department, reinstatement will be ordered only by the Vigilance Department, in consultation with the Director of Vigilance Investigation.

16. Surprise Check: -

(1) Where information is received by the Vigilance Department about a suspected case of corruption in which there is no individual to come forward and furnish details sufficient to register a case, but there may be scope to establish the truth by a surprise check, an officer of the Vigilance Department may meet an appropriate higher authority of the Department concerned and furnish him with the relevant details and the type of surprise check which is recommended in the case.

(2) In the absence of either the Head of the office or the superior officer, the Vigilance Officer may avail the services of an officer of equal rank belonging to the concerned Department and available locally, but who does not have administrative control over the officer where surprise check has to be conducted. Failure to cooperate with the officials of Vigilance Department on such requests will be punishable under section 100 (8) of the Criminal Procedure Code and Section 187 Indian Penal Code.

(3) Ordinarily if the request is made to the Head of a Department the officer of the Vigilance Department will deliver to him a letter from the Director of Vigilance Investigation/Inspector General of Police (Vigilance) concerned containing the above mentioned facts. A similar letter from the Superintendent of Police will be delivered in the case of other departmental officers. Where in emergent cases action is required before the letter can be obtained from the Director or the Superintendent of Police the request will be made in person by an officer not below the rank of Deputy superintendent of Police who will also hand over a letter containing all the particulars mentioned above.

(4) The authority who is approached thus shall either immediately conduct the surprise check as requested by the officer of the Vigilance Department or give a reply in writing to the officer of the Vigilance Department who meets him stating the grounds why it is not feasible to conduct it in the manner requested. The officer of the

Vigilance Department should also be present during the arrangements made for the surprise check and the actual check.⁵

(5) On completion of the surprise check, the authority conducting the check should submit a report to the Head of the Department (with a copy to the Deputy Superintendent of Police, Vigilance concerned) within 10 days positively indicating inter alia the following: -

- (i) Irregularities noticed, if any;
- (ii) Officer/Officers responsible;
- (iii) Action proposed to be taken.

(6) On completion of departmental action, the result should be intimated by the Head of the Department to Government in Vigilance Department and to the Director of Vigilance Investigation.

17. Collection of information about prevalence of corruption and malpractice: -

In the course of the general watch kept by the Vigilance Department information may also be received regarding malpractices of an individual or general misconduct on the part of a category of Government servants or employees of Public Sector Undertakings. The Director of Vigilance Investigation will communicate all such information confidentially to the Government in the Vigilance Department for appropriate action.

18. Scrutiny of Property Statements: -

In G.O.(MS) No. 36/Public dated 16.1.1962 it has been ordered that the Heads of Departments and officers should scrutinise the property statements immediately on their receipt and that suspicious cases should be referred to the Vigilance Department for investigation. Heads of Departments and officers who, on scrutinising the property statements received by them from their subordinates, find grounds for suspicion, should refer such cases to the Vigilance Department for enquiry/investigation through Government in the Vigilance Department. The reports of Investigation or enquiries conducted on such references may also be forwarded to Government by the Vigilance Department.

19. Assistance to the Vigilance Department: -

All Government servants and other public servants (except those in the Judicial Department) shall render all helps and co-operation whenever they are approached by the officers of the Vigilance Department for assisting or witnessing a trap or in the conduct of an enquiry/investigation in Vigilance cases. Any reluctance, refusal or non co-operation noticed on the part of officers will be viewed seriously by government, and appropriate penal action taken.

⁵ Procedure revised vide G.O.(P) No. 18/97/Vig. dt. 5.4.1997.

By order of the Governor,

C.P. NAIR

Commissioner & Secretary
(Home and Vigilance Departments).