

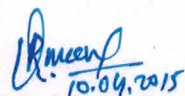
No. 3/1/2015-O&M/ 386
Government of India
Central Water Commission

Room No. 326(S), Sewa Bhawan,
R.K.Puram, New Delhi-110066,
Dated 10 April 2015

OFFICE MEMORANDUM

Subject: Guidelines while deciding grant of sanction for prosecution.

A copy of Ministry of Personnel, Public Grievances and Pensions,
DOPT's D.O. No. 142/15/2015-AVD.1 dated 26.03.15 on the subject
mentioned above is circulated for strict compliance


10.04.2015

(D.R. Meena)

Under Secretary

Tel. No. 011-26711031

Copy to:

1. PPS to Chairman, CWC
2. P.S. to Member (D&R),/ Member (WP&P) / Member(RM), CWC
3. All Chief Engineers (including field formations), CWC
4. Director (E-1) / Director (E-2) / Director (Admn.) / Secretary, CWC
5. Director, S.M.Dte., CWC for uploading on CWC website.
6. Accounts Officer, CWC
7. All Under Secretaries / Section Officers, CWC
8. Guard File, O&M Section, CWC

Jishnu Barua, IAS

Joint Secretary (S&Vig.-II)

Tel. : 011-23093591

Fax : 011-23092930



भारत सरकार
कार्मिक और प्रशिक्षण विभाग
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
नॉर्थ ब्लॉक, नई दिल्ली - 110001

GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL & TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NORTH BLOCK, NEW DELHI - 110001

No.142/15/2015-AVD.I

Dear Sir,

Kindly refer to Hon'ble Supreme Court Judgement regarding Criminal Appeal no.1838 of 2013 in the matter of Central Bureau of Investigation Vs. Ashok Kumar Aggarwal. Hon'ble Supreme Court has 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. Hon'ble Supreme Court vide said order has explicitly laid down guidelines for grant of sanction for prosecution which need to be complied upon. Your particular attention is drawn to para 8 of the Hon'ble Supreme Court aforesaid judgement. (Copy enclosed)

2. In this regard attention is also invited to the guidelines issued by this Deptt vide letter No.142/4/2012 dated 28th July, 2014 wherein it has been conveyed that complete proposals as per the checklist would only be accepted for further detailed scrutiny and examination to consider sanction for prosecution under the Prevention of Corruption Act, 1988. All administrative authorities are requested to adhere to the aforesaid guidelines while deciding grant of sanction for prosecution.

01.4
Secy, 2/PO, CWC

US(CM2V)

US(CD2M) ✓
for circulation

To,

The Chief Secretaries of all State Governments
Union Territory Administration
(As per standard list)

Copy to :

1. All the Ministries/Departments of Government of India as per Standard list
2. Prime Minister's office w.r.t ID No.4135774/ PMO/2015 dated 16.02.2015
3. ✓ NIC, DoP&T for uploading on the website of the Department.
4. Secretary, Central Vigilance Commission, Satarkta Bhawan, New Delhi
5. Director, Central Bureau of Investigation, North block, New Delhi

With regards

Yours sincerely

Jishnu Barua 26/3/15

Secretary	822
Dv. No.	
Date	1/4/2015
C.W.C.	



सूचना

O & M Section

15/4

Date
By No.

2

Hon'ble Supreme Court in para 7 of the Judgment (Criminal Appeal No. 1838/2013) has 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.)

In para 8 of the judgment, Hon'ble Supreme Court has issued following guidelines which need to followed with complete strictness by the competent authorities while considering grant of sanction:

- (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.