

15 -ാം കേരള നിയമസഭ

9 -ാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നം ഇല്ലാത്ത ചോദ്യം നം. 2151

13-09-2023 - ൽ മറുപടിയ്ക്ക്

എ.എ.എസ്., സി.സി.എസ്. ഉദ്യോഗസ്ഥരുടെ വിജിലൻസ് ക്ലിയറൻസ് സർട്ടിഫിക്കറ്റ്

ചോദ്യം		ഉത്തരം	
ശ്രീമതി ഉമ തോമസ്		ശ്രീ. പിണറായി വിജയൻ (മുഖ്യമന്ത്രി)	
(എ)	<p>സംസ്ഥാന സർക്കാരിന്റെ കീഴിൽ ഡെപ്യൂട്ടേഷൻ വ്യവസ്ഥയിൽ ജോലി ചെയ്യുന്ന ആൾ ഇന്ത്യ സർവീസസ് ഉദ്യോഗസ്ഥർക്കും, സെൻട്രൽ സിവിൽ സർവീസസ് ഉദ്യോഗസ്ഥർക്കും കേന്ദ്രസർക്കാരിൽ സമർപ്പിക്കുവാനും മറ്റുമുള്ള ആവശ്യങ്ങൾക്കായി വിജിലൻസ് ക്ലിയറൻസ് സർട്ടിഫിക്കറ്റ് നൽകുന്നതിനുള്ള കോംപീറ്റൻ്റ് അതോറിറ്റി ആരാണ്; വ്യക്തമാക്കുമോ;</p>	(എ)	<p>വിജിലൻസ് ക്ലിയറൻസ് സർട്ടിഫിക്കറ്റ് നൽകുന്നതിനുള്ള കോംപീറ്റൻ്റ് അതോറിറ്റി അതാത് കേഡർ കൺട്രോളിങ്ങ് അതോറിറ്റിയാണ്. കേന്ദ്ര സർക്കാർ പുറപ്പെടുവിച്ചിട്ടുള്ള 28.09.2022-ലെ F No.104/76/2022-AVD.IA നമ്പർ ഓഫീസ് മെമ്മോറാണ്ടത്തിലും 23.07.2018-ലെ സ.ഉ. (കൈ) 159/2018/പൊ.ഭ.വ നമ്പർ ഉത്തരവിലുമാണ് ഇത് സംബന്ധിച്ച മാർഗ്ഗനിർദ്ദേശങ്ങൾ അടങ്ങിയിട്ടുള്ളത്. പ്രസ്തുത ഓഫീസ് മെമ്മോറാണ്ടത്തിന്റെ പകർപ്പ് അനുബന്ധം (1) ആയും ഉത്തരവിന്റെ പകർപ്പ് അനുബന്ധം (2) ആയും ചേർക്കുന്നു.</p> <p>ഇത്തരത്തിൽ ഡെപ്യൂട്ടേഷനിൽ സംസ്ഥാനത്തുള്ള ഉദ്യോഗസ്ഥർക്ക്, ടിയാളുകൾ ഇവിടെ ജോലി ചെയ്തിരുന്ന കാലയളവിലെ, വിജിലൻസ് സ്റ്റാറ്റസ് മാത്രമാണ് സംസ്ഥാനത്ത് നിന്നും നൽകി വരുന്നത്. വിജിലൻസ് ഡയറക്ടറുടെ കൂടി റിപ്പോർട്ടിന്റെ അടിസ്ഥാനത്തിലാണ് വിജിലൻസ് സ്റ്റാറ്റസ് നൽകുന്നത്.</p>
	(ബി)		<p>പ്രസ്തുത സർട്ടിഫിക്കറ്റ് നൽകുന്നതിന് അവലംബിക്കുന്ന നടപടിക്രമം എന്തൊക്കെയാണെന്ന് വിശദീകരിക്കാമോ;</p>

		<p>ചെയ്തിരുന്ന കാലയളവിലെ, വിജിലൻസ് സ്റ്റാറ്റസ് മാത്രമാണ് സംസ്ഥാനത്ത് നിന്നും നൽകി വരുന്നത്. വിജിലൻസ് ഡയറക്ടറുടെ കൂടി റിപ്പോർട്ടിന്റെ അടിസ്ഥാനത്തിലാണ് വിജിലൻസ് സ്റ്റാറ്റസ് നൽകുന്നത്.</p>
(സി)	<p>ഇത് സംബന്ധിച്ച് കേന്ദ്ര-സംസ്ഥാന സർക്കാരുകളുടെ നിലവിലുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ എന്തൊക്കെയാണ്; പകർപ്പുകൾ ലഭ്യമാക്കാമോ;</p>	<p>(സി) വിജിലൻസ് ക്ലിയറൻസ് സർട്ടിഫിക്കറ്റ് നൽകുന്നതിനുള്ള കോംപീറ്റന്റ് അതോറിറ്റി അതാത് കേഡർ കൺട്രോളിങ്ങ് അതോറിറ്റിയാണ്. കേന്ദ്ര സർക്കാർ പുറപ്പെടുവിച്ചിട്ടുള്ള 28.09.2022-ലെ F No.104/76/2022-AVD.IA നമ്പർ ഓഫീസ് മെമ്മോറാണ്ടത്തിലും 23.07.2018-ലെ സ.ഉ. (കൈ) 159/2018/പൊ.ഭ.വ നമ്പർ ഉത്തരവിലുമാണ് ഇത് സംബന്ധിച്ച മാർഗ്ഗനിർദ്ദേശങ്ങൾ അടങ്ങിയിട്ടുള്ളത്. പ്രസ്തുത ഓഫീസ് മെമ്മോറാണ്ടത്തിന്റെ പകർപ്പ് അനുബന്ധം (1) ആയും ഉത്തരവിന്റെ പകർപ്പ് അനുബന്ധം (2) ആയും ചേർക്കുന്നു.</p> <p>ഇത്തരത്തിൽ ഡെപ്യൂട്ടേഷനിൽ സംസ്ഥാനത്തുള്ള ഉദ്യോഗസ്ഥർക്ക്, ടിയാളുകൾ ഇവിടെ ജോലി ചെയ്തിരുന്ന കാലയളവിലെ, വിജിലൻസ് സ്റ്റാറ്റസ് മാത്രമാണ് സംസ്ഥാനത്ത് നിന്നും നൽകി വരുന്നത്. വിജിലൻസ് ഡയറക്ടറുടെ കൂടി റിപ്പോർട്ടിന്റെ അടിസ്ഥാനത്തിലാണ് വിജിലൻസ് സ്റ്റാറ്റസ് നൽകുന്നത്.</p>
(ഡി)	<p>ഈ വർഷം ഇതുവരെ എത്ര ഉദ്യോഗസ്ഥർക്ക് പ്രസ്തുത സർട്ടിഫിക്കറ്റുകൾ നൽകിയിട്ടുണ്ട്; അവരുടെ വിശദാംശം ലഭ്യമാക്കാമോ?</p>	<p>(ഡി) അഡീഷണൽ ട്രാൻസ്പോർട്ട് കമ്മീഷണർ ശ്രീ. പി.എസ്. പ്രമോജ് ശങ്കർ ഐ.ഒ.എഫ്.എസ്., അഡീഷണൽ എക്സൈസ് കമ്മീഷണർ ശ്രീ. ഡി. രാജീവ്, ഐ.ഒ.എഫ്.എസ്. എന്നീ ഉദ്യോഗസ്ഥരുടെ വിജിലൻസ് സ്റ്റാറ്റസ് കേന്ദ്ര സർക്കാരിനെ അറിയിച്ചിട്ടുണ്ട്.</p>

സെക്ഷൻ ഓഫീസർ

അനുബന്ധം - 1

No.DOPT-1667820093974
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training
AVD(AVD-IA)

North Block, New Delhi
Dated 28 September, 2022

OFFICE MEMORANDUM

Subject:- Grant of 'Vigilance Clearance' to AIS Officers & Central Civil Services/Central Civil posts

D/o Personnel & Training (DoPT) has from time to time issued instructions / guidelines regarding grant of Vigilance Clearance to AIS officers & Central Civil Services/Central Civil posts. An effort has been made to consolidate and update the said guidelines at one place for better understanding and guidance, which are as follows:

2. Part A-Grant of Vigilance Clearance to AIS Officers

(i) These orders regarding accordance of vigilance clearance to AIS officers shall be applicable with respect to (a) inclusion in the offer list (b) empanelment (c) any deputation for which Central Government clearance is necessary, including deputation under Rule 6(1) and 6(2)(ii) of the AIS (Cadre) Rules (d) appointments to sensitive posts (e) assignments to training programmes (except mandatory training) (f) premature repatriation to the cadre. In all these cases, the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

(ii) The circumstances under which vigilance clearance shall not be withheld shall be as under:

- a. Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Government may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding (i) Corruption (ii) Possession of assets disproportionate to known sources of income (iii) Moral turpitude (iv) violation of AIS Conduct Rules.
- b. Vigilance clearance shall not be withheld if a preliminary inquiry mentioned in 2(ii)(a) above takes more than three months to be completed.
- c. Vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) the officer is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year (iii) a chargesheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending (iv) orders for instituting disciplinary

proceeding against the officer have been issued by the Disciplinary Authority, provided that the chargesheet is served within three months from the date of passing such order (v) chargesheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending (vi) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority, provided that the chargesheet is served within three months from the date of initiating proceedings (vii) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter (viii) an FIR has been filed or a case registered by the concerned Government against the officer, provided that the charge sheet is served within three months from the date of filing/registering the FIR/case (ix) the officer is involved in a trap/raid case on charges of corruption and investigation is pending.

- d. Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a chargesheet has been filed by the investigating agency, provided that there are no directions to the contrary by a competent court of law.
- e. Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges even after a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the cadre and not for any other dispensation listed in Para 2(i) above.
- f. Vigilance clearance shall be denied to an officer if he fails to submit his annual Immovable Property Return of the previous year latest by 31st January of the following year, as required under Government of India decisions under Rule 16 of the All India Services (Conduct) Rule, 1968.

(iii) In cases where complaints have been referred to the State, and no substantive response has been received from the State within three months from the date on which the reference was made, the Cadre Controlling Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

(iv) Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:

- a. Where the investigating agency has found no substance in the allegation but the Court refuses to permit closure of the FIR.
- b. Where the Investigating Agency/ IO holds the charges as proved but the State Government differs on the converse.

(v) While considering cases for grant of vigilance clearance for the purpose of empanelment of AIS officers of a particular batch, the vigilance clearance/status will continue to be ascertained from the respective State Government. In respect of officers

serving in connection with the affairs of the Central Government, the vigilance status/clearance will be obtained from the respective Ministry. In all cases, the comments of the CVC will also be obtained. However, if no comments are received within a period of three months, it will be presumed that there is nothing adverse against the officer on the records of the body concerned.

(vi) Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers up to one level below their seniority in service. In the case of officers of the level of Additional Secretary/Secretary, this will be issued with the approval of the Secretary. In case of doubt, order of Secretary will be obtained keeping in view the purpose for which the 'vigilance clearance' is required by the indenting authority.

(vii) Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

3. Part B- Grant of Vigilance Clearance to members of Central Civil Services/Central Civil posts

(i) These orders regarding accordance of vigilance clearance to members of the Central Civil Services/posts shall be applicable with respect to (a) empanelment (b) any deputation for which clearance is necessary (c) appointments to sensitive posts and assignments to training programmes (except mandatory training). In all these cases, the vigilance status may be placed before and, considered by the Competent Authority before a decision is taken.

(ii) The circumstances under which vigilance clearance shall not be withheld shall be as under:

- a. Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Department may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding (i) Corruption (ii) Possession of assets disproportionate to known sources of income (iii) Moral turpitude (iv) violation of CCS (Conduct) Rules, 1964.
- b. Vigilance clearance shall not be withheld if a preliminary inquiry mentioned in 3(ii)(a) above takes more than three months to be completed.
- c. Vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) the officer is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year (iii) a chargesheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending (iv) orders for instituting disciplinary proceeding

against the officer have been issued by the Disciplinary Authority, provided that the chargesheet is served within three months from the date of passing such order (v) chargesheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending (vi) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority, provided that the chargesheet is served within three months from the date of initiating proceedings (vii) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter (viii) an FIR has been filed or a case registered by the concerned Department against the officer, provided that the charge sheet is served within three months from the date of filing/registering the FIR/case (ix) the officer is involved in a trap/raid case on charges of corruption and investigation is pending.

- d. Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a chargesheet has been filed by the investigating agency, provided that there are no directions to the contrary by a competent court of law.
- e. Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges within a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the parent cadre in case the officer is on deputation and not for any other dispensation listed in Para 3(ii)(a) above.
- f. Vigilance clearance shall be denied to an officer if he fails to submit his annual Immovable Property Return of the previous year latest by 31st January of the following year, as required under Government of India decisions under Rule 18 of CCS (Conduct) Rule, 1964.

(iii) In cases where complaints have been referred to the administrative authority concerned, and no substantive response has been received from such administrative authority concerned within three months from the date on which the reference was made, the Disciplinary Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

(iv) Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:

- a. where the investigating agency has found no substance in the allegation but the Court refuses to permit closure of the FIR; and
- b. where the investigating agency/ inquiry officer holds the charges as proved but the Competent Administrative Authority differs on the converse.

(v) While considering cases for grant of vigilance clearance for the purpose of empanelment of members of the Central Civil Services/Central Civil posts of a particular batch, the vigilance clearance/status will continue to be ascertained from the

respective Cadre Authority. In all such cases, the comments of the Central Vigilance Commission will be obtained. However, if no comments are received within a period of three months, it will be presumed that there is nothing adverse against the officer on the records of the body concerned.

(vi) Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers up to one level below their seniority in service. In the case of officers of the level of Additional Secretary/Secretary, this will be issued with the approval of the Secretary. In case of doubt, order of Secretary will be obtained keeping in view the purpose for which the 'vigilance clearance' is required by the indenting authority.

(vii) Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

(viii) Insofar as the personnel serving in the Indian audit and accounts Department are concerned, these instructions have been issued after consultation with the Comptroller and Auditor General of India.

(Sign of Authority)
Rupesh Kumar
Under Secretary
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അനുബന്ധം - 2



GOVERNMENT OF KERALA

Abstract

AIS – STREAMLINING THE PROCESS AND PROCEDURES FOR CONSIDERATION AND GRANT OF VIGILANCE CLEARANCE TO ALL INDIA SERVICE OFFICERS BELONGING TO KERALA CADRE – ORDERS ISSUED.

GENERAL ADMINISTRATION (SPECIAL C) DEPARTMENT

G.O.(Ms) No.159/2018 /GAD

Dated, Thiruvananthapuram, 23.07.2018.

- Read:-
1. Office Memorandum No. 104/33/2005/AVD.I dated 29.10.2007 of the Department of Personnel & Training, Government of India.
 2. Office Memorandum No. 11012/11/2007-Estt.(A) dated 14.12.2007 of the Department of Personnel & Training, Government of India.
 3. Office Memorandum No. 104/33/2005-AVD.I dated 07.09.2011 of the Department of Personnel & Training, Government of India.

ORDER

The guidelines for grant of vigilance clearance to AIS Officers have been laid down in the Office Memorandums of Department of Personnel & Training (DoPT), Government of India read above, in consultation with the Central Vigilance Commission.

I. The orders contained in these guidelines are applicable to the following purposes:

- i. inclusion in the offer list for Central Deputation
- ii. empanelment to the various posts in Government of India
- iii. any deputation for which Central Government clearance is necessary including deputation under Rule 6 (1) and 6 (2)(ii) of the AIS (Cadre) Rules
- iv. appointments to sensitive posts
- v. assignments to training programmes (except mandatory training)
- vi. premature repatriation to the cadre.

II. These guidelines explicitly state and provide for the following circumstances under which vigilance clearance has to be accorded by the competent authority:

- i. Vigilance clearance is to be accorded in a case where a complaint has been made against the officer, unless it is established on the basis of at least preliminary inquiry or on the basis of any information that the concerned Government may already have in its possession, that there is, prima facie, substance to verifiable

allegations regarding;

- a. Corruption
 - b. Possession of assets disproportionate to known sources of income
 - c. Moral turpitude
 - d. Violation of AIS Conduct Rules.
- ii. Vigilance clearance is to be accorded if a preliminary inquiry mentioned in II (i) above takes more than three months to be completed.
 - iii. Vigilance clearance is to be accorded unless
 - a. the officer is under suspension
 - b. the officer is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year
 - c. charge sheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending
 - d. orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of passing such order
 - e. charge sheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending
 - f. orders for instituting criminal case against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of initiating proceedings
 - g. sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter

Proviso: - Vigilance clearance is to be accorded even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges even after period of two years. However, such vigilance clearance entitles the officer to be considered only to be appointed to non-sensitive posts in Central Government. However in a situation as in para II (iii) (g) above along with this proviso, the Central Government is competent to prematurely repatriate the officer to the cadre, and the officer is not entitled for empanelment, Central deputation, appointment to sensitive posts, assignment to training programmes, etc. as listed in Para 2 of this order.

 - h. an FIR has been filed or a case has been registered by the concerned Government against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case.
 - i. the officer is involved in trap/raid case on charges of corruption and investigation is pending
 - iv. Vigilance clearance is to be accorded in a case where an FIR has been filed on the basis of a private complaint unless a charge sheet has been filed by the

investigating agency provided that there are no directions to the contrary by a competent court of law.

- v. Vigilance clearance is to be accorded to an officer if he has submitted his annual immovable property return of the previous year latest by 31st January of the following year, as required under Government of India decisions under Rule 16 of the All India Services (Conduct) Rule, 1968.

III. Vigilance clearance is to be accorded/ decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:

- i. Where the investigating agency has found no substance in the allegation but the Court refuses to permit closure of the FIR.
- ii. Where the Investigating Agency/Investigating Officer holds the charges as proved but the State Government differs on the converse.

IV. Vigilance clearance is to be issued in all cases with the approval of the Head of Vigilance Division for officers up to one level below their seniority in service.

V. Vigilance clearance is not to be normally be granted for a period of three years after the currency of the punishment, if minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance is not to be normally granted for a period of five years, after the currency of punishment. During the period, the performance of the officer is required to be closely watched.

2. The extant practice in the State Government is to communicate the report about Vigilance Enquiry (VE), Vigilance Cases (VC), and Quick Verification Report (QVR) to Government of India for the following purposes:

- i. inclusion in the offer list for Central Deputation
- ii. empanelment to the various posts in Government of India
- iii. any deputation for which Central Government clearance is necessary including deputation under Rule 6(1) and 6(2)(ii) of the AIS (Cadre) Rules
- iv. appointments to sensitive posts
- v. assignments to training programmes (except mandatory training)
- vi. premature repatriation to the cadre.

3. However it is observed that due diligence is not carried out while reporting the Vigilance Status in accordance with the guidelines of Government of India. The information as contained in communication to Government of India about the vigilance status convey wide array of information on existing VE, VC & QVR without any judicious analysis with reference to guidelines for according Vigilance Clearance as mandated by Government of India, which leads to non-consideration of officers from Kerala Cadre for empanelment / assignment in Government of India.

4. The provisions of these instructions of Government of India explicitly cover the situations of vigilance cases, institution and pendency of criminal cases, disciplinary proceedings, suspension, sanctions for investigation and prosecution, trap and raid cases on charge of corruption, failure to file IPR and difference of opinion between Investigating Agency and Court, and between Investigating Agency and Government. In addition, specific provisions exist in the guideline as enumerated in para II (i) of this order to consider the outcome of complaints received against the officers on the following allegations:

- i. Corruption
- ii. Possession of assets disproportionate to known sources of income
- iii. Moral turpitude
- iv. Violation of AIS Conduct Rules.

5. However, in the OM No.104/33/2005-AVD.I dated 29.10.2007 of DoPT read as 1st paper above, Para 2 (a) and (b) explicitly state that vigilance clearance shall not be withheld due to filing of a complaint unless it is established on the basis of at least a preliminary enquiry or on the basis of any substantive information that State Government is in possession to state that there is prima facie substance to verifiable allegations in these four above mentioned allegations. Presently the report about Vigilance Enquiry (VE) as being conveyed by VACB and considered by the competent authority are being dealt under this provision. Nevertheless, para 2 (b) of this specific OM of Government of India clearly states that vigilance clearance shall not be withheld to an officer if the preliminary enquiry on the complaints received against the officers with the allegations about corruption, possession of assets disproportionate to known sources

of income, moral turpitude and violation of AIS Conduct Rules takes more than three months to be completed.

6. Accordingly, the following due diligence is to be undertaken and outcome thereafter is to be considered for according /denying vigilance clearance to AIS officers if a complaint /complaints is (are) pending against any officer:

- i. A preliminary enquiry has to be conducted on receipt of complaint.
- ii. The preliminary enquiry has to be completed within three months of the receipt of the complaint.
- iii. The outcome of Preliminary enquiry should mandatorily have substantive information to state that there is prima facie substance to establish verifiable allegation.
- iv. In case the preliminary enquiry is not conducted, the State Government should be in its possession substantive information to state that there is prima facie substance to establish verifiable allegation.
- v. The outcome of Quick Verification Reporting system either suo motu by VACB or on the direction of court/tribunal should also be subjected to the test parameter as recorded in 6 (i) – (iv) above.

7. The present extant system of a simple conveyance of existence of a VE / QVR without satisfying above conditions is neither adequate nor appropriate to deny the vigilance clearance to the AIS officers for the purposes as provided in Para I (i) of this order. Accordingly, VACB should furnish the statement about existence of complaints pending against the officer in line with the tests criteria as provided in Para 6 (i) – (v) of this order. In the four point test criteria as above, however, there could be a situation when a complaint is received against an officer and three months period as stipulated to complete preliminary enquiry is not over but the vigilance status of the officer is required to be ascertained and conveyed to Government of India. In this circumstance, reliance is to be laid upon the specific phraseology in Para 2 (a) and (b) read together of the DoPT O.M. read as 2nd paper above, which states that ‘vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary enquiry...’ and ‘vigilance clearance shall not be withheld if a preliminary enquiry takes more than three months to be completed’. The spirit of the provision is explicit to the effect that there is a mandatory requirement of at least a preliminary enquiry and which is to be completed within three months. In a scenario when the period of three months is not over and no substance on verifiable allegation is available to prove

the allegation the officer deserves to be accorded vigilance clearance at that stage. On receipt of the report from VACB in such matters the entire fact should be placed before the competent authority for consideration for according vigilance clearance.

8. One of the extant observed practices is the typology of reporting by VACB is statement pursuant to QVR or any enquiry into a complaint – undertaken suo motu or under the direction of court/tribunal – to the effect that the report has been filed with the court/tribunal with a recommendation to close the enquiry and/or not requiring any further enquiry. Such reports creating an open ended outcome is having a bearing on the consideration for according vigilance clearance to the officers. Government of India guidelines explicitly provide four point test criteria in respect of complaints against officers limited to specific types of allegations as provided in Para (II) (i) above. The State VACB should specifically report in such cases whether the outcome of his reporting to court / tribunal fulfil four point test criteria for according/denying vigilance clearance rather than leaving the matter open ended. The decision by court is independent and should be taken into account in matters of vigilance clearance only after there is a direction from the court which satisfies any of the determining grounds as provided under the Government of India O.M. to withhold or deny the vigilance clearance.

9. In the circumstances, it is hereby ordered that the provisions of Government of India guidelines on Vigilance Clearance shall strictly be followed while forwarding the Vigilance status of the Officers to Government of India. The same guidelines shall be adopted by Government of Kerala for according Vigilance Clearance to AIS Officers for similar purposes in the State Government as well.

10. The tabular format outlined in the Annexure to this order shall be followed henceforth by the concerned Authorities, i.e. Director, Vigilance & Anti-Corruption Bureau, Director General of Police & State Police Chief, Principal Chief Conservator of Forests and Head of Forest Force and the General Administration (Special A & C) Departments for conveying the Vigilance status of AIS officers to Government of India.

11. In all the cases listed at Para I above, the vigilance status in the prescribed tabular format shall be placed before and considered by the Competent Authority before decision is taken.

(By Order of the Governor),
Bishwanath Sinha

Principal Secretary to Government.

To

- The Director, Vigilance and Anti-Corruption Bureau, Thiruvananthapuram.
- The Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi -110 001.
- The Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi-110 001.
- The Secretary, Government of India, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhawan, 6th Floor, Prithvi Block, Jor Bagh Road, Ali Ganj, New Delhi ±110 003.
- The Director General of Police & State Police Chief, Kerala, Police Head Quarters, Thiruvananthapuram.
- The Principal Chief Conservator of Forests and Head of Forest Force, Kerala, Forest Headquarters, Thiruvananthapuram.
- The General Administration (SC/Special-A/Special-C1/Special-C3) Departments.
- The Vigilance Department.
- ✓ The Web & New Media Division of I&PRD.
- Stock File/Office Copy.

Copy to: The Chief Principal Secretary to Chief Minister.
The Private Secretary to Chief Minister.
The Special Secretary to Chief Secretary.
The P.A. to Additional Chief Secretary (Home & Vigilance).
The P.A. to Principal Secretary, General Administration Department.
The P.A. to Additional Secretary, General Administration (Special A&C) Department.

Forwarded/By Order


Section Officer

PROFORMA FOR ACCORDING VIGILANCE CLEARANCE TO AN AIS OFFICER

1	Name of Officer		
2	Service	IAS/IPS/IFS	
3	Cadre & Batch	KL:	
4	Designation		
5	Present Posting		
6	Whether on deputation		
7	Date of Superannuation		
8	Level of the pay scale		
9	Appointing/ Disciplinary Authority		
10	Vigilance Clearance is required for the purpose of (please tick the relevant column)	1	Empanelment
		2	Central Deputation
		3	Any deputation for which Central Government clearance is necessary including deputation under Rule 6(1) and 6(2)(ii) of the AIS (Cadre) Rules
		4	Appointments to sensitive posts
		5	Training Programme
		6	Foreign Assignment
		7	Voluntary retirement/ Retirement on superannuation
		8	Any other purpose
11	Whether the officer is under suspension	Y/N (GAD Special)	
12	Whether the officer is on the Agreed List of the current year	Y/N (GAD Special)	
13	Whether any charge sheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending	Y/N (GAD Special)	
14	Whether the charge sheet has been served within three months pursuant to orders for instituting disciplinary proceeding against the officer from the date of issue of such orders	Y/N (GAD Special)	
15	Whether a charge sheet has been filed in a court by the investigating agency in a criminal case involving the officer and the case is pending	Y/N (VACB)	

16	Whether the charge sheet has been served within three months pursuant to orders for instituting criminal case against the officer from the date of initiating proceedings	Y/N (GAD Special and VACB)
17	Whether sanction for investigation or prosecution has been granted by the competent authority in a case under the PC Act or any other criminal matter	Y/N (GAD Special)
18	Whether investigating agency has completed its investigation and filed the charge sheet within two years	Y/N (VACB)
19	Whether the charge sheet has been served within three months pursuant to registration of FIR or filing of a case from the date of such registration of FIR / filing of case.	Y/N (GAD Special and VACB)
20	Whether the officer is involved in trap/raid case on charges of corruption and investigation is pending	Y/N (VACB)
21 a	Whether the charge sheet has been served upon officer pursuant to filing of FIR on the basis of a private complaint	Y/N (VACB)
21 b	If charge sheet has not been filed, is there any direction contrary by a court in this regard	Y/N (VACB)
22	Whether officer has submitted his annual immovable property return of the previous year by 31st January of the following year under Rule 16 of the AIS (Conduct) Rule, 1968.	Y/N (CS office)
23 *	Is there any complaint received against the officer	Y/N (GAD Special and VACB)
23 a#	If yes, whether preliminary enquiry has been conducted within three months from the date of receipt of the complaint	Y/N (GAD Special and VACB)
23 b	If yes, is there any prima facie substance to establish verifiable allegation	(to elaborate) (VACB)
23 c	Whether the Government is in its possession substantive information to state that there is prima facie substance to establish verifiable allegation	Y/N (to elaborate) (GAD Special)

DATE :

(NAME AND SIGNATURE)

* The outcome of QVR should be covered in item 23 above.

A complaint is received against an officer and three months period as stipulated to complete preliminary enquiry is not over at the time of furnishing the report, vigilance clearance is to be accorded provided no substance on verifiable allegation is available.