

Mast Immediate

No. 104/33/2005-AVD.I
Government of India
Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated October 29, 2007

OFFICE MEMORANDUM

Subject:- Guidelines regarding grant of 'Vigilance Clearance' to AIS Officers.

The undersigned is directed to say that the matter regarding guidelines for giving vigilance clearance to All India Services officers has been under consideration of the Department of Personnel & Training in consultation with the Central Vigilance Commission. The Competent Authority has approved the following guidelines for the grant of vigilance clearance in respect of All India Services officers with immediate effect:

1. 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.

2. 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(a) above takes more than three months to be completed.

- (7)
- 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. (i) 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 1 above.

3. 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.

4. 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.

5. 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.

6. Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers **upto** one level below their seniority in service. In the case of officers of the level of **AS/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.

7. 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.

(Handwritten Signature)
 (Kabindra Joshi)
 Under Secretary to the Govt. of India

- ✓ Prime Minister's Office (W.r.t. their I.D. No. 600/68/13/07-ESII, dated 24.10.2007)
- ✓ Cabinet Secretariat
- ✓ Ministry of Home Affairs — P.S. to Secy, 24/10/07
- ✓ Ministry of Environment & Forests
- ✓ Secretary, Central Vigilance Commission

- Copy to:
- (i) PS to MOS(PP)
 - (ii) PPS to Secretary(P) — 24/10/07
 - (iii) PPS to AS(S&V) — 20/10/07
 - (iv) EO & AS, DOP&T — 24/10/07
 - (v) PS to JS(V) — 24/10/07

