



भारत प्रतिभूति मुद्रण तथा मुद्रा निर्माण निगम लिमिटेड  
Security Printing and Minting Corporation of India Limited

मिनीरत्न श्रेणी-I, सीपीएसई  
(भारत सरकार के पूर्ण स्वामित्वाधीन)  
Miniratna Category-I, CPSE

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SPMCIL/VIG/03/09 (Vol. V)/

दिनांक 22.11.2016  
Date: 22.11.2016

परिपत्र संख्या 22/16/Circular No. 22/16

**विषय/ Sub:** न्यायिक या अर्ध-न्यायिक कार्यों के प्रयोग के दौरान पाई गई प्राधिकारियों की खामियों को जांचने हेतु मानदंड के संदर्भ में।/ Criteria to be followed while examining the lapses of authorities exercising judicial or quasi-judicial functions - regarding.

केन्द्रीय सतर्कता आयोग के दिनांक 24.10.2016 के परिपत्र द्वारा न्यायिक या अर्ध-न्यायिक कार्यों के प्रयोग के दौरान पाई गई प्राधिकारियों की खामियों को जांचने हेतु मानदंड के संदर्भ में जारी निर्देशों को सूचनार्थ एवं उचित कार्यवाही हेतु परिचालित किया जाता है।

A copy of circular dated 24.10.2016 issued by Central Vigilance Commission regarding Criteria to be followed while examining the lapses of authorities exercising judicial or quasi-judicial functions is circulated herewith for information and necessary action.

2. इसे सक्षम प्राधिकारी के अनुमोदन से जारी किया जाता है।
2. This issues with the approval of Competent Authority.

संलग्न/Encl: यथोपरि।/As above.

शशिभूषण बेहेरा

(शशिभूषण बेहेरा)/(SHASHIBHUSHAN BEHERA) 22/11/16

उप मुख्य सतर्कता अधिकारी/Dy. CVO

महाप्रबंधक/The General Manager,

टकसाल/मुद्रणालय/कागज कारखाना/Mints/Presses/Paper Mill,

भा.प्र.मु.मु.नि.नि.लि./SPMCIL

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2. मु.स.अ./निदेशक (तकनीकी/मा.सं.)।/CVO/Director (Tech/HR).

3. मुख्य वित्तीय अधिकारी/अपर महाप्रबंधक/उप मुख्य सतर्कता अधिकारी/मुख्य प्रबंधक/प्रबंधक (नि.मु.)। Chief Financial Officer/Addl. GM/Dy. CVO/CM/Mgr (CHO).

4. सभी सतर्कता अधिकारी/All Vigilance Officials.

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केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



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007/VGL/054-

सं./No.....

दिनांक / Dated..... 24<sup>th</sup> Oct.2016

Circular No. 12/10/16

**Subject:-** Criteria to be followed while examining the lapses of authorities exercising judicial or quasi-judicial functions- regarding.

The Commission vide its Circular No. 39/11/07 dated 1<sup>st</sup> November 2007 had desired that while examining cases of officials exercising quasi-judicial functions, the criteria laid down by the Supreme Court in the K.K. Dhawan's case should be kept in mind for a uniform approach in such matters.

2. In a recent judgment dated 12<sup>th</sup> July 2016 in R.P. Parekh Case (Civil Appeal Nos. 6116-6117 of 2016), the Supreme Court has prescribed the procedure / principles to be followed while examining the case against an officer exercising judicial/quasi-judicial function. The relevant para -15 of the judgment is reproduced below:  
*"The issue of whether a judicial officer has been actuated by an oblique motive or corrupt practice has to be determined upon a careful appraisal of the material on the record. Direct evidence of corruption may not always be forthcoming in every case involving a misconduct of this nature. A wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn. Cases involving misdemeanours of a judicial officer have to be dealt with sensitivity and care. A robust common sense must guide the disciplinary authority. At one end of the spectrum are those cases where direct evidence of a misdemeanour is available. Evidence in regard to the existence of an incriminating trail must be carefully scrutinized to determine whether an act of misconduct is established on the basis of legally acceptable evidence. Yet in other cases, direct evidence of a decision being actuated by a corrupt motive may not be available. The issue which arises in such cases is whether there are circumstances from which an inference that extraneous considerations have actuated a judicial officer can legitimately be drawn. Such an inference cannot obviously be drawn merely from a*

*hypothesis that a decision is erroneous. A wrong decision can yet be a bona fide error of judgment. Inadvertence is consistent with an honest error of judgment. A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact. .... "*

3. The Supreme Court in R P Parekh case has laid down the following conditions / procedure to be followed to determine as to whether an act of a judicial officer has been actuated by an oblique motive or corrupt practice:

- (i) Since, direct evidence of corruption may not always be forthcoming in every case involving a misconduct, a wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle.
- (ii) In the absence of cogent explanation, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that an officer was actuated by extraneous considerations can be drawn.
- (iii) The disciplinary authority has to determine whether there has emerged from the record one or more circumstances that indicate that the decision which form the basis of the charge of misconduct was not an honest exercise of judicial power.
- (iv) A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact.

4. The Commission desires that in addition to the principles enunciated in the Commission's Circular dated 1<sup>st</sup> November, 2007, the afore-mentioned criteria in the judgment may also be kept in mind while examining alleged lapses/misconducts in respect of officials exercising quasi-judicial functions/powers.

5. All CVOs are also advised to apprise the above said principles to all Disciplinary Authorities / Administrative Authorities in the Organisations for guidance.



(J. Vinod Kumar)  
Director

To,

All CVOs of Ministries/Depts./CPSEs/ PSBs/FIs/PSICs/Autonomous Organisations.

F.No.007/MISC/Legal/04(Pt.)  
Government of India  
Central Vigilance Commission  
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Safarkata Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated: 1<sup>st</sup> November, 2007

Circular No.39 /11/07

**Subject: Criteria to be followed while examining the lapses of authorities exercising quasi-judicial powers in accordance with the criteria laid down by the Hon'ble Supreme Court.**

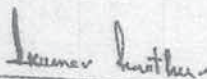
The Commission has observed that certain departments, while approaching the Commission for advice in respect of alleged/perceived lapses of the officials exercising quasi-judicial powers, do not follow a uniform approach in examining such lapses. In certain cases, it is routinely defended that the official had exercised his quasi-judicial powers and no disciplinary proceedings were warranted. In certain other cases, for similar lapses, disciplinary proceedings were proposed alleging that the official had shown recklessness or acted negligently and lacked devotion to duty. The Commission is of the view that there should be a uniform approach in examining such cases and it is important not to create an impression that the department was following a policy in targeting only few officials exercising such powers.

It is observed that the Hon'ble Supreme Court had laid down the criteria in K.K.Dhawan's case which, however, were being ignored and the officials were being defended on the basis of a subsequent Supreme Court judgement in the case of Z.B. Nagarkar Vs. Union of India. The Hon'ble Supreme Court in its judgment in the case of Union of India Vs. Duli Chand has held that the decision in the Z.B. Nagarkar's case did not represent the law correctly and decided that the decision in the K.K. Dhawan's case (decided earlier by a larger bench of the Supreme Court) would prevail. The judgment in K.K. Dhawan's case, had laid down the following criteria:

- (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.
- (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

- (iii) If he has acted in a manner which is unbecoming of a Government Servant;
- (iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- (v) If he had acted in order to unduly favour a party;
- (vi) If he had actuated by corrupt motive, however, small the bribe may be because Lork Coke said long ago "though the bribe may be small, yet the fault is great".

The Commission has therefore, decided that the CVOs, while sending the case to the Commission for advice against the lapses of officials exercising quasi-judicial powers, should examine critically whether any of the above criteria listed, was attracted or not. In either case, detailed justification should be given in arriving at the conclusion as to how none of the criteria was attracted, or how any of them was attracted.



(Vineet Mathur)  
Deputy Secretary

To

All Chief Vigilance Officers