

1-B--GOVERNMENT OF UTTAR PRADESH

VIGILANCE SECTION-2

No. 1602/39(2)-217-1964 Lucknow,

Dated August 29, 1977

Notification

UPA-7/05-Order/77(sixth).- In exercise of the powers conferred by sub-sections (2) and (3) of section 2 and sub-section (1) of section 4 U.P. Vigilance Establishment Act, 1965 (Act no. VII of 1965), and in partial modification of the previous orders on the subject, the Governor is pleased to make the following order regulating the working of and conduct of enquiries by the U.P. Vigilance Establishment :

1. **Organisation.**—(1) The Vigilance Establishment constituted under sub-section (1) of section 2 of the U. P. Vigilance Establishment Act, 1965 (to be hereinafter called as the Act), shall have its headquarters at Lucknow.

(2) The administration of Vigilance Establishment shall vest in an officer not below the status of Additional or Deputy Inspector General of Police, who shall be designated as the Director of Vigilance.

(3) The Director of Vigilance shall have the powers of a Head of Department and shall function directly under Government in the Vigilance Department.

2. **Functions.**—The Vigilance Establishment shall perform the following functions :

(a) Keep the Government informed of all the cases of corruption, bribery, misconduct, misbehaviour and other malpractice involving public servants that come to its notice;

(b) Collect intelligence on its own initiative or on the orders of Government in the Vigilance Department relating to corruption of any individual public servant or public servants belonging to a department, Class or category;

(c) Make enquiries, secret or open, and investigations into cases of corruption, bribery, misconduct, misbehaviour or other malpractices, that may be referred to it from time to time by the Government in the Vigilance Department. This condition shall not apply to trap cases against non-gazetted government servants and public servants of similar rank covered by order no. UPA-7/65-Order/76 (Fifth), dated August 16, 1976;

Provided that

(1) the Vigilance Establishment is as before authorised to take up enquiry without prior permission of Government against a non gazetted government servant, whose conduct may be involved with the conduct of a gazetted officer, against whom an enquiry had already been authorised by Government, but

(2) for taking up an independent enquiry or investigation against non gazetted official, prior orders of Government shall be obtained by the Vigilance Establishment.

3 (1) In the cases under the Prevention of Corruption Act, 1947 the Vigilance Establishment shall make only regular investigation in accordance with the provisions of the Act.

(2) If during the course of enquiry, officers of the Vigilance Establishment receive any information against a Government servant, whose conduct they have not been asked to enquire into the director of Vigilance shall without delay forward such information to Government in the Vigilance Department for orders.

(3) The Vigilance Establishment is also authorised to make investigation against non-officials and private concerns found involved in the corruption of public servants whose cases may be entrusted to it for enquiry/investigation.

(4) If during the course of an enquiry against a public servant, officers of the Vigilance Establishment receive any information or any other instance of corruption or misconduct of that servant which is not covered by the orders already given to them, the Director of Vigilance/the Officer in charge of the sector office shall immediately send such information to Government in the Vigilance Department for further instructions. An officer of the Vigilance Establishment may, if he considers that the evidence in respect of corruption or misconduct referred to above may be lost or tampered with, if immediate action were not taken, take such action as he may consider necessary, pending receipt of orders of Government, but shall for with report the action so taken to Government in the Vigilance Department.

**4. Procedure for dealing with complaints.**-(1) The complaints received by the Vigilance Establishment other than those mentioned in sub-para (2) below, shall be forwarded, with or without comments to Government in the Vigilance Department for orders.

(2) No action shall be taken on complaints of the following nature and they shall be deposited, unless for any special reasons the Director of Vigilance decides to forward the same to Government :

- (i) Anonymous and pseudonymous complaints ;
- (ii) Printed handouts, pamphlets etc., copies of which have been sent to several officers of Government; and
- (iii) complaints which are, prima facie, frivolous.

**5.Submission of reports.** -(1) In all cases in which the Vigilance Establishment is asked to make the enquiry or investigation, it will furnish to Government in the Vigilance Department reports at such intervals as may be specified by the Government, on the progress of the enquiry or investigation.

(2) When the enquiry or investigation is completed the Establishment shall submit to Government in the Vigilance Department a detail report embodying its conclusions and -

(a) if the case is found fit for disciplinary proceedings draft charges should also be sent with the report. Each charge should be accompanied with an abstract of evidence propose to be tendered and brief facts of the case ;

(b)(i) if the case is to be referred to court of law, the Establishment shall submit to Government in the Vigilance Department, its detailed report together with two copies of the charge-sheet and other relevant material for orders. In no case shall the charge-sheet be submitted by the Establishment direct to the court.

(ii) the charge-sheet shall be filed in the court by the Vigilance Establishment only after direction of the State Government under sub-para (1) of para 6 and previous sanction of the appropriate authority as required by section 107 of the Code of Criminal Procedure, or section 6 of the Prevention of Corruption Act, 1947, or by any other provision of any law for the time being in force requiring such previous sanction.

6. Government in the Vigilance Department after examining the detailed report may decide that any of the following actions may be taken :

(1) It may be forwarded to Court with charge-sheet for prosecution ;

(2) It may be referred to the Administrative Tribunal for disciplinary proceedings ;

(3) It may be referred for departmental action to the Administrative Department concerned ;

(4) It may be closed.

7. In each case, action shall be taken by the appropriate authority to whom necessary directions may be given by Government in the Vigilance Department for taking any of the actions enumerated in para 6 above.

8. The Director of Vigilance may take the initiative in prosecuting persons, who are found to have made false or frivolous complaints of corruption or lack of integrity or other malpractices against public servants.

**9. Staff.**-The Vigilance Establishment will be provided by the State Government with such staff and such number of legal advisers and technical staff a Government may consider necessary from time to time for the proper discharge of its functions.

10. (1) Any member of the Establishment or investigation shall have access investigation shall have access to all official records having a bearing on the case under enquiry or investigation and the Head of Office or Head of Department having custody of Such record, on being asked by the Investigating Officer to do so a shall forthwith furnish such record and render all other necessary assistance in the enquiry or investigation to the Investigating Officer.

(2) The powers of taking into possession property connect with the offence under investigation under the Code of Criminal Procedure shall, in so far as they relate to

official records, be exercised by the members of the Establishment only when there is sufficiently reasonable apprehension to be recorded in writing in the case diary of the wanted records being lost, destroyed or tampered with.

11. These orders shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

By order,  
INDRA MOHAN SAHAI  
Commissioner and Secretary