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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



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सं./No..... 010/VGL/055/273824

29th January, 2015

दिनांक / Dated.....

OFFICE MEMORANDUM

Subject: Directive under Section 8(1) (b) of CVC Act, 2003 – Mechanism for exercising superintendence over the functioning of CBI

The Central Vigilance Commission has been empowered vide Section 8 (1)(a) of the CVC Act, 2003 to exercise superintendence over the functioning of the Delhi Special Police Establishment (CBI) in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) or an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial. Further, under Section 8 (1)(b) of CVC Act, 2003, the Commission has been assigned the function of giving directions to the Delhi Special Police Establishment (CBI) for the purpose of discharging the responsibility entrusted to the Commission under sub-section (1) of Section 4 of the Delhi Special Police Establishment Act, 1946 (25 of 1946). In order to perform the functions as envisaged in Section 8 (1)(a) and 8 (1)(b) of the CVC Act, 2003, the Commission has also been empowered under Section 8 (1)(e) of the CVC Act, 2003 to review the progress of investigations conducted by the Delhi Special Police Establishment (CBI) into offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) or the public servant may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial and under Section 8 (1)(f) of the CVC Act, 2003 to review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988 (49 of 1988).

2. The Commission has been holding monthly review meetings with Director, CBI within the scope of the above provisions of the CVC Act, 2003.

3. However, the issue of enhancing the effectiveness of exercise of superintendence over CBI has been engaging the attention of the Commission for some time. The Commission is of the view that with increase in highly sensitive cases in the recent past, and especially in view of directions of Hon'ble Supreme Court to CBI to submit closure reports of preliminary enquiries (PE) registered in Coal Block Allocation matters to CVC for examination / scrutiny and submission to the Hon'ble Supreme Court, a need has arisen now to revisit the mechanism evolved by the Commission to exercise superintendence over CBI as envisaged under Section 8 of the CVC Act, 2003.

4. There is a clear explanation given to the connotation 'superintendence' by the Supreme Court in Para No. 16 of J.A.C. Saldhana Vs State of Bihar referring to the case of Makeshwar Nath Srivastava Vs. State of Bihar & Ors. (1971 3 SCR 863) and Rajkumar Sen Vs. Ramsunder (AIR 1932 PC 69). The Supreme Court held in this case that "Superintendence" connotes supervision which implies a hierarchy viz. supervisor and the one supervised. It would, therefore, mean keeping a check, watch over the work of another, may be a subordinate in a hierarchy of authority. It would also comprehend that supervision is not merely a negative thing so as to keep a watch, but it would also imply giving of advice, guidance and feedback.

5. As far as the extent of superintendence is concerned, the provision for superintendence and administration of the Special Police Establishment was earlier vested with the Government under Section 4 of the Delhi Special Police Establishment Act, 1946, which read as "the superintendence of the Delhi Special Police Establishment shall vest in the Central Government." However, after the CVC Act, 2003, Section 4 of the DSPE Act, 1946 was substituted through Section 26 of CVC Act, 2003 (w.e.f. 11.09.2003) as sub-section (1) of Section 4 of the Delhi Special Police Establishment Act, 1946 to read as:-

"The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, shall vest in the Commission".

6. Further, Section 8(1)(a) of CVC Act provides for exercising superintendence over DSPE and Section 8(1)(b) provides for giving directions to the DSPE for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of DSPE Act, 1946. In addition, the Commission under Section 8 (1)(c) & (d) of CVC Act, 2003, is empowered to inquire or cause an inquiry or investigation in to offence made under PC Act or an offence with which a public servant may, under the Cr. PC be charged at the same trial and in those cases, the Commission shall refer the matter to CBI for enquiry or investigation. As

such, on a consideration of the provisions in the CVC Act, 2003, all the preliminary enquiries and investigations taken up by the CBI for alleged offences under PC Act, 1988 falls automatically under the ambit of superintendence of CVC over CBI.

7. It is further observed by the Commission that all police organisations are subject to the Police Powers vested under Section 2 & 3 of the Police Act 1861 and Section 36 and 154 of the Cr. PC and all other procedures laid down thereon. The Delhi Special Police Establishment (CBI), being a police organisation, is subject to all these provisions and its superintendence is to be exercised by the CVC and the Central Government in the respective field of Anti-Corruption function and financial and logistical domain.

8. It is, therefore, settled that the functional superintendence of Delhi Special Police Establishment (CBI) insofar as enquiries and investigations under PC Act, 1988 is concerned shall be exercised by the CVC while the superintendence exercised by the Government is only for the logistical/administrative support.

9. As it stands, the Commission on a review of the present mechanism of exercising superintendence over CBI has decided a new mechanism for exercising superintendence over DSPE as envisaged in the CVC Act, 2003.

10. For this purpose, exercising its power under Section 8 (1)(b) of the CVC Act, 2003, the Commission issues the following directions in order to effectively perform the statutory role entrusted to the Commission under Section 8 (1)(a) of the CVC Act, 2003:-

- (i) The Commission shall hold review meeting on monthly basis or at any such intervals as may be decided by the Commission from time to time with the Director, CBI and other officials of CBI as may be required for this purpose. However, the present practice of holding the monthly review meeting with Director, CBI shall continue in the same form and format in which input is provided by CBI;
- (ii) In addition to the above, the CBI shall furnish to the Commission data / details in the following templates (copy enclosed):-
 - (a) Template 1 - Data on Preliminary Enquiries (PE)
 - (b) Template 2 - Details on Preliminary Enquiries (PE)
 - (c) Template 3 - Data on Registered Cases (RC)
 - (d) Template 4 - Details on Registered Cases (RC);
- (iii) CBI shall furnish the above data / details (as at (ii) above) in the prescribed format by 7th of every month;

