

CHAPTER XVIII

THE ROLE OF CHIEF VIGILANCE OFFICERS

1. Reference have already been made earlier relating to the duties and functions of the CVO in the various chapters at the appropriate places. In this chapter the role that the CVO is required to play has been summarised for the sake of convenience.

2. The role of the Chief Vigilance Office ,may broadly be divided into two parts. i.e. preventive and punitive. The Chief Vigilance Officers have so far been concentrating mainly on the punitive side, i.e. dealing with actual vigilance has not received adequate attention. The word “vigilance” mainly implies watchfulness. The role of Vigilance Officer is predominantly preventive and the use of adjective “Preventive” before the word “Vigilance” is strictly speaking redundant. While detection and punishment of corruption and other malpractices is certainly important, what is even more important is the taking of preventive measures which could reduce the number of vigilance cases considerably. These measures include:-

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- a) a detailed examination of the existing organisation and procedures with a view to eliminate or minimise factors which provide opportunities for corruption or malpractices;
 - b) planning and enforcement of regular inspections, surprise visits for detecting failures in quality or speed of work which would be indicative of the existence of corruption or malpractices;
 - c) location of sensitive spots; regular and surprise inspections of such spots and proper scrutiny of personnel who are posted in sensitive posts which involve dealings, with members of the public on a considerable scale;

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- d) maintaining proper surveillance on officers of doubtful integrity and officers who are on the “Agreed” list; and C(89)
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 - e) ensure prompt observance of Conduct rules relating to integrity; covering (i) statements of assets and acquisitions (ii) gifts (iii) relatives employed in private firms or doing private business (iv) benami transactions.

The task of CVO is not limited to interfering after faults and errors have been committed. The foremost object of his office is to prevent faults. The extent of corruption cannot be judged by the number of vigilance cases. In fact, a vigilance case arises only when there has been lack of vigilance and what we describe as “vigilance case” is, in actual fact, a minus vigilance case.

3. The Santhanam Committee, while outlining the preventive measures that should be taken to significantly reduce corruption, emphasised four major causes of corruption and how, in respect of each of these causes, preventive measures could be planned and implemented in a sustained and effective manner. These causes are:-

- (1) Administrative delays
- (2) Government taking upon themselves more than what they can manage by way of regulatory functions.
- (3) Scope for personal discretion in the exercise of powers vested in different categories of government servants.
- (4) Cumbersome procedures of dealing with various matters which are of importance of citizens in their day to day affairs.

4. With regard to administrative delays, the Committee recommended the following steps:-

- (a) Undertake a review of existing procedures and practices to find out the cause of delay, the points at which delay occurs and device suitable steps to minimise delay at different stages;
- (b) Prescribe definite time-limits for dealing with receipts, files etc., which should be strictly enforced;
- (c) Notings at levels lower than that of Under Secretary should be avoided, particularly in Ministries/Departments which deal with grant of licence or permits of various kinds; and
- (d) Levels at which substantive decisions could be taken should be prescribed and any attempt to involve as many as possible should be discouraged and dealt with severely, if found to be persisted in.

5. With regard to the second cause mentioned in para 3, the Committee recommended that each Ministry/Department should undertake a review of the regulatory functions which are its responsibility, with a view to see whether all of them are strictly necessary and whether the manner of discharge of these functions and of the exercise of powers of control are capable of improvement.

6. With regard to the third cause, the Committee recommended that adequate methods of control should be devised over exercise of discretion. The right to act according to discretion does not mean right to act arbitrarily. The fairness of the method by which the discretionary decision was arrived at may certainly be looked into.

7. With regard to the fourth cause, the Committee recommended that citizens should be educate properly with regard to the procedures of dealing with various matters and they should also be provided with an easy access to administration at various level without the need for the intervention of touts and intermediaries.

8. Some of the other important preventive measures recommended by the Committee are:-

- (i) Only those whose integrity is above board should be appointed to high administrative positions;
- (ii) In making selections from non-gazetted to gazetted rank for the first time, all those whose integrity is doubtful should be eliminated;
- (iii) Every officer who sponsors a name for promotion should be required to record a certificate that he is satisfied that the government servant recommended by him is a man of integrity;
- (iv) An essential condition for grant of extension/re-employment should be that the person concerned has a good reputation for integrity;
- (v) In every Ministry/Department, there should be a proper agency which a person with a genuine complaint can approach for redress. Bonafide complainants should be protected from harassment or victimisation;
- (vi) All visitors to offices dealing with licences/permits should enter their names and purpose of their visits in a register to be kept at the Reception Office; and
- (vii) Steps should be taken to prevent sale of information. Information not treated as secret should be made freely available to the public.

9. The first responsibility of the Chief Vigilance Officer on assuming office should be to acquaint himself fully with the sensitive spot in his Ministry/Department with the procedures which appear to afford scope for corruption or delay; whether preventive measures have already been

planned and, it so, whether they were being properly implemented. While he should also see that time-limits are prescribed and enforced for the processing of various applications, he should at the same time ensure that no indecent haste is shown with a view to oblige contactmen. He should also ensure that representative of firms etc. who visit the Ministry/ Department frequently have the necessary accreditation and approval. The need for close liaison between the CVOs and the CBI can hardly be over emphasised. Those whose names are included in the list of undesirable contentment circulated by the CBI should not be given access to the office. The Santhanam Committee have also emphasised close cooperation between CVOs, CBI and the Income-tax Department. The Income-tax Department who scrutinise the accounts of businessmen can inform the Chief Vigilance Officers/CBI when they come across cases where big amount have been spent for entertainment of high officials. The Committee has observed that public knowledge of the existence of such cooperation between the CVOs the CBI and the Income tax Department will be a good preventive measure. The CVO may also, with the assistance of CBI keep a close watch on officers who have to deal with companies and businessmen, and their representatives, whether they are habitually accepting lavish hospitality from these persons, or whether they are receiving gifts or any other form of pecuniary obligation.

10. On the punitive side, the Chief Vigilance Officer's responsibility will be:-

- (i) To ensure speedy processing of vigilance cases at all stages. In regard to cases requiring consultation with the Central Vigilance Commission, a decision as to whether the case had a vigilance angle shall in every case be taken by the CVO who, when in doubt, may refer the matter to his administrative head i.e. Secretary in the case of Ministries/ Departments and Chief Executive in the case of public sector organisations;
- (ii) To ensure that charge-sheet, statement of imputations, lists of witness and documents etc. are carefully prepared and

copies of all the documents relied upon and the statements of witnesses cited on behalf of the disciplinary authority are supplied whenever possible to the accused officer along with the charge-sheet. B(125)

- (iii) To ensure that all documents required to be forwarded to the Inquiring Officer are carefully sorted out and sent promptly;
- (iv) To ensure that there is no delay in the appointment of the Inquiring Officer, and that no dilatory tactics are adopted by the accused officer or the Presenting Officer;
- (v) To ensure that the proceeding of the Inquiry Officer's Report for final orders of the Disciplinary Authority is done properly and quickly;
- (vi) To scrutinise final orders passed by the Disciplinary Authorities subordinate to the Ministry/Department, with a view to see whether a case for review is made out or not;
- (vii) To see that proper assistance is given to the CBI in the investigation of cases entrusted to them or started by them on their own source of information;
- (viii) To take proper and adequate action with regard to writ petitions filed by accused officers;
- (ix) To ensure that the Central Vigilance Commission is consulted at all stages where it is to be consulted and that as far as possible, the time limits prescribed in the Vigilance Manual for various stages are adhered to;
- (x) To ensure prompt submission of returns to the Commission; and

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- (xi) To review from time to time the existing arrangements for vigilance work in the Ministry/Department for vigilance work subordinate officers to see if they are adequate to ensure expeditious and effective disposal of vigilance work;
 - (xii) To ensure that the competent disciplinary authorities do not adopt a dilatory or law attitude in processing vigilance cases, thus knowingly or otherwise helping the suspect public servants, particularly incases of officers due to retire;
 - (xiii) To ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such a misplacement of files etc. and that the orders passed in the cases of retiring officers are implemented in time;
 - (xiv) To ensure that the period from the date of serving a charge-sheet in a disciplinary case to the submission of the report of the Inquiry Officer, should, ordinarily, not exceed six months.

11. Information about corruption, malpractices or misconduct may come to the CVO from different sources. The CVO is also expected to scrutinise Report of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings, and Audit Reports, Proceedings of the two Houses of Parliament and complaints and allegations appearing in the press relating to his own organisation, and to initiate action whenever any case having a vigilance angle comes to light from any of these sources. In particular, the CVOs should scrutinise the P.A.C. Reports in details even when such reports come to the organisation at the draft state with a view to see if any public servant might have acted for an improper purpose or in a “corrupt” manner or had exercised his powers for corrupt or improper purposes and the Central Vigilance Commission kept informed. Where the scrutiny of the Report does not indicate any transaction having a vigilance angle, a Nil report should be furnished to the Commission. Apart from this, the CVO should also have a system of collecting his own intelligence about

possible malpractices and misconduct among employees of his organisation. Although the CVO may not by himself taken action on anonymous/pseudonymous complaints, such complaints forwarded for report by the Central Vigilance Commission should be regarded as a reference from the Commission. All complaints, from whichever source received should be promptly entered in the Vigilance Complaints Register (CVO-I) and the CVO should ensure that this register is regularly put up to him so that a preliminary enquiry into these complaints is held and a report sent to the Commission within the prescribed time-limit. If it is not possible to complete the preliminary enquiry within this period, the CVO should personally look into the matter and send an interim report to the Commission, giving the progress of the investigation, reasons for the delay, and the date by which the final report could be expected (para 4.2. of chapter II). E(25)

12. It will also be the CVO's responsibility to see that the provisions of para 1.2 of Chapter III are strictly observed. According to this para, the following types of cases should generally be entrusted to the CBI for investigation:

- (i) Allegations involving offences such as bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records etc.;
- (ii) Possession of assets disproportionate to known source of income;
- (iii) Cases in which enquiries have to be made from non-officials and non-government records or books of accounts have to be examined; and
- (iv) Cases of a complicated nature requiring expert police investigation.

The CVO, at the earliest stage, would be able to warn CBI against

tying themselves up with petty cases. He may be an important “source” to CBI with reference to particularly serious cases. Once a case has been entrusted to the CBI for investigation, there should normally be no parallel departmental investigation. The CVO should also bear in mind the important instructions contained in paras 15.1. and 15.2. of Chapter IV stressing the need for close liaison between the CBI and the administrative authorities. During the information stage, cross checking of information is very important. It will also be the CVO’s responsibility to arrange periodical meetings with officers of the CBI to discuss matters of mutual interest, particularly those arising from enquiries and investigation.

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13. As far as the comments required to be sent by the Department on the CBI’s final Investigation Report are concerned, it will be the CVO’s responsibility to see that these comments are sent within the prescribed period i.e. two months. The Commission has issued circulars, laying down guidelines for sending comments on the CBI reports. CVOs should study these carefully and ensure proper compliance with instructions contained therein. In case it is not possible to send the comments within the stipulated period, the CVO should after satisfying himself of the reasons for the delay, write to the Commission for extension of time.

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14. With regard to complaints where it has been decided that the allegations should be looked into departmentally, the CVO should ensure that these investigations are completed promptly, say within a period of three months and the progress of those which remain pending beyond this period is reviewed by the CVO or an authority higher in rank to the officer investigating the case. The CVO should also ensure that the procedure prescribed in paragraphs 2.2. to 2.10 of Chapter III is strictly followed by all the vigilance officers.

15. It will also be CVO’s responsibility to obtain information about the disposal and pendency of complaints and vigilance cases from Vigilance Officers of all Attached and Subordinate Offices/Units under his Ministry/Organisation and see that the prescribed consolidated Quarterly Return is sent to the Commission by the 15th day of the month following the quarter to which the return relates.

16. The CVO should invariably review all the pending investigation reports, disciplinary cases and other vigilance matters in the first week of every month and take necessary steps for expediting action on the pending matters. In addition to this monthly review by the CVO, the Secretary of each Ministry/Department and the Chief Executive of Public Sector Undertakings etc. should undertake a quarterly review of the vigilance work done in the Ministry, Department/Organisation in the first week of January, April, July and October. The result of the quarterly review, consolidated for each Ministry/Department including public sector undertakings under their control, should be communicated to the Department of Personnel & Training by 15th day of the month in which the review is under taken. B(124)

17. Although the discretion to place a Government Public Servant under suspension when a disciplinary proceeding against him is either pending or is contemplated is that of the Disciplinary Authority, the CVO would be expected to assist the Disciplinary Authority in the proper exercise of this discretion. The CVO should also ensure that all cases where an officer has remained under suspension for more than six months are reviewed, with a view to see whether the suspension order could be revoked or whether there is a case for either increasing or decreasing the subsistence allowance. The CVO should also constantly remind the CBI to expedite investigation in cases where an officer has continued to remain under suspension for more than six months.

18. After the disciplinary authority has applied his mind to the Inquiry Officer's report and come to a tentative finding that one of the major penalties should be imposed, the final order should be carefully drafted. It should show that the Disciplinary Authority has applied its mind and exercised its independent judgement. No reference should be made to the Central Vigilance Commission's advice in any order of the Disciplinary Authority.

19. The rules with regard to disciplinary proceedings will have to be scrupulously followed at all stages by all concerned and any violation of

the rules would render the entire proceedings void. The CVO, therefore, has the special responsibility to see that these rules are strictly complied with at all stages by all concerned.

C(89) 20. The Central Vigilance Commission has taken the initiative to provide certain guidelines to Chief Vigilance Officers in some of the sensitive Departments for planning and implementing suitable measures of preventive vigilance in a sustained and effective manner. These include (a) prompt and adequate scrutiny of the property returns and reports prescribed under the Conduct Rules and proper follow-up action where necessary; (b) Conducting an internal limited survey with a view to detect Officers who are ostentatiously living beyond their means and are probably in possession of assets disproportionate to their known sources of income; (c) Selective check of palatial houses built by some government servants in some posh localities; (d) An internal “sanitation” drive with a view to review rules, procedures and practices which afford scope for corrupt practices. Central Bureau of Investigation has also brought out several useful appreciation reports about the vigilance set-up and vigilance problems of various Public Sector Undertakings which the CVOs could study with advantage.