

Module 4

Approaches to Vigilance: Punitive, Preventive
and Participative

Chapter 1

Punitive Vigilance

Punitive Vigilance is an essential part of Vigilance function wherein timely and effective penal action is sought to be taken on erring officials against whom irregularities and lapses having a vigilance angle¹ can be prima facie attributed.

Punitive Vigilance comes into play when a vigilance angle has been made out and is aimed to have a deterrent effect on public officials. Punitive Vigilance activities comprise the following main stages:

- ❖ Investigation and Report
- ❖ Consultation on proposed action with DA and First Stage Advice of CVC (as per jurisdiction).
- ❖ Disciplinary Proceedings (Major or Minor) as per the Conduct and Disciplinary Rules of the organization.
- ❖ Assessment of the Disciplinary action taken against the erring officials and consultation (Second Stage Advice) with CVC (if required).

Investigation and Report

Detailed Investigation can be taken up in a case based on the following:

- ❖ Complaint received directly by the departmental vigilance which has been dealt as per the complaint handling policy of CVC and prima facie contains a vigilance angle.
- ❖ Complaint referred to the departmental vigilance by CVC seeking Investigation and Report (I&R).

¹ Para 1.4 of CVC Vigilance Manual

- ❖ Regular scrutiny and surprise inspection done by departmental vigilance where a prima facie vigilance angle can be made out.
- ❖ Intensive Examination (IE) reports of Chief Technical Examination Organisation (CTEO) where the unresolved observations are referred to the departmental vigilance for further I&R²

The process of investigation involves securing of relevant records and files, detailed scrutiny of the documents, conducting oral investigation of concerned officials, obtaining written statements where necessary and identification of irregularities/lapses having a vigilance angle. Subsequently, the remarks of the concerned officials are taken on specific issues and allegations made out against them.

On completion of the investigation, a self-contained report is made highlighting the relevant facts, observations, comments of concerned officials and recommendations for further action.

Main intent for Investigation and Report is to find out if allegations are getting substantiated prima facie. At this stage, it is also clearly brought out by the vigilance department if and what departmental action is proposed to be initiated against the erring officials. Investigation and Report is to be submitted to Commission as per format of Commission.

First Stage Advice

The Investigation Report of the departmental Vigilance along with their recommendations is submitted to the Disciplinary Authority seeking his/her decision (or tentative views in case of Category 'A' officials)³. On obtaining these decisions/tentative views of the DA, further course of action regarding consultation with CVC is decided based on the following:

- ❖ All cases involving category 'A' officers are referred to CVC seeking their First Stage Advice (FSA). Moreover, all composite cases where both category 'A' & category 'B' officers are involved are also sent to CVC for FSA.

² Para 9.7.4 of CVC Vigilance Manual

³ Para 1.6.3 and 7.9 of CVC Vigilance Manual

- ❖ All cases involving only category 'B' officials where there is a difference of opinion between the CVO and DA regarding the presence of vigilance angle and proposed action are referred to CVC for FSA.
- ❖ All cases referred to the departmental vigilance by CVC for I&R (including CTE IE cases) are sent to CVC for seeking FSA.
- ❖ Cases involving Category 'B' officials where there is no difference of opinion between the CVO and DA and those cases in which no vigilance angle is made out after I&R are not referred to CVC and are decided by the CVO & DA themselves.

The cases sent to CVC for seeking FSA contain all the relevant documents such as a self-contained note bringing out the details of the case and specific points on which FSA is sought, biodata of concerned officials, replies of the concerned officials, comments of DA, statements of witnesses, comments of CVO and draft charge sheets.

On receipt of FSA from CVC, copies of the same are made available to the concerned officials along with the charge sheet served to him/her.

Any proposal for re-consideration of FSA by the CVC should be made only in exceptional cases where some new facts have emerged and that too within two month (of receiving FSA from CVC) and with the approval of concerned DA/Chief Executive.

Based on the FSA, disciplinary action is initiated against the concerned officials as per the applicable Conduct and Disciplinary Rules of the organization (e.g., CDA Rules, CCS(CCA) Rules, etc.) In relevant cases, consultation with DoPT is also required⁴.

In case of Major Penalty proceedings where a Departmental Inquiry is to be held, the relevant provisions of the CDA Rules, CCS(CCA) Rules and guidelines of DoPT, MHA and CVC also need to be followed in letter and spirit.

⁴ [Para 7.19.4 of CVC Vigilance Manual](#)

Second Stage Advice

On completion of Disciplinary Proceedings, Second Stage Advice (SSA) of CVC is required to be taken in case the DA proposes to impose a penalty which is at variance with the FSA of CVC⁵.

This also applies to composite cases where FSA had been given by CVC and CBI investigated cases involving category 'B' officials (not in CVC's jurisdiction) but where FSA was given by CVC due to difference of opinion between CVO and DA (However, this is not required for Group 'A' officers of Central Govt., AIS and other categories where consultation with UPSC is needed).

While seeking SSA from CVC, important case documents such as Charge Sheet, Inquiry cases records, comments of CVO & DA should be submitted.

There is no provision for reconsideration of SSA given by CVC.

After the Second Stage consultation with CVC/UPSC as briefed above, DA should record self-contained and reasoned speaking orders. FSA/SSA given by CVC are advisory in nature and the DA has to take his/her own decision by application of mind.

Wherever the DA decides to disagree with the advice of CVC, such cases are reported by the CVO to CVC (along with copy of reasoned orders of DA) to enable CVC to decide about its inclusion in their Annual Report.

The decision of DA is judicial in nature and can be changed only by the Appellate Authority / Revising Authority. In case the Appellate/Revising Authority decides to deviate from the advice given by CVC, CVO reports such cases to the CVC for further decision on inclusion in Annual Report.

⁵ [Para 1.6.3 and Para 7.28 of CVC Vigilance Manual](#)