

No. Home (Vig A (9) - 1/2011(Doubtful Integrity)
Government of Himachal Pradesh.
Department of Home (Vigilance)

From

Principal Secretary, (Home & Vigilance) to the
Government of Himachal Pradesh.

To

**All Administrative Secretaries to the
Government of Himachal Pradesh.**

Dated Shimla-2, the 23rd April, 2011.

Subject:- List of ODI (Officers/officials of Doubtful Integrity) for the year, 2010.

Sir,

I am directed to refer to this department letter No. Home (Vig)A(9)3/2008(Doubtful Integrity), dated 11-8-2008, vide which a copy of the scheme drawn up by the Govt. of India, Ministry of Home Affairs, dated 28-10-1969 for maintenance, review and custody of lists of public servants of Gazetted status of doubtful integrity was sent to you (copies of letter, dated 11-8-2008 and Govt. of India's scheme, dated 28-10-1969 are enclosed for ready reference). In spite of the fact that there is a clear and un-ambiguous provision that a copy of such lists will be sent by the Departments to the Vigilance Department once every year in the last week of February, the revised lists are not being sent to this department or to the State Vigilance & Anti-Corruption Bureau

As per the said scheme, the names of those officers/officials are to be included in these lists who have been (i) either convicted by the court or against whom criminal proceedings are pending in the court, or (ii) who have been awarded major penalty after departmental action or against whom departmental proceedings for major penalty are in process at department level or (iii) who have been prosecuted but have been acquitted on technical grounds and in whose case, on the basis of evidence during the trial, there remained a reasonable suspicion about their integrity.

The main purpose of the list of ODI, is as follows:-

- (i) to ensure that officers appearing on the list of ODI are not posted to 'sensitive' assignments,
- (ii) to withhold the certificate of integrity,
- (iii) to ensure non-promotion, after consideration of the case of the official, to a service, grade or post to which one is eligible for promotion,
- (iv) to consider compulsory retirement in the public interest (otherwise than as penalty) in accordance with the orders issued by the Government

- (v) to consider refusal of extension in service or re-employment either under Government or in PSUs and
(vi) for non-sponsoring of names of such officials for foreign assignment/deputation/foreign trainings etc.

Non supplying of these lists by the Departments has also been viewed seriously by the Hon'ble High Court (in CWP No. 4916/2010, Sher Singh Vs State of H.P. & others).

You are, therefore requested to kindly furnish consolidated list of officers/officials of doubtful integrity working in departments under your control, for the year 2010 without any further delay to this department and also to the Addl. Director General, State Vigilance & Anti-Corruption Bureau, H.P. and also ensure that the revised list is made available to this department/ADG, SV&ACB, H.P., in future also, (every year by the end of February).

This letter may also be seen in the Vigilance Section link of Home Department website.

This may be treated as "MOST URGENT"

Yours faithfully,

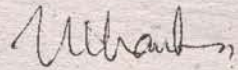
Principal Secretary (Home & Vigilance) to
the Govt. of Himachal Pradesh.

Endst. No. Home(Vig)A(9)- 1/2011(Doubtful Integrity,

dated 23rd April, 2011.

Copy forwarded to

1. All HODs / Managing Directors / Chief Executive Officers of Boards/Corporations with the request to send their lists **through their respective Administrative Secretaries** so that the same could be scrutinized/ further submitted to this department/ the ADG, SV&ACB, H.P., Shimla-2.
2. The Additional Director General, State Vigilance & Anti-Corruption Bureau, Himachal Pradesh, Shimla-2. for information


Principal Secretary (Home & Vigilance) to
the Govt. of Himachal Pradesh.

COPY

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SECRET
IMMEDIATE

No. Per(Vig) F(6)1/81
Government of Himachal Pradesh
Department of Personnel(Vig)

From

The Special Secretary(Vig) to the
Government of Himachal Pradesh

To

All the Secretaries(By Name),
to the Govt. of Himachal Pradesh.

Dated Shimla-2, the 6th June, 1985.

Subject:-

Preparation, maintenance, review and custody of lists of Public
Servants of gazetted status of doubtful integrity.

Sir,

I am directed to invite your kind attention to Vigilance Department letter No.Per(Vig)F-(6)-1/81, dated 24th January, 1983 under which copy of the scheme drawn up by the Govt. of India, Ministry of Home Affairs, for maintenance, review and custody of lists of officers of doubtful integrity was sent to you. In spite of fact that there is a clear and un-ambiguous provision that a copy of such lists will be sent by the Department concerned once every year in the last week of February, the revised lists have not been received by the Vigilance Department so far. According to the provisions at Sr. No. 4(i) of the scheme, the lists are prepared by the Vigilance Organisation of Ministry/ Departments/undertakings, in Govt. of India. Obviously, in Himachal Pradesh, such lists are to be got prepared by the Heads of Departments/Secretaries in accordance with the instructions issued by the Government under 5.5(i) (b) Chapter I of the Vigilance Manual. In addition to this, the lists have to be circulated to the various Ministries in the Central Govt. As per decision, arrived at during the discussions with the Vigilance Officers, it was decided that these lists would instead be circulated by concerned

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Departments only to such other Departments, corporations where their officers are deployed or sent on deputation. It may be repeated that these lists have not been sent to the Vigilance Department duly corrected so far, though they were due in Feb, 1985. It was further decided that the concerned Administrative Department would be sending a copy of revised lists to the Director of Vigilance under intimation to the Inspector General of Police, Vigilance and Enforcement.

2. These lists are intended to keep the Department/undertakings concerned informed about officers of doubtful integrity so that they are not posted to sensitive assignments and that this fact is given due consideration while deciding administrative matters affecting the service of such officers including the issue of Vigilance Clearance Certificate and integrity certificate etc.

3. According to the scheme, it is the duty of the Vigilance Officers of the concerned Departments/undertakings to maintain these lists up-to-date. The list is treated as "SECRET" and Heads of Departments/ Undertakings are responsible for its safe custody.

Kindly issue necessary instructions to all the Heads of Departments/ Managing Directors of corporations under your kind control to get the needful done immediately under intimation to this office.

The receipt of this letter may be acknowledged.

Yours faithfully,

--Sd--

(R.C. Sharma)
Director of Vigilance
Himachal Pradesh

Copy of secret letter No. Per(Vig) F(6)-1/81, dated 24th January, 1983 from the Special Secretary(Vig) to all the Secretaries to the Government of H.P.

Sub:- Preparation, maintenance, review and custody of lists of public servants of gazetted status of doubtful integrity.

As you are aware, a list of public servants of gazetted status of doubtful integrity of all the Departments of the Govt. of H.P. is being maintained in the Vigilance Department on the basis of a scheme drawn by the Govt. of India, Ministry of Home Affairs vide their letter No. 105/1/66-AVD, dated 28-10-69(copy enclosed)

2. For the purpose of the above, I have the honour to request you kindly to communicate latest by 15-2-1983, the names of such officers of the department under your control, who fall in any one of the four categories enumerated in para 2 of the Govt. of India letter. Brief note indicating the particulars of the case viz, the charges framed, punishment awarded, the authority that accorded the punishment and the date of orders etc., relating to each officer named in the list should accompany.

3. According to paragraph 7 of the aforesaid letter of the Govt. of India, name of an officer once entered on the list, is not removed, until a period of three years, reckoned from the date of punishment in disciplinary proceedings or from the date of conviction, as the case may be, elapsed. I am to request you kindly to take this factor also into consideration while compiling the above list.

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SECRET

COPY

No. 105/1-66-AVD
Government of India
Ministry of Home Affairs

New Delhi-1, the 28th October, 1969

OFFICE MEMORANDUM

Subject:- Scheme for preparation, maintenance and custody of lists of public Servant of Gazetted status of doubtful integrity.

The undersigned is directed to enclose a copy of the scheme mentioned above with the request that appropriate action may kindly be taken as indicated therein.

The revised lists prepared in accordance with the enclosed scheme will supersede the lists circulated to Secretaries by the Director, CBI with his DO letter No. 21/7/63-GD, dated the 7th May, 1964.

The revised lists prepared in accordance with the enclosed scheme will not affect the continuance of the annual agreed lists of suspected officers which are being prepared in accordance with paras 6 to 10 of the programme for vigilance and anti-corruption work during 1966 circulated with this Ministry's O.M. No. 130/1/66-AVD dated 5th May, 1966 (as continued from time to time)

Receipt of this communication may kindly be acknowledged.

—Sd—

Under Secretary to the
Govt. of India.

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**SCHEME FOR PREPARATION, MAINTENANCE AND
CUSTODY OF LISTS OF PUBLIC SERVANTS OF
GAZETTED STATUS OF DOUBTFUL INTEGRITY.**

INTRODUCTION :- In accordance with the recommendation made in the statement laid on the table of the Lok Sabha on the 10th August, 1961, and the Rajya Sabha on the 24th August, 1961, measures are to be taken to locate officials against whom suspicions exist regarding their integrity amounting to moral conviction. It has already been decided that Secretaries to the Ministries and the Heads of the Departments have the duty of locating and suitably dealing with corrupt officials. As a further step in this direction, it has been decided to prepare lists of public servants of gazetted status of doubtful integrity. This scheme gives in detail the purpose of their list and procedure for their preparation and maintenance.

**NOMENCLATURE
& CRITERIA FOR
ENTRY IN THE
LIST**

2. The list will be termed as the 'list of public servants of gazetted status of doubtful integrity'. It will include names of those officers only who, after enquiry or during the course of enquiry, have been found to be lacking in integrity. It will thus include the names of the officers, with certain exceptions mentioned below, falling under one of the following categories :-

(i) Convicted in a court of law on a charge of lack of integrity or for an offence involving moral turpitude but on whom, in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement is imposed.

(ii) Awarded departmentally in major penalty (a) on charges of lack of integrity (b) on charges of gross dereliction of duty in protecting the interests of Govt., although the corrupt motive may not be capable of proof.

(iii) Against whom proceedings for a major penalty or a court trial are in process for alleged acts of involving lack of integrity or moral turpitude.

(iv) who were prosecuted but acquitted on technical grounds, and in whose case on the basis of evidence during the trial there remained a reasonable suspicion against their integrity.

The names of the officers of the following categories should not be included in this list :-

(a) Officers, who have been cleared or honourably acquitted as a result of disciplinary proceedings or court trial.

(b) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.

(c) Officers who have been convicted of offences not involving lack of integrity or moral turpitude.

(d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapses, minor violation of conduct rules and the like

PURPOSE OF THE LISTS

3. These lists intended to keep the Ministries/ Departments/ Undertakings concerned informed that they are not posted to 'sensittve' assignments and that this fact is given due consideration when deciding administrative matters affecting the service of these officers. These lists would also help the Ministries to know about the officers whose work and conduct need both special attention and closer supervisory scrutiny.

PROCEDURE FOR PREPARATION OF THE LISTS:-

4. i. The Vigilance Organization of Ministries/ Departments/ Undertakings will prepare a list of public servants of Gazetted status against whom any disciplinary proceedings for a major penalty are in progress or who have been punished in disciplinary proceedings on a charge involving lack of integrity. A copy of these lists will be sent by the Vigilance Organization to CBI once every year in the last week of February.

- ii. As soon as an adverse report against an officer of the nature mentioned in the scheme is received, the Vigilance Officer should bring it to the notice of the Secretary/ Head of the Ministry/ Department concerned immediately. A decision in regard to the inclusion of the name of such officer in to list should be taken as soon as possible
- iii. The Central Bureau of Investigation will suggest addition or deletion of names on the basis of information available with them and return the lists to Secretaries/ Heads of Departments concerned.
- iv. If the Ministry/Department/ Public Undertaking concerned does not agree to the inclusion or deletion of any particular name or names, it will be settled by mutual discussion. The decision of the Secretary/Head of the Ministry/Department would be final.

5. The purpose of maintenance of these lists is to also enable the Ministries/Departments to take such administrative action as is necessary and feasible. The following courses of administrative action are open:-

- i. Withholding certificate of integrity;
- ii. Transfer from a 'sensitive' post;
- iii. Non-promotion after consideration of his case, to a service, grade or post to which he is eligible for promotion ;
- iv. Compulsory retirement in the public interest (otherwise that as penalty) in accordance with the orders issued by the Government. This is now permissible on completion of the age of 50 with certain exceptions.
- v. Refusal of extension of service or re-employment either under Government or in Public Sector Undertakings.
- vi. Non- sponsoring of names for foreign assignment/deputation.
- vii. Refusal of permission for commercial re-employment after retirement.

6. The orders of Government that provide for these administrative measures under certain conditions are:-

- i. Papers on measures for strengthening of administration, particularly paragraph 3 (11) of the statement laid in the Lok Sabha on 10th August, 1961, that corrupt officials should be located and action taken to improve them or retire them.
- ii. No 1 under article 465-A, Civil Services Regulations, under which Government retains an absolute right to retire certain officers after they have completed 25 years qualifying service without assigning any reasons.
- iii. Rule 2 (2), Liberalized Pension Rules, permits retirement of an officer, who has completed 30 years of qualifying service.
- iv. M.H.A.O.M. No. 33/18/62-Estts.(A), dated 30-11-62 raising the age of compulsory retirement from 55 years which provides that officers who have reached the age of 55 years may be retired after giving three months notice without assigning any reason.
- v. MHA OM No. 41/2/55(II)-Estt(A), dated April 23, 1965, provides that officers who do not have a reputation for honesty should not be placed in position where there is considerable scope for discretion.
- vi. M.H.A. O.M. No. 41/7/64-Estt(D), dated July 30, 1964, provides that particular attention should be given to integrity when considering officers for promotion. It also provides for the recording of a certificate of integrity when sponsoring a name for promotion.
- vii. M.H.A. O.M. No. 33/11/64- Estt(A), dated September 11, 1964, required that an officer, who does not have good reputation for integrity, should not be considered eligible for grant of extension / re-employment in service.
- viii. M.H.A. letter No. 29/67/66-AIS(II), dated 5-9-67 regarding pre-mature retirement of AIS officers under rule 16(3) of the AIS (DCRG) Rules.

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- ix. MHA OM No. 2/22/6 Estts.(A), dated 6-5-69 and OM No. 33/13/61/Estts(A), dated 23-6-59
- x. M.H.A. O.M. No. 39/17/63/Ests.(A), dated 6-9-68.

7. When the name of an officer has been entered in the list for good and adequate reasons, it will not be removed until a period of three years has elapsed. The period of three years, for which the name will be current on the list, will count from the date of punishment in disciplinary proceedings or from the date of conviction in a court trial. On the conclusion of this period, the cases of such officers may be reviewed by the Ministry / Department concerned in consultation with the Central Bureau of Investigation and if during the investigation period there has been no further complaint or information against the officer touching on his integrity, the name may be removed from the list. If at the time of review, it is proposed to continue the name of an officer on the list, cogent reason for doing so should exist.

8. In the event of the officers being transferred to another Ministry/Department / Undertakings, the Vigilance Officer concerned should intimate to his opposite number in the Ministry/Department/Undertakings the facts of the officer's name being on the list, endorsing a copy to the CBI.

9. Lists of such Officers consolidated by the CBI, will be circulated to Ministries once every year i.e. in June. While communicating the name of the Officer, the material against him should be briefly indicated by the CBI. Five copies of the list concerning all Ministries/Departments/Undertakings will be sent to the Ministry of Home Affairs(AVD four copies for the use of E.O., J.S.(E), J.S.(P), H.S.(AIS) and one for record in the AVD. Communication and references should be directly between the CBI and the Ministry concerned.

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**& CUSTODY
OF THE
LISTS.**

10. It will be the duty of the Chief Vigilance Officer/ Vigilance Officer of the Ministry/Department/Undertaking to maintain these lists up-to- date. The list will be treated as "SECRET" and the Head of the Ministry/Department/ Undertaking will be responsible for its safe custody.
11. The lists cannot be and are not meant to be fully exhaustive and these will not fetter the discretion of the Government in any way.
