

No. Home(Vig.)- A(5)-12/2018-BJP-CS.III
Government of Himachal Pradesh
Home (Vigilance) Department

Dated Shimla-171002, the

22-8-2019

OFFICE MEMORANDUM

Subject:- Conducting of preliminary enquiry/investigation in complaints received in the Vigilance Department- amendment in Vigilance Manual thereof.

The undersigned is directed refer to the subject cited above and to say that pursuant to coming into force the Section 17-A of the Prevention of Corruption (Amendment) Act, 2018 w.e.f. 26.07.2018, *“in any inquiry or investigation of offences relating to recommendations made or decision taken by Public servant in discharge of official functions or duties, no Police Officer shall conduct any enquiry or investigation into any offence alleged to have been committed by a public servant under this Act without the previous approval of the relevant Government”*.

2. The views of the Law Department, Govt. of H.P. have been obtained in respect of section 17-A of the PC (Amendment) Act, 2018, who have opined as under:-

“From the above position it is clear that the approval to conduct an inquiry or investigation into any offence is required in the following cases:-

- i) Where an offence has been alleged to be committed by a public servant. The particulars of the public servant should be clear against whom the inquiry is to be conducted. In other words if it is not certain as to who the public servant is, against whom the inquiry is to be conducted, the question of getting approval does not arise; and*
- ii) Where the alleged offence is related to any recommendation made or decision taken by such public servant, in discharge of his official functions or duties.*

Thus the approval is required under Section 17 A, if the aforesaid two conditions are fulfilled. In case, the above discussed ingredients are not there, the provisions of section 17-A will not be attracted."

3. In view of the foregoing, after Para 4.1 of Chapter-II of the H.P. Vigilance Manual, the following shall be inserted namely:-

4.1-A Where an offence has been alleged to have been committed by a public servant which is related to any recommendation made or decision taken by such public servant, in discharge of his/her official functions or duties, the unit will refer the matter to the Vigilance Department for seeking permission under section 17A of the Prevention of Corruption (Amendment) Act, 2018 from the concerned competent authority prior to initiating inquiry/investigation in such cases.

4. These instructions may kindly be brought to the notice of all concerned.

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Sanjay Kundu
Principal Secretary (Vigilance) to the
Government of Himachal Pradesh

To
The Addl. Director General,
State Vigilance & Anti Corruption Bureau,
Himachal Pradesh, Shimla-171002.

Endst. No. Home(Vig.)- A(5)-12/2018-BJP-CS.III Dated Shimla-171002, the 22-8-19

✓ Copy to:-

1. All the Administrative Secretaries to the Government of H.P. Shimla.
2. All the Heads of Departments in Himachal Pradesh.
3. All the Divisional Commissioners/Deputy Commissioners in Himachal Pradesh.
4. All the Managing Directors, PSUs/Boards/Corporations in Himachal Pradesh.
5. Guard File.

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(Rakesh Sharma)
Special Secretary (Vigilance) to the
Government of Himachal Pradesh