

No. Home (Vig.)-E(3)-14/2010-IV
Government of Himachal Pradesh
Vigilance Department

From

The Chief Secretary to the
Government of Himachal Pradesh.

To

All the Administrative Secretaries to the
Government of Himachal Pradesh, Shimla-2.

Dated Shimla-2, the 17/12/2018

Subject:- **Scheme for maintenance, review and custody of list of public servant of gazetted status of doubtful integrity**

Sir/Madam,

I am directed to refer to the subject cited above and to say that the scheme for maintenance, review and custody of lists of public servants of gazetted status of doubtful integrity was circulated by the Special Secretary (Vig.) to the Govt. of H.P. to all the Secretaries to the Govt. of H.P. vide Secret letter No. Per(Vig.)F(6)-1/81 dated 24th January, 1983 along with a scheme drawn by the Govt. of India, Ministry of Home Affairs, New Delhi vide its O.M. No. 105/1/66-AVD dated 28th October, 1969 (copy enclosed). However, the State Government vide this Department's letter No. Home (Vig.)A(9)-1/2011 (Doubtful Integrity) dated 23.04.2011 issued criteria for treating officer(s)/official(s) having doubtful integrity in partial deviation from the aforesaid scheme of Government of India. Further, the State Government vide letter No. Home (Vig.)E(3)-14/2010-Part-IV dated 25.11.2013, 11.01.2016 and 6.04.2018 issued instructions regarding posting of officers having doubtful integrity and also issued instructions vide letter No. Home(Vig.)A(8)-7/2017 (VCC-Inst.) dated 27.10.2017 regarding inclusion of names of

officer(s)/official(s) placed under suspension in the "List of Officers of Doubtful Integrity".

2. Now, the matter has been re-examined at length and it has been decided to adopt the scheme drawn by the Govt. of India, Ministry of Home Affairs, New Delhi issued vide its O.M. No. 105/1/66-AVD dated 28th October, 1969 in toto (copy enclosed). The list of public servants of gazetted status of doubtful integrity 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.
- (v) In addition to above, the officer(s)/official(s), placed under suspension, shall also be included in the "List of Officers of Doubtful Integrity".

3. However, the names of the officers of the following categories should not be included in this list:-

- (i) Officers, who have been cleared or honourably acquitted as a result of disciplinary proceedings or court trial.
- (ii) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.
- (iii) Officers who have been convicted of offences not involving lack of integrity or moral turpitude.
- (iv) 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.

4. The purpose of maintenance of these lists is to also enable the 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/her case, to a service, grade or post to which he/she is eligible for promotion;
- (iv) Compulsory retirement in the public interest (otherwise that as penalty) in accordance with the orders issued by the Government.
- (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.

(* the prevailing instructions in respect of promotions will apply for consideration of promotion by the Departmental Promotion Committee.)

5. According to the provisions at Sr. No. 4(i) of the scheme (Govt. of India, Ministry of Home Affairs, New Delhi O.M. No. 105/1/66-AVD dated 28th October, 1969) lists 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 are prepared by the Vigilance Organization of Ministry/Departments/Undertakings in Govt. of India. Obviously, in Himachal Pradesh, such lists are to be got prepared by the concerned Secretaries/Heads of Departments. A copy of such lists may be sent by the Administrative Departments concerned to the Vigilance Department and to the Additional Director General, State Vigilance & Anti Corruption Bureau, H.P. Shimla once every year in the last week of February. These lists are intended to keep the concerned Departments/Undertakings informed about officers/officials of doubtful integrity so that they are not posted to sensitive posts 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. 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.

It is further reiterated that:-

- (i) The officers/officials, having doubtful integrity, should not be posted on sensitive posts except in unavoidable circumstances.
- (ii) In un-avoidable circumstances, the approval of the highest authority in the State i.e. Hon'ble Chief Minister should be obtained before

posting of such officers/officials in sensitive posts, even during non-ban period.

- (iii) The fact that the name of officer(s)/official(s) has been included in the "List of Officers of Doubtful Integrity", should be brought to the notice of the Hon'ble Chief Minister while putting up proposals for the transfer/posting of such officers.
- (iv) That, efforts be made continually that such officers, if posted on sensitive posts, are removed from such posts at the earliest opportunity.

Implementation of above decisions may also be reviewed regularly after interval of 6 months.

6. It is always the effort of the Government to avoid posting of officers/officials of doubtful integrity on sensitive posts. However, at times, non-sensitive posts are not available in all cadres and hence it may become unavoidable to post such officers on sensitive posts. Nevertheless, in such cases, the conduct of officers/officials should be closely monitored.

7. You are requested to kindly bring these instructions to the notice of all concerned. These instructions are applicable to all the Departments, Corporations, Boards & other Autonomous Institutions etc. under your control.

8. You are, further, requested to kindly furnish consolidated list of officers/officials of Doubtful Integrity working in Departments under your control to the Director, Vigilance, Himachal Pradesh, Shimla and also the Additional Director General, State Vigilance & Anti Corruption Bureau, Himachal Pradesh, Shimla-171002 by the end of February every year.

9. This issues in supersession of earlier instructions issued vide the following letters:

- (i) No. Per(Vig.)F(6)-1/81 dated 24.01.1983 and dated 6.06.1985,

- (ii) No. Home(Vig)A(9)3/2008(Doubtful Integrity) dated 11.08.2008,
- (iii) No. Home(Vig) A(9)-1/2011(Doubtful Integrity) dated 23.04.2011,
- (iv) No. Home(Vig)E(3)14/2010-Part-IV dated 25.11.2013,
- (v) No. Home(Vig)E(3)-14/2010-Part-IV dated 11.01.2016,
- (vi) No. Home(Vig.)A(8)-7/2017(VCC Inst.) dated 27.10.2017 and
- (vii) Home(Vig.)E(3)-14/2010-Part-IV dated 6.04.2018.

10. The receipt of this letter may be acknowledged.

Yours faithfully,


(Sanjay Kundu)

Principal Secretary (Vigilance) to the
Government of Himachal Pradesh

Endst. No. As above Dated Shimla-171002, the

17/12 | 2018.

Copy to the following for kind information and necessary action to:-

1. All the Divisional Commissioners in Himachal Pradesh.
2. All the Heads of Departments in Himachal Pradesh.
3. All the Deputy Commissioners in Himachal Pradesh.
4. All the Chairmen/Managing Directors/Secretaries and Registrars of all the Public Sector Undertakings/Corporations/Boards/Universities in H.P.
5. The Additional Director General, State Vigilance & Anti Corruption Bureau, Himachal Pradesh, Shimla-171002.


(Sanjay Kundu)

Principal Secretary (Vigilance) to the
Government of Himachal Pradesh

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-AVII 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.

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 'sensitive' 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.

- 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.

**MAINTENANCE
& 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.
