

## 59 Central Vigilance Commission

### ESTABLISHMENT

The Central Vigilance Commission (CVC) is the main agency for preventing corruption in the Central government. It was established in 1964 by an executive resolution of the Central government. Its establishment was recommended by the Santhanam Committee on Prevention of Corruption<sup>1</sup> (1962–64).

Thus, originally the CVC was neither a constitutional body nor a statutory body. Later, in 2003, the Parliament enacted a law conferring statutory status on the CVC<sup>2</sup>.

In 2004, the CVC has been designated as the agency to receive and act on complaints or disclosure on any allegation of corruption or misuse of office from whistle blowers under the “Public Interest Disclosure and Protection of Informers’ Resolution” (PIDPI), which is popularly known as “Whistle Blowers” Resolution. The Commission is also empowered as the only designated agency to take action against complainants making motivated or vexatious complaints.<sup>2a</sup>

The CVC is conceived to be the apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organisations in planning, executing, reviewing and reforming their vigilance work.

## COMPOSITION

The CVC is a multi-member body consisting of a Central Vigilance Commissioner (chairperson) and not more than two vigilance commissioners. They are appointed by the president by warrant under his hand and seal on the recommendation of a three-member committee consisting of the prime minister as its head, the Union minister of home affairs and the Leader of the Opposition in the Lok Sabha. They hold office for a term of four years or until they attain the age of sixty five years, whichever is earlier. After their tenure, they are not eligible for further employment under the Central or a state government.

The president can remove the Central Vigilance Commissioner or any vigilance commissioner from the office under the following circumstances:

- (a) If he is adjudged an insolvent; or
- (b) If he has been convicted of an offence which (in the opinion of the Central government) involves a moral turpitude; or
- (c) If he engages, during his term of office, in any paid employment outside the duties of his office; or
- (d) If he is (in the opinion of the president), unfit to continue in office by reason of infirmity of mind or body; or
- (e) If he has acquired such financial or other interest as is likely to affect prejudicially his official functions.

In addition to these, the president can also remove the Central Vigilance Commissioner or any vigilance commissioner on the ground of proved misbehaviour or incapacity. However, in these cases, the president has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court, after the enquiry, upholds the cause of removal and advises so, then the president can remove him. He is deemed to be guilty of misbehaviour, if he (a) is concerned or interested in any contract or agreement made by the Central government, or (b) participates in any way in the profit of such contract or agreement or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company.

The salary, allowances and other conditions of service of the Central Vigilance Commissioner are similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC. But they cannot be varied to his disadvantage after his appointment.

## ORGANISATION

The CVC has its own Secretariat, Chief Technical Examiners' Wing (CTE) and a wing of Commissioners for Departmental Inquiries (CDIs).

**Secretariat:** The Secretariat consists of a Secretary, Joint Secretaries, Deputy Secretaries, Under Secretaries and office staff.

**Chief Technical Examiners' Wing:** The Chief Technical Examiners' Organisation constitutes the technical wing of the CVC. It consists of Chief Engineers (designated as Chief Technical Examiners) and supporting engineering staff. The main functions assigned to this organisation are as follows:

- (i) Technical audit of construction works of Government organisations from a vigilance angle
- (ii) Investigation of specific cases of complaints relating to construction works
- (iii) Extension of assistance to CBI in their investigations involving technical matters and for evaluation of properties in Delhi
- (iv) Tendering of advice / assistance to the CVC and Chief Vigilance Officers in vigilance cases involving technical matters

**Commissioners for Departmental Inquiries:** The CDIs function as Inquiry Officers to conduct oral inquiries in departmental proceedings initiated against public servants.

## FUNCTIONS

The functions of the CVC are:

1. To inquire or cause an inquiry or investigation to be conducted on a reference made by the Central government wherein it is alleged that a public servant being an employee of the Central government or its authorities<sup>3</sup>, has committed an offence under the Prevention of Corruption Act, 1988.
2. To inquire or cause an inquiry or investigation to be conducted into any complaint against any official belonging to the below mentioned category of officials wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988:
  - (a) Members of all-India services<sup>4</sup> serving in the Union and Group 'A' officers of the Central government; and
  - (b) Specified level of officers of the authorities of the Central government.
3. To exercise superintendence over the functioning of the Delhi Special Police Establishment (CBI) insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988.
4. To give directions to the Delhi Special Police Establishment (CBI) for superintendence insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988.
5. To review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the prevention of Corruption Act, 1988.
6. To review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988.
7. To tender advice to the Central government and its authorities on such matters as are referred to it by them.
8. To exercise superintendence over the vigilance administration in the ministries of the Central government or its authorities.

9. To undertake or cause an inquiry into complaints received under the Public Interest Disclosure and Protection of Informers' Resolution and recommend appropriate action.
10. The Central Government is required to consult the CVC in making rules and regulations governing the vigilance and disciplinary matters relating to the members of Central Services and All India Services.
11. The Central Vigilance Commissioner (CVC) is the Chairperson and the two Vigilance Commissioners along with Secretaries of M/o Home Affairs, D/o Personnel and Training and the D/o Revenue in M/o Finance are the Members of the Selection Committees, on whose recommendation the Central Government appoints the Director of Enforcement. Further, this Committee, in consultation with the Director of Enforcement, recommends officers for appointments to the posts above the level of Deputy Director of Enforcement.
12. The Central Vigilance Commission has been notified as a specific authority to receive information relating to suspicious transactions under the Prevention of Money Laundering Act, 2002.

The Lokpal and Lokayuktas Act (2013) amended both the CVC Act (2003) and the Delhi Special Police Establishment Act (1946) and made the following changes with respect to the functions of the CVC.<sup>4a</sup>

13. The Director of Prosecution under the Directorate of Prosecution in CBI shall be appointed by the Central Government on the recommendation of the Central Vigilance Commission.
14. The Central Vigilance Commissioner (CVC) is the Chairperson and the two Vigilance Commissioners along with Secretaries of M/o Home Affairs and D/o Personnel and Training are the Members of the Selection Committees, on whose recommendation the Central Government appoints officers to the posts of the level of SP and above in the CBI except Director of CBI.
15. The Commission has been empowered to conduct preliminary inquiry into complaints referred by Lokpal in

respect of officers and officials of Groups A, B, C & D, for which a Directorate of Inquiry for making preliminary inquiry is to be set up in the Commission. The preliminary inquiry reports in such matters referred by Lokpal in respect of Group A and B officers are required to be sent to the Lokpal by the Commission. Further, as per mandate, the Commission is to cause further investigation into such Lokpal references in respect of Group C and D officials and decide on further course of action against them.

## **JURISDICTION**

The jurisdiction of the CVC extends to the following:

1. Members of All India Services serving in connection with the affairs of the Union and Group A officers of the Central Government.
2. Officers of the rank of Scale V and above in the Public Sector Banks.
3. Officers in Grade D and above in Reserve Bank of India, NABARD and SIDBI.
4. Chief Executives and Executives on the Board and other officers of E-8 and above in Schedule 'A' and 'B' Public Sector Undertakings.
5. Chief Executives and Executives on the Board and other officers of E-7 and above in Schedule 'C' and 'D' Public Sector Undertakings.
6. Managers and above in General Insurance Companies.
7. Senior Divisional Managers and above in Life Insurance Corporation.
8. Officers drawing salary of ₹8700/- per month (pre-revised) and above on Central Government D.A. pattern, as may be revised from time to time, in societies and local authorities owned or controlled by the Central Government.



## WORKING

The CVC conducts its proceedings at its headquarters (New Delhi). It is vested with the power to regulate its own procedure. It has all the powers of a civil court and its proceedings have a judicial character. It may call for information or report from the Central government or its authorities so as to enable it to exercise general supervision over the vigilance and anti-corruption work in them.

The CVC, on receipt of the report of the inquiry undertaken by any agency on a reference made by it, advises the Central government or its authorities as to the further course of action. The Central government or its authorities shall consider the advice of the CVC and take appropriate action. However, where the Central government or any of its authorities does not agree with the advice of the CVC, it shall communicate the reasons (to be recorded in writing) to the CVC.

The CVC has to present annually to the President a report on its performance. The President places this report before each House of Parliament.

## **VIGILANCE UNITS IN THE MINISTRIES**

All ministries/departments in the Union Government have a Chief Vigilance Officer (CVO) who heads the Vigilance Division of the organisation concerned, assisting and advising the Secretary or Head of Office in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission on the one hand and his organisation and the Central Bureau of Investigation on the other. Vigilance functions performed by the CVO include

- (i) Collecting intelligence about corrupt practices of the employees of his organisation
- (ii) Investigating verifiable allegations reported to him
- (iii) Processing investigation reports for further consideration of the disciplinary authority concerned
- (iv) Referring matters to the Central Vigilance Commission for advice wherever necessary<sup>5</sup>

## WHISTLE BLOWERS PROTECTION ACT (2014)

The salient features of the Whistle Blowers Protection Act (2014)<sup>6</sup> are as follows<sup>7</sup> :

1. The Act provides a mechanism for protecting the identity of whistle blowers (a term given to people who expose corruption). People who expose corruption in Government or irregularities by public functionaries can now be free of any fear of victimization.
2. The Act also provides for a system to encourage people to disclose information about corruption or the wilful misuse of power by public servants, including ministers.
3. As per the Act, a person can make a public interest disclosure on corruption before a competent authority - which is at present the Central Vigilance Commission (CVC). The government, by notification, can appoint any other body also for receiving such complaints about corruption.
4. The Act, however, lays down punishment of up to two years in prison and a fine of up to ₹30,000 for false or frivolous complaints.
5. The Act says that every disclosure shall be made in good faith and the person making the disclosure shall provide a personal declaration stating that he reasonably believes that the information disclosed by him and the allegation contained therein is substantially true.
6. Disclosures can be made in writing or by email message in accordance with the procedure as may be prescribed and contain full particulars and be accompanied by supporting documents, or other material.
7. However, no action shall be taken on a disclosure if it does not indicate the identity of the complainant or public servant or if "the identity of the complainant or public servant is found to be incorrect."
8. The Act is not applicable to the Special Protection Group.

## NOTES AND REFERENCES

1. The Committee on Prevention of Corruption with parliamentarian K. Santhanam as the Chairman, four other MPs and two senior officers as members, was appointed by the Government of India in 1962.
2. The Central Vigilance Commission Bill having been passed by both the Houses of Parliament received the assent of the president on 11 September 2003. It came on the statute Book as the Central Vigilance Commission Act, 2003.
- 2a. Annual Report 2015–16, Ministry of Personnel, Government of India, p. 101.
3. The authorities of the Central government include a corporation established by or under any Central act and government company, society and any local authority owned or controlled by the Central government.
4. The All-India Services include Indian Administrative Service (IAS), Indian Police Service (IPS) and Indian Forest Service (IFS).
- 4a. Annual Report 2015, Central Vigilance Commission, pp. 2–4.
5. Report on Ethics in Governance, January 2007, Second Administrative Reforms Commission, Government of India, p. 106.
6. Originally, the year of the Act was 2011. Later, it was changed to 2014.
7. *The Indian Express*, “Whistleblowers Protection Act gets President’s nod”, May 13, 2014.