

GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

Vigilance — A.P. Vigilance Commission — Scheme defining jurisdiction, powers etc. — Orders — Issued.

GENERAL ADMINISTRATION (SC-D) DEPARTMENT

G.O.Ms.No.421

Dated 3rd August, 1993.

Read the following:-

- 1) G.O.Rt.No.218, Genl. Admn. (AR&T Desk) Dept., Dt. 15.01.1990.
- 2) G.O.Ms.No.368, Genl. Admn. (SC.D) Department, Dt. 29.06.1993.

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ORDER:

The Government after careful consideration of the recommendation of the Committee on Administrative Reorganisation have decided to revive the Vigilance Commission as it existed in the past. The body will be called "A.P. Vigilance Commission", and the person appointed to the post will be designated as the "Vigilance Commissioner".

Accordingly, Orders have been issued in the reference second read above, reviving the Vigilance Commission and appointing the Vigilance Commissioner.

The Government, after careful consideration, have decided upon the Scheme of the "A.P.Vigilance Commission" as appended to this order.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K. JAYABHARATH REDDY
CHIEF SECRETARY TO GOVERNMENT

**APPENDIX TO G.O.Ms.No.421, GENERAL ADMINISTRATION (SC.D) DEPARTMENT,
DATED:03.08.1993**

**SCHEME DEFINING JURISDICTION AND POWERS OF
THE ANDHRA PRADESH VIGILANCE COMMISSION**

PREAMBLE:

1. The Government have decided to revive the Vigilance Commission as it existed in the past and restore its original role and functions.

CONSTITUTION:

2. The State Vigilance Commission shall be called as "ANDHRA PRADESH VIGILANCE COMMISSION" and the person appointed to the post will be designated as "THE VIGILANCE COMMISSIONER" and he is a full time Officer. (hereinafter referred to as the Commission).
3. The Commission will address the Chief Secretary, Principal Secretary, Ex-Officio Principal Secretary, Special Secretary, Secretary and Ex-Officio Secretary as the case may be in relation to the subjects / reports concerning them. In exercise of its powers and functions, it will not be subordinate to any Department and will have the same measures of independence and autonomy as the Andhra Pradesh Public Service Commission.

THE VIGILANCE COMMISSIONER:

4. The Vigilance Commissioner –
 - (a) Shall be appointed by the Governor by a warrant under his hand and Seal.
 - (b) Shall not be removed or suspended from the Office except in the manner provided for the removal or suspension of the Chairman or a Member of the Andhra Pradesh Public Service Commission.
5. The Vigilance Commissioner will be responsible for the proper performance of the duties and responsibilities assigned to the Commission from time to time and for generally co-ordinating the work and advising the Departments / Government Undertakings / Government Companies and such other Institutions as may be notified by the Government from time to time, in respect of all matters pertaining to the maintenance of integrity and impartiality in the Administration.

JURISDICTION AND POWERS OF THE COMMISSION:

6. The Commission will have the Jurisdiction and powers in respect of the matters to which the executive power of the State extends. The powers and functions of the Vigilance Commission will be as follows:-
- (i) to cause an enquiry into any transaction in which a public servant including a member of an All-India Service is suspected or alleged to have acted for an improper purpose or in a corrupt manner;
 - (ii) to cause an enquiry or an investigation to be made into:
 - (a) any complaint that a public servant had exercised or refrained from exercising his powers for improper or corrupt purposes;
 - (b) any complaint of corruption, misconduct or lack of integrity or other kinds of malpractices or misdemeanour on the part of a Public Servant.

EXPLANATION:

Corruption as used in the foregoing clauses shall have the same meaning of Criminal misconduct in the discharge of official duties under the provisions of the Prevention of Corruption Act, 1988 (Central Act No.49 of 1988).

- (iii) to call for records, reports, returns and statements from all Departments / Government Undertakings / Government Companies / and such other Institutions as may be notified by the Government from time to time so as to enable the Commission to exercise a general check and supervision over the Vigilance and Anti-corruption work in the Departments / Government Undertakings / Government Companies and such other institutions as may be notified by the Government from time to time.
- (iv) to make over under his direct control such complaints, information or cases as he may consider necessary for further action which may be either:-
 - (a) to ask the Anti-Corruption Bureau to register a regular case and investigate it; or
 - (b) to entrust the complaint, information or case for enquiry:
 - (1) to the Anti-Corruption Bureau or
 - (2) to the Department / Government Undertaking / Government Company concerned and such other Institutions as may be notified by the Government from time to time.

(v) In cases referred to in paragraph (iv) (b) (1) and also in all other cases where the Anti-Corruption Bureau has made enquiries including suo-moto enquiries, the preliminary report of the enquiry will be forwarded by the Anti-Corruption Bureau to the Vigilance Commission. A copy may be sent by the Bureau to the Genl. Admn. (SC.F) Dept., and the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time. The Vigilance Commission will consider whether or not a regular enquiry is called for. If a regular enquiry is considered necessary by the Vigilance Commission against Public Servants other than those concerning members of the All India Services and Heads of Departments, it will authorise the Bureau to conduct a regular enquiry under intimation to the General Administration (SC.F) Department and the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time. If, however, a regular enquiry is not considered necessary, the Commission will advise the Department / Government Undertaking / Government Company / such other Institution as may be notified by the Government from time to time concerned as to further action.

“Provided that in cases taken by the Anti-Corruption Bureau, Suo-moto in which the finding of the Bureau is that there is no basis to proceed further in the matter, the preliminary / discreet enquiry reports shall be forwarded to the Vigilance Commission while making copies to the General Administration (SC.F) Department in duplicate for advice”.

(G.O.Ms.No.424, GA (SC.D) Department, dt.26.08.1994)

In respect of cases concerning members of the All-India Services and Heads of Departments, if a regular enquiry is considered necessary by the Commission, it will authorise the Bureau to conduct a regular enquiry only after consultation with the Chief Secretary to Government under intimation to the Genl. Admn. (SC.D) Department and Department of Secretariat concerned. If, however, no regular enquiry is considered necessary the Commission will advise the Chief Secretary to Government as to further action.

The final report of the enquiry by the Bureau in all cases will be forwarded to the concerned Department / Government Undertaking / Government Company and such

other Institutions as may be notified by the Government from time to time through the Vigilance Commission provided that such reports against the Members of All-India Services Officers, and Heads of Departments will be forwarded to the Chief Secretary to Government through the Commission so that on a consideration of the report and other relevant records, it may advise the concerned Department / Government Undertaking / Government Company and such other Institutions as may be notified by the Government from time to time / Chief Secretary to Government, as the case may be, as to further action. A copy of report of the enquiry will be sent by the Bureau to the General Administration (SC.F) Department and the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time / Chief Secretary to Government, as the case may be.

The cases referred to in paragraph (iv)(b)(2), the report of the inquiry by the Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time will be forwarded to the Vigilance Commission for its advice as to further action.

The Anti-Corruption Bureau shall conduct discreet enquiries Regular enquiries / Investigation and register cases in accordance with the suo-moto powers delegated in Govt.Memo.No.163/SC.D/83-2, G.A. (SC.D) Dept., dt.30.03.1983 read with Memo.No.163/SC.D/83-3, dated 10.06.1983.

- (vi) The further action on the final reports of the Anti-Corruption Bureau, Government Department / Government Undertaking / Government Company and such other Institutions as may be notified by the Government from time to time, as the case may be, will be as follows:
- a. Prosecution in a Court of Law.
 - b. Enquiries by the Tribunal for Disciplinary Proceedings in respect of all Gazetted Officers except All-India Service Officers.
 - c. Enquiry by the Commissioners for departmental Inquiry as may be appointed by Government.
 - d. Departmental Inquiry otherwise than by the Commissioners for departmental Inquiry.

- (vii) The Anti-Corruption Bureau will forward the final reports in all cases investigated by the Bureau in which it considers that a prosecution should be launched to the Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time concerned through the Vigilance Commission and simultaneously sends a copy to the General Admn. (SC.F) Department and to the Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time concerned for any comments within 21 days from the date of receipt of the report by the Department / Government Undertaking / Government Company and such other institution as may be notified by Government from time to time, which the latter may wish to forward to the Commission.
- (viii) The Commission after examining the case and considering any comments received from the concerned disciplinary authority will advise the concerned Department / Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time with a copy to the G.A. (SC.F) Dept., whether or not prosecution should be sanctioned. Orders will thereafter be issued by the concerned Administrative Department in the Government in the cases of all Gazetted Officers and Non Gazetted Officers and Government Undertaking / Government Company and such other Institution as may be notified by the Government from time to time as the case may be. A copy of the final orders issued by the Government / Government Company and such other Institution as may be notified by the Government from time to time shall in all such cases be furnished to the Commission.
- (ix) The final report of the Tribunal for Disciplinary Proceedings in all cases referred to it, will be referred to the Commission by the Administrative Department concerned for advice both before arriving at a provisional conclusion and final conclusion in respect of the penalty to be imposed on the Government employee concerned. The Commission will examine the entire record and advise the Administrative Department as to further action. A copy of the final orders issued by the Government shall in all such cases be furnished to the Commission.
- (x) The Government in consultation with the Commission prepare a panel of Commissioners for Departmental Inquiry for all Departments. The Commission may advise the

Government to refer to one of the Commissioners for conducting an enquiry against a Public Servant in such of those cases not referred to Tribunal for Disciplinary Proceedings. The Final report of the Commissioner shall be referred to the Vigilance Commission for advice. The Government Department concerned after consideration of the Report of the Commissioner for Departmental Inquiries and advice of the Vigilance Commissioner thereon will issue final orders imposing the penalty under A.P. Civil Services (CC&A) Rules or All-India Services (D&A) Rules. A copy of the final orders issued by the Government will in all such cases be furnished to the Commission for record.

- (xi) The Commission having regard to the fact of a particular case may advise the Government or the Government Undertaking / Government Company / such other Institution as may be notified by the Government from time to time to have the inquiry conducted departmentally otherwise than by the Commissioner for Departmental Inquiries or Tribunal for Disciplinary Proceedings. The final report of such Departmental enquiry shall be referred to the Vigilance Commission for advice. The Government Department concerned after consideration of such report and the advice of the Vigilance Commission thereon will issue final orders imposing the penalty under the A.P.C.S. (CC&A) Rules. A copy of the final orders issued shall in all such cases be furnished to the Commission for Record.
- (xii) In any case, where it appears that the discretionary powers had been exercised for improper or corrupt purposes, the Commission will advise the Department / Government Undertaking / Government Company and such of the Institution as may be notified by the Government from time to time that suitable action may be taken against the Public Servant concerned and if it appears that the procedure of practice is such as affords scope or facility for corruption or misconduct, the Commission may advise that such procedure or practice be appropriately changed or altered in a particular manner.
- (xiii) The Commission may initiate at such intervals as it considers suitable review of the procedure and practice of Administration in so far as they relate to the maintenance of integrity in the Administration in all departments of administration.
- (xiv) The Commission may collect such statistics and other information as may be necessary.
- (xv) The Commission may obtain information about action taken on its recommendations.

- (xvi) The Commission will submit an annual report to the Government in the Genl. Admn. (SC.D) Department about its activities drawing particular attention to any recommendations made by it, which had not been accepted and acted upon and the report together with a memorandum explaining the reasons for non-acceptance of any recommendations of the Commission will be laid by the General Administration Department before the State Legislature.
- (xvii) Definition of Vigilance angle:
- (i) Demanding and / or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
 - (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.
 - (ii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.
 - (iii) Possession of assets disproportionate to his known sources of income.
 - (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.
 - (vi) Other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt, gross or wilful negligence, recklessness in decision making, blatant violations of systems and procedures, exercise of discretion in excess, where no ostensible / public interest is evident, failure to keep the controlling authority / superiors informed in time.
 - (vii) Any undue / unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.
 - (viii) Absence of vigilance angle in various acts of omission and commission does not mean that the concerned official is not liable to face the consequences of his actions. All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately, as per the disciplinary procedure under the service rules.

STAFF

7. The Commission will be provided with such staff as may be necessary for the proper discharge of its duties and responsibilities in consultation with the Vigilance Commissioner. The staff may include administrative, technical and legal officers.

VIGILANCE OFFICERS:

8. There will be one Chief Vigilance Officer for each Secretariat Department and Vigilance Officers in all Subordinate and attached Offices and in all Government Undertakings / Government Companies and such of the Institutions as may be notified by the Government from time to time. The Chief Vigilance Officer may not be lower than the rank of a Deputy Secretary to Government and the Vigilance Officer shall be selected from among the senior officers of the department. In Government Undertakings / Government companies and such of the Institutions as may be notified by the Government from time to time the Vigilance Officers may be of such rank as may be decided by the Head of the undertaking in consultation with the Commission. The Chief Vigilance Officers shall be appointed in consultation with the Commission and the Vigilance Officers in sub-ordinate and attached offices shall be appointed in consultation with the Chief Vigilance Officer of the Department concerned. No person whose appointment as Chief Vigilance Officer is objected to by the Commission shall be so appointed.
9. The Chief Vigilance Officer and the Vigilance Officers besides being the link between the Commission and the departments should be the special assistants to the Secretary to the Government, in the department or head of the Government undertaking / Government Company / such of the Institution as may be notified by the Government from time to time concerned in combating corruption, misconduct and malpractices in the department / Government undertaking / Government Company / such of the Institution as may be notified by the Government from time to time. The Chief Vigilance Officer will be responsible for co-ordinating and guiding the activities of other Vigilance Officers in the attached and sub ordinate offices and other organisation for which his department is responsible to the Legislature.
10. Collectors of District shall be the Chief Vigilance Officers within their jurisdiction. Their functions will be:-

- i) to entrust any complaint, information or case for expeditious enquiry to the concerned departmental officers at the district level, as per the instructions to be issued from Government from time to time:

Provided that in respect of Gazette Officers the Collector shall himself conduct such enquiry:

Provided further that where the Collector considers it necessary to entrust such enquiry to the Anti-Corruption Bureau, he shall forward to complaint, information or case with his views to the Vigilance Commission as to further action;

- ii) to co-ordinate with the officers of the Anti-Corruption Bureau ensure in his jurisdiction, the efforts to prevent corruption; and
- iii) to ensure that the existing procedures in the district offices are examined with a view to eliminate factors, which provide opportunities for corruption and malpractices.

(G.O.Ms.No.522, GA (SC.E) Department, dt.15.11.1994)

11. The Vigilance Commissioner will assess the work of the Chief Vigilance Officers and the assessment will be recorded in the character roll of the said officers according to the procedure prescribed by the Government from time to time.

FALSE COMPLAINTS:

12. The Commission will take the initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against Public Servants.

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