

CHAPTER-VI

PIDPI COMPLAINTS

Introduction

The Hon'ble Supreme Court of India, while hearing the Writ Petition (C) no. 539/2003 relating to the murder of Sh. Satyendra Dubey, directed the Government of India to set up a suitable mechanism for receipt and enactment of complaints from "Whistle-Blowers". Accordingly, Department of Personnel and Training issued Resolution No. 89 dated 21st April, 2004, commonly known as Public Interest Disclosure and Protection of Informers Resolution, 2004, resolving to set up a mechanism by which a complainant can lodge a complaint in the prescribed manner and also seek protection against his victimisation for doing so. (Such complainants, called Whistle Blowers, are entitled to non-disclosures of their identity publically, unless, they themselves do so). The Central Vigilance Commission has been authorised under the PIDPI Resolution, as the Designated Agency to receive complaints from whistle blowers.

6.1 Provisions of PIDPI Resolution

The Government of India vide Gazette Notification No. 371/12/2002-AVD-III dated 21.04.2004 r/w Corrigendum dated 29.04.2004 notified the Public Interest Disclosure and Protection of Informers (PIDPI) Resolution, 2004, wherein the following provisions relating to the complaints being lodged by Whistle-Blowers have been made:-

- (a) The Central Vigilance Commission is authorised as the "Designated Agency" to receive written complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government.
- (b) Any public servant or a person including an NGO can make written disclosure to the designated agency except those referred in clauses (a) to (d) of Article 33 of Constitution.
- (c) The designated agency may call for further information or particulars from the persons making the disclosure.
- (d) Anonymous complaints shall not be acted upon.
- (e) The identity of the complainant will not be revealed unless the complainant himself has disclosed his identity.
- (f) The Head of the Department/Organisation to keep the identity of informant secret if he comes to know about it.
- (g) The designated agency may call the comments/explanations of the Head of Department/Organisation on the disclosure made.
- (h) The designated agency may seek the assistance of CBI or the police authorities to complete the investigation pursuant to the complaint received.

- (i) The designated agency on finding the allegation of misuse of office or corruption substantive, shall recommend appropriate action to the Department or Organisation concerned.
- (j) If the informant feels that he is being victimised, he may make an application before the designated agency seeking redressal in the matter. The designated agency may give suitable directions to the public servant or the public authority concerned.
- (k) If on an application or on the basis of information gathered, the designated agency is of the opinion that the complainant or the witness need protection, it shall issue appropriate directions to the Government authorities concerned; and
- (l) In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

6.2 Amendments to PIDPI Resolution:

The DoPT vide Notification No. 371/4/2013-AVD.III dated 14.08.2013 partially amended the PIDPI Resolution, 2004. The amended provisions are as under: -

- (a) The Chief Vigilance Officers of the Ministries or Departments of the Government of India are also authorised as the "Designated Authority" to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or the Department.
- (b) Either on receipt of application from the complainant, or on the basis of the information gathered otherwise, if the designated authority is of the opinion that either the complainant or the witnesses need protection, the designated authority, shall take up the matter with the Central Vigilance Commission, for issuing appropriate directions to the Government authorities concerned.
- (c) The Central Vigilance Commission (CVC) shall supervise and monitor the complaints received by the designated authority.

6.3 Guidelines for the PIDPI Complainant

In furtherance of the PIDPI Resolution, 2004, Central Vigilance Commission vide Office Order No. 33/5/2004 dated 17.05.2004 issued guidelines and Public Notice regarding the procedure to be followed for filing whistle-blower complaints under the PIDPI Resolution, 2004, to ensure that the identity of complainant is kept secret. The following procedure has been prescribed in the public notice: -

- (a) The complaint should be in a closed / secured envelope.
 - (b) The envelope should be addressed to Secretary, Central Vigilance Commission and should be super-scribed "**Complaint under the Public Interest Disclosure**". The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- (Para 4.2(b) of Vigilance Manual 2021)*
- (c) Commission will not entertain anonymous / pseudonymous complaints.

- (d) The text of the complaint should be carefully drafted so as not to give any details or clue as to the complainant's identity. However, the details of the complaint should be specific and verifiable.
- (e) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. If any further clarification is required, the Commission will get in touch with the complainant.
(Para 4.2(b) of Vigilance Manual 2021)
- (f) On the advice of the Commission, in order to maintain confidentiality about the complainant's identity, the Department of Posts vide Circular No. 31-01/2021-PO dated 03.03.2021 has directed all post offices not to insist on the name and address of the complainant. It is mandatory for all post offices. The directions are reproduced as below:-

"Any article, addressed to the CVC as well as CVOs posted with the superannuation "Complaint under the Public Interest Disclosure" or "PIDPI Complaint" on the outside of the envelope of the article, can be accepted for posting registration and speed post service, without the name and complete address including mobile number & email address of the sender".
- (g) The Commission can also take action against complainants making motivated/vexatious complaints under this Resolution.

6.4 Procedure adopted by Central Vigilance Commission on PIDPI Complaint

- (a) Complaints received under PIDPI Resolution are opened in a separate section, specially created for dealing with complaints from Whistle-Blowers. The section is called 'Confidential Section' and parallel files (separate file for each complaint) are created after concealing the name and address of the complainant.
- (b) Pseudonymous/ Anonymous PIDPI complaints will be filed and no action will be taken. The complaints which have been addressed to other / several authorities are not treated as complaint under PIDPI Resolution and are forwarded by the Confidential Section to the Vigilance Section concerned of the Commission for taking necessary action under Complaint Handling Policy of the Commission.
- (c) In respect of those complaints which are considered fit for processing under PIDPI Resolution, a letter is sent to the complainant to obtain (a) confirmation as to whether he / she has made the complaint or not and (b) a certificate that that he / she has not made similar / identical allegation of corruption / misuse of office to any other authorities to qualify as a Whistle Blower Complainant. Prescribed time limit for receiving the confirmation and the certificate from the Complainant is 30 days from the date of receipt of Commission's letter by the complainant. In case of no response within the prescribed time limit, a reminder is issued, giving additional two weeks' time to the complainant for sending confirmation and the certificate, to the Commission. If there is still no response from the complainant, the complaint is sent to the Branch concerned of the Commission for necessary action under Complaint Handling Policy of the Commission.
- (d) The Commission has decided to discontinue the practice of obtaining NOC from the Whistle Blower/complainant.

(Commission's Public Notice dated 30.07.2021)

- (e) After receiving necessary confirmation from the complainant, the complaint is placed before the Screening Committee for decision.
- (f) The Screening Committee is headed by the Secretary and the Additional Secretaries of the Commission are members. The Screening Committee examines all complaints and recommends complaints for Investigation and Report (I & R) / Necessary Action (NA) / Filing.
- (g) When a complaint is put up to the Screening Committee, if it is found that there are certain shortcomings due to which it does not fulfil the eligibility criteria, it will be returned to the complainant, clearly enumerating the reasons for not fulfilling the eligibility criteria. The complaint will then be closed in the Commission. Thereafter, the complainant has the option of either sending a fresh regular complaint to the Central Vigilance Commission under its Complaint Handling Policy or may again lodge a fresh complaint if desired under PIDPI Resolution after removal of the deficiencies.
(Commission's Public Notice dated 30.07.2021)
- (h) The complaints, where necessary action has been recommended by the Screening Committee, are referred to the Vigilance Branch concerned for further action. Complaints recommended for investigation and report is sent to the Vigilance Branch concerned of the Commission for further action after approval of the Commission. The Commission has prescribed a period of 12 weeks from the date of receipt of reference from the Commission, for the organizations to submit investigation report.
(Commission's Circular No. 12/09/18 dated 28.09.2018)
- (i) The complaints/ disclosures already categorized as Non-Public Interest Disclosure and Protection of Informers (Non-PIDPI) complaints/ cases where No Objection Certificate was received from the complainant before issuance of Public Notice dated 30.07.2021 will continue to be processed as per *Commission's Public Notice dated 24.04.2019*.

6.5 Protection for Whistleblowers

6.5.1 The PIDPI Resolution dated 21.04.2004 provides for the following provisions for protection of Whistle Blowers: -

- (a) Clause 6 - If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency i.e. CVC, seeking redressal in the matter, who shall take such action as deemed fit. The designated agency may give suitable directions to the public servant or the public authority concerned as the case may be.
- (b) Clause 7 - Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the Government authorities concerned.
- (c) Clause 11 – In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

6.5.2 The Commission, after receipt of representation (s) from Whistle Blowers about threat to their life, takes up the matter with the Ministry of Home Affairs, the Nodal Agency, to undertake the responsibility of providing security cover to the genuine Whistle Blowers. On the advice of the Ministry of Home Affairs, State Government/UTs have appointed

Nodal Officers and details of such officers nominated by State Governments are furnished to the Commission from time to time by the Ministry of Home Affairs.

6.5.3 As regards protection against victimisation or harassment within the organisation, the Commission forwards such complaints of Whistle Blowers to the CVO of the organization concerned for appropriate action.

6.6 Supervision and Monitoring of Designated Authority

Clause 11A of PIDPI Resolution dated 14.08.2013 (amendments) provides that the Central Vigilance Commission shall supervise and monitor the complaints received by the Designated Authorities. A report on PIDPI complaints received by Designated Authorities, including cases of alleged harassment/victimisation received, are required to be sent to the Commission by the CVOs of the respective Ministries/ Departments.