

Manual- V : The rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions:

The detailed procedures/norms under which the State Vigilance Commission discharges its functions has been enumerated in various Govt. Resolutions, Notifications, Office Memorandums and Circulars from time to time which are reproduced here below:

**A. GOVERNMENT OF NAGALAND
HOME DEPARTMENT**

RESOLUTION

Dated Kohima, the 9th April 1976

No. Con-58/75:- The Government of Nagaland have decided to set-up a State Vigilance Commission which will be headed by the State Vigilance Commissioner.

2. The State Vigilance Commission will have jurisdiction and powers in respect of all matters enumerated below, namely:

- (a) To undertake any enquiry into any transaction in which a public servant is suspected or alleged to have acted for improper purpose or in a corrupt manner;
- (b) To cause an enquiry or investigation to be made on any complaint that a public servant has exercised or refrained from exercising his powers for improper or corrupt purposes;
- (c) To enquire into complaints of corruption, misconduct lack of integrity or other kinds of malpractices or misdemeanours on the part of the public servants including members of the All India Services;
- (d) To make recommendation as may be appropriate after enquiry or investigation to the Department of the Government;
- (e) To initiate at such intervals as it considers suitable review of procedure and practices of administration in so far as they relate to maintenance of integrity in administration;
- (f) To collect such statistics and other information as may be necessary;
- (g) To submit an annual report to the Home Minister about its activities and that the report shall be laid by the Home Minister before the State Assembly drawing particular attention to any recommendation made by it which had not been accepted or acted upon by disciplinary/administrative authorities.

3. The State Vigilance Commission shall have jurisdiction over public corporations, statutory bodies and undertaking in the State which have passed resolution, agreeing to be subject to the jurisdiction of the Commission.

4. The State Vigilance Commissioner:

- (a) Will be appointed by the Governor normally from among retired Judges of High Court or retired Senior/Executive Officers;
 - (b) Will hold office for a term of five years or till he attain the age of 65 years whichever is earlier; (This will not apply to the first Vigilance Commissioner whose appointment is governed by terms and conditions agreed upon.)
 - (c) Will not be removed or suspended from office except in manner provided for removal or suspension of the Chairman or a Member of the State Public Service Commission under Article 317 of the constitution.
 - (d) On ceasing to hold the office of the State Vigilance Commissioner, shall not accept any further employment under the Union Govt. or accept any political public office except in accordance with Article 319 of the Constitution.
5. The State Vigilance Commission will, for the present, be attached to the Home Department but in the exercise of its powers and functions it will not be subordinate to any Department and will have the same measure of independence and autonomy as the State Public Service Commission.
6. The State Vigilance Commission will be provided with such staff as may be necessary for the proper discharge of its duties and responsibilities.
7. The expenditure on the setting up of the Vigilance Commission is an instrument or new service approved by the Governor. The expenditure, therefore, will be debited to the Head of Account "263-Other Administrative Service".
8. The Vigilance Commissioner, shall be given suitable legislation the powers that is exercised by a Commission of enquiry appointed under the Commission of Enquiry Act, 1952 so that he can undertake any enquiry relating to transactions in which public servants are suspected or alleged to have acted improperly or in a corrupt manner and for this purpose he should have the power:
 - (a) To summon and enforce attendance of any person and examine him on oath.
 - (b) To require the discovery and production of any documents.
 - (c) To receive evidence on affidavits.
 - (d) To requisition any public record or copy thereof from any court or office.
 - (e) To issue commissions for examination of witnesses or documents.
 - (f) To require any person subject to any privilege which will be claimed by that person under any law in force.
 - (g) To furnish information on such matters and is in the opinion of the Commissioner may be useful or relevant to the subject matter of the enquiry undertaken by him.
 - (h) To enter any building or place where the Vigilance Commission has reasons to believe that any books of accounts or other documents relating to the subject matter of the enquiry may be found and to seize any such book or documents to take extracts or copies there from subject to section 102 and 103 of the Code of Criminal Procedure in so far as may be applicable. (This power of entry and seizure may be exercised by the Vigilance Commissioner or any officer not below the rank of a Gazetted officer specially authorised by him in this behalf.)
9. The State Vigilance Commission shall have the following Wings:
 - (a) Director or Vigilance & Anti-corruption.
 - (b) Tribunal for Disciplinary Proceedings.
 - (c) Law officer.
 - (d) Technical Officer ad-hoc appointment of specialists when Engineering or Accountancy question arise for consideration. (For the present, it is not necessary

to have a Law Officer or Technical Officer and may be appointed in due course as and when necessary arises.)

10. The Directorate of Vigilance & Anti-corruption shall be headed by a person not below the rank of Superintendent of Police who will be assisted by such number of Deputy Superintendent of Police, officials or other ranks as may be considered necessary by the Government of Nagaland in consultation with the Vigilance Commissioner.
11. The Tribunal for Disciplinary Proceedings shall be a person not below the rank of a District Magistrate or a District Judge or a retired District Magistrate or a retired District Judge.
12. The Law Officer shall be a person of not less than seven years of active practice at the Bar or has been at least an Under Secretary to the Government (Law Department.)
13. The Vigilance Commission will formulate its own regulations for the conduct of its business in working out the scheme.

Sd/- NAMKO,

Deputy Secretary to the Govt. of Nagaland

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B.

**GOVERNMENT OF NAGALAND
HOME DEPARTMENT : POLITICAL BRANCH**

No. CON-62/67 Dated Kohima, the 12th July '76

OFFICE MEMORANDUM:

The undersigned is directed to say that there seem to be some confusion between the requirement of a formal departmental enquiry, which is governed by statutory rule, as compared to an enquiry intended to look into and test material on the basis of which a formal enquiry could be ordered. The position has been explained in para 2(ii) of this Department's office memorandum of even number dated 15th May, 1976. It is clarified further that the enquiry which is made on receipt of a complaint against a Government servant is called a preliminary enquiry, or investigation, or a fact finding enquiry. This enquiry brings out facts of the allegation in which a formal departmental enquiry is instituted. The formal departmental enquiry is instituted in accordance of the provision of the Nagaland Services (Discipline and Appeal) Rules, 1967, which are statutory and made by the Governor in exercise of the powers conferred by provision to Articles 309 of the Constitution of India. Whereas a preliminary enquiry or the fact finding enquiry is ordered by the Disciplinary authority without any reference to rule for making an informal enquiry to know whether there is any substance in the allegation and if so what are the facts of the allegation made against the Government servants. Thus the two enquiries are distinct from one another, and there should be no confusion.

2. Whenever a complaint is received by the disciplinary authority on the integrity of a Government servant may take a decision in consultation with the Vigilance Commission, wherever necessary, whether any action is to be taken by him on that complaint or not. If he finds that there is substance in the complaint, he should get it investigated or enquired into through departmental agencies or through the agency of the Vigilance Commission if it so advises. The result of this enquiry/investigation should then be reported to the Vigilance Commission who will advise the disciplinary authority regarding the course of further action to be taken. The Vigilance Commission should be consulted even if the disciplinary authority

does not think a preliminary enquiry to be necessary of even if the disciplinary authority after a preliminary enquiry comes to the conclusion that no further action is necessary.

3. In cases in which it is decided to institute formal disciplinary proceeding, the Vigilance Commission is to be furnished with full record of the enquiry for advice as to the further course of action. This ensures that no complaint on which action may be warranted is filed without appropriate action and that action is not initiated in a case where it is not warranted. Malicious and various enquiries are prevented and fair play is ensured both ways.

4. The enquiry report of the disciplinary proceedings should be submitted to the Vigilance Commission for advice as to the further course of action. The Vigilance Commission will act only in an advisory capacity, but if disciplinary authority proposes to disagree with the advice of the Vigilance Commission, a second reference should be made to the Vigilance Commission with reasons to be stated by the disciplinary authority requesting the commission to reconsider its advice. If the Vigilance Commission reiterates its advice but the disciplinary authority rejects it, the case will be mentioned as such by the Vigilance Commission in its

Annual Report which has to be placed before the Legislative Assembly. The Government have to examine the reasons for non-acceptance of the advice of the Vigilance Commission while laying the Commission's report before the Legislative Assembly.

5. Cases, where integrity of the Government servant is involved and the Vigilance Commission has tendered advice, need not be referred to the State Public Service Commission for consultation. For other disciplinary cases, procedure as laid down in this Department's office memorandum of even number dated 15th May, 1976, may be followed.

Sd/- H. ZOPIANGA

Advisor (Chief Secretary) to the
Governor of Nagaland.

**C. GOVERNMENT OF NAGALAND
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(VIGILANCE BRANCH)**

NO. PER/VIG-PR/78
Dated Kohima, the 30th Nov '79

Memorandum

Sub: JURISDICTION AND POWERS OF THE VIGILANCE COMMISSION ON
SUBMISSION OF DOCUMENTS/ RECORDS.

The undersigned is directed to say that according to the State Government's Resolution No. CON-58/75 dated the 9th April, 1976 the Vigilance Commissioner, Nagaland is having jurisdiction and power in respect of matters as follows:-

- (a) To undertake any enquiry into any transaction in which a public servant is suspected or alleged to have acted for improper purpose or in a corrupt manner;
- (b) To cause an enquiry of investigation to be made on any complaint that a public servant has exercised or refrained from exercising his powers of improper or corrupt purposes;
- (c) To enquiry into complaint of corruption, misconduct, lack of integrity or other kinds of malpractice or misdemeanours on the part of All India Services;
- (d) To take recommendations as may be appropriate after enquiry or investigation to the Department of the Government;
- (e) To initiate at such intervals as it considers suitable review of procedures and practices of administration in so far as they relate to maintenance of integrity in administration;
- (f) To collect such statistic and other information as may be necessary.

There seems to be some confusion amongst various Departments/officer regarding powers and functions of the Vigilance Commissioner and submission of various documents/records/materials/information direct to the Vigilance Commissioner as and when required by him or his Investigation Wing for disposal of allegation/complaints received by the Commission. Instances have also come to the notice where some of the Departments/officers have refused to hand over document/records to the investigating officer of the Investigating Wing of the Vigilance Commission without permission of the Government or Controlling department. This practice not only causes delay in preliminary investigation but also less many information of materials value to the investigating authority.

2. Whenever complaints/allegations are received by the Vigilance Commissioner, he has to take a decision whether any action will be taken on the complaint or not. If he finds that there is some substance in the complaint he may pass an order for an enquiry or investigation into such complaints for suitable action. For the purpose of such enquiry/investigation it is essential on the part of the Investigation Officer to collect various document/record or even files from the concerned Department/officer and this is within the competence of the Vigilance Commissioner in accordance with the aforesaid Resolution of the Government.

3. In order to remove such confusion and to avoid delay in disposal of cases it is impressed upon all the Departments/Officer that whenever any documents/records/information are called upon by the Vigilance Commissioner, same must be made available to him without delay. The Investigating Officer of the Investigating Wing of the Vigilance Commission shall also be allowed to inspect or to obtain documents/records/information etc. subject to the production of identity and written authority from the authority concerned. It may be borne in mind that failure to comply with the instruction with due priority will be viewed seriously.

Sd/- L. COLNEY

Secretary to the Govt. of Nagaland

D.

**GOVERNMENT OF NAGALAND
HOME DEPARTMENT : POLITICAL BRANCH**

Notification

No. CON-248/75 :

Dated: Kohima the 21st August '99

Where as the State Government of Nagaland declared the office of the Director of Vigilance & Anti-corruption Nagaland to be a Police Station under section 2(S) of the Code of Criminal Procedure 1973, vide Government of Nagaland Notification No. CON-248/75 dated 1st June, 1976.

Whereas, the said Notification does not state the provision of the offences under which the Police Station shall have jurisdiction. This has invariably caused some confusion while defining and implementing its duties and functions.

Now, therefore, the said Notification No. CON-248/75 dated 1st June, 1976 is hereby amended as follows:- And the following shall be added.

Now, therefore, the Government of Nagaland in Exercise of the power (in spirit) conferred by section 2(0) of the Code of Criminal Procedure Code of 1974 declared that the Director of Vigilance & Anti-corruption Nagaland to be the Officer in Charge of the Vigilance Police Station for the whole State of Nagaland with Headquarters at Kohima. Further, the Director and the officers of the Directorate of Vigilance & Anti-corruption shall deemed to be Police Officers of the Vigilance Police Station and have jurisdiction and powers to investigate into offences punishable under the following sections of law, as scheduled below:-

1. All offences under the Prevention of Corruption Act, 1988.
2. Section 406 to 409 IPC and 417 to 420 IPC.
3. Section 471 to 477A IPC.
4. All offences under the Official Secrets Acts, 1923.
5. All offences under the Assam maintenance of Public order Act, 1947.
6. Attempts, abetments and conspiracies of offences in item 1 to 5 above, by whosoever committed.
7. Any other particular offence or offences that may be specified by the State Government.

Sd/-

(A. M. Gokhale)
Chief Secretary,
Nagaland: Kohima

No. CON-248/75 :

Dated: Kohima the 21st August '99

Copy to:-

1. The Special Secretary to the Chief Minister of Nagaland.
2. The Vigilance Commissioner, Nagaland.
3. The Director General of Police, Nagaland.

4. All Commissioners and Secretary to the Government of Nagaland.
5. All Heads of the Department.

6. All Deputy Commissioners
Kohima, Mokokchung, Tuensang, Mon,
Phek, Zunheboto, Wokha and Dimapur.
7. The Publisher, Nagaland Gazette, Kohima for publication in the next issue of The
Gazett

Sd/-

(A. K. Jain)

Home Commissioner to the
Government of Nagaland.

E.

**GOVERNMENT OF NAGALAND
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(VIGILANCE BRANCH)**

NO.PER/VIG/1/14/95(Pt) :: Dated Kohima, the 20th August,2004.

CIRCULAR

This is to inform all Administrative Heads and Heads of Departments that Nagaland State has appointed Tribunal for Disciplinary Proceedings under the Vigilance Commission which is set up exclusively to be the Enquiry Authority or Departmental Proceedings.

Therefore all the Department are asked to appoint Tribunal for Disciplinary Proceedings in the State Vigilance commission, Nagaland as Enquiry Officer for all Departmental Proceedings.

Sd/- T. LIMSONG.

Additional Secretary to the Govt. of Nagaland.

NO.PER/VIG//14//95(Pt) ::: Dated Kohima, the 20th August,2004.

Copy to :-

1. All Administrative Heads of Departments.
2. All Heads of Department.