

No.EDN-HE(25)B(15)- (Instructions)
Directorate of Higher Education,
Himachal Pradesh

Dated, Shimla- 171001 the December, 2021

To

All the Deputy Directors Higher Education,
Himachal Pradesh.

Subject:- Regarding Prosecution sanctions against Public Servants u/s 19 of
P.C. Act.

Memo,

It is in reference to Additional Chief Secretary (Vigilance) letter No.
Home (Vig.) A (5)-21/2005 dated 02.12.2021 received from Secretary Education to the
Government of Himachal Pradesh on the subject cited above. (Copy Enclosed)

You are directed to look into the matter and take necessary action
accordingly.

(Dr. Ashith Mishra)
Joint Director (C-I)
Directorate of Higher Education,
Himachal Pradesh.

Endst. No. even dated

A copy for information and further necessary action is forwarded to:

✓ 1. I.T. Cell Directorate of Higher Education Shimla Himachal Pradesh.

शिक्षा निदेशालय उच्चतर हिमाचल

20 DEC 2021

Joint Director (C-I)
Director Hr. Education,
Himachal Pradesh.

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No.Home (Vig.) A(5)-21/2005-Fts
Government of Himachal Pradesh
Home (Vigilance) Department

From

The Additional Chief Secretary (Vigilance) to the
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries to the Government of Himachal Pradesh, Shimla-2
2. All the Heads of Departments, in Himachal Pradesh.
3. All the Chairmen/ Managing Directors/ Secretaries and Registrars of all the Public Sector Undertakings/ Corporations/ Boards/ Universities in H.P.
4. All Divisional Commissioners/ Dy. Commissioners in Himachal Pradesh.

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SSCA)
USCB)
DSCE)

Subject: -

Dated Shimla-2 02-12-2021
Prosecution sanctions against Public Servants u/s 19 of P.C. Act.

Sir,

I am directed to refer to the subject cited above and to say that this department has issued instructions from time to time regarding grant of prosecution sanction, stipulated timelines to be followed while granting prosecution sanction and the format of sanction order. The last such instruction was circulated vide letter No. Home(Vig)B(15)-8/2018-Misc-RD&PR dated 26.11.2019 (this letter alongwith earlier references is available on the Vigilance link of Home Department in the official website of the State Government).

Previously the sanction u/s 19 of the PC Act, 1988 against a retired officer / official was not required to be accorded by the competent authority because such officer/ official ceased to be the public servant after retirement. Your kind attention is invited to section 19 (1)(a) and (b) of the Prevention of Corruption(Amendment) Act, 2018 which uses the words "*who is employed, or as the case may be, was at the time of commission of the alleged offence employed.*" -Thus making the prosecution sanction of retired Govt. Officer(s)/ Official(s) mandatory.


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However, instances have come to the notice of this Department where Administrative Departments are returning the request of this Department for granting Prosecution Sanction under section 19 of the PC Act citing the instructions of the Ministry of Personnel, Govt. of India issued vide letter No. 107/8/99-ADV.I dated 27-10-1999 with the contention that the cases for grant of Prosecution Sanction against retired officer(s) need not be referred as they ceased to be Public Servant after retirement and sanction is not required to be accorded, which is against the spirit of P.C. (amendment) Act, 2018.

It is, once again, brought to your kind notice that section 19 of the Prevention of Corruption Act has been amended with addition "*or as the case may be was at the time of commission of the alleged offence employed.*" which included such person who has ceased to hold the public office on his retirement. Thus, in view of above, prosecution sanction is required in respect of any public servant who is to be prosecuted before the court of law for any offence under the PC Act irrespective of the fact that public servant is still in service or has retired.

You are, therefore, requested to kindly take further action accordingly and decide the cases of prosecution sanction(s) on top priority.

Yours faithfully,


(Rakesh Sharma)
Special Secretary (Vigilance) to the
Government of Himachal Pradesh.
(Phone No. 2626212)

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