

**Government Of Rajasthan
Department Of Home
Rajasthan Secretariat, Jaipur**

No. F.16(1) Home-11/2013 Part

Jaipur, Dated: 27-05-2022

To,

All Addl. Chief Secretary/Pr. Secy./Secy.
GOVERNMENT OF RAJASTHAN.

Sub: Standard Operating Procedures(SOPs) for processing of cases under section 17A of the Prevention of Corruption Act, 1988.

The Prevention of Corruption Act, 1988 was amended by the Prevention of Corruption (Amendment) Act, 2018 and after the Presidential assent thereto has been brought into force from the 26th July, 2018. The amendments inter alia, include insertion of a new section 17A.

Additional Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) vide letter dated 3rd September 2021 has issued a set of procedures for prior approval processes under section 17A of the Act. With a view to achieve uniform and effective implementation, a set of procedure for the State Government of Rajasthan are hereby conveyed on the lines of the SOPs issued by Government of India.

The SOPs provide for-

- i. Stage-wise processing of information received by a Police officer;
- ii. Specifying the rank of police officer to seek prior approval under section 17A in respect of different categories of public servants; **Annexure A**
- iii. Consideration of the proposals under section 17A of the Act by the State Government or Appropriate Authority of the concerned department;
- iv. Laying down of single window procedure to specify receipt stage of the proposal; and
- v. Check List for submitting proposals under section 17A. **Annexure B**

All administrative authorities, including departments of the state Government of Rajasthan are requested to take note of the SOPs, as appended herewith and bring the same to the notice of all concerned, including investigating agencies, boards/Corporations/Companies/Local Bodies subordinate and autonomous statutory bodies and PSEs/PSBs under their respective control for compliance. In case of denial of proposals under section 17A by the appropriate authority of the concerned department, such matters will be sent to Chief Vigilance Commissioner, Jaipur Rajasthan with clear recommendation as per enclosed letter of home department dated 18.05.2021.

Encl: As Above


(Abhay Kumar)

**Addl. Chief Secretary Home
and Ex-Officio Chief Vigilance
Commissioner**

STANDARD OPERATING PROCEDURES FOR HANDLING INFORMATION IN RESPECT OF A PUBLIC SERVANT, ALLEGING OFFENCES UNDER PREVENTION OF CORRUPTION ACT, 1988- SEEKING OF PREVIOUS APPROVAL FOR CONDUCT OF ENQUIRY OR INQUIRY OR INVESTIGATION UNDER SECTION 17A OF THE ACT

The information received by a police officer alleging offences under Prevention of corruption Act (hereinafter referred to as the Act), against public servants will be processed in the manner as laid down by the Standard Operating Procedures (SOPs) herein under.

2. It may be emphasized here that provisions of section 17A stipulate a mandatory requirement for a Police Officer to seek previous approval for conducting any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under the Prevention of Corruption Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties.

3. PROCESSING OF INFORMATION RECEIVED BY A POLICE OFFICER

3.1 A Police Officer upon receipt of such information shall verify, whether the same-

- (a) pertains to or the information avers to the allegation of the commission of an offence (s) by a public servant under provisions of the Act;
- (b) prima facie reveals actual commission of an offence under the Act;
- (c) contains information to identify-
 - i. the public servant(s) against whom the offence has been alleged;
 - ii. the present status of such public servant against whom an offence under the Act has been alleged so as to determine the rank of appropriate Police Officer for seeking previous approval for conducting enquiry, inquiry or investigation under section 17A of the Act. For this purpose, in case the person who has ceased to be public servant the position/office last held by him shall be determined;
 - iii. specific act(s) of commission or omission attributable to such public servant(s);
 - iv. whether such act(s) are relatable to the office function or duty discharged by such public servant(s) specific to the office/post held at the time of commission of the alleged offence;
 - v. the specific recommendation(s) made or decision taken by such public servant(s); and
 - vi. deriving of an undue advantage for self or any other person to fulfill the ingredients of offences alleged against a public servant.

3.2 Deriving of an undue advantage by the public servant for self or for others is a key ingredient for establishing an offence against him and in absence of fulfillment of this condition any act of omission or commission amounts to an administrative misdemeanor only.



3.3 The Police Officer upon receipt of information shall place the matter before the Police Officer of appropriate rank for seeking previous approval under section 17A of the Act, by such Police Officer of appropriate rank.

3.4 The Police Officer of appropriate rank who shall make a proposal to the State Government of Appropriate Authority of the concerned department under section 17A of the Act, in respect of a person who is or has been a public servant, will be as specified in Annexure-I. Specifying ranks of police officers for seeking previous approval shall ensure due diligence for the purpose of processing proposals under section 17A of the Act.

4. PROCESSING OF 'INFORMATION' RECEIVED BY A POLICE OFFICER OF APPROPRIATE RANK

4.1. The Police Officer of appropriate Rank as referred to above shall decide upon whether information received, merits to be-

- a) enquired; or
- b) inquired into; or
- c) investigated

4.2. "Enquiry" for the purposes of these SOPs, means any action taken, for verifying as to whether the information pertains to commission of an offence under the Act.

4.3. The proposal of the Police Officer of appropriate rank shall contain the following information-

- i. the office held by the public servant(s) when the offence was alleged to have been committed;
- ii. the present rank and status of the public servant; or
- iii. the post/office last held by the person who ceases to be a public servant and
- iv. the State Government or Appropriate Authority of concerned department, before whom the proposal of previous approval is to be made in accordance with the provisions of clauses(a)to(c)of section 17 A of the Act.

4.4. The Police Officer of appropriate rank as per Annexure-I shall make a proposal to the State Government or appropriate authority of the concerned department as detailed out by the enclosed circular of Home Department dated 26.08.2021, as the case may be, through the single window procedure as laid down by the circular and the police officer shall ensure that the proposal is in accordance with the requirements laid down in the check list and encloses clear, legible and authenticated documents, as may be required.

Signature

- 4.5. Separate proposals shall be submitted for enquiry, inquiry and investigation, as the case may be.
- 4.6. Separate proposals shall be made in respect of each public servant, where a composite offence is alleged against more than one public servant.
- 4.7. The complete proposal shall be submitted in a sealed cover in accordance with the Check List as attached at **Annexure 'B'**.
- 4.8. The Police Officer of appropriate rank shall submit the proposal for previous approval under section 17A of the Prevention of Corruption Act, 1988 to the State Government or appropriate authority of the concerned department.

5- ACTION TO BE TAKEN ON PROPOSAL UNDER SECTION 17A OF THE ACT BY THE APPROPRIATE GOVERNMENT OR AUTHORITY - SINGLE WINDOW PROCEDURE

- 5.1 "Appropriate Government or Authority" means the State Government of Rajasthan or appropriate authority of the concerned department competent to remove a public servant from his office.
- 5.2 State Government has delegated power for consideration of matters under section 17A in respect of public servants of different rank or status as per **Annexure 'A'**.
- 5.3 Chief Vigilance Officers are being designated in departments for receiving the proposals relating to previous approval under section 17A of the Act.
- 5.4 Incomplete proposal shall be returned for removing inadequacies and deficiencies for being addressed by the Police Officer of the appropriate rank within a reasonable period of time and expeditious submission of the complete proposal.
- 5.5 The statutory timelines for processing of the proposal shall be from the date of receipt of complete proposal duly acknowledged by the designated officer.
- 5.6 All appropriate measures shall be taken by the State Government or Authority for completing the examination of the proposal within the statutory timeline.
- 5.7 Legal consultations, if required, will be undertaken in accordance with the procedures of the State Government or authority. The State Government or Authority shall take due diligence to maintain secrecy at all stages including the legal consultation process.
- 5.8 The State Government or the appropriate authority of the concerned department, as the case may be, shall examine the proposal, by independent application of mind and take an appropriate decision under section 17A of the Act, for being conveyed to the Police Officer of appropriate rank.
- 5.9 Anti Corruption Bureau will develop a portal for registration, monitoring and timely disposal of matters relating to 17A.
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Annexure-A

RANKS OF POLICE OFFICER FOR SEEKING PREVIOUS APPROVAL UNDER SECTION 17A IN RESPECT OF DIFFERENT CATEGORIES OF PUBLIC SERVANTS.

S.NO.	Designation/Rank of Equivalent	Rank and Status of Persons who are or have been Public Servants
1.	Director General of Police or equivalent	i. Ministers of State Governments. ii. Members of State Legislature. iii. Appointees carrying the rank equivalent to Minister of the State Government. iv. Judicial Officers. v. Public Servants at the level 15 and above of CCS(RP) Rules 2016. vi. Chairpersons and Members of Boards/ Commissions/ Enterprises/Corporations or any other public sector undertakings.
2.	Addl. Director General of Police or equivalent	Public Servants drawing pay at level L-21 to L-24 of RCS(RP) Rules, 2017 and its equivalent AIS and other.
3.	Inspector General of Police / Dy. Inspector General of Police or equivalent	Public Servants drawing pay at level L-12 to L-20 of State Services under RCS(RP) Rules, 2017 and its equivalent AIS and others.
4.	Superintendent/ Addl./ Dy. Superintendent of Police	i. Members of Subordinate, Ministerial and Class IV Services as classified in RCS (CCA) Rules, 1958. ii. All other public servants.



CHECK LIST OF ITEMS FOR MATTERS RELATING TO SECTION 17A OF THE PREVENTION OF CORRUPTION ACT, 1988

S. No.	Head	Yes/No	Folder No./ Page No.
1.	Name, designation or office held by the public servant against whom the allegation of an offence under the Prevention of Corruption Act, 1988 has been made. If the person has ceased to be a public servant, the post or office last held by such person may also be indicated.		
2.	The post or office held by such public servant at the time of alleged commission of offence under the Prevention of Corruption Act. Please furnish the details of the Appropriate Government or Authority where the public servant was serving at the relevant point of time.		
3.	Whether the request is based on a complaint received? Please enclose a copy thereof.		
4.	Whether the complaint prima facie reveals deriving of an undue advantage by a public servant for self or any other person? Please furnish details.		
5.	Whether any information is available in respect of the bribe giver? If so, please furnish details.		
6.	Mention clearly, the offences under specific provisions of the Prevention of Corruption Act, 1988 as alleged against the person who is or has been a public servant.		
7.	Please provide specific details of the recommendation made or decision taken by a public servant, who is relatable to the offence alleged against the public servant.		
8.	In case any preliminary enquiry/inquiry was undertaken at any earlier stage, please enclose the findings thereof and it may also be confirmed as to whether prior approval was		

Signature

	sought for such PE/inquiry?		
9	Whether any criminal offences under the Indian Penal Code or offences under any other law have also been alleged against the public servant? If so, please furnish details thereof.		
10.	Any other information which is considered to be relevant for consideration of the proposal.		
11.	Name, designation and contact details of person authorized by the Police Officer of Appropriate Rank to rectify inadequacies and deficiencies in the proposal seeking Previous Approval, as pointed out by the Officer designated to receive the proposal by the State Government or appropriate Authority of the concerned department.		

Range

VERIFICATION TO BE FILLED BY POLICE OFFICER OF APPROPRIATE RANK.

S. No.	Head	Yes/No	Folder No./ Page No.
1.	The present status of such public servant against whom an offence under the Act has been alleged so as to determine the rank of appropriate Police Officer for seeking previous approval for conducting enquiry, inquiry or investigation under section 17A of the Act. For this purpose, in case the person who has ceased to be public servant the position/office last held by him shall be determined;		
2.	Specific act (s) of commission or omission attributable to such public servant(s);		
3.	Whether such act(s) are relatable to the official function or duty discharged by such public servant(s) specific to the office/post held at the time of commission of the alleged offence;		
4.	The specific recommendation(s) made or decision taken by such public servant(s);		

Signature_____

Date:_____

Name of Police officer authorized to seek prior approval_____

Designation_____

Telephone /Mob. No. _____

Email ID _____



राजस्थान सरकार
मुख्य सतर्कता आयुक्त, गृह

क्रमांक: प.06(1) गृह-11/13 पार्ट

जयपुर दिनांक 26 AUG 2021

परिपत्र

विषय:-भ्रष्टाचार निवारण अधिनियम, 1988 में भ्रष्टाचार निवारण (संशोधन) अधिनियम, 2018 के द्वारा
गई, नवीन धारा 17ए के संबंध में प्रक्रिया।

भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 17ए के अन्तर्गत पूर्वानुमति हेतु प्रक्रिया
निम्नानुसार निर्धारित की जाती है-

- (1) भ्रष्टाचार निरोधक ब्यूरो, राजस्थान, जयपुर द्वारा धारा 17ए के अन्तर्गत राज्य सरकार
(संबन्धित प्रशासनिक विभाग)/सक्षम प्राधिकारी से पूर्वानुमति प्राप्त किये जाने वाले प्रकरणों
का संक्षिप्त इन्द्राज एक वेब पोर्टल पर किया जायेगा, जिसे संबंधित विभाग एवं मुख्य
सतर्कता आयुक्त द्वारा देखा जा सकेगा;
- (2) भ्रष्टाचार निरोधक ब्यूरो, राजस्थान, जयपुर के उक्त प्रस्तावों पर संबंधित प्राधिकारी तीन
माह में निर्णय लेकर अवगत करायेंगे, परन्तु संबंधित प्राधिकारी पत्रावली पर कारणों को
अवगत करते हुए अवधि एक माह बढ़ा सकते हैं;
- (3) भ्रष्टाचार निरोधक ब्यूरो, राजस्थान, जयपुर के उक्त प्रस्तावों के संबंध में अगर वित्तीय
विषय पर राय की आवश्यकता है तो ऐसी स्थिति में संबंधित प्राधिकारी वित्त विभाग से
राय प्राप्त कर सकेंगे;

यह सक्षम स्तर से अनुमोदित है।


(अमय कुमार)

मुख्य सतर्कता आयुक्त, गृह

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु:-

1. प्रमुख सचिव, माननीय मुख्यमंत्री महोदय (गृह)।
2. शासन वरिष्ठ उप सचिव, मुख्य सचिव कार्यालय, राजस्थान जयपुर।
3. समस्त अतिरिक्त मुख्य सचिव/प्रमुख शासन सचिव/शासन सचिव।
4. महानिदेशक, पुलिस राजस्थान, जयपुर।
5. महानिदेशक भ्रष्टाचार निरोधक ब्यूरो, राजस्थान, जयपुर।
6. रक्षित पत्रावली।



अतिरिक्त मुख्य सतर्कता आयुक्त, गृह

राजस्थान सरकार
कार्यालय अति० मुख्य सतर्कता आयुक्त, गृह

क्रमांक : प.06(1) गृह-11/13 पार्ट

जयपुर, दिनांक : 18 MAR 2021

महानिदेशक,
भ्रष्टाचार निरोधक ब्यूरो,
राजस्थान जयपुर।

विषय:- धारा 17ए, भ्रष्टाचार निवारण (संशोधन) अधिनियम 2018 के अन्तर्गत पूर्वानुमोदन प्रक्रिया के संबंध में।

महोदय,

उपर्युक्त विषयान्तर्गत निर्देशानुसार लेख है कि भ्रष्टाचार निवारण (संशोधन) अधिनियम 2018 की धारा 17ए के अन्तर्गत एसीबी पूर्वानुमोदन के प्रस्ताव संबंधित विभाग के सक्षम प्राधिकारी के समक्ष प्रस्तुत किये जावें एवं उक्त प्रस्तावों के संबंध में निम्न प्रक्रिया निर्धारित की गयी है:-

1. एक वेब पोर्टल विकसित किया जाना प्रस्तावित है, जिसमें भ्रष्टाचार निरोधक ब्यूरो द्वारा 17ए के अन्तर्गत सक्षम प्राधिकारी को प्रकरण में पूर्व अनुमोदन हेतु प्रेषित किया जाने का इंड्राज किया जावेगा। जिसका कि अवलोकन मुख्य सतर्कता आयुक्त कार्यालय द्वारा भी किया जा सकेगा। सक्षम प्राधिकारी द्वारा 3 माह के समय में अनुमति देने का निर्णय किया जाएगा जिसे विशेष परिस्थितियों में अधिकतम 1 माह और बढ़ाया जा सकेगा।
2. सक्षम प्राधिकारी द्वारा प्रारंभिक जांच के लिए अनुमति नहीं दी जाती है तो सक्षम प्राधिकारी द्वारा प्रकरण मुख्य सतर्कता आयुक्त को प्रेषित किया जाएगा।
3. 17ए के जिन प्रकरणों में वित्तीय विविक्षा का संशय है, उन प्रकरणों में सक्षम प्राधिकारी द्वारा वित्त विभाग की राय ली जा सकती है।

भवदीया

(सोविला माथुर)

अति० मुख्य सतर्कता आयुक्त, गृह

प्रतिलिपि:- निजी सचिव, प्रमुख शासन सचिव, गृह को सूचनार्थ प्रेषित है।

अति० मुख्य सतर्कता आयुक्त, गृह

18/3/21