

HARYANA GOVERNMENT
VIGILANCE DEPARTMENT
(Vigilance - I, Branch)

Dated, Chandigarh, the 4/8/23

To

All the Administrative Secretaries to Govt. Haryana
All the Heads of Departments of Haryana
All the Managing Directors/Heads of Boards/Corporation of Haryana Government
All the Divisional Commissioners in Haryana
All the Deputy Commissioners and Sub-Divisional officers (Civil) in Haryana
All the Registrars of University in Haryana

Subject:- Clarification regarding grant of Prosecution Sanction u/s Prevention of Corruption Act, 1988 in respect of retired officers/officials.

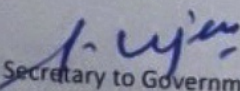
Sir/Madam,

I am directed to refer to the subject noted above and to say that the cases are being referred to the Government for seeking guidelines regarding issuance of prosecution sanction u/s 19 of PC Act, 1988 (as amended in the year 2018) in respect of retired public servant(s). The matter has been examined by the government and the legal opinion of the Advocate General has also been solicited in the matter regarding the clarification sought by the Commissioner of Police, Gurugram. The operating part of the legal opinion tendered by the office of Advocate General is as under:-

"In the present case in hand, though the FIR was registered in the year-2015 and the accused public servants have already retired, however, the challan is yet to be presented before the Ld.Trial Court, w.e.f 26.07.2018, the protection u/s 19 of the Act is available to a public servant after his retirement which was not available prior to the amendment. The date of commission of offence is not the deciding factor but it is the date of taking cognizance of the offence in question which decides the applicability of amended Section 19. Therefore, I am of the considered option that if cognizance is to be taken under the amendment provisions of the Prevention of Corruption Act, 1988 i.e. on or after 26.07.2018, qua a retired public servant, grant of prior sanction for prosecution is mandatory notwithstanding the offence having been committed on the earlier date. It is also pertinent to mention that the guidelines issued by the Central Vigilance Commission vide office Order No. 31/5/05 dated 12.05.2005 and Circular No. 08/05/15 dated 25.05.2015 must be followed in letter and spirit by the competent authority at the time of considering the case of sanction."

2. I am further directed to request you to consider the above advice tendered by the Advocate General, Haryana in respect of granting prosecution sanction under Section-19 of the PC, Act, 1988 (as amended in the year 2018).

Yours faithfully


Under Secretary to Government Haryana
Vigilance Department