

No.333/9/2009-AVD-II
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

New Delhi, Dated 23rd October 2009

Office Memorandum

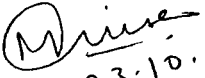
Subject:-Withdrawal of cases from prosecution under Section 321 of Cr.P.C., 1973-reg.

The undersigned is directed to say that as per the existing practice the Central Bureau of Investigation (CBI) approaches Department of Personnel and Training seeking permission to move the competent Court for withdrawal of cases from prosecution under section 321 of Cr.P.C., 1973.

2. Sanction of prosecution under the Prevention of Corruption Act, 1988 in respect of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, is accorded by an authority under whom he is employed or is under the administrative control of that authority. Since the sanction for prosecution by the competent authority is after satisfying itself regarding the misconduct of a person under PC Act, the natural conclusion would be that in case any prosecution is to be withdrawn in respect of such person in that case again the same competent authority may have to satisfy himself regarding the feasibility of withdrawing the prosecution against that person.

3. The matter was considered in this Department in consultation with the Ministry of Law and Justice, Department of Legal Affairs who have advised that the withdrawal of prosecution under section 321 of Cr.P.C. may be approved by such authority which has accorded the sanction for prosecution in respect of the person.

4. Accordingly, it has been decided that henceforth, all references seeking withdrawal of cases from prosecution under section 321 of Cr.P.C. against a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government shall be addressed to the competent authority which accorded sanction of prosecution under PC Act, 1988.

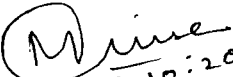

23.10.2009

(Manisha Saxena)

Deputy Secretary to the Government of India

To

1. All the Ministries/Departments of the Government of India.
2. Central Vigilance Commission, Starkata Bhawan, INA, New Delhi.
3. Director, CBI, CGO Complex, New Delhi.
4. Director of Prosecution, CBI, CGO Complex, New Delhi.
- ✓ 5. Director, NIC, North Block, New Delhi with the request to put the OM on the website of DOPT under 'Circulars' head of the Vigilance Division.
6. 100 Spare copies.


23.10.2009

(Manisha Saxena)

Deputy Secretary to the Government of India