

Chapter-IV

PIDPI Complaints

INTRODUCTION

Department of Personnel and Training's Resolution No. 89 dated 21st April, 2004, commonly known as *Public Interest Disclosure and Protection of Informers Resolution, 2004*, envisages a mechanism by which a complainant can blow a whistle by lodging a complaint and also seek protection against his victimisation for doing so. The Central Vigilance Commission is the designated agency to receive complaints from whistle blowers under the PIDPI Resolution.

¹WHISTLE BLOWERS ACT

The Whistle Blowers Protection Act, 2011 (originally introduced as PUBLIC INTEREST DISCLOSURE AND PROTECTION OF PERSONS MAKING THE DISCLOSURE BILL 2010) is yet to come into force.

4.1 PIDPI RESOLUTION

4.1.1 In 2004, in response to a Writ Petition (Civil) No. 539/2003 filed after the murder of Shri Satyendra Dubey, the Supreme Court directed that a machinery be put in place for acting on complaints from whistle-blowers till a law is enacted. Pursuant to that, the Government of India vide *Gazette Notification No. 371/12/2002-AVD- III dated 21.04.2004 r/w Corrigendum dated 29.04.2004* notified the *Public Interest Disclosure and Protection of Informers Resolution (PIDPI), 2004* which gave the powers to the Commission to act on complaints from whistle-blowers. The PIDPI Resolution has the following main provisions: -

¹ Para inserted.

- (a) The Commission is authorised as the Designated Agency to receive written complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government;
- (b) Any public servant or a person including an NGO can make written disclosure to the designated agency except those referred in clauses (a) to (d) of Article 33 of Constitution;
- (c) ²The designated agency may, if it deems fit, call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter;
- (d) Anonymous complaints shall not be acted upon;
- (e) The identity of the complainant will not be revealed unless the complainant himself has disclosed his identity;
- (f) The Head of the Department / Organisation to keep the identity of informant secret if he comes to know about it;
- (g) The designated agency may call the comments / explanation of the Head of Department / Organisation on the disclosure made;
- (h) The designated agency may seek the assistance of CBI or the police authorities to complete the investigation pursuant to the complaint received;
- (i) The designated agency on finding the allegation of misuse of office or corruption substantive, shall recommend appropriate action to the concerned Department or Organisation;
- (j) If the informant feels he is being victimised, he may make an application before the designated agency seeking redress in the matter. The designated agency may give suitable directions to the concerned public servant or the public authority;
- (k) If on an application or on the basis of information gathered, the designated agency is of the opinion that the complainant or the witness

² Para re-written keeping in line with para 2 of PIDPI Resolution 2.

need protection, it shall issue appropriate directions to the concerned Government authorities; and

- (l) In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

4.1.2 Pursuant to the *PIDPI Resolution, 2004*, the Commission vide *Office Order No. 33/5/2004 dated 17.05.2004* issued guidelines and Public Notice on the procedure to be followed for filing whistle-blower complaints under the *PIDPI Resolution, 2004*.

4.1.3 Subsequent to the Resolution of 2004, the DoPT vide *Notification No.371/4/2013-AVD.III dated 14.08.2013* partially amended the PIDPI Resolution. The amendment, inter alia, authorised the Chief Vigilance Officer of the Ministries or Departments of Government of India to act as the designated Authority to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or Department. The amendment also authorised the Central Vigilance Commission to supervise and monitor the complaints received by the designated authority. The amendments have the following provisions: -

- (a) Para 1A- The Chief Vigilance Officers of the Ministries or Departments of the Government of India are also authorised as the designated authority to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or the Department.
- (b) Para 7A- Either on the application of the complainant, or on the basis of the information gathered, if the designated authority is of the opinion that either the complainant or the witnesses need protection, the designated

authority, shall take up the matter with the Central Vigilance Commission, for issuing appropriate directions to the Government authorities concerned.

- (c) Para 11A- The Central Vigilance Commission (CVC) shall supervise and monitor the complaints received by the designated authority.

4.2 HANDLING OF COMPLAINTS RECEIVED UNDER PIDPI RESOLUTION

4.2.1 The Commission has the responsibility of keeping the identity of the complainant secret. Hence the Public Notice was issued by the Commission, informing the general public that any complaint, which is to be made under this Resolution should comply with the following conditions: -

- (a) The complaint should be in a closed / secured envelope.
- (b) (i) The envelope should be addressed to Secretary, Central Vigilance Commission and should be super-scribed “**Complaint under The Public Interest Disclosure**”. If the envelope is not super-scribed and closed, it will not be possible for the Commission to protect the complainant under the above Resolution and the complaint will be dealt with as per the normal complaint handling policy of the Commission. The complainant should give his / her name and address in the beginning or end of complaint or in an attached letter.

(ii) ³The *Department of Posts* vide *Circular No. 31-01/2021-PO dated 03.03.2021* has directed all post offices not to insist on the name and address of the complainant. It is mandatory for all post offices. The directions are reproduced as below:

*“Any article, addressed to the CVC as well as CVOs posted with the superscription “**Complaint under The Public Interest Disclosure**” or “**PIDPI Complaint**” on the outside of the envelope of the article, can be accepted for posting registration and speed post service, without the name and complete address including mobile number & email address of the sender.”*

³ Inserted vide D/o Posts Circular dated 03.03.2021.

- (c) Commission will not entertain anonymous / pseudonymous complaints.
- (d) The text of the complaint should be carefully drafted so as not to give any details or clue as to the complainant's identity. However, the details of the complaint should be specific and verifiable.
- (e) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable it will take the necessary action, as provided under the Government of India Resolution mentioned above. ⁴The designated agency may, if it deems fit, call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter.
- (f) The Commission can also take action against complainants making motivated / vexatious complaints under this Resolution.

⁵4.2.1A Certain categories of complaints received under PIDPI Resolution where it is not possible to maintain confidentiality about the identity of the complainants, are considered as Non-Public Interest Disclosure and Protection of Informers (Non PIDPI) Complaints, but before processing such complaints, the identity of the complainant is masked, thus taking adequate safeguard in an attempt to maintain confidentiality about the complainant's identity. Some categories of complaints, which one similarly dealt with are as under: -

- (i) The complaint has been received in an open condition
- (ii) The complaint has been addressed / endorsed to several authorities.
- (iii) The issues raised in the complaint had earlier been taken up with other authorities.
- (iv) The information has been sought / obtained under the provisions of RTI Act, by the complainant himself.

⁴ PIDPI Resolution para 2 inserted.

⁵ New para inserted vide non-reviewed part of CVC Public Notice dated 24.04.2019.

- (v) The complainant had earlier taken up the issue with this Commission in the form of an ordinary complaint, under the Commission's Complaint Handling Policy.
- (vi) The complainant makes a complaint through email or seeks status / information regarding his earlier PIDPI Complaint by sending an email, thus making his identity public, which is violation of the guidelines issued by the Commission for making complaints under the provisions of PIDPI Resolution.
- (vii) The complaint has been addressed / endorsed to many authorities of the Central Vigilance Commission, thus, disclosing his identity.

4.2.2 At present the procedure being followed in the Commission for handling complaints received from whistle blowers under PIDPI Resolution is as follows: -

- (a) Complaints received under PIDPI Resolution are opened in the Confidential Section and parallel files (separate file for each complaint) are created after concealing the name, address ⁶and the identity of the complainant ⁷disclosed in the body of complaint.
- (b) The complaints which have been addressed to other / several authorities are not treated as complaint under PIDPI Resolution and are forwarded by the Confidential Section to the Branch concerned of the Commission for taking necessary action. Anonymous and Pseudonymous complaints received under PIDPI Resolution are also sent directly to the Branch concerned of the Commission for taking necessary action under Complaint Handling Policy of the Commission.
- (c) In respect of those complaints which are considered fit for processing under PIDPI Resolution, a letter is sent to the complainant to obtain (a) confirmation as to whether he / she has made the complaint or not and (b) a certificate that he / she has not made similar / identical allegation of corruption / misuse of office to any other authorities to qualify as a Whistle Blower complainant. Prescribed time limit for receiving the confirmation and the certificate from the Complainant is 30 days from the date of receipt of Commission's letter by the complainant. In case of

⁶ Inserted for clarity.

⁷ Inserted for clarity.

no response within the prescribed time limit, a reminder is issued, giving additional two weeks' time to the complainant for sending confirmation and the certificate to the Commission. If there is still no response from the complainant, the complaint is sent to the Branch concerned of the Commission for necessary action under Complaint Handling Policy of the Commission.

- (d) In case the matters are personal in nature or it is very difficult to hide the name / identity of the complainant, ⁸[...] the complaint is filed in the Confidential Branch without any further action.
- (e) After receiving necessary confirmation along with the certificate ⁹[...] from the complainant, the complaint is placed before the Screening Committee for decision.
- (f) The Screening Committee is headed by the Secretary and the Additional Secretaries of the Commission are members. The Screening Committee examines all complaints and recommends complaints for Investigation and Report (I & R) / Necessary Action (NA) / Filing(closure).
- (g) The complaints, where necessary action has been recommended by the Screening Committee, are referred to the concerned Branch for further action. Complaints recommended for investigation and report are sent to the concerned Branch for further action after approval of the Commission.
¹⁰The Commission vide Office Order No. 12/09/18 dated 28.09.2018, has prescribed a period of twelve weeks from the date of receipt of reference of the Commission for submitting report to it.

4.3 PROTECTION TO WHISTLE BLOWERS

According to the PIDPI Resolution, following provisions have been made for protection of Whistle Blowers: -

- (a) Paragraph 6 - If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency (CVC) seeking redress in the matter, who shall take such action as deemed fit.

⁸ Deleted words "a no objection...give NOC" vide CVC Public Notice dated 30.07.2021.

⁹ Deleted words "and NOC (if applicable)" vide CVC Public Notice dated 30.07.2021.

¹⁰ Substituted vide CVC Office Order dated 28.09.2018.

The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.

- (b) Paragraph 7 - Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
- (c) Paragraph 11 – In the event of the identity of the informant being disclosed in spite of the designated agency’s directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

4.3.2 ¹¹If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency seeking redress in the matter, who shall take such action, as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.

4.3.3 As regards protection against victimisation or harassment within the Department, the Commission forwards such complaints of Whistle Blowers to the CVO of the concerned organisation for appropriate action.

4.4 SUPERVISION AND MONITORING OF DESIGNATED AUTHORITY

Keeping in view the Paragraph 11A of Resolution dated 14.08.2013 (amendments to its earlier PIDPI Resolution) which says that the Commission shall supervise and monitor the complaints received by the designated authority, a report on PIDPI complaints including cases of alleged harassment / victimisation received by the Chief Vigilance Officers of the Ministries or Departments of the Government of India are required to be sent to the Commission by the CVOs of the Ministries / Departments.

4.5 ¹² Deleted

¹¹ Para substituted with para 6 of PIDPI Resolution.

¹² Para deleted here and inserted at the beginning of Chapter with partial modification.