

No. C. 15016/1/2002-HM
GOVERNMENT OF MIZORAM
HOME DEPARTMENT

....

Dated Aizawl, the 30th November, 2012

OFFICE MEMORANDUM

Subject : Guidelines for obtaining sanction for prosecution against public servants

Instances have come to the notice of the Government wherein some Cases Investigating Officers often submit requests of sanction for prosecution against Government servants under Section 197 of Cr PC, 1973 directly to the Appointing Authority without routing through the Director General of Police, Mizoram. It is noticed that while majority of the requests are submitted with complete evidences adduced during the course of investigation, a few failed to capture it leading to denial on technical grounds . In this connection, references have been received from other Administrative Departments seeking clarification whether sanction could be accorded on the available documents. Such practices of submitting requests directly to the Appointing Authority by the Case Investigating Officer amounts to breach of administrative protocol and may eventually lead to complication for the Appointing Authority in the consideration of sanction for prosecution.

1. The Case Investigating Officer shall ensure that all the evidences collected during the course of investigation should establish a **prima facie** case against the accused public servant.
2. All the Case Investigating Officer shall henceforth ensure submission of a request of sanction for prosecution with the following documents, as the case may be :-
 - a) Copy of FIR;
 - b) Copy of arrest Memo;
 - c) Copy of seizure list, if any;
 - d) Copy of House search Memo, if any;
 - e) Copy of Statement of Prosecution Witnesses;
 - f) Copy of relevant documents seized with expert opinion; if any,
 - g) Copy of Post Mortem Examination Report, Medical Report or Inquiry Report; if any,
 - h) Copy of Prosecution sanction order under Arms Act or Explosive Substances Act, etc., if any.

3. The Case Investigating Officer shall submit requests of sanction for prosecution to the S.P concerned who will forward it to DIG(Range) concerned. The concerned DIG (Range) through DGP shall, then, submit requests of sanction for prosecution to the concerned Appointing Authority .
4. In cases where public servants of different categories are involved, some of them are removable by the Governor while others by an authority lower than the Governor. The sanction for prosecution in respect of some of the officers is required to be issued in the name of the Governor and in respect of the others by other authorities lower than the Governor, the charge-sheet will be filed by the Investigating Officer in the Court of competent jurisdiction through Public Prosecutor concerned against all the Officers involved together after sanction for prosecution have been received from all the competent concerned authorities.
5. Any infringement of the instruction should be viewed seriously and Case Investigating Officer(s) concerned will render himself/themselves liable to appropriate disciplinary action.
6. The above instructions shall not apply to the ACB Officers who are investigating cases registered in the ACB Police Station.

Receipt of the Office Memorandum may kindly be acknowledged.

Sd/-K. Riachho
Secretary to the Government of Mizoram
Home Department

Memo No. C. 15016/1/2002-HM :Dated Aizawl, the 30th November, 2012.

Copy to :

1. The Director General of Police, Mizoram with reference to his letter No. LB/PHQ/214/P-Sanction/2012/101 dt. 22.6.2012.
2. The Deputy Inspector General (NR)
3. The Deputy Inspector General (SR)
4. Director, ACB, Mizoram
5. All District Superintendents of Police, Mizoram
6. Office copy.


(LALHRIATPUIA) 30/11/12
Deputy Secretary to the Government of Mizoram
Home Department