

Copy of Memorandum No. 18335/F4/66/Home dated 19th May, 1966 from Home Secretary, Home (P) Department, Triavandrum to aAll Heads of Departments.

Sub:-Disciplinary proceedings –Anti-Corruption enquiries –access to reports of X-Branch regarding
Ref:-Letter No. G.O.(D) 47/66-2 dated 19-3-1966 from the Director of Vigilance Investigation.

According to the Kerala Civil Service (Classification, Control and Appeal)-Rules,1960, the accused Government servant has to be permitted to peruse or take extracts from the records pertaining to the case. The discretion to decide whether the records are strictly relevant to the case or not is left to the Disciplinary authority alone as per rules. The discretionary power vested in the disciplinary authority however empowers the authority to with hold certain documents. In order to enable the disciplinary authorities to use the discretionary powers properly, Government consider that there should be guidelines.

Ordinarily the factual Report and Enquiry Reports for warded by the Director of Vigilance Investigation would contain 8 separate parts. They are (1) Introductory (2) Name designation and other particulars of the accused (3) Allocation (4) Statements of witnesses (5) Other documents evidence (6) Statement of accused (7) Conclusion and (8) Recommendations.

The conclusions and recommendations of the Investigating Officer which may be supplemented by the option of the Superintendent of Police, Director of Vigilance Investigation and the Legal Adviser to the Vigilance Division which Form part (7) and (8) of the Enquiry Report should be treated as privileged and the accused Government Servants should not be allowed access to it under any circumstances. These two parts of the report are strictly not “records pertaining to the case” as that express on is used in rule 15 (2) (a) of the Kerala Civil Service (Classification, Control and Appeal) Rules. Hence the right which an accused Government servant may claim under that rule to peruse or to take extracts from, will not extend to these two parts of the report. No question any discretion being exercised by the Disciplinary Authority in deciding whether or not an accused Government Servant should be given access to those parts of the report could there fore arise.

The Heads of Departments and all Disciplinary Authorities are informed that those parts of the enquiry report containing conclusions and recommendations of the Investigating Officer and the opinions, if any, of the Legal Advisers of Vigilance Division should therefore be properly kept away from an accused Government Servant and that this will not involve any violation of the principles of natural justice.

CONFIDENTIAL

Endt. on B2 (D.Dis.) 16868/66 dated 27-5-1966

Copy forwarded to all sub offices for informat and future guidance.

Copy to the Vigilance officer.

Copy to all officers and section in this office.

Copy to B3 Section in office.

Copy to B2 Stock file.

SD/-

Chief Conservator's
Office, Trivandrum.

For Chief Conservator of Forests

Endt. on D.Dis.(G1) 8694/66 dated 9-6-1966

Copy to Stock file and Circular file book.

One copy for circulation.

Copy to Conservator's Personal file.

Copy to Senior Superintendent.

For Conservator of Forests.