



Confidential

**2nd ANNUAL REPORT
01-01-2014 TO 31-12-2014**

**JAMMU & KASHMIR
STATE VIGILANCE COMMISSION
OLD ASSEMBLY COMPLEX, SRINAGAR**



**STATE VIGILANCE COMMISSION
JAMMU AND KASHMIR**

The 2nd Annual Report of the J&K State Vigilance Commission is prepared under Section 13 of the SVC Act, 2011 for submission to the Hon'ble Governor, J&K. The report briefly presents the work done by the State Vigilance Commission during the year ending 31st December, 2014 in fulfilling its mandate under the SVC Act, 2011.

Sd/-

(Kuldeep Khoda)

CHIEF VIGILANCE COMMISSIONER

Sd/-

(Dr. R.K.Jerath)

VIGILANCE COMMISSIONER

Sd/-

(Ghous-ul-Nisa Jeelani)

VIGILANCE COMMISSIONER

Srinagar

Dated: the 22nd June, 2015

CONTENTS

	<u>PAGES</u>
1. Introduction	4-8
2. Commission's activities during the Calendar year 2014	8-10
3. Superintendence over vigilance administration	11-13
4. Supervision over Vigilance Organization	13- 16
5. General Observations	16- 20.
6. State Vigilance Commission Act, 2011. (Annexure-A)	21-34
7. State Vigilance Commission Rules, 2013.(Annexure-B)	35-45

CHAPTER-I

INTRODUCTION

. The evil of corruption is a global phenomenon. However, the magnitude varies. In developed countries the menace is nearly non-existent at grass root level with the result the common man is least hurt. However, in underdeveloped and developing countries like India corruption mostly prevails at cutting edge level which affects the common man who has to pay bribe for even small service to which he is otherwise entitled.

Improving Governance is a part of developmental process. The corruption can be curbed by systematic changes in governance by introducing participation, transparency, accountability and probity in administration. Accordingly, a number of initiatives have been taken by the Government to provide clean administration to the people. The Government of J&K overviewed the existing administrative mechanism to deal with corrupt practices and felt the need to setup an apex body. Creation of Vigilance Commission is one among such initiatives. Accordingly, an Act to provide for the constitution of State Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the prevention of Corruption Act , Samvat 2006 namely “The Jammu and Kashmir State Vigilance Commission Act, 2011” came into force on 19th January, 2011 with its publication in the Government Gazette.

The State Vigilance Commission Act, 2011.

The State Vigilance Commission Act, 2011 (annexed with this report as ANNEXURE-“A”) provides for constitution of State Vigilance Commission to inquire or to cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 2006 by a public servant being an employee of the Govt or a Corporation established in the State by or under any Central Act or the Act of State Legislature, Govt Company, Society and any local authority owned or controlled by the Govt. The Act also empowers the Commission to exercise superintendence over the functioning of the Vigilance Organization in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 2006 and to give directions to the Vigilance Organization for discharging the responsibility entrusted to it. The Commission is also empowered to review the progress of investigations conducted by the Vigilance Organization and the progress of applications pending with the competent Authorities for grant of sanction for prosecution for offences alleged to have been committed under the Prevention of Corruption Act, 2006. The Commission is also empowered to exercise superintendence over the vigilance administration of the various departments of the

Government or Corporations established in the State by or under any Central Act or an Act of State Legislature.

Functions and Powers of the State Vigilance Commission under the State Vigilance Commission Act, 2011

- Exercise superintendence over the functioning of the J&K Vigilance Organization in so far as it relates to the investigation of offences under the Prevention of Corruption Act, SVT 2006; or offences with which a public servant may under the Cr.PC be charged at the same trial – section 8(1)(a);
- Give directions to the Vigilance Organization for the purpose of discharging the responsibility entrusted to it under the Prevention of Corruption Act, 2006 – section 8(1)(b);
- To inquire or cause an inquiry or investigation to be made on a reference made by the Government – section 8(1)(c);
- To inquire or cause an inquiry or investigation to be made into any complaint received against any official belonging to such category of officials specified in sub-section 2 of Section 8 of the SVC Act, 2013 – section 8(1)(d);
- Review the progress of investigations conducted by the Vigilance Organization into offences alleged to have been committed under the Prevention of Corruption Act, 2006 or an offence with which the public servant may, under the Cr. PC be charged at the same trial– section 8(1)(e);
- Review the progress of the applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 2006 – section 8(1)(f);
- Tender advice to the State Government, Corporations, Public Sector Undertakings, Societies and local authorities created by way of State or Central legislation or owned and controlled by the State/Central Government on such matters as may be referred to it by them – section 8(1)(g);
- Exercise superintendence over the vigilance administration of various departments of the Government and other Organizations of the State Government – section 8(1)(h);
- Shall have all the powers of a Civil Court while conducting any inquiry – section 11;
- Proceedings before Commission to be judicial proceedings – Section 12;

Other salient features

- Multi-member Commission consisting of a Chief Vigilance Commissioner (Chairperson) and not more than two Vigilance Commissioners (Members);

- The Chief Vigilance Commissioner and the Vigilance Commissioners are appointed by the Governor after obtaining the recommendations of a Committee consisting of the Chief Minister (Chairperson), a senior Minister to be nominated by the Chief Minister (Member), Minister of Law and parliamentary Affairs (Member) and the Leader of the Opposition in the state Legislative Assembly (Member);
- The term of office of the Chief Vigilance Commissioner and the Vigilance Commissioners is four years from the date on which they enter their office or till they attain the age of 65 years, whichever is earlier.

Jurisdiction of State Vigilance Commission under the SVC Act.

As per section 8 (2) of the J&K State Vigilance Commission Act the Commission has been empowered to exercise jurisdiction in respect of following categories of public servants;

- Members of All India Services serving in connection with the affairs of the State.
- All other public servants as defined under section 21 of the Jammu and Kashmir State Ranbir Penal Code;
- All officers and employees of the Corporations established in the State by or under any Central Act or any Act of State Legislature, Government Companies, Societies and other local authorities owned and controlled by the Central Government or the State Government.

Commission's Advisory Role

In terms of the provisions under Section 8(1)(g) read with section 16(3) of the SVC Act, 2011, the Commission has been mandated to tender advice to the Government and the Corporations established in the State by or under any Central Act or the Act of State Legislature, Govt Companies, Societies and other local authorities owned or controlled by the Central or the State Govt, as the case may be, on all matters relating to vigilance administration. The Govt or the Corporation, as the case may be, shall consider the advice of the Commission and take appropriate action.

Present composition of the Commission

As already mentioned hereinbefore, the procedure for constitution of the Commission and appointment of Chief Vigilance Commissioner and Vigilance Commissioners has been detailed out in Section 3 and 4 of J&K State Vigilance Commission Act, 2011 read with J&K SVC (Amendment) Act, 2011. As on date, Shri Kuldeep Khoda, IPS (Retd.) is the Chief Vigilance Commissioner (joined on 22.02.2013). Dr. R.K.Jerath, IAS (Retd.) (joined on 22-02-2013) and Mrs Gous-ul-Nisa Jeelani, retired Principle District and Sessions Judge (joined on 16-08-2013) are the two Vigilance Commissioners.

Staff Composition.

During the Year 2013, the non availability of sufficient official accommodation and support Staff had proved to be a stumbling block in functioning of the State Vigilance Commission. Absence of sufficient manpower had made it highly impossible for the Commission to keep pace with the complaints received by the Commission on daily basis and as a result of this the pendency of complaints kept on increasing with each passing day. At the beginning of the year 2014, the staff strength of Commission was 25 which included the Chief Vigilance Commissioner, 02 Vigilance Commissioners, 05 officers, 03 Private Secretaries, 01 S.O., and 06 office Assistants, besides 07 Orderlies. To overcome the problem of shortage of staff, the Government, during the period under report, after due deliberations, approved the staff creation proposal submitted earlier by the Commission and by virtue of Govt Order No. 10-GAD(Vig) of 2014 dated 21-05-2014 (71) posts in various categories were sanctioned for the Commission. Even after creation of Staff the Commission continued to work with the skeletal staff of 25 members for first half of the period under report. Subsequently some staff was provided in phased manner to the Commission by the Govt and as on 31-12-2014 the total staff strength of the Commission has reached 42 which includes the Chief Vigilance Commissioner, 02 Vigilance Commissioners, Secretary, Additional Secretary, Chief Accounts Officer, Chief Prosecuting officer, 03 Private Secretaries, 03 Under Secretaries, 03 Section Officers, 14 office Assistants, besides 10 Orderlies and 02 sweepers. This apart, to overcome the acute shortage of support staff, the services of one Dy. SP and 09 officials have been provided by the State Government on attachment basis.

Headquarters of the Commission.

The Government vide SRO 337 dated 22-07-2013 notified headquarters of State Vigilance Commission to be at Srinagar (May to October) and at Jammu (November to April) pursuant to Section 3(6) of the J&K State Vigilance Commission Act, 2011. The address of the Commission's headquarter/office at Srinagar/Jammu is as follows:

- i) Srinagar: Old Assembly Complex, Raj Garh Lawns,
Srinagar - 190001
- ii) Jammu: JKPC Building (5th Floor) Rail Head Complex,
Jammu - 180004

The Headquarter/Office setup by the Commission stands published in the daily newspapers of the State for the information of general public. Presently the Commission transacts its business from these offices, maintaining winter / summer camp offices during Darbar move periods as well, for convenience of the public and government departments/functionaries.

Commission's Website:

The Commission's website stands launched under the domain name of <http://jksvc.gov.in>. The website broadly carries information about the Commission formation, composition, contact details, grievances lodging procedure etc. The e-mail address of the Commission is www.jksvc@nic.in, which has been given wide publicity.

The domain name of the website was obtained from NIC, New Delhi and is presently managed by NIC, Civil Secretariat Jammu/Srinagar. General public has been informed through local newspapers about the availability of the Commission's website.

J&K Right to Information Act.

In order to fulfil the provisions of the RTI Act, The Commission has set-up the RTI cell headed by an Under Secretary as Public Information Officer (PIO) and Additional Secretary of the Commission as First Appellate Authority. This information has also been provided on the Commission's website.

CHAPTER-II

COMMISSION'S ACTIVITIES DURING THE YEAR 2014

Corruption is one of the biggest challenges faced by the State/Society. It has a negative effect on developmental efforts and leads to disaffection and anger amongst the public. With increasing globalisation and financial flows, corruption is acquiring alarming dimensions. It not only increases transactional costs and inordinate delays but also distorts decision making process and results in misplaced priorities. Due to increased complexities of financial transactions, a multi disciplinary approach for tackling corruption cases is required. The State Vigilance Commission is one of the apex institutions entrusted with the task of overseeing vigilance administration and implementing Government policies against corruption. The Commission having been setup in February, 2013 has with the passage of time acquired immense experience in over-seeing vigilance administration of various organisations. The Commission's job is primarily to stress on various preventive and punitive measures to mitigate the corruption levels. The Commission's role, as a watch-dog, is to ensure probity and accountability in public administration. The Commission would continue to take new initiatives and would be continuously emphasizing PSUs and other organizations for adoption of latest technological initiatives like e-tendering, e-banking, e-procurement, on-line competitive examinations, on-line delivery of all public services and auction proceedings etc. The continuous effort to address the scarcity of staff and infrastructural issues by the Government, would enable the Commission to ensure systemic improvements by laying guidelines for promoting strong internal control and vigilance mechanism, fair

play, objectivity in matters related to public administration. These guidelines would be based on the Good governance principles.

Disposal of complaints by the State Vigilance Commission

Notwithstanding the support staff constraints which hampered the Commission's working for major portion of the period under report, the Commission held its sittings on regular basis at its Headquarters both at Srinagar and Jammu during the period under report. The Commission received **1874** complaints directly and **286** cases from the State Accountability Commission, making a total of **2160** complaints. Out of these **1173** complaints were heard and disposed off and rest of the complaints remained sub-judice. The cases disposed resulted in recommending registration of FIRs in **26** cases, regular departmental action against the officers found prima-facie involved in **64** cases and the remaining were dismissed/filed after thorough inquiry by the Commission.

We expect faster disposal and clearance of backlog with the providing of prosecution and other support staff by the Govt in accordance with staff creation proposal already approved and sanctioned by the Government. While dealing with the complaints being received by the Commission we have observed that most of the complaints are of trivial nature which could be better addressed on administrative side by the concerned departments. But, we need to have a strong internal Vigilance system in place in all departments which would result in quick disposal and redressal of grievances of general public and resultant good governance. However, in the process we have also observed that administrative actions have been taken in utter violation of rules/procedures and principles of natural justice thereby forcing/compelling the complainants to file complaints before different fora simultaneously.

Handling of Complaints in the Commission

The Commission recognizes the importance of complaints as a good source of information. This is reflected in the increasing number of complaints being received in the Commission. However, many of the complaints received by it pertain to procedural lapses and administrative violations or even against private individuals not within the jurisdictions of the Commission. Scrutiny of the complaints received in the Commission indicates that number of complaints on which detailed investigations or enquiries are initiated form a small proportion. It is also observed that a large number of complaints being received in the Commission are anonymous/ pseudonymous in nature. In majority of such complaints, the intention of the complainant is to harass someone rather than reporting corrupt activities/practices. Therefore, as a policy, anonymous/pseudonymous complaints are not to be entertained. However, in order to ensure that genuine complaints having verifiable/specific allegations do not remain un-investigated, the Commission, as a

safeguard, examines even anonymous complaints and in case of specific and verifiable allegations necessary inquiries/investigations are undertaken. The Commission also considers and accepts the request of the complainants, in those cases where the complainants, either for fear of being victimized, or for any logical reason, do not want their identity to be disclosed.

Complaints are received in the State Vigilance Commission either in person or by post from complainants or through the complaint lodging facilities available on the Commission's website. Complaints received in the Commission are scrutinized thoroughly and wherever specific and verifiable allegations of vigilance nature are noticed, the complaints are either inquired into by the Commission or forwarded to the concerned department/ CVOs/DVOs/District V.Os for report. After examining the report from the department or Vigilance Officer concerned, the Commission decides as to whether, there is a need for conducting a regular inquiry against the public servants complained against or the matter could be dealt with at administrative level. In case the Commission comes to the conclusion that the matter can be looked into by the department administratively, the same is referred to the department concerned with proper advice about further appropriate action against the suspected public servants, besides pointing out systemic failures which allow such misconduct to take place. The Commission also suggests systemic improvements, wherever required, to avoid recurrence of such misconduct. In case the Commission on examination of reports received or otherwise finds a prima-facie case for Commission of offences under the penal provisions of the Prevention of Corruption Act or substantive law the matter is referred to Vigilance organization or any other investigating agency to conduct investigation into the matter.

State Vigilance Commission Rules.

The State Vigilance Commission Rules, 2013 (annexed with this report as ANNEXURE "B") came to be notified by the Govt vide notification SRO 472, published in Govt Gazette on 19-11- 2013. The framing of Rules under the J&K State Vigilance Commission Act, 2011 has helped the Commission in effective implementation of the provisions of the Act. The Jammu and Kashmir Government became the first Government in entire country to notify the Rules under the Vigilance Commission Act. However, based on day to day functioning of the Commission it has been observed that the Vigilance Commission Act, 2011 and the Rules framed thereunder need certain amendments and additions so that the Commission would be in a position to tackle the menace of corruption in public administration more effectively. It would thus be an endeavour of the Commission to have the necessary amendments made in the Act and the Rules so that the ambiguities are removed. In this behalf the Commission has already undertaken a task of preparation of a comprehensive proposal for its submission to the Government.

CHAPTER-III

SUPERINTENDENCE OVER VIGILANCE ADMINISTRATION.

Section 8(1)(g) of the State Vigilance Commission Act, 2011 empowers the Commission to exercise superintendence over the vigilance administration of the various departments and other Organizations of the State Government, Corporations established by or under any Central or State Act, Government companies, societies and local authorities owned or controlled by Central Government. With the given manpower, it would not be possible for the Commission to perform this function without seeking assistance of concerned department/Corporation etc. Based on the knowledge derived from the complaints being received by the Vigilance Commission, it was observed that most of the grievances projected by the complainants can be effectively redressed through a thorough mechanism of internal departmental Vigilance through Departmental Vigilance officers. The process of appointment of DVOs in our State started in the year 1994 with the issuance of GAD Circular No: 12 of 1994 dated 22-02-1994 with subsequent Government orders/circulars issued from time to time.

After analysing the institution of Departmental Vigilance Officers which was in existence prior to the setting up of the State Vigilance Commission in the year 2013, it was observed that huge and unmanageable number of DVOs had been nominated and the data obtained from Vigilance Organization projected a dismal state of affairs in the functioning of institution of DVOs. The data in respect of complaints referred to DVOs by Vigilance Organization for last five years revealed that there had been no response in **more than 8000** complaints referred for enquiry and report to DVOs of various departments.

This Commission after analyzing the existing structure of the institution of DVOs in the State thought it necessary to restructure the said institution for improved and strong internal vigilance system. This restructuring has also been evolved for better supervision and effective reporting with functional mechanism as far as possible.

Accordingly, after thorough discussions and deliberations the Commission prepared a proposal for restructuring the Institution of Departmental Vigilance for being incorporated in the J&K State Vigilance Commission Rules as under:

- i. All the Administrative Secretaries of various Government Departments shall have an officer designated as Chief Vigilance Officer (CVO) at the Administrative Level (Civil Secretariat) responsible for vigilance administration of the jurisdictional Departments under the overall supervision of State Vigilance Commission.
- ii. All Directorates/Heads of Department level/attached offices including heads of Statutory bodies, local authorities, corporations, Govt. companies or

societies owned or controlled by the government, shall have Departmental Vigilance Officers (DVO), responsible for vigilance administration of their organization and shall function directly under the overall supervision of the concerned CVO;

- iii. All Additional Deputy Commissioners in the Districts shall be ex-officio District Vigilance Officers (Distt V.O) in respect of all the Subordinate offices, Government Departments, Local authorities, Corporations, Government Companies or Societies owned or controlled by the Government having their subordinate offices in the districts. All the subordinate offices and other authorities in the District shall designate an officer to function as Additional Vigilance Officer (AVO) who shall assist the District Vigilance Officer in the vigilance administration in respect of their departments under the overall supervision of District Vigilance officer.
- iv. The Departments and Organizations having frequent public interface where huge public funds and budgetary allocations are involved to be specified by the Government, to be selected and concurred by the State Vigilance Commission in consultation with the General Administration Department, shall have whole time CVO or DVO of the rank of Special/Additional Secretary to the Government, as the case may be, who ordinarily shall not be entrusted with any other responsibility.

After obtaining information from the concerned departments, recommendation for appointment of CVOs/DVOs was prepared and sent to the govt in General Administration Department for issuance of formal orders. The Commission had already started referring complaints for enquiry to Additional Deputy Commissioners who have been designated as Ex-Officio District Vigilance Officers by virtue of the SVC Rules. The Government vide Order No. 11-GAD(Vig) of 2014 dated 09-06-2014 appointed the CVOs and DVOs for various departments and Organizations to whom the complaints are being referred by the Commission for enquiry and report. Besides, the CVOs/DVOs have been entrusted with the job of maintaining internal Vigilance system in their respective departments. As per SVC Rules the Administrative Secretaries and HODs of Government Departments, PSUs, Corporations and Societies are primarily responsible for maintenance of purity, integrity and efficiency in their respective organizations. To assist the Administrative Secretaries and HODs a well organised institution of Departmental Vigilance Officers has already been brought up in accordance with provisions J&K State Vigilance Commission Rules, 2013. Acting in consonance with said rules, the Chief Vigilance Officers, District Vigilance Officers, Departmental Vigilance Officers and Additional Vigilance Officers have been sensitised to perform the task of maintenance of Internal Vigilance System in their respective Departments and provide necessary assistance to the Commission in conduct of enquiries in respect of complaints entrusted to them by the Commission in a time bound manner. It is contemplated to utilize the services of Departmental Vigilance Officers appointed at various

levels of administration in each department of Govt. for providing fair, clean and corruption-free service to the public. The Departmental Vigilance Officers have been tasked to devise a mechanism of generating information about wrong doings and corrupt practices in their respective departments as also to identify the points and places of corruption, conduct suo-moto enquiries in respect of lapses detected, recommend administrative action against the officials found responsible for administrative lapses, malpractices and acts of omission and commission amounting to abuse of official position. The Departmental Vigilance Officers are also responsible for recommending innovative procedures and corrective methods to be put in place to minimize avenues of corruption in their respective departments. With the help of Departmental Vigilance Officers efforts would be made to have an effective and workable system of checks and balances within each and every department where the honest and dedicated officers work fearlessly and freely and the officials with doubtful integrity remain under constant threat of being under the surveillance of senior officers. Innovative and hassle free procedures would be devised and recommended to provide services to the people by reducing public interface, wherever possible.

It is expected that with the revised structure of DVO's Institution, the corruption in the Government Departments/PSUs/Societies etc. would get checked significantly.

CHAPTER-IV

Supervision over Vigilance Organization.

The J&K Vigilance Organization, having jurisdiction, throughout the State of J&K, has been vested with powers to investigate and conduct enquiries into the cases pertaining to allegations of corruption and abuse of official position by public servants and public men. For registration and investigation of cases under the Prevention of Corruption Act, 2006, two police stations viz Police Station Vigilance Organization, Kashmir and Police Station Vigilance Organization, Jammu have been established. Senior Superintendent of Police, Vigilance Organization, Kashmir and Sr. Superintendent of Police, Vigilance Organization, Jammu have been designated as Station House Officers of their respective police stations. With the amendment in the Prevention of Corruption Act, 2006, the Vigilance Organization has been vested with the powers of pre-trial attachment of properties reasonably believed to have been acquired through the proceeds of corruption by the public servants or public men.

Superintendence over the Vigilance Organization in respect of investigations being conducted by it is one of the functions entrusted by law to the Commission. In order to exercise superintendence over Vigilance Organization, as prescribed in the SVC Act, 2011 and the rules framed there-under, the Commission has adopted a mechanism of periodical review by the Commission with Director, Vigilance Organization and his team of officers.

The progress of cases investigated by the Vigilance Organization under PC Act, 2006 and the enquiries being conducted by it are reviewed. The Commission also endeavours that the investigations in cases registered by the Vigilance Organization are being conducted without any outside influences. The Commission also takes necessary steps, as and when required, for the purpose of efficient discharge of its functions by the Vigilance Organization. Regular progress reports of FIR cases and enquiries under probe with Vigilance Organization are being obtained and examined. The detailed procedure prescribed under Rules in respect of exercise of supervision by the Commission over Vigilance Organization is being followed.

Disposal of Complaints by Vigilance Organization.

During the period under report the Vigilance Organization received 2350 complaints in addition to the 151 complaints which were pending first hand disposal as on 01-01-2014 making a total of 2501 complaints. Out of these 1045 complaints were sent to the departmental Vigilance officers/departments for verification, one complaint was sent for registration of formal case for investigation, Secret enquiries were initiated in 84 complaints, an open verification was taken up in 214 complaints, in 37 complaints orders for conducting of Joint Surprise Checks were issued, Preliminary Enquiry was undertaken in 12 complaints, 585 complaints were found to be repetition of already lodged complaints and 147 complaints were filed as same were not found to be worth of taking any cognizance being vague and general in nature. On the closure of the year under report 376 complaints remained pending first hand disposal with the Vigilance organization.

Disposal of Verifications by the Vigilance Organization.

As on 01-01-2014, 624 verifications were pending in Vigilance Organization. During the period under report 321 fresh verifications were ordered making a total of 945 verifications. Of these, 180 verifications have been disposed off, leaving a pendency of 765 verifications as on 31-12-2014.

Disposal of Preliminary Enquiries by Vigilance Organization.

As on 01-01-2014 as many as 31 preliminary enquiries were pending disposal with the Vigilance Organization. During the period under report 23 preliminary enquiries were ordered, making a total of 54 PEs. During the period under report 13 PEs were disposed off and 41 PEs remained under enquiry as on 31-12-2013.

Disposal of FIR Cases by Vigilance Organization.

During the period under report, 79 FIR cases including 29 trap cases were registered in the two police stations of Vigilance Organization. During the same period, investigation of 18 FIR cases had been completed out of which 10 cases have been referred to competent authority for accord of sanction to the prosecution of accused involved therein.

Investigation of seven cases was concluded as not admitted and one case has been referred to the Government for departmental action against the public servants involved therein. At the closure of the year under report, 164 cases remained under investigation while in 44 cases investigation was completed and these cases were under legal scrutiny as on 31-12-2014.

Prosecution Sanctions:

At the beginning of the year under report 13 cases were pending with the Government/Autonomous Bodies for accord of sanction for prosecution of the accused public servants. During the year under report 11 cases were sent to the Government/Autonomous Bodies for accord of sanction. Sanction for prosecution in respect of 10 cases has been accorded by the competent authority including one case in which supplementary sanction was accorded, leaving a pendency of 15 cases with the Government/Autonomous Bodies at the closure of the year under report.

Court Cases:

At the beginning of the year under report 514 cases were pending trial in various courts empowered with conducting trial of cases registered under P. C. Act, 2006. During the period under report 07 charge sheets were presented before these courts making a total of 521 cases. Out of these, trial in respect of 35 cases was completed by the courts leaving a balance of 486 cases pending trial at the closure of the year under report. Out of the 35 cases disposed off by courts, 07 cases ended in conviction of the accused, 25 ended in acquittal. Three (3) cases abated due to the death of the accused involved therein.

Issuance of No Objection Certificates (Vigilance Clearance):

During the period under report, NOC for issuance of passport was issued in favour of 1929 public servants. Similarly, Vigilance clearance for promotion/postings was issued in favour of the 10142 public servants including 3516 Gazetted officers and 6626 Non-gazetted officers.

Creation of Additional Courts for trial of cases of corruption.

Considering the huge number of cases pending trial in already existing Courts of Spl. Judge (Anti Corruption) in Srinagar and Jammu as also in compliance of the directions issued by the Hon'ble High Court of J&K, the Government by virtue of SRO 368 dated 19-08-2013 designated 07 Additional District and Sessions Courts as Anti Corruption Courts with powers of adjudication of cases under Prevention of Corruption Act, 2006. These Courts have been designated in the Districts of Baramulla, Anantnag, Pulwama, Rajouri, Kathua, Udhampur and Doda and the presiding officers of these courts have been vested with powers to hear

cases falling under the Prevention of Corruption Act, pertaining to their respective territorial jurisdiction. However, no prosecution and subordinate staff was provided to Vigilance Organization to assist the courts for conducting the prosecution of these pending under trial till the issuance of Govt Order No. 24-GAD(Vig) of 2014 dated 30-09-2014 by virtue of which retired prosecutors were engaged on consolidated basis for conducting prosecution of corruption cases in six newly created courts except the court at Udhampur. Other staff, infrastructure and Malkhana facilities for safe custody of case records in these courts is yet to be provided which is creating hindrance smooth conduct of prosecution of cases pending in these courts.

CHAPTER-V

General Observations

Considering the nature of complaints received during last one year and hearing the complainants during Court proceedings in the Commission it has been observed that people by and large have come to perceive the public servants in general as corrupt and unhelpful and that without greasing someone's palm or buying political influence they cannot get any work done in government offices. Be it a lighting of the streets, a road to a village, repairs to the local school building, medicines in the Primary health centre, driving license, a permit to register a small scale unit, an application to process a loan in any state financial institution, an urgent surgery in a government hospital or simply a complaint to lodge an FIR, obtaining PRC Certificate and copies of Revenue extracts and attestation of mutations, obtaining annual pollution control certificates for industrial units, disbursement of various incentives by Social Welfare Department, distribution of Ration under BPL category or be it verification for issuance of passports, State subject Certificates, Income Certificates, Ration Cards, Copies of revenue records, annual pollution certificates to industrial units, date of birth certificates, job cards etc, common man's perception is that he has to pay bribe for any of the above public services and other public works and public services.

With this perception the people end up lodging complaints in all fora with the expectation that their grievances would hopefully be redressed. As a natural consequence there has been huge influx of complaints particularly against following departments/public servants:

1. Block development Officers regarding alleged drawal of payments against not executed works under MG, NAREGA Scheme, allotment of works on fake job cards, allotment of works to ineligible persons under said Scheme and providing of financial assistance under IAY Scheme to the undeserving persons at the cost of those who do not possess a house to live in.

2. Officers of Engineering departments regarding alleged drawal of payments against non executed works and execution of works departmentally without inviting tenders by splitting the works involving huge expenditure in parts so as to bring the allotment of works within financial powers of the officers as also to justify the mode of execution of works departmentally.
3. Against the officers of CA&PD department regarding alleged misappropriation of rations meant both for BPL and APL families and alleged drawal of carriage charges against the misappropriated ration shown issued to both BPL/APL families, misappropriation of ration and carriage charges by showing fake despatches and transportation.
4. Against revenue officials regarding alleged fraudulent mutations and tampering and interpolation of revenue records and issuance of PRCs.
5. Against Police officials posted in various police stations regarding alleged false implication of people in FIR Cases and extraction of bribe from them on the pretext of closing the cases against them.

Given the huge influx of complaints being lodged before the Commission, it is being felt that if the Commission takes cognizance of all these complaints it may have an effect of stalling the execution of developmental works and implementation of schemes meant for downtrodden sections of the society. In this backdrop, it is imperative for the Govt to go for system correction and strengthening of the internal Vigilance of these departments. The Govt needs to review the system of execution of works and drawal of payments thereof so that the loopholes are plugged and chances of misappropriation of public funds, meant for developmental works and for the upliftment of downtrodden sections of the society, are minimized. Similarly the system of distribution of rations in general and to the BPL category in particular needs to be reviewed and the officers at field level need to be made accountable and system needs to be made more transparent. Inspections of different field units by senior officers hardly take place. Tender system for placing orders worth huge amounts is seldom used and when used is often subverted by improper analysis. This results in poor and substandard constructions, poor attendance in schools, hospitals and other government departments and in a way deprives common masses of basic amenities of life. The Commission has already issued circular instructions about increasing transparency and cutting delays by e-payments and e-receipts by Government Organizations etc. Circular instructions have been issued regarding use of website for tender document publication by the departments. In order to address the issue of delay in payments to contractors and suppliers the Chief Vigilance Officers, Departmental Vigilance Officers and District Vigilance officers have been tasked with the duty of conducting monthly review of the bills received and cleared so as to ensure timely clearance of all the bills. Instructions have also been issued to the departments to maintain transparency in the invitation, receipt and opening of

tenders. A detailed advisory has also been issued for implementation by Revenue Department for streamlining the process of attestation of mutations, revenue extracts, State subject certificates etc. Besides for effective internal Vigilance the institution of DVOs has already been restructured and with the appointment of DVOs by the Govt we expect a positive change in the system.

The Commission is regularly considering ways and means to be recommended for systemic corrections in various departments which would have an effect of minimising the avenues and chances of corruption by the public servants. This would include reduction of public interface, use of advanced technology for redressal of public grievances, introduction of single window system, on line delivery of public services and more transparent means of receipt and delivery of payments by the Government departments and other Government organizations etc. However, while dealing the complaints being lodged in the Commission, it has been observed that use of available technology is generally avoided by the officers to block transparency. Supervisory officers also tend not use technology especially internet for getting daily reports from subordinates and monitoring the progress of various public services and going into the reasons of pendency with a view to resolve public grievances.

In order to achieve this objective as also to expedite the disposal of complaints referred to various departments during last five years for enquiry/action by the Vigilance Organization, which hitherto have remained unattended, the Commission, after due deliberations, has devised a calendar of meetings to be held with Administrative Secretaries, HODs, CVOs and DVOs of all departments. These meetings would be used to sensitise the departments to initiate action on the complaints pending with them and dispose these off in a time bound manner. Besides, the CVOs and DVOs would be briefed and apprised about the important role entrusted to them for eradication of corruption from their respective departments. The Government, on its part, also needs to bring in systematic changes to provide better governance to its people. Concept of e-governance needs to be evolved and put in place so as to achieve following objectives:

- Provide the productive and efficient services to the people.
- Bring in transparency and accountability in public administration by ensuring openness in public dealings.
- Reduce public interface by providing online services to people. This would considerably minimize the chances of corruption by unscrupulous public servants and other intermediary agents.
- Provide easy and simple procedure for obtaining various public services to general public through single window facility.

- Cutting redtapism and make it easy for business/commercial establishments to function.
- Provide effective delivery system at economic cost so that the fruits of development can reach the common man within shortest possible time.
- Make efficient use of resources and time.
- Remove the inner flaws in the working system.
- Increase participation of general public in public administration.

Considering the threat posed by the menace of corruption, it is high time for the departments entrusted with the job of eradication of corruption to conduct seminars, workshops and awareness programmes to apprise the general public about the adverse effects of the corruption on the society as a whole and keep them informed about various services being provided by the Govt and changes brought in the system to ensure easy and corruption-free delivery of public services. The menace of corruption can only be tackled with the active support and participation of the people from all walks of life. It would be apt to educate the general public through electronic, print media and other means of communication about their primary responsibility of securing transparency in public administration so that they can participate effectively in the decision making process of the Government. A vigilant and well informed public, people's participation in administration and development and an honest media would be of immense help in promoting an efficient administrative system. The Govt. needs to develop a system of regular internal and external inspections and audits in every Govt. department to see as to whether the funds received are being utilized judiciously and whether the benefit has gone down to the genuine beneficiaries. Reconciliation of records at regular intervals needs to be ensured so as to minimize the chances of pilferage of public funds.

In order to provide clean and corruption-free administration, the system needs to be put in place to ensure accountability in public administration. The public servants at all levels should be made answerable for their actions and administrative action should invariably be taken if the action or justification of action is found to be coloured or unsatisfactory. Accountability needs to be ensured to monitor and control the performance of Government Officers and officials in relation to quality of service, efficiency and abuse of discretionary powers. Performance evaluation system needs to be effectively structured so that public servants are held accountable for their actions and penalties are imposed on delinquent government employees. At the same time honest, dedicated and hardworking employees should be encouraged.

An effective complaint redressal system needs to be put in place in each department through interactive websites and the people need to be educated about the existence of such system in each department. Procedure for redressal of grievances should be regulated

in a manner so as to repose confidence in the general public. These Websites should be made interactive so that the people follow the progress made and action taken by the respective department for redressal of the projected grievances and are in a position to record their response and interact with the authorities so that result oriented actions are taken by the administration. Periodical tracking of user satisfaction in respect of Complaint grievances redressal mechanism should be ensured which would result in improving the quality of public services and would go a long way in changing the public perception about the public administration.

ANNEXURE-A

THE JAMMU AND KASHMIR STATE VIGILANCE COMMISSION ACT, 2011.

(Act No. I of 2011)

(As Amended up to date)

An Act to provide for the constitution of State Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, Samvat, 2006 by public servants, corporations established in the State by or under any Act of the Parliament or the Act of State Legislature, Government companies, societies and local authorities owned or controlled by the Government and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Jammu and Kashmir in the Sixty-first Year of the Republic of India as follows:-

1. Short title, extent and commencement:- (1) This Act may be called the Jammu and Kashmir State Vigilance Commission Act, 2011.
2. It extends to the whole of the State of Jammu and Kashmir.
3. It shall come into force from the date of its publication in the Government Gazette.

(2). Definitions: - In this Act, unless the context otherwise requires,-

- (a) "Chief Vigilance Commissioner" means the Chief Vigilance Commissioner appointed under sub-section (1) of section 4;
- (b) "Commission" means the State Vigilance Commission constituted under sub-section (1) of section 3;
- (c) "Director" means the Director of Vigilance appointed under section 22;
- (d) "Government" means the Government of Jammu and Kashmir;
- (e) "Government Company" means a Government company within the meaning of the Companies Act, 1956;
- (f) "Prescribed" means prescribed by rules made under this Act;

- (g) “Public Servant” means the public servant as defined under section 21 of the Jammu and Kashmir State Ranbir Panel Code and includes all officers and employees of the Corporations established in the State by or under any Act of Parliament or the State Legislature, Government Companies, Societies and Local Authorities owned or controlled by the Central Government or by the State Government;
- (h) “State” means the State of Jammu and Kashmir;
- (i) “Vigilance Commissioner” means a Vigilance Commissioner appointed under sub-section (1) of section 4;
- (j) “Vigilance Organization” means the Vigilance Organization established under sub-section (1) of section 10 of the Prevention of Corruption Act, Samvat 2006.
- (3) *Constitution of State Vigilance Commission:-* There shall be constituted a body to be known as the State Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.
- (2) The Commission shall consist of--
- (a) a Chief Vigilance Commissioner..... Chairperson
- (b) not more than two Vigilance Commissioners..... Members.
- (3) The Chief Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons who have been or are in all India Service or in any Civil Service of the State or in a civil post under the State having knowledge and experience in the matters relating to vigilance, law, finance, policy making and administration including police administration.
- (4) The Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.
- (5) The headquarters of the Commission shall be at such place as the Government may by notification specify.

4. *Appointment of Chief Vigilance Commissioner and Vigilance Commissioners-* (1) The Chief Vigilance Commissioner and the Vigilance Commissioners shall be appointed by Governor by warrant under his hand and seal:

Provided that every appointment under the subsection shall be made after obtaining the recommendation of a Committee consisting of-

- (a) the Chief Minister..... Chairperson
- (b) A Senior Minister to be Nominated by the Chief Minister.....Member
- (C) the Minister of Law and Parliamentary Affairs..... Member
- (d) The Leader of the Opposition in the State Legislative Assembly.... Member.

Explanation:- For the purposes of this sub-section, 'the Leader of the Opposition in the State Legislative Assembly' shall, when no such Leader has been so recognized, include the Leader of the single largest group in opposition of the Government in the State Legislative Assembly.

(2) No appointment of Chief Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5 Terms and other conditions of service of Chief Vigilance Commissioner-(1)- Subject to the provisions of sub-sections (3) and (4), the Chief Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier. The Chief Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.

2. Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years whichever is earlier:

Provided that every Vigilance Commissioner, on ceasing to hold the office, shall be eligible for appointment as the Chief Vigilance Commissioner in the manner specified in sub-section(1) of section 4.

Provided further that the term of the Vigilance Commissioner, if appointed as the Chief Vigilance Commissioner, shall not be more than four years in aggregate as the Vigilance Commissioner and the Chief Vigilance Commissioner.

(3) The Chief Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the Governor, or some other person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in Schedule to this Act.

(4) The Chief Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the Governor, resign his office.

(5) The Chief Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Chief Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for-

(a) any appointment which is required by law to be made by the Governor by warrant under his hand and seal;

(b) further employment to any office of profit under the Government of India or the Government of the State.

(7) The Salary and allowances payable to, and the other conditions of service, of-

a) the Chief Vigilance Commissioner shall be the same as those of the Chairman of the Public Service Commission;

b) the Vigilance Commissioner shall be the same as those of a Member of the Public Service Commission.

Provided that if the Chief Vigilance Commissioner is at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of the State, his salary in respect of the service as the Chief Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Vigilance Commissioner is at the time of his appointment, in receipt of retirement benefits in respect of any previous service rendered in a corporation established by or under any Central Act or the Act of State Legislature or a

Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Vigilance Commissioner, shall be reduced by the amount of pension equivalent to the retirement benefits.

Provided also that the salary, allowances and pension payable to, and the other conditions of service of, the Chief Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

6. *Removal of Chief Vigilance Commissioner and Vigilance Commissioner-*(1) Subject to the provisions of sub-section (3), the Chief Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office by the Governor on the ground of proved misbehaviour or incapacity after an inquiry conducted by a sitting or a Retired judge of the High Court, on a reference made to him by the Governor, has reported that the Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the inquiry Officer under sub-section (1) until the Governor has passed orders on receipt of the report of the Inquiry Officer on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the Chief Vigilance Commissioner or any Vigilance Commissioner if the Chief Vigilance Commissioner or such Vigilance Commissioner, as the case may be,-

- a. is adjudged an insolvent; or
- b. has been convicted of an offence which, in the opinion of the Governor , involves moral turpitude; or
- c. engages during his term of office in any paid employment outside the duties of his office; or
- d. is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

- e. has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Vigilance Commission a Vigilance Commissioner.

(4) If the Chief Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way, concerned or interested in any contract or agreement made by or on behalf of the Government or participates in any way in the profit thereof or in any benefit or emolument arising there-from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. *Power to make rules by the Government for staff-* The Government may, in consultation with the Commission, make rules with respect to staff strength of the Commission and their conditions of service:

Provided that the staff shall be provided by the Government on deputation basis subject to the condition that no staff member shall continue in the Commission beyond a period of three years.

8. Functions and powers of State Vigilance Commission –(1) The functions and powers of the Commission shall be to-

- (a) exercise superintendence over the functioning of the Vigilance Organization in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, Samvat 2006 or an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1989 be charged at the same trial;
- (b) give directions to the Vigilance Organization for the purpose of discharging the responsibility entrusted to it under the Prevention of Corruption Act, Samvat 2006.

Provided that while exercising the powers of superintendence under clause (a) or giving directions under this clause, the Commission shall not exercise powers in such a manner so as to require the Vigilance Organization to investigate or dispose of any case in a particular manner;

- (c) inquire or cause an inquiry or investigation to be made on a reference made by the Government wherein it is alleged that a public servant being an employee of the Government or a Corporation established in the State by or under, any Central Act or the Act of State Legislature, Government Company, Society and any local authority

owned or controlled by the Government, has committed an offence under the Prevention of Corruption Act, Samvat 2006 or an offence with which a public servant may, under the Code of Criminal Procedure, 1989 be charged at the same trial;

(d) inquiry or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, Samvat 2006 and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1989 be charged at the same trial;

(e) review the progress of investigations conducted by the Vigilance Organization into offences alleged to have been committed under the Prevention of Corruption Act, Samvat 2006 or the public servant may, under the Code of Criminal procedure, 1989 be charged at the same trail;

(f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, Samvat 2006;

(g) tender advice to the Government, corporations established in the State by or under any Central Act or the Act of State Legislature, Government Companies, Societies and local authorities owned or controlled by the Government on such matters as may be referred to it by the Government, said Government Companies, Societies and local authorities owned or controlled by the Central Government or the State Government or otherwise;

(h) exercise superintendence over the Vigilance Administration of the various departments of the Government or corporations established in the State by or under any Central Act or the Act of State Legislature, Government Companies, Societies and local authorities owned or controlled by the Government:

Provided that nothing contained in this clause shall be deemed to authorize the Commission to exercise Superintendence over the Commission to exercise Superintendence over the Vigilance Administration in a manner not consistent with the directions relating to Vigilance matters issued by the Government and to confer power upon the Commission to issue direction relating to any policy matter.

(2) The persons referred to in clause (d) of sub-section (1) are as follows:-

- (a) members of All India Services serving in connection with the affairs of the State Government;
- (b) all other public servants as defined under section 21 of the Jammu and Kashmir State Ranbir Renal Code;
- (c) all officers and employees of the corporations established in the State by or under any Central Act or any Act of State Legislature, Government Companies, Societies and other local authorities, owned or controlled by the Central Government or the State Government, as the Government may, by notification into the Official Gazette, specify in this behalf;

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1).

9. *Proceedings of Commission*-(1) The proceedings of the Commission shall be conducted at its headquarters.

- (2) The Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Vigilance Commissioner and other Vigilance Commissioners.
- (3) Save as provided in sub-section (2), all business of the Commission shall, as far as possible, be transacted unanimously.
- (4) Subject to the provisions of sub-section (3), if the Chief Vigilance Commission and other Vigilance Commission differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.
- (5) The Chief Vigilance Commissioner, or in his absence the senior most Vigilance Commissioner who is present at the meeting shall preside over the meeting.
- (6) No act or proceeding of the Commission shall be invalid merely by reason of-
 - (a) any vacancy in, or any defect in the constitution of, the Commission; or

- (b) any defect in the appointment of a person acting as the Chief Vigilance Commissioner or as a Vigilance Commission; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

10 *Vigilance Commissioner to act as Chief Vigilance Commissioner in certain circumstances*-(1) In the event of the occurrence of any vacancy in the Office of the Chief Vigilance Commissioner by reason of his death, resignation or otherwise, the Governor may, by notification, authorize one of the Vigilance Commissioners, to act as the Chief Vigilance Commissioner until the appointment of a new Chief Commissioner to fill such vacancy.

(2). When the Chief Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the Governor may, by notification, authorize in this behalf, shall discharge the functions of the Chief Vigilance Commissioner until the date on which the Chief Vigilance Commissioner resumes his duties.

11. *Power relating to inquiries*- The Commission shall, while conducting any inquiry referred to in clause (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, Samvat 1977 and in particular, in respect of the following matters , namely;-

- (a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
- (b) Requiring the discovery and production of any document.
- (c) Receiving evidence on affidavits.
- (d) Requisitioning any public public record or copy thereof from any court or office.
- (e) Issuing commissions for the examination of witnesses or other documents; and
- (f) Any other matter which may be prescribed.

12. *Proceedings before Commission to be judicial proceedings*:- The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1989 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of

sections 193 and 228 and for the purposes of section 196 of the Jammu and Kashmir Ranbir Penal Code, Samvat 1989.

13. Annual report-(1) It shall be the duty of the Commission to present annually to the Governor a report as to the work done by the Commission within six months of the close of the year under report.

(2) on receipt of such report, the Governor shall cause the same to be laid before each House of State Legislature.

14. *Protection of action taken in good faith-* No suit, prosecution or other legal proceeding shall lie against the Commission, the Chief Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Act.

15. *Chief Vigilance Commissioner, Vigilance Commissioner and staff to be public servants.*_ The Chief Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Jammu and Kashmir State Ranbir Penal Code.

16. *Report of any inquiry made on reference by Commission to be forwarded to that Commission* –(1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission within thirty days.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Government and corporations established in the State by or under any Central Act or the Act of State Legislature, Government Companies, Societies and local authorities owned or controlled by the Central or the State Government, as the case may be, as to the further course of action.

(3) The Government and the corporations established in the State by or under any Central Act or the Act of State Legislature, Government Companies, Societies and other local authorities owned or controlled by the Central or the State Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Government, any corporation established in the State by or under any Central Act or the Act of State Legislature, Government Company, Society or local authority owned or controlled by the Central or the State Government,

as the case may be, does not agree with the advice of the Commission, it shall, for reasons to be recorded in writing, communicate the same to the Commission.

17. *Power to call for information-* The Commission may call for reports, returns and statements from the Government or corporations established in the State by or under any Central Act or the Act of State Legislature, Government Companies, Societies and other local authorities owned or controlled by the Government so as to enable it to exercise general supervision over the Vigilance and anti-corruption work in the Government and the said corporations, Government Companies, Societies and local authorities.

18. *Power to make rules;-* (1) The Government may, by notification in the Government Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2). In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the number of members of the staff and their conditions of service under section 7;
- (b) any other power of the civil court to be prescribed under clause (f) of section 11; and
- (c) any other matter which is required to be, or may be, prescribed.

18-A . Consultation with the Commission is certain matters: The Government shall in making rules or regulations governing the vigilance or disciplinary matter relating to person appointed to public services and posts in connection with the affairs of the State or to members of any State service, consult the Commission.

19. *Power to make regulations-*(1) The Commission may, with the previous approval of the Government, by notification in the Government Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matter, namely:-

- (a) the duties and the powers of the Secretary under sub-section (5) of section 3; and

- (b) the procedure to be followed by Commission under sub-section (2) of section 9.

20. *Notification, rule etc. to be laid before State Legislature-* Every notification issued under clause (c) of sub-section (2) of section 8 and every rule made by the Government and every regulation made by the Commission under this Act shall be laid, as soon as may be after it is issued or made, before each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or the regulation or both Houses agree that the notification or the rule or the regulation should not be made, the notification or the rule or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

21. Power to remove difficulties-(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of the State Legislature.

22. *Appointments etc. of officers of Vigilance Organization-* Notwithstanding anything contained in the Prevention or Corruption Act, Samvat 2006 or any other law for the time being in force,-

- (a) the Government shall appoint a Director of Vigilance for the State on the recommendation of the Committee consisting of-

- | | |
|--|-------------------|
| (i) Chief Secretary of the State |Chairperson; |
| (ii) Chief Vigilance Commissioner |Member; |
| (iii) Vigilance Commissioners |Members; |
| (iv) Administrative Secretary, Home Department | Member; |
| (v) Administrative Secretary, GAD | Member. |

- (b) While making a recommendation, the Committee shall take into consideration the integrity and experience of the officers eligible for appointment;
 - (c) no person below the rank of Inspector General of Police shall be eligible for appointment as a Director of Vigilance; and
 - (d) a Director of Vigilance shall not be transferred except with the previous consent of the Committee referred to in clause (a).
23. Amendment of Act No XIII of Samvat 2006- In the Prevention of Corruption Act, Samvat 2006,-
- I. In section 2,-
 - (a) after clause (a) of sub-section (1), the following clause shall be inserted, namely;_
 - (aa) “Director” shall mean the Director of Vigilance appointed under section 22 of the Jammu and Kashmir State Vigilance Commission Act, 2011”; and
 - (b) after sub-section (2), the following sub-section shall inserted, namely;-
 - (3) “ Words and expressions used herein and not defined but defined in the Jammu and Kashmir State Vigilance Commission Act, 2011, shall have the meanings, respectively, assigned to them in that Act.”
- II. For sections 10 and 11, the following sections shall be substituted, namely:-
- “10. Establishment of the Vigilance Organization:-**
- (1) The Government shall, by notification in the Government Gazette, establish an organization for investigation of offences under this Act under the name of ‘Vigilance Organization’.
 - (2) The Organization shall consist of the Director and such other officers and staff subordinate to him as the Government may from time to time think fit to appoint.
 - (3) The qualification of officers (other than the Director) shall be such as prescribed by the Government by rules made under this Act.

(4) The Director and the officers and staff subordinate to him shall hold office for such term and on such conditions as the Government may from time to time determine.

11. Superintendence and administration of the Vigilance Organization:- (1) The superintendence of the Vigilance Organization in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, Samvat 2006, shall vest in the Commission.

(2) Save as otherwise provided in sub-section (1) , the superintendence of the said Organization in all other matter shall vest in the Government.

(3) The administration of the Vigilance Organization shall vest in the Director who shall exercise in respect of that Organization such of the powers exercisable by a Director General of Police in respect of the police force as the Government may specify in this behalf.

11-A. Terms and conditions of service of Director:- The director shall, notwithstanding anything to the contrary contained in the rules relating to his condition of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

11-B. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc:- (1) The Committee referred to in section 22 of the Jammu and Kashmir State Vigilance Commission Act, 2011 shall, after consulting the Director, recommend officers for appointment to the posts of the level of Superintendent of Police and above and also recommend the extension or curtailment of the tenure of such officers.

(2) on receipt of the recommendation under sub-section (1), the Government shall pass such orders as it thinks fit to give effect to the said recommendation.”

III. In section 12, the words “Vigilance Commissioner” wherever occurring, shall be substituted by the word “Director.”

Sd/

Additional Secretary to Government,
Department of Law, Justice and
Parliamentary Affairs.

ANNEXURE- 'B'

STATE VIGILANCE COMMISSION RULES, 2013

Notification dated the 19th November 2013

SRO-472:- In exercise of the powers conferred by section 18 of the Jammu and Kashmir State Vigilance Commission Act, 2011 (Act No. 1 of 2011), the Government hereby makes the following rules, namely:-

1. *Short title and commencement:-* (1) These rules may be called the Jammu and Kashmir State Vigilance Commission Rules, 2013.

(2) They shall come into force on the date of their publication in the Government Gazette.

2. *Definitions:-* In these rules, unless there is anything repugnant in the subject or the context,-

(i) "Act" means the Jammu and Kashmir State Vigilance Commission Act, 2011 (Act No. 1 of 2011);

(ii) "Complaint" means receipt of information about corruption, malpractice or misconduct on the part of public servant, from whatever source, constituting an offence under the Prevention of Corruption Act, Samvat 2006 or an offence with which any official specified in sub-section (2) of section 8 of the Act may under the Code of Criminal Procedure , 1989 be charged at the same trial;

(iii) "Complainant" means a person who files a complaint under clause (d) of sub-section (1) of section 8 of the Act;

(iv) "Secretary" means the Secretary of the Commission, appointed under clause (5) of section 3 of the Act;

(v) All other words and expressions used in these rules but not specifically defined shall have the same meaning as assigned to them under the Act.

3. Headquarters of the Commission:- Notwithstanding anything to the contrary contained in any rule, regulation or order issued in this behalf, the Commission shall have its offices both at Srinagar and Jammu and shall move from Srinagar to Jammu and vice-versa on Annual Darbar Move of offices.

4. Form and contents of the complaint:- (1) Every complaint shall be made as far as possible in Form 'A' appended to these rules.

(2) The complaint regarding allegations covered under section 8 (1) (d) of the Act may be presented before such officer as may be notified by the Secretary in consultation with the Chief Vigilance Commissioner.

(3) The complaint may be presented in person, by post or through any electronic medium. Such complaint shall be provisionally registered/entered in a separate register maintained by the Registry of the Commission at Jammu and Srinagar.

5. Registry of the Commission:- (1) The Commission shall have a Registry in its office both at Jammu and Srinagar and each Registry shall be headed by an Additional Registrar or Deputy Registrar as the Chief vigilance Commissioner may authorize in the behalf.

(2) The complaints relating to allegation falling within the ambit of clause (d) of section 8 (1) of the Act pertaining to Kashmir Division shall be filed in the Srinagar Wing of the Commission and such complaints pertaining to Jammu Division shall be filed in the Jammu Wing of the Commission.

(3) The Commission may, on an application made or of its own, entertain a complaint relating to one division at another division or transfer a pending complaint from one Registry to another.

6. Scrutiny and registration of regular complaints:- (1) On receipt of the complaint, the Complaints Screening Committee, headed by the Registrar and consisting of such other officers/officials as the Chief Vigilance Commissioner may by order specify, shall examine the complaint, affidavit and accompanied documents and report as to whether it has been filed in accordance with the Act and the rules.

(2) If the Complaints Screening Committee is of the opinion that the allegations leveled in the complaint do not fall within the ambit of clause (d) of section 8 (1) of the Act or if the allegations are vague and general and prima facie unverifiable, the Registrar may with the approval of the Commission drop and file the complaint.

(3) The references received under clause (c) of section 8 (1) of the Act shall be processed in the Registry of the Commission and shall then be put up before the Commission for further orders.

(4) All the complaints, from whatever source received, shall be placed before the Commission for appropriate orders.

(5) When the complaints are placed before the Commission, it may, after taking into consideration the nature of each complaint, decide either to file the complaint or to send it to the Ministry/Department concerned for disposal and for enquiry and report or may send it to Vigilance Organization or any other investigating agency empowered to conduct investigations under the Code of Criminal Procedure, Samvat 1989 for enquiry, secret verification or detailed investigation or the Commission may decide to undertake the inquiry itself.

(6) In respect of a complaint in which the Commission decides to undertake enquiry itself the Registrar or any other officer of the Commission authorized in this behalf, shall in the first instance, issue notice to the complainant in Form B to submit an affidavit in support of the complaint if not already submitted and to remove any other defect in the complaint within the specified period stipulated in the notice. The Registrar may extend the time specified in the notice for sufficient cause.

(7) When the complainant is directed to submit affidavit and or to remove the defects within the specified period stipulated in the notice and if the affidavit is submitted and the defects are removed by the complainant, the complaint shall be placed before the Commission for further proceedings and in case the affidavit is not submitted or the defects are not removed within such time or extended time, the complaint may be dismissed for default of the complainant by the Commission.

(8) Every person making the complaint shall be informed of the substance of the orders passed under the preceding rules if no further action on the complaint is to be taken.

7. Contents of affidavit:- (1) Every affidavit in support of the complaint shall be drawn up clearly and legibly. It shall be sworn in before a judicial Magistrate, an Executive Magistrate, Notary Public or an Oath Commissioner.

(2) Every person making an affidavit shall state his full name, surname, age, profession or trade and place of residence and shall give such other particulars as will make it possible to identify or locate him easily. The person making an affidavit shall certify the truth and correctness of the contents of the affidavit and his name and particulars mentioned therein.

8. Acknowledgement of complaint:- After the complaint is registered, the Registrar or any other officer empowered in this behalf by the Secretary shall send to the complainant an acknowledgement of the complaint in Form "C" prescribed in the Schedule informing him that his complaint has been registered and giving him the number of the complaint.

9. Notice:- On registration of a regular complaint, a notice in Form D shall be issued to the public servant complained against requiring such public servant to cause appearance before the Commission and submit a statement of defence accompanied by the list of witnesses and the copies of documents which such public servant may intend to rely upon.

10. Authentication of orders passed by the Commission:- Any order passed by the Commission under the Act or the rules and executed in the name of the Commission shall be authenticated by the Registrar or in his absence by such person and in such manner as the Commission may, by general or special order, from time to time, specify.

11. Administering oath:- The Commission or any officer duly empowered by the Commission may administer oath to any person examined by it during an enquiry.

12. Interpreters:- (1) The Commission may, if it so requires, appoint an interpreter for its assistance, who shall be paid at such rate as may be fixed by the Government from time to time.

(2) The interpreter shall take oath in the following from:-

I, _____, having been appointed a Interpreter by the State Vigilance Commission do hereby swear in the name of God/Solemnly affirm that I will tell and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

13. Utilization of Services of Experts:- The State Vigilance Commission may, if required for the purpose of facilitating conduct of enquiries under the Act, utilize the services of any officer/official, agency or person having expertise in the relevant field.

14. Inspection:- The Commission or any officer authorized by it, may inspect any offices of the Government, local authorities, Corporations, Government Companies or Societies owned or controlled by the Govt in connection with an enquiry or investigation of a complaint involving an allegation falling within the ambit of section 8 (1) (c) and 8 (1) (d) of the Act.

15) Furnishing of information and production of documents:- (1) Where the Commission requires any public servant or any other person to furnish information or to produce documents under section 11 of the Act, any officer authorized by the Commission shall issue a notice in Form 'E' Prescribed in the Schedule to the officer or authority in whose custody the file or the document is stated to be or in whose custody that file would ordinarily be.

(2) If the file or the document is not produced or sent within the period prescribed by the officer or authority concerned, the officer shall, in writing, direct the Head of the Department concerned to produce the same.

(3) If the file or document is not received within 15 days of a direction issued under sub-rule (2) above, the complaint shall be put up before the Commission for orders.

(4) Without prejudice to the provisions of the Act, the Commission may direct the competent authority to initiate disciplinary proceedings against such public servant or other person who refuses or fails to produce any file or document in his custody or power within the time stipulated in the notice issued under sub-rule (1).

(5) The Secretary of the Commission shall as far as possible return the seized record to the department concerned in case the same is not required by the Commission during investigation so that the functioning of the said department may not be hampered.

16. Consequences of refusal of a party to produce document:- where any party to an investigation before the Commission refuses, without any lawful excuse, to produce any document in his custody or power, the Commission may decide the matter, against him in the absence of such documents, and may also strike out the complaint or defence, as the case may be, or may make such other order as it thinks fit.

17. Rehearing of a complaint:- If a case is closed for default of complainant or if it is ordered to be filed or is decided ex parte against the public functionary the Commission may, if sufficient cause is shown to it, reopen the case and rehear it.

Provided that no case shall be reopened after the expiry of a period of three months from the date of closure, filing or ex parte decision of the case.

18. Certified copy:- (1) The Commission may, subject to the provisions of the Act, issue to any person a certified copy of an order, information or evidence other than the copy of the report of the preliminary enquiry and the information or evidence obtained in connection with such preliminary enquiry or investigation.

(2) The party concerned shall have to deposit necessary cost of the supply of such certified copy as may be fixed by the Commission.

19) Superintendence over Vigilance Organization:- The Commission shall, in terms of provisions of clause (a) and (b) of sub-section (1) of section 8 of the Act supervise the Vigilance related work undertaken by the Vigilance Organization in any of the modes prescribed under the Vigilance Manual, 2008 viz FIR Cases, Secret and Open Verifications, Joint Surprise Checks and Preliminary Enquiries.

20) Supervision of FIR Cases and Preliminary Enquiries:-

1) It shall be obligatory on the part of Director Vigilance to ensure that once a case is registered or preliminary enquiry is ordered a copy of FIR or P.E. order along with copy of complaint as the case may be, is transmitted to the State Vigilance Commission within 24 hours.

2) The Director of Vigilance shall submit the progress reports on monthly basis in all under investigation cases and preliminary enquiries to the Commission as per the proforma to be devised by the Commission:

Provided that notwithstanding the submission of monthly progress reports the Commission may, at its discretion, ask for progress report in any FIR Case or Preliminary Enquiry at any time and such reports shall be submitted by the Director Vigilance with utmost promptitude.

21) Action on Receipt of Progress Reports:- On receipt of the progress reports in FIR Cases and Preliminary Enquiries, the Commission shall examine these and convey its observations and directions to the Director Vigilance who shall take further action so as to bring the investigation and enquiries to logical conclusion.

22) Review of investigations and Preliminary Enquiries:- The Commission shall review the investigation and enquiries under probe with Vigilance Organization on regular basis till these are brought to logical conclusion. On examination of case dairies and evidence having come on record, the Commission shall issue direction aimed at giving right direction to the investigation/enquiry.

23) Supervision in respect of Secret/Open Verifications and Joint Surprise Checks:- The Director of Vigilance shall keep the Commission informed about the secret and open verifications and joint Surprise Checks being conducted by it and notwithstanding the final conclusion drawn, the outcome of such verifications and surprise checks shall be shared with the Commission by the Director, Vigilance. The Commission on examination of such reports may issue such directions as may be deemed appropriate to reach the rightful conclusion.

Provided that in order to ensure secrecy, all reports in case of secret verifications shall be marked as "Confidential" and addressed by name to the Chief Vigilance Commissioner.

24) Action on conclusion of Investigation and Preliminary Enquiries:- (1) When the Vigilance Organization concludes the investigation of the case and on the strength of evidence having come on record a prima facie case for commission of offence under Prevention of Corruption Act is found established against an in-service accused public servant, it shall, before sending the case to the sanctioning authority, prepare a final

investigation report and submit the same along with case diary file to the Commission for its advice.

(2) When the Vigilance Organization concludes the investigation of the case and on the strength of evidence having come on record, a prima facie case for commission of offence under Prevention of Corruption Act is found established against a retired accused public servant or in view of the evidence on record the allegations are not established and the investigation is proposed to be concluded as not 'admitted' or 'untraced' it shall before presenting the charge sheet or final report in the court of competent jurisdiction, as the case may be, submit the case diary file along with final investigation report and legal scrutiny report to the Commission for advice.

(3) The Director of Vigilance shall, notwithstanding the final conclusions drawn, submit Final Enquiry Reports in all preliminary enquiries conducted and concluded and by it to the Commission for its advice.

25) Action by Vigilance Organization in respect of references or complaints referred to it by the Commission:- (1) When a reference received under section 8 (1) (c) or a complaint received under section 8 (1) (d) of the Act is sent by the Commission to the Vigilance Organization, it shall be duty of the Vigilance Organization to have the reference or the complaint inquired into and submit a report thereof to the Commission for further advice and action.

(2) Where the Commission inquires into any complaint and on conclusion of such inquiry decides to refer the matter for regular investigation to the Vigilance Organization or any other investigating agency established by law, it shall not be open to the Vigilance Organization or other investigating agency to embark upon any further inquiries without registration of a case in the first instance.

26) Assessment of the work of officers of Vigilance Organization by the Commission:- Based on the review of investigations and enquiries being conducted by the Vigilance Organization, the Commission shall assess the work of the Director Vigilance and his subordinate officers, including the Investigating Officers connected with the investigation of cases or enquiries or their supervision. The assessment thus made in respect of each individual officer shall be recorded on a separate sheet or paper at the end of the financial year and sent to concerned APR accepting authority and shall form part of overall assessment of the officer, during the period under report.

27) Supervision over Vigilance Administration of other departments, Statutory Bodies Corporations, Govt. Companies Societies and Local Authorities:- (1) The primary responsibility for maintenance of purity, integrity and efficiency in the organization shall vest in the Administrative Secretary, the Head of the Department or the authority heading the Statutory Bodies, Corporations, Govt. Companies, Societies and local Authorities.

(2) To assist the authority heading an Administrative Department, Govt Departments, Statutory Bodies, other Corporations, Public Sector Undertakings and Societies etc. in discharge of duties relating to Vigilance Administration, there shall be an organized institution of Vigilance officers who shall head the Vigilance Wing of the organization/Department or Office concerned and provide a link between the organization and the State Vigilance Commission. All Administrative Secretaries of various Departments, Statutory Bodies, local authorities, Corporations, Government Companies or Societies owned or controlled by the Government shall have an officer designated as Chief Vigilance Officer (CVO) at Administrative Department level (Civil Secretariat) responsible for Vigilance Administration. At Directorate/Head of Department level, Departmental Vigilance Officer (DVO) shall be responsible for Vigilance administration and he shall function directly under supervision of concerned CVO.

(3) The Additional Deputy Commissioner shall be an Ex-Officio District Vigilance Officer (Distt. VO) in respect of the offices of all Government and other departments stationed in their respective Districts. All Government Departments, local authorities, Corporations, Government Companies, or Societies owned or controlled by the Government having their subordinate offices in Districts shall designate an officer to function as Additional Vigilance Officer (AVO), who shall assist the District Vigilance Officer (Distt. VO) and the DVO in the Vigilance Administration pertaining to their respective departments.

(4) The departments and Organizations, having frequent public interface, to be selected by the State Vigilance Commission in consultation with General Administration Department, shall have a full-time CVO/DVO, who ordinarily shall not be entrusted with any other responsibility.

Provided that the CVO/DVO shall be appointed by the Government in consultation with the State Vigilance Commission.

28) The Commission shall exercise superintendence over the Vigilance Administration of the various departments of the Government or Corporations established in the State by or under any Central Act or the Act of State Legislature, Government Companies, Public Sector Undertakings, Societies and local authorities owned or controlled by the Government.

Provided that nothing contained in this clause shall be deemed to authorize the Commission to exercise Superintendence over the Vigilance Administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matter.

(29) Tenure of officers as CVO and DVO:- The normal, tenure of an officer appointed as CVO or DVO, as the case may be, shall be two years extendable by a further period of

one year in the same organization, or upto a further period of two years on transfer to another organization on completion of initial deputation tenure of three years in the previous organization, with the approval of the Commission.

(30) Duties of CVOs, DVOs and Distt. VOs:- (1) It shall be the duty and responsibility of the CVOs, DVOs, Distt. VOs and AVOs to collect intelligence about the corrupt practices committed, or likely to be committed by the employees of their respective organizations; enquire or cause an investigation to be made into verifiable allegations referred to him by the Commission or reported to him by any other means and source; process enquiry reports for further consideration of the disciplinary authority concerned; refer the matters to the Commission for advice wherever necessary, taking steps to prevent commission of improper practices/misconduct and also analyze functioning/ performance of the Department in reference to the Results Framework Documents (RFD).

(2) It shall be the duty of CVOs, DVOs and Distt. VOs to scrutinize reports of Legislative Committees such as Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings, audit reports; proceedings of both Houses of Legislature and complaints and allegations appearing in the press and to take appropriate action thereon.

(31) Submission of reports by CVOs DVOs and Distt. VOs:- (1) On conclusion of enquiries by the CVOs, DVOs and Distt. VOs in respect of complaints referred to them by the Commission or the enquiries undertaken sub-moto, they shall report directly to the Commission and shall seek advice and instructions in respect of the Vigilance Administration, from the Commission. The CVOs, DVOs and Distt. VOs shall adhere to the time frame, as may from time to time be fixed by an order issued in this behalf by the Commission, in respect of submission of reports.

2) The CVOs, DVOs and Distt. VOs shall be competent to have the cases registered in the Police Stations falling within their respective territorial jurisdictions in respect of complaints, which on enquiry, prima facie disclose a Commission of cognizable offence and the State Vigilance Commission shall, notwithstanding anything contained in any other law or rules for the time being in force, monitor and review the progress of investigation of cases registered in various Police Station on the basis of reports of CVOs, DVOs and Distt. VOs.

(32) Secretary and other staff of the Commission:- (1) The Government in consultation with the Commission shall appoint an officer not below the rank of Special Secretary to the Government, to be the Secretary of the Commission.

2) The other officers and employees of the Commission shall be such as the Government may from time to time determine, in consultation with the Chief Vigilance Commissioner.

3) The officers and officials on deputation or by transfer from any Government Department shall be deputed to the Commission with its prior consent. No officer or official serving in the Commission shall be posted out without the prior consent of the Commission.

4) For effective supervision and monitoring of Vigilance work of VOs/DVOs and District VOs, the SVC at the end of every financial year shall send a report about the annual performance related to Vigilance work to the concerned accepting authority of their APRs for further appropriate action.

(33) Salary and other allowances of the Commission:- 1) A Government employee who is transferred to the Commission or whose services have been lent to it shall be entitled to the salary and other allowances in the pay scale held by him in his parent Department.

2) The employees of the Commission, other than those specified in sub-rule (1) shall be entitled to the salary and other allowances as may be fixed by the Govt. at the time of their posting in the Commission.

(34) Travelling allowances:- When any person, not in the service of the Government, is required by the Commission to appear before it as a witness he shall be paid travelling allowance for journey calculated under the ordinary rules for the journey or as the Government servant on tour and daily allowance, and for this purpose the Commission may declare by special order the grade to which such person shall be considered to belong according to his status in life and its decision shall be final. In case of retired Govt. Servants called as witnesses by the Commission, travelling allowance shall be drawn as per the grade to which they were entitled at the time of retirement.

(35) Authority competent to grant leave:- (1) The Chief Vigilance Commissioner may avail casual leave to the extent permissible under rules and inform the Secretary accordingly.

2) The Chief Vigilance Commissioner may proceed on admissible leave other than casual leave at his discretion with prior intimation to the Hon'ble Governor.

3) The power to grant casual leave or any other admissible leave to the Commissioners, Secretary and gazetted officers serving with the Commission shall vest in the Chief Vigilance Commissioner.

4) The power to grant leave to any other officer and official of the Commission shall vest in the Secretary.

(36) Functions of the Secretary:- (1) The Secretary shall be overall incharge of the administration over the employees of the Commission and shall ensure efficient performance by the employees of the Commission.

2) The Secretary shall be ex-officio Registrar of the Commission as well and shall discharge such duties as may be entrusted to him and shall carry out the directions issued by the Commission from time to time.

3) All correspondence of the Commission with the Government and other departments shall be made under the signature of the Commissions Secretary or any other officer duly authorized by the Secretary in this behalf.

(37) Financial powers:- The Commission may and is hereby empowered with full powers in consultation with Financial Advisor/Chief Accounts Officer, to expenditure in any financial year up-to an aggregate sum as authorized in the Budget estimates of that Financial Year towards contingencies, supplies and services, T.E, medical reimbursement, witness expenses, purchase of books and other relevant head/detailed heads under operation of the Commission, till such financial powers are delegated to the Chief Vigilance Commissioner.

(38) Procedure in matters not provided in the rules: - The Commission shall have the power to regulate its own procedure in respect of all or any of the matters for which no provision is made in these rules.

By order of the Government of Jammu and Kashmir.

Sd/-

Secretary to Government
General Administration Department