



Annual Report

2003

Central Vigilance Commission
New Delhi

The Central Vigilance Commission presents its 40th Report relating to the calendar year 2003.



(P. SHANKAR)
CENTRAL VIGILANCE COMMISSIONER

New Delhi
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ACKNOWLEDGEMENT

The Commission thanks its team of Chief Vigilance Officers, and all Departments/Organisations for their cooperation and assistance, especially the Department of Personnel and Training and the Central Bureau of Investigation.

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CHAPTER-1

Introduction

The report of the Committee on Prevention of Corruption, popularly known as the Santhanam Committee, resulted in setting up of the Central Vigilance Commission (CVC). The establishment of the Commission was considered essential for evolving and applying common standards in deciding cases involving lack of probity and integrity in administration. The CVC, thus, came into being through Government of India Resolution dated 11.02.1964 as an apex body for exercising general superintendence and control over vigilance administration.

Further, as a result of the directions given by the Supreme Court, in the writ-petition filed in public interest by Shri Vineet Narayan and others in the Hawala cases, to confer statutory status to the CVC, the Government of India promulgated an Ordinance in 1998. This ordinance conferred upon the CVC the powers to exercise superintendence over the functioning of the Delhi Special Police Establishment and review the progress of the investigations conducted by them pertaining to alleged offences under the Prevention of Corruption Act, 1988. The Government introduced the CVC Bill 1998 in the Lok Sabha to replace the Ordinance. However, the Bill could not be passed and the Government notified that the CVC would continue to discharge its function under the Government's Resolution dated 4.4.1999. The Bill was re-introduced in 1999 and was referred to the Joint Committee of both Houses of Parliament which submitted its report on 22.11.2000. The CVC Bill remained with the Parliament and could not become an Act till September 2003 and the Commission continued to discharge its functions under the Government's Resolution dated 4.4.1999 till September 2003.

Current Status

The CVC Bill introduced by the Government in 2003 and was passed by both the Houses of the Parliament. The President gave assent to the Bill on September 11, 2003. The CVC Act provides for constitution of a Central Vigilance Commission, to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act 1988 by certain categories of public servants of the Central Government, Corporation established by or under any Central Act, Government companies, Societies and Local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

Important Features of The CVC Act, 2003

- (a) The Commission shall consist of a Central Vigilance Commissioner (Chairperson) and not more than two Vigilance Commissioners (members);
- (b) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President on recommendation of a Committee consisting of the Prime Minister (Chair-person), the Minister of Home Affairs (Member) and the leader of the opposition in the House of the People

- (Member).
- (c) The term of office of the Central Vigilance Commissioner and the Vigilance Commissioners would be 4 years from the date on which they enter their office or till they attain the age of 65 years, whichever is earlier.
 - (d) The Commission, while conducting the inquiry shall have all the powers of a Civil Court, with respect to certain aspects.

Powers and Functions of CVC

- a) to exercise superintendence over the functioning of the Delhi Special Police Establishment (DSPE) with respect to investigation under the Prevention of Corruption Act, 1988; or offence under CRPC for certain categories of public servants and to give directions to the DSPE for purpose of discharging this responsibility.
- b) to review the progress of investigations conducted by the DSPE into offences alleged to have been committed under the PC Act;
- c) to undertake an inquiry or cause an inquiry or investigation to be made into any transaction in which a public servant working in any organisation, to which the executive control of the Govt. of India extends, is suspected or alleged to have acted for an improper purpose or in a corrupt manner;
- d) to tender independent and impartial advice to the disciplinary and other authorities in disciplinary cases, involving vigilance angle at different stages i.e. investigation, inquiry, appeal, review etc.;
- e) to exercise a general check and supervision over vigilance and anti-corruption work in Ministries or Departments of the Govt. of India and other organisations to which the executive power of the Union extends;
- f) to chair the Committee for selection of Director (CBI), Director (Enforcement Directorate) and officers of the level of SP and above in DSPE.

To give effect to the provisions of the Act, the Commission also exercises further powers and functions entrusted to it under the Government of India Resolution No.24/7/64-AVD dated 11.2.1964 and has been empowered to make regulations not inconsistent with this Act.

Jurisdiction

The jurisdiction of the Commission extends to all organisations to which the executive power of the Union extends. However, for practical reasons, the Commission presently advised only on vigilance cases pertaining to certain categories of employees. The jurisdiction of the Commission is restricted to 'Group A' officers in Central Government, All India Service Officers, and other officers of public sector undertakings, autonomous organisations, local authorities, societies etc. as notified by the Government; for investigations to be made into any complaint alleging offences under the PC Act.

Commission's Jurisdiction

- a) Members of All India Services serving in connection with the affairs of the Union and gazetted officers of the Central Government;
- b) Board level appointees and other senior officers upto two grades below the Board level, in the Public Sector Undertakings of the Central Government;
- c) Officers of the rank of Scale III and above in the Public Sector Banks;
- d) Officers of the rank of Assistant Manager and above in the Insurance Sector (covered by LIC and GIC and four non-life insurance companies in the Public sector); and
- e) Officers drawing basic pay of Rs. 8700/- per month and above in autonomous bodies/local authorities or societies owned or controlled by the Central Government.

Nonetheless, the Commission retains its residuary powers to call for any individual case in respect of employees other than those who are within its normal advisory jurisdiction. In addition, cases of difference of opinion between the CBI and the concerned administrative authorities, in respect of employees who are not within the normal jurisdiction of the Commission, are also resolved by the Commission.

Approval of Central Government

The CVC Act provided for inclusion of the following section, after Section 6 of the DSPE Act.

The DSPE shall not conduct any inquiry or investigation into any offence alleged to have been committed under the PC Act 1988 except with the previous approval of the Central Government where such allegation relates to:

- (a) the employees of the Central Government of the level of Joint Secretary and above; and
- (b) such officers as are appointed by the Central Government in Corporations established by or under any Central Act, Government Companies, Societies & Local authorities owned or controlled by that Government.

However, such approval is not necessary for cases involving arrest of person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration.

Advisory Role

The advisory role of the Commission extends to all matters on vigilance administration referred to it by the organisations/departments. However, on reports called for by the Commission, the departments are bound to seek its advice.

The investigation reports furnished by the CVO or by the CBI are examined in the Commission and, depending upon the circumstances and facts of each case, the Commission advises (a) initiation of criminal and/or departmental proceedings against the concerned public servant(s); or issuance of administrative warning to him/her; (c) or the closure of the case. The Commission's advice at this stage is termed as first stage advice.

The departmental proceedings could be for imposition of a major or a minor penalty. The inquiry report in major penalty cases is furnished to the Commission for its second stage advice before taking a final decision. It also tenders second stage advice in those cases in which the departmental proceedings for minor penalty were initiated on its advice, but the administrative authorities propose exoneration on consideration of defence statement.

Present Commission

In terms of the Central Vigilance Commission Act 2003, the Commission has been made a multi-member body, consisting of the Central Vigilance Commissioner (CVC) and two Vigilance Commissioners (VCs) as its members. The appointment of the CVC as well as that of the VCs has been made by the President on the recommendations of a Committee consisting of (a) the Prime Minister, (b) the Minister of Home Affairs and (c) the Leader of the Opposition in the Lok Sabha. Shri P. Shankar, IAS (Retd.) has been appointed as the Central Vigilance Commissioner by the President for a period of four years. Shri H.J. Dora, IPS (Retd.) and Shri Janki Ballabh (Retd. Chairman, State Bank of India) have been appointed as Vigilance Commissioners for a period of three years.

Staff Composition

The Central Vigilance Commission is assisted by a Secretary (of the rank of Additional Secretary to the Government of India), two Additional Secretaries (of the rank of Joint Secretary to the Government of India) and other staff which include nine officers (of the rank of Director/Deputy Secretaries), an OSD and four Under Secretaries. In addition, there are fourteen Commissioners for Departmental Inquiries (CDIs) who are nominated to conduct departmental inquiries relating to major penalty proceedings on behalf of the disciplinary authorities in serious and important disciplinary cases. The group-wise staff strength of the Commission as on 31.12.2003 and related information is at **Annexure - I**.

Technical Wing

The Commission is actively assisted by its Technical Wing called the Chief Technical Examiner's Unit with two Chief Technical Examiners (of the rank of Chief Engineer) who are assisted by eight Technical Examiners (of the rank of Executive Engineer), six Assistant Technical Examiners (of the rank of Assistant Engineer) and other subordinate staff.

CTE's unit of the Commission is engaged in examination of civil, electrical works including air-conditioning and horticulture works being executed by Ministries/ Departments of Government of India, Central Public Sector Undertakings, Banks and

Financial Institutions and Cooperative Bodies etc. falling within the jurisdiction of the Commission. The inspection of stores purchase contracts and works for computerization etc. also undertaken by the CTE's Unit.

Chief Vigilance Officers

The Chief Vigilance Officers act as the extended arms of the Commission. These important field functionaries head the vigilance units in the departments/organisations to which the advisory jurisdiction of the Commission extends. The CVOs are required to provide expert assistance in advising the Head of the concerned organisation in all vigilance matters concerning it. The CVO is the key link between the departments/organisations and the CVC and his function is to minimize factors which provide opportunities for malpractices, by initiating review of systems, procedures and by introducing suitable measures of preventive vigilance in a sustained and effective manner. On the punitive side, the CVO ensures speedy processing of vigilance and disciplinary cases. The Commission has introduced a monthly reporting system for the CVOs besides the Quarterly Statistical Returns which is integral part of reporting by CVOs about the vigilance activities of the organisation.

Through the monthly reporting system and increased interaction with the CVOs in the Zonal meetings, Sectoral meetings and personal visits of CVOs to the Commission, wherever necessary, the Commission ensures that the CVOs are vigilant and effective. It obtains from each CVO a detailed note highlighting his performance during the year, and an action plan for implementation during the following year. It also attaches considerable importance to training of CVOs and other vigilance personnel, and has come to an understanding with the CBI Training Academy, Ghaziabad, for imparting training to CVOs.

Seven departments of the Government of India, and the larger Public Sector Enterprises, Banks and Insurance Companies have full-time CVOs while others have part-time CVOs. The total number of posts of full-time CVOs is 186. Functions of CVOs in other organisations are performed by the part-time CVOs who are officers of appropriate level already working in the organisation.

The Commission, during the year, considered the suitability of 212 officers recommended by the administrative authorities for appointment to the post of CVOs in different organisations.

CHAPTER-2

Observations & Initiatives

General Observations

The Central Vigilance Commission Act was passed by both Houses of Parliament and duly notified after receiving the President's assent on September 11, 2003. This in itself is a landmark and translates into legislation the general sentiments expressed by the Hon'ble Supreme Court in what is popularly known as the Vineet Narain case. The Act, as it has finally emerged, is more or less in line with the earlier Ordinances promulgated in respect of the CVC. The significant additions which have been made, are the provisions relating to the superintendence of the Commission over the working of the CBI and its role in the selection of personnel of CBI from the Director down to the level of Superintendents of Police and similarly, the Commission's responsibility for the selection of the Enforcement Director and the key personnel in this Directorate. The intention of the Hon'ble Supreme Court in recommending the conferment of statutory status on the Commission was with a view to empowering it and strengthening its hands towards raising the standards of vigilance administration in Government and in the Public Sector Undertakings and Banks. The expectations of the people which are already high have been further raised by this enactment.

The Commission however has taken this status of working on a more cautious and humble note. The Commission has been performing various tasks relating to vigilance administration ever since its constitution in 1964 and the Act has not added very much to it other than the role of the Commission relating to the CBI and the ED. Much of the Commission's functioning has not been specifically mentioned in the Act, though Section 24 of the Act empowers the Commission to discharge all the functions entrusted to it under the original Resolution of the Government vide MHA's No.24/7/64-AVD dt.11.02.1964. The legislation however qualifies the Commission's superintendence over the vigilance administration of Government and other organisations, with the addition of a proviso: "nothing contained in this clause shall be deemed to authorise 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 matters." It is difficult for the Commission to envisage any conflict or inconsistency between Government policy and the Commission's directions issued in the interests of improving transparency and openness in public administration. **It is to be hoped that Government and the Commission would be able to work harmoniously towards fulfilment of the expectations of the judiciary, the civil society and the public at large towards achieving higher standards of probity and integrity in the performance of their functions by public servants.**

Initiatives during the year

The Commission in its Report for the year 2002 had already mentioned the importance of the role of CVOs in various Government and other organisations

including Public Sector Banks and Undertakings and the Commission's efforts towards streamlining and closer monitoring of the working of these CVOs. The Commission is happy to report that this **closer monitoring and interaction with the CVOs has improved the clarity on vigilance-related procedures** in these organisations and to that extent increased the effectiveness of vigilance as such. The Commission has however felt that there is an imperative need to make the selection of the CVOs itself more transparent. During the last 2 years, the Commission has realised the importance of the care to be bestowed on the initial selection of the CVOs. The effectiveness of the vigilance administration in organisations and more important the attitude of the entire management towards vigilance hinges critically on the way the CVOs perform. The CVO has to be perceived as a man of un-impeachable integrity and character and seen acting with a sense of balance and clear understanding of the organisational requirements and above all free from any bias. The Commission has made certain suggestions to Government for making the process of selection of CVOs more transparent and objective. **The Commission has advocated total transparency in Government functioning to combat corruption and the selection process of CVOs cannot be an exception to this.** The Commission has come across several instances in the past where there have been problems in the organisations because of errors of judgement in the selection of the CVOs. The Commission also notes with distress the tendency on the part of officers to canvass for the post of CVOs and that too in particular PSUs and using political and bureaucratic influence to get selected as CVOs in various organisations. This will seriously erode the credibility of the CVOs and ultimately the entire structure of vigilance.

It is in this context that the Commission has been maintaining that just as the Election Commissioner requires total involvement in the selection of the Electoral Officers for the smooth conduct of elections, the **CVC would also require total involvement in the selection and supervision of CVOs.** The Commission has, in fact, identified a significant number of organisations where it would like to be involved directly in the selection of CVOs to ensure that the CVOs in these organisations are able to perform effectively and with the required degree of credibility. **In the absence of this, the role of the CVC as envisaged in the CVC Act,** namely as an apex body for exercising general superintendence and control over vigilance matters in administration, **is bound to get weakened and undermined.**

It has been observed by the Commission that the expectations of the people from the Commission have increased considerably over the last 5 years and the conferment of the statutory status on the Commission would only increase this further. Such high expectations are clearly manifested in the number of complaints the Commission receives from the public. In 2002 the Commission received 16629 complaints and in 2003, 11397. Unfortunately, a majority of the complaints are not such as are actionable by the Commission. A very small number, less than 500 in effect, are ultimately found fit to be pursued through the CVOs of the concerned organisations. One of the problems the Commission has been facing is the relentless pursuit of their complaints, by the complainants who expect, perhaps justifiably, an acknowledgement from the Commission and even an occasional report on the progress of the investigation. **While the Commission understands the keenness and interest of the complainants, given the volume and the**

Commission's nature of functioning as set out in the CVC Act, the Commission finds this difficult to achieve. The Commission has therefore deliberated on this at length and **evolved a "Complaints policy"**. The Policy has been set out on the Commission's website. The underlying principle governing this policy is that, as envisaged in the CVC Act, **the importance of the complaints is principally as "source information"** on a perceived misconduct on the part of any public servant which should entail action against him under the Conduct Rules governing his service or under the Prevention of Corruption Act. **The Commission is not an agency to look into and settle the grievances of the complainants.** Any relief the complainant receives on account of the action pursued by the Commission on the complaints is purely incidental to such action. **The Commission feels the creation of ombudsmen in at least the major Government Departments having significant public dealings could address this important area of public concern and reduce the feeling of desperation among the public forcing them to approach institutions like the CVC for redressal of their grievances.**

The Commission is realistic enough to admit that the impact of the Commission on the working of vigilance administration as such and on the broader plane of corruption can only be limited. As could be seen from the Commission's Annual Reports over the years, the number of cases where the Commission advises disciplinary action leading to major or minor penalty is very small as against the large number of public servants in Government and public sector organisations. It may be that the **Commission's monitoring of such disciplinary action may itself have some effect of deterrence.** The Commission however has come to realise that more important is the need to bring about improvements in the systems with a view to reducing the scope of corruption. **No body can deny that if Government procedures and systems provide for greater transparency and openness; if there is better communication between the public servants and those whom they serve; and if there is greater accountability on the part of the public servants through a genuine respect for the right to information and by providing such information required by the public, there will be automatic reduction in complaints and the need for vigilance action.** It is in this spirit that the Commission has intensified its efforts to study sensitive areas of public contact in various departments through its team of officers. **The Commission has issued directions for increased use of Information Technology** and websites for publication of government tenders, and increased adoption of **e-procurement and e-billing.** The Commission has also made specific suggestions to improve the working of organisations like the Employees Provident Fund Organisation (EPFO) and the Protectorate General of Emigrants. The Commission will undertake many such studies in the coming years. **The Commission has also decided to work in tandem with the Department of Administrative Reforms as it perceives vigilance and administrative reforms as but two sides of the same coin.**

It is to be hoped that Government and its senior officials do not look upon the Commission's initiatives as encroachment of their powers and transgression by the Commission of the proviso to Sec 8 (h) of the CVC Act. Government needs to be positive about the Commission's initiatives, and could always follow up the Commission's directions to evolve a comprehensive policy keeping in view the spirit behind the Commission's directions. **The Commission's directions are invariably in areas where there is absence of clear-cut policy and need to be**

seen as catalysts for the development of policies. If there is agreement on the need to reduce corruption and to improve the quality of service to the public, there could never be any conflict between the agencies involved in this.

The Commission has also commented in its last report on the inadequate attention paid to vigilance administration by the administrative departments and the top managements of Banks and PSUs. **Delay in disciplinary action is largely attributable to the general apathy shown by the various levels of disciplinary authorities to the important area of vigilance administration.** But at the same time Commission is pained to note the **tendency** on the part of some senior officers **in both Government and in the public sector organisations to make the CVO and the CVC the scapegoat.** Whenever the question of delays in settling disciplinary action is discussed the ready solution to the problem seems to be to recommend dispensation with consultation with the Commission either at the first stage or the second stage or both. A scientific analysis of delays would clearly lay the blame at the internal functioning of the organisation and not the CVC or UPSC. **The Commission has enjoined on the Ministries and organisations the need to reduce delays and to conclude disciplinary proceedings within an acceptable framework of time. The Commission in fact has cautioned disciplinary authorities that any undue delay on their part in taking decisions on vigilance issues could themselves invite vigilance action.** Apart from studying the requirement of personnel, training of officers in the areas of investigation of complaints, preparation of precise and brief chargesheets, effective presentation of departmental cases and conduct of inquiries themselves needs to be undertaken on a large scale. **The Commission is currently addressing this important area of training in vigilance administration.**

The **Commission** has been **concerned with the delays it notices** in matters such as **sanction of prosecution.** It is true that both Cr.PC and the PC Act have given the power to sanction prosecution to the Competent Authority in Government but even though the Supreme Court in the Vineet Narain's judgement has clearly laid down that the Competent Authority has to give its decision within three months, there are disturbingly far too many cases pending such sanction. While this is a very important protection that the law has conferred on the public servants so that they are not subjected to legal action for decisions taken by them in the bonafide exercise of their functions, at the same time, if the objective of the law is to be kept in mind, this **power to accord sanction or otherwise would need to be exercised with a great deal of thought and objectivity. There has to be openness in the exercise of such powers and the orders themselves need to be "speaking orders" with clear reasons assigned to sanction or deny the request for prosecution.** There are enough Court rulings on the exercise of the discretionary powers by a public authority and the need to have clear guidelines governing such exercise. The grant of prosecution or denial thereof is a very important area of such exercise of discretionary power and the Commission would advocate serious consideration of this by Government. **The Commission itself would undertake an exercise to draft some guidelines in the area, for the consideration of Government.**

The **Commission emphasized** in its Annual Report 2002 about **the need to make vigilance an internal management function.** The Commission has carried forward the initiative to internalise vigilance administration particularly in the larger PSUs and

Banks. After wide ranging of discussions with the Governor, RBI, Chief Executives of Nationalised Banks, the Indian Banks Association and Government, in the Department of Banking, the Commission has almost finalised this process. As far as Banks are concerned, the significant features of this initiative are a **clear and sharper definition of “vigilance angle”**; **internal/peer analysis of malafide in all vigilance cases** which will be given the same weight and importance as the independent judgement of the CVO; and **delegation of full powers in all vigilance cases upto the level of Grade-IV officers**. It is hoped that this initiative will bring about greater accountability on the internal management in ensuring adherence to the required standards of probity and integrity and also **remove any needless fear of vigilance** in the minds of officers while taking bonafide and genuine commercial decisions.

The Commission has also initiated a similar process in regard to larger PSUs. **A Committee under the Chairmanship of Shri Arvind Pande**, former Chairman, SAIL and comprising eminent personalities from the academia and public sector management, is currently **evolving an alternative structure of vigilance for the public sector undertakings** which will be in tune with the current liberalised scenario where the public sector has to compete with alertness and dynamism vis-à-vis its more aggressive private sector competitors. It is hoped that during the current year this process will also be completed and the Commission will be able to experiment with an alternative system of vigilance in these public sector undertakings. The Commission would like to emphasize that the **objective** of this exercise is **not to dilute the vigilance function** in any way in these undertakings **but to make it more objective and internal** to the organisation with **greater accountability** on the part of the managements themselves. The **Commission’s role would be that of an external auditor of the vigilance function**.

While the Commission has taken several steps to simplify vigilance administration and to confer greater role and responsibility coupled with accountability on the management themselves in vigilance matters, the Commission would like to **flag an issue** which should be of concern to all. The jurisdiction of the Commission extends to all corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by the Central Government. There is a **clear sign** in the horizon **that some public sector undertakings**, who feel perhaps constrained by the superintendence of vigilance in their organisations by the Central Vigilance Commission, **are planning to “get free and enjoy greater corporate authority”** by setting up subsidiary companies in which their own equity will be kept intentionally below 50%. It is common knowledge that in the corporate sector majority ownership is always not necessary to control the company. **Unless** there is any **other shareholder who has more equity** than the Government-owned entity, **the control** of that **new entity continues to be with** the public sector organisation establishing it and therefore the **Government**. Since the **key** to the **jurisdiction to the Commission is ownership or control** by the Central Government simply by establishing a new entity or through some disinvestment of a part of the equity to bring Government holding to below 50%, accountability to the public through Parliament and jurisdiction of **time honoured institutions like the CAG or the CVC cannot be wished away**. **It is not a matter of concern for the CVC alone but should concern Parliament** that exercises superintendence of the affairs of three companies through Parliamentary institutions, such as, the

Committee on Public Undertaking, the CAG, etc. there is need for openness and transparency in this issue as much as any other aspect of public administration. The CVC for its part is extremely alive to the need for elbow-room for the management to stay ahead of its competitors in an increasingly liberalised and globalised market scenario. **Government and the PSUs would be better off posing the issues of management, of particular concern to them, to institution like CVC and CAG rather than try to undermine the spirit of Parliamentary enactments and even the Constitution through legal legerdemain.**

While presenting its Annual Report 2003 for consideration by Parliament, the **Commission would like** to make an appeal **that these Reports are placed without any delay on the Table of both Houses of Parliament** and thereafter there should be detailed discussions on the issues raised in the Reports. The Commission has observed that there is **no institutional mechanism such as the Public Accounts Committee**, which **discusses the Reports** of the Controller and Auditor General of India, **as far as the Reports of the CVC are concerned**. Unless there is cognizance of the issues raised in these Reports by Parliament, the **Report in itself will not have the desired effect** or impact on vigilance administration in Government and its organisations including PSUs.

CHAPTER-3

Commission's Activities During the Year

The role of the Central Vigilance Commission is to ensure probity in governance so that a clean, transparent and efficient public administration exists. In order to achieve its objectives, the CVC causes inquiries/investigations into various complaints received by it, tenders advice to the disciplinary and other authorities and undertakes independent examination of works and procedures followed by the organisations, through the Chief Technical Examiners Unit (CTEs).

The Commission perceives that vigilance is an internal management function and its role as an apex anti-corruption organisation is that of a supervisory body. It gives impartial and objective advice to the disciplinary and other authorities on cases where the public servant is alleged to have acted for an improper purpose or in a corrupt manner in the discharge of his official duties.

The complaints from general public is one of the sources of investigations/inquiries initiated by the Commission. However this constituted only 5% of the overall cases where final orders were passed by the organisations during 2003. 1% of the cases were due to investigation by CTEs, about 15% of the cases were referred by CBI and 79% of the cases were referred by the CVOs. Thus the majority of the cases where in final orders were issued by the organisations on the advice of CVC were as a result of action initiated by the organisations themselves, either through their internal audit, vigilance or investigation on complaints received by them, directly. Nevertheless the Commission continues to receive large number of complaints from the general public, though most of them do not relate to vigilance matters or are outside the purview of the Commission.

Complaints

The Commission as a matter of policy, does not entertain anonymous or pseudonymous complaints nor does it allow other organisations to do so. However, if any department/organisation proposes to look into any verifiable facts, alleged in such complaints, against any employee, the department/organisation may refer the matter to the Commission for concurrence through the CVO or the Head of the Organisation. The Commission, while discouraging such anonymous or pseudonymous complaints, has also taken steps to inspire confidence in potential complainants by offering to maintain confidentiality as to the identity of the complainant if there is apprehension of any retributive action against the complainant.

While the Commission received 11397 complaints during the year 2003, nearly one third of them were anonymous or pseudonymous and were filed as per its policy. A large number of complaints were also found to be vague, general and without specific allegations. There were also complaints which did not contain any allegation with vigilance angle but were more in the nature of grievances or on administrative issues. Complaints were also received in large numbers against public servants who were not within its advisory jurisdiction like public servants working in the State Governments.

Only 487 (4 per cent) complaints received required further action and these were duly forwarded to the CVOs of the concerned departments or were referred to the CBI, for investigation and report (Charts 1 and 2).

The Commission, out of a total of 12362 (including 965 brought forward from previous year) complaints, disposed of 12131 during the year. 231 complaints were pending scrutiny in the Commission at the end of the year. The nature of complaints and action taken in respect of the disposed complaints during the year is given in Table-1.

Table –1

Complaints received and Disposed of During 2003

Complaints	Nos.	Action Taken
No. of complaints received and B/F	12362	
Anonymous/Pseudonymous	3918	Filed
Vague/Unverifiable	6052	Filed
Non-vigilance	1674	For necessary action to Orgns. / Deptts.
Verifiable	487	For investigation to CVO / CBI
Total disposed of	12131	
Pendency	231	

Chart-1

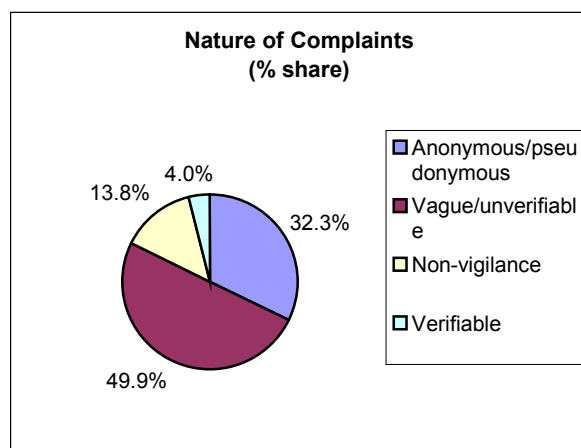
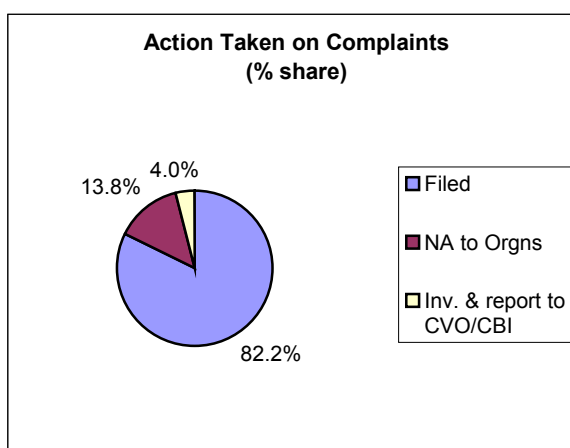


Chart-2



Vigilance Cases

The Commission examines a large number of vigilance cases arising out of investigations conducted by the CVO or by the CBI for giving its advice. This process of consultation with the Commission can be at first stage, for initiation of criminal and/or departmental proceedings or at the second stage for imposition of a major or minor penalty after completion of departmental proceedings. Its second stage advice is also required for exoneration in a case where the Commission had advised for minor penalty proceedings, at the first stage.

The Commission has significantly cut down the time taken by it in tendering its advice to the Departments in the vigilance cases referred to it. The average time taken by the Commission in tendering its advice is about four weeks and almost 62% of its advices are tendered within three weeks of receipt of the cases and only 21% of the cases are delayed beyond four weeks mainly due to non-receipt of complete inputs or some additional details.

Receipt and Disposal of Cases

During the year under report, the Commission received 6993 cases for advice as against 6465 received in 2002. However, this year the Commission tendered significantly higher number of advices in 8042 cases, compared with 6626 advices tendered by the Commission in 2002. As compared to the last year the total pending cases carried forward to the next year are only 393 as against 1442 brought forward from the previous year.

Over the last ten years there has been a general increase in the number of cases referred to the Commission for advice (Chart- 3). Consequently, there has also been a steady increase in the volume of work handled by it (Chart -4).

Chart- 3

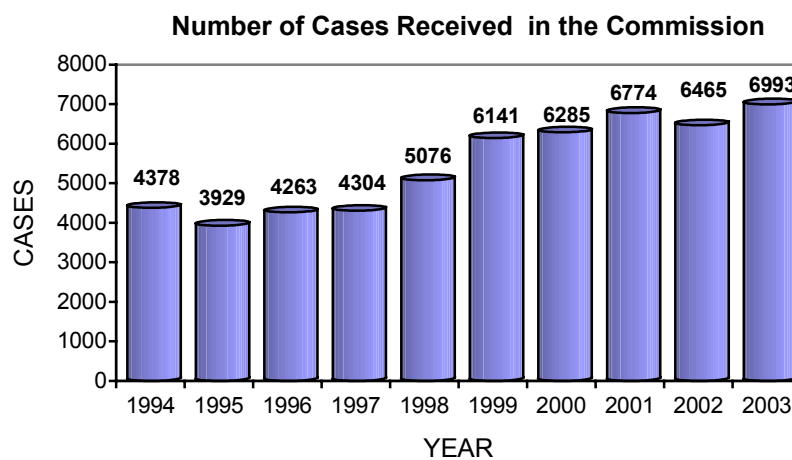
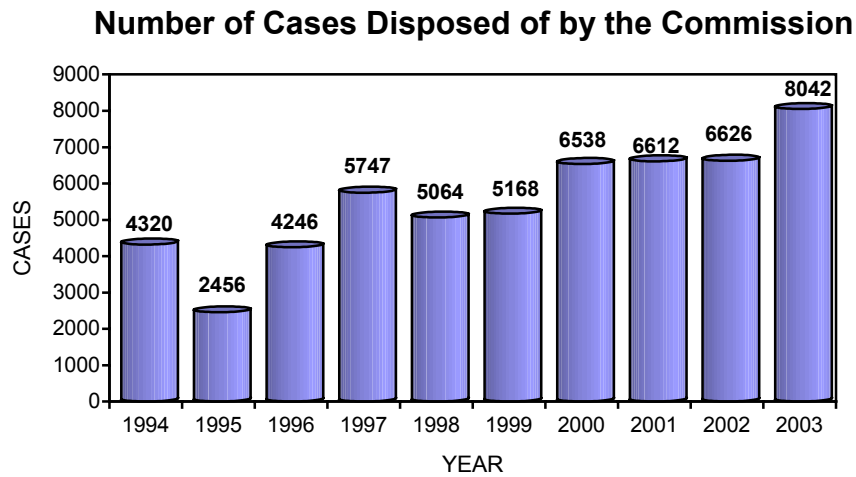


Chart-4



First stage advice cases

The Commission tendered its first stage advice in 3918 cases during the year, of which 574 were on the investigation reports of the CBI and 3344 were on that of the CVOs (Table 2). Among the CBI investigated cases, it advised prosecution in 21.1 per cent of the cases, major penalty proceedings in 31.6 per cent cases and minor penalty proceedings in 11 per cent cases (Chart-6). Among the CVO investigated cases prosecution was advised by the Commission in a mere 0.3 per cent cases; major penalty proceedings in 31.2 per cent cases and minor penalty proceedings in 16.8 per cent cases, the rest being allegations not established conclusively (Chart -7). **In the combined CBI and CVO investigated reports prosecution was advised in 3.4 per cent of the cases. In 31.3 per cent and 15.9 per cent cases major and minor penalty proceedings respectively were advised and the allegations could not be conclusively established in the rest of the cases (Chart-5). Thus, in over 50% of the cases referred to the Commission, some penalty was recommended.**

Chart- 5

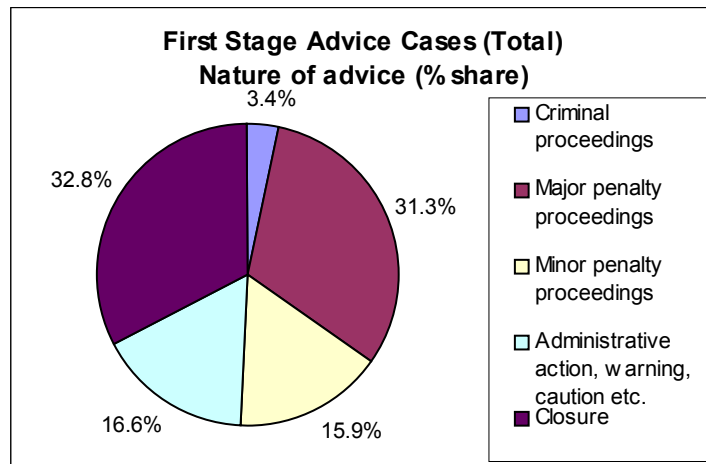


Table – 2

First Stage Advice cases During 2003

Nature of advice	On the investigation reports of		Total
	CBI	CVO	
Criminal Proceedings	121	11	132
Major penalty proceedings	181	1044	1225
Minor penalty proceedings	63	562	625
Administrative action, Warning, Caution etc.	76	574	650
Closure	132	1154	1286
Total	573	3345	3918

Chart - 6

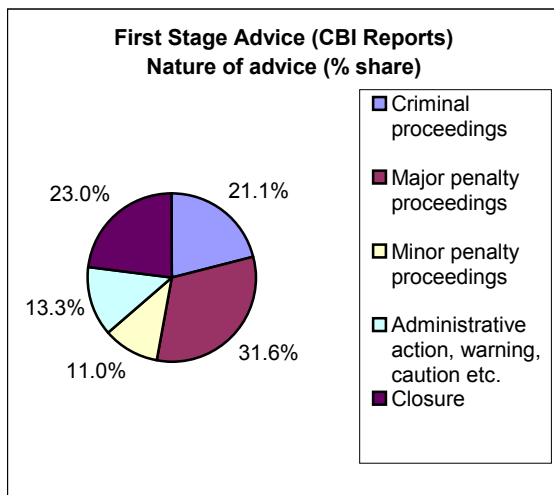
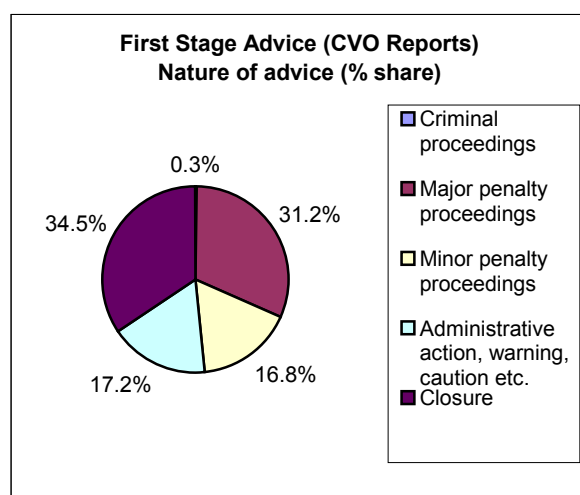


Chart- 7



As shown in the Table-2 by far the largest number of 1st stage advice cases are from the departmental vigilance units and investigated by the CVOs (85.3 per cent approximately). It may also be observed from the charts that the CBI's

investigation could result in prosecution or initiation of major penalty proceedings in about 52.7 per cent cases as against 31.5 per cent cases investigated by the CVOs. Likewise, the percentage of cases not warranting any formal penalty proceedings was 36.3 per cent in CBI investigated cases as against 51.6 per cent of the CVO investigated cases. This indicates the need for imparting training for improving investigative skills of the investigating officers, in general.

Second stage advice cases

The Commission tendered its second stage advice in 2669 cases during the year, of which 230 were inquired by CDI and 2439 were inquired by officers from within departments/undertakings (Table-3). Based on inquiry reports of CDI, the Commission advised major penalty in 35.6 per cent (82) cases and minor penalty in 24.8 per cent (57) cases, and in 27 per cent cases the charges could not be conclusively proved (Chart-9). On inquiry reports received from the CVOs, the Commission advised major penalty in 48.8 per cent (1191) cases, minor penalty in 25.3 per cent (617) cases and in 12.9 per cent cases the charges could not be conclusively proved (Chart-10).

Most of the cases in which the Commission had advised initiation of major penalty proceedings at the first stage ended in the Commission's second stage advice for imposition of a formal penalty (72.9) percent. On the whole, it recommended major and minor penalty in 47.7 percent (1273) and 25.3 percent (674) cases respectively. It was in 14.1 per cent of the cases that the charges could not be conclusively proved.(Chart-8).

Chart- 8

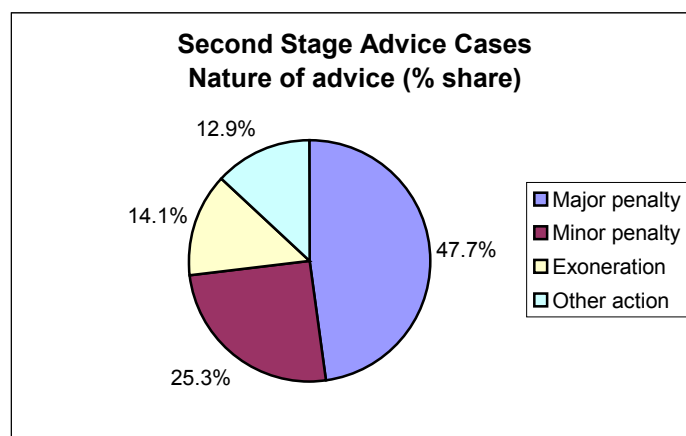


Table – 3

Second Stage Advice Cases During 2003

Nature of advice	of	On the CDI's Reports	On the cases received from CVOs	Total
Major penalty		82	1191	1273
Minor penalty		57	617	674
Exoneration		62	315	377
Other action		29	316	345
Total		230	2439	2669

Chart- 9

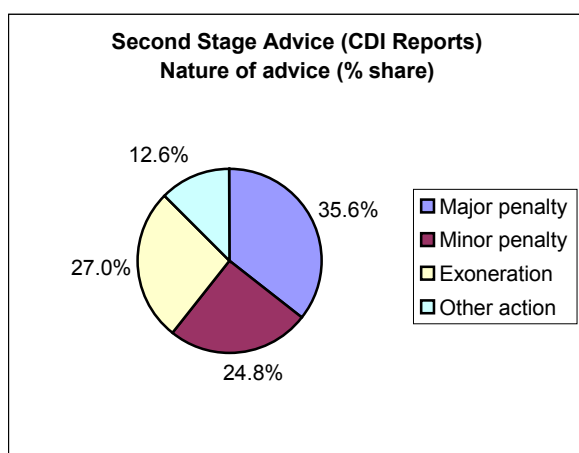
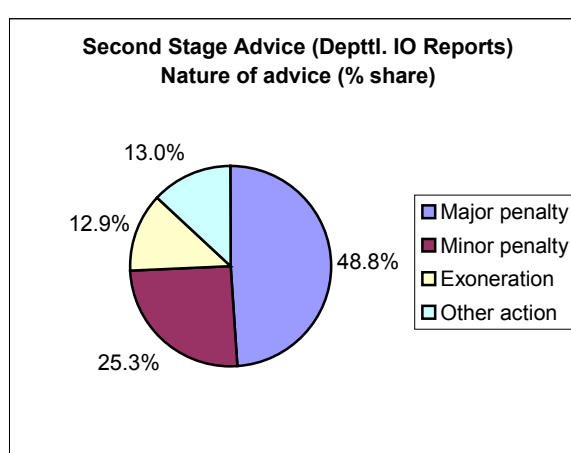


Chart- 10



Prosecution and Punishments

In pursuance of the Commission's advice, the disciplinary authorities in various organisations, issued sanction for prosecution of 127 public servants, imposed major penalties on 1432 public servants and minor penalties on 1372 public servants during 2003 (**Table 4, Chart-11**). This includes 14 Indian Administrative Service officers; two Indian Police Service Officers; one Deputy Director General, three Commissioner of Income Tax; one Chief Commissioner & one IRS officer of CBEC; one (retired) IPS officer against whom prosecution sanction issued by the department; one General Manager, D/o Telecom; three Deputy General Managers and two General Managers of public sector banks; one Director of Khadi & Village Industries Commission who has been dismissed from service; one TEGS-I of a public sector bank was removed from service; one Chief Engineer, one DMO of M/o Railways; and one Deputy Chief Post Master of D/o Posts against whom penalty of pension cut was imposed @ 50%, 50% & 25% respectively. The organisation-wise break-up of such cases is given in **Annexure-II**.

An analysis of organisation-wise break up of penalties imposed by the Disciplinary Authority in cases where the Commission's advice was obtained shows **that the maximum number of prosecution sanctions have been issued by Central Board of Excise & Customs (26). This is followed up by the M/o of Railways (16); DOPT (15); M/o External Affairs (12); M/o Information and Broadcasting**

(11); United India Insurance Co. Ltd. (7); Central Board of Direct Taxes (5); Super Bazar (4); MMTC Ltd., M/o Commerce, M/o Labour and Food Corp. of India each have issued prosecution in 3 cases. Indian Bank, National Insurance Co. Ltd., Oriental Insurance Co. Ltd., M/o Home Affairs, O/o C&AG, and M/o Defence each have issued prosecution in 2 cases; and PNB, M/o Finance, D/o Atomic Energy, D/o Culture, D/o Health, Andaman & Nicobar Admn. and D/o Company Affairs have issued sanction for prosecution in 1 case each.

The maximum number of punishments including Administrative Action during 2003 have been imposed by the State Bank of India (692, of which 279 are major penalties); M/o Railways (566, of which 144 are major penalties); D/o Telecom (227, of which 82 are major penalties); Punjab National Bank (180, of which 70 are major penalties); Bank of India (136, of which 64 are major penalties); Union Bank of India (128, of which 74 are major penalties); Central Board of Excise & Customs (102, of which 54 are major penalties); Delhi Development Authority (75, of which 27 are major penalties); CPWD (59, of which 15 are major penalties); and Govt. of NCT Delhi (44, of which 15 are major penalties).

Chart-11

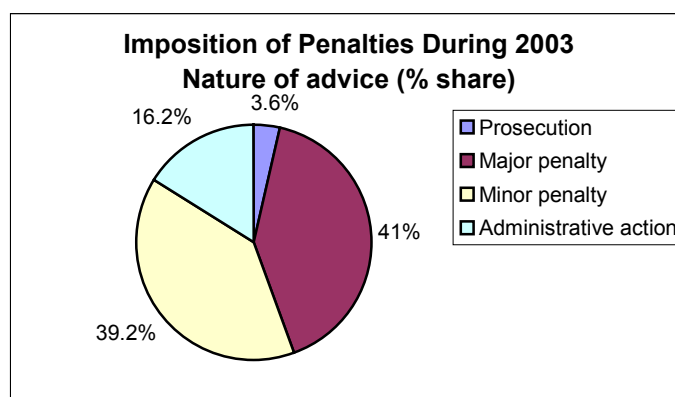


TABLE - 4

Imposition of Penalties

Year	Number of penalties imposed				Total
	Prosecution	Major penalty	Minor penalty	Administrative Action	
1999	60	897	627	378	1962
2000	51	1116	876	507	2550
2001	53	1067	861	661	2642
2002	51	1162	957	1360	3530
2003	127	1432	1372	568	3499

Amongst the penalties so imposed, major penalties of the higher order, namely, dismissal, removal and compulsory retirement from service were imposed on 209 officers of various organisations.

Pendency

The Commission has, significantly lower pendency, during 2003, as a result of its efforts in streamlining its own functioning. Out of a total of 8435 cases, it disposed of 8042 cases – leaving a pendency of 393 cases only at the end of 2003. Of these, 178 cases were pending for want of clarifications/comments on the CBI reports from the concerned organisations (**Table-5**). Thus only 215 cases were awaiting advice of the Commission.

Table – 5

Number of Cases Received and Disposed of During the year

Cases	Investigation Reports (1st Stage)	Inquiry Reports and minor penalty cases (2nd Stage)	Other Reports/ cases such as reconsideration etc.	Total
Brought forward	908	392	142	1442
Received	3272	2365	1356	6993
Total	4180	2757	1498	8435
Disposed of	3918	2669	1455	8042
Pending	262	88	43	393

The Commission also monitors the dispatch of advices and timely disposal of cases in its monthly meetings.

Performance of CVOs

The performance of CVOs are reported to the Commission through the prescribed Quarterly Statistical Returns (QSRs) and also by way of a detailed note highlighting their activities. The said note along with an Action Plan for implementation by them in the ensuing year, supplement the QSRs and highlight more specifically the qualitative improvement brought out in vigilance work of the organisations concerned. The performance of the CVOs as reported by them is given in **Annexure-III**.

Apart from the cases of officials under the jurisdiction of the Commission, the CVOs also take care of vigilance cases in respect of all other officials in the organisation. **During the year 2003, formal punishments were awarded in a total of 7993 cases relating to officials outside the normal advisory jurisdiction of the Commission and dealt with by the CVOs at their end. Amongst these major penalty was awarded in 2803 cases and minor penalty was awarded in 5190 cases.** The number of such cases ending in formal punishments during the last five years is as follows (**Table-6**).

Table – 6

Penalties Imposed on Cases Outside normal Advisory Jurisdiction of Commission

Year	Major Penalty	Minor Penalty	Total
1999	3945	7408	11355
2000	4703	10916	15619
2001	4492	10678	15170
2002	3864	9263	13127
2003	2803	5190	7993

Note: The data is based on QSRs and does not include information of those organisations whose QSRs were not received or contained discrepancies, hence not strictly comparable.

The Commission also reviews the performance of the CVOs through review meetings and four such meetings were held during the year in which about 134 CVOs of major organisations attended. During the meetings the Commission emphasized the need for streamlining the vigilance administration in various organisations and urged the CVOs to take pro-active action to bring in improvement in the systems and procedures of the organisations. The other areas covered during the individual review of the CVOs were preparation of Agreed list and list of officers of doubtful integrity, identification of sensitive areas prone to corruption and implementation of rotational transfers of officials working in sensitive areas etc. In addition, the status of complaints, first stage, second stage advices pending implementation in the organisations and reasons for delay were reviewed. The Commission also gave specific directions to the CVOs, wherever necessary.

Pendency with CVOs

The Commission has been pursuing with the CVOs to bring down the level of pendency. **The total number of complaints pending consideration with the CVOs at the close of the year was 2154.** The complaints under investigation involving Category 'A' officials (i.e. officials under the Commission's jurisdiction), has come down (it was 2057 at the close of the year 2002) to 1019 at the close of the year 2003. Similarly, investigation reports pending with the administrative authorities in respect of category 'A' officials has come down from 1675 in the year 2002 to 795 in the year 2003. A total of 1678 disciplinary cases in respect of category 'A' officers were pending with various organisations. The number of departmental inquiries pending with the inquiry authorities was 1038 and the cases with the disciplinary authorities for finalisation (i.e. issue of final orders) after conduct of proceedings was 640 at the close of the year 2003.

Insofar as cases involving Category 'B' officials (i.e. officials outside the advisory jurisdiction), the cases at pre-proceeding stage were 6491 at the close of year 2003 (from 9233 at the close of the year 2002), the number of cases pending after initiating proceedings was 8240 at the end of the year 2003 (compare to 12283 at the end of the year 2002).

The overall picture points to the fact that there has been a significant decline in the level of pendencies with the Departments. However, there is still an imperative need to quicken the process of conducting the proceedings and finalisation of cases which is beyond the control of the CVO as these matters are essentially the function of administration/personnel department. The Commission has been emphasizing the need for quick finalisation of disciplinary cases and therefore all organisations/departments need to focus and monitor the progress on this front. The Commission has also issued directives that the Boards of PSUs should review the activities of vigilance units once in six months and the details in this regard should be informed by the CVO to the Commission.

Appointment of CVOs

CVOs are the key link between the Department and the CVC. The Commission attaches considerable importance to the selection of right candidate for the post of the CVOs. The Department of Personnel is the nodal agency for appointment of CVOs in PSUs. It receives applications from the individual officials and then selects the appropriate official in consultation with the Central Vigilance Commission. Normally the process of selecting a CVO in a Department takes about six months. For appointment of CVO in select organisations the DOPT sends a panel of officers for approval of Commission. The Commission approves and selects a small list which is forwarded to DOPT for further process of appointment. **The Commission, during the year, 2003 considered the suitability of 212 officers recommended by the administrative authorities for appointment to the post of CVOs in different organisations.**

The Commission observed that in many organisations the selection of a successor CVO had taken a long time with the result that the organisations had appointed part-time CVOs from within the organisation.

The Commission has issued instructions that the process of selection of a successor CVO should be initiated well in time and in cases, where due to some specific reasons the successor has not been appointed, the incumbent CVO should not be relieved. Notwithstanding this instruction, the Organisations/Ministries were making ad-hoc arrangements. **It was also observed that during this interim period the part-time CVO took decision in a number of cases recommending closure of cases.** The Commission had accordingly advised all Secretaries of the Ministries/CEOs of PSUs/Banks/Organisations that before closing such cases, part-time CVOs should report the matter to the Commission and obtain prior approval of the Commission irrespective of the fact whether the suspected official (s) came within the jurisdiction of the Commission or not. Unfortunately, this is not being adhered to.

To make the functioning of CVOs effective the Commission had decided that those officials who are already working under Central Deputation would not be recommended for appointment as CVO. Further, it directed that the officer who were being recommended for appointment as CVO in the select organisations, should be empanelled for appointment as Joint Secretary or equivalent at the Centre. The Commission is constrained to observe that **sometimes the administrative Ministries did not accept the Commission's recommendations and rejected the panel without assigning any cogent reasons.** The Commission had suggested to

the Department of Personnel and Training that if the administrative Ministries had anything against the officers recommended by the Commission apart from what is discernible from their ACRs and CBI records, the Secretary of the Department could inform the Commission and the Commission could consider the matter. Otherwise the entire exercise of selecting CVO through the Commission became meaningless. Many a time due to non-acceptance of persons selected by the Commission, fresh panels are called again and again and the appointment of the CVOs gets delayed.

Some of the cases where there had been considerable delay in the appointment of CVO are listed below:

National Highways Authority of India

In National Highways Authority of India, tenure of CVO expired on 2.7.2003. DOPT sent a panel of names of four officers in May 2003. The Commission on 30.05.2003 approved names of two officers but the Ministry of Road Transport did not accept the Commission's approved panel and asked for some more names. This has caused delay in filling the post of CVO in NHAI, a sensitive organisation.

National Aluminium Company Limited (NALCO)

In NALCO, CVO's term expired in June, 2002. DOPT sent a panel of one name in July, 2003. They sent second name in October, 2003. However, the Commission did not find any of the two officers suitable and asked for another panel in October, 2003. A reply from DOPT was yet to come.

Mumbai Port Trust (MPT)

CVO, Mumbai Port Trust left the organisation on 3.10.2002. A panel of officers from DOPT was received on 18.11.2002. The Commission approved names of two officers in February, 2003. But the administrative Ministry found none of the two officers suitable. DOPT sent a fresh panel in May, 2003. However, the Commission returned the panel on the ground that administrative Ministries cannot be allowed to reject panels approved by it without assigning cogent reasons.

On receipt of fresh panel from DOPT, the Commission in December, 2003 approved another two names for the post of CVO, Mumbai Port Trust. Interim arrangements continued in the Port Trust and regular CVO was yet to be appointed.

Kolkata Port Trust

The post of CVO in Kolkata Port Trust fell vacant on 06.07.2002. The Commission on 1st November, 2002 requested the DOPT to send a panel of names of officers for its consideration. But there had been no response from the DOPT. Internal arrangements made in the Port Trust were continuing.

Central Warehousing Corporation (CWC)

On completion of tenure of CVO in Central Warehousing Corporation on 11.01.2003, the DOPT suggested to the Department of Food names of three officers for the post of CVO in March, 2003. These names had been approved by the Commission separately. But the Department of Food had not appointed an officer to the post of CVO, CWC.

Food Corporation of India (FCI)

In December, 2002, the Commission approved a panel of two officers, one IAS and other IA &AS, for the post of CVO, Food Corporation of India. However, the panel was returned by the Department of Food on the ground that the Ministry desired an officer having experience and background of vigilance/investigation. Accordingly, DOPT in April, 2003 forwarded a panel of five officers including one IAS and two IPS officers. In August, 2003, the Commission approved names of two officers, yet no final decision had been taken and the post of CVO, FCI remained vacant for more than one year.

BHEL and ONGC

The post of CVO of two important organisations viz. BHEL and ONGC were left vacant for a period of 10 months and 7 months respectively despite approval of the CVO by the Commission.

Vigilance Clearance

The Commission has been authorised to give vigilance clearance for board level appointments in PSUs. **During this year, the Commission also issued 414 vigilance clearances in respect of Board Level appointees.** However, the Commission is constrained to observe that some time the vigilance clearance granted by it has no sanctity. After receipt of vigilance clearance, at times the ACC asks for reports on complaints which are already closed long back or are created at the time of consideration of the name of the officer for the appointment, by vested interest. Still worse, at times the personnel to whom the Commission denies vigilance clearance are allowed to continue at important posts or are appointed despite denial of vigilance clearance from the Commission. The Commission lists 2 such cases found by it in 2003.

Ministry of Civil Aviation

The CBI investigated various aspects of "wet lease agreement" of AI with M/s Caribjet Incorporated and registered a preliminary inquiry on 30th March 2000. They were to investigate the role of various officials including Dy. Managing Director of Air India. Based on this preliminary inquiry the CBI registered a case against him and others in February 2003. Thus, knowing fully well that a preliminary inquiry had been

registered at their instance by CBI against him and others in March 2000, the Ministry of Civil Aviation should have ascertained the present position of the investigation from CBI before extending his services beyond 31st January, 2003. Seeking the ACC's approval subject to vigilance clearance is totally against the spirit and purpose of seeking vigilance clearance against senior officials before their appointments as heads of public sector undertakings. The Commission had taken a serious note of this action on the part of Ministry of Civil Aviation and conveyed its displeasure.

MMTC LTD.

The Department of Commerce referred a case of extension of tenure of the CMD to the Commission for vigilance clearance. The particulars furnished by the Department contained certain adverse remarks which were received against the concerned individuals and were under investigation at the relevant time. The Commission also observed that the officer while working as a Director in that organisation was involved in various irregularities in procurement of materials on behalf of the PSU. The Commission had advised the Department of Commerce to refer the matter to the CBI. The Department of Commerce did not take any action on the Commission's advice; on the contrary the Department extended the tenure of the CMD overlooking the fact that the Commission had not given vigilance clearance. Thus, the action of the Department of Commerce was against the Commission's advice.

Systems Improvements

Preventive Vigilance was one of the important area of Commission's activity during the year 2003. Apart from advising the CVOs for initiating review of systems and procedures, the Commission on the basis of the cases forwarded to it, took measures for systemic corrections.

The Commission observes that many a time procedures/systems are deficient, or at times they exist but are not adhered to in letter and spirit. In some organisations codified manuals for functional areas like purchase, contracts, finance, personnel etc., even if available, are not updated regularly. A majority of the irregularities can be avoided if such systems and procedures are updated and followed scrupulously in a transparent manner. While examining cases referred to it for advice, the Commission makes suggestions to the administrative authorities to modify/amend the procedures/rules, which had provided a scope for corruption. In order to reduce the level of corruption through system/procedural improvements, the Commission, during the year 2003 issued a number of instructions (see box). Some of the important areas focused by the Commission during 2003 are as follows:

The Commission was of the view that the tendency of PSUs to give expensive gifts to official in their controlling Ministries/Departments was not desirable and created infructuous expenditure. It, therefore, issued an order directing PSUs not to send gifts to government officials.

Transparency in tender procedures is one of the important areas emphasized by the Commission. The Commission accordingly issued instructions regarding implementation of e- procurement/Reverse Auction System in purchases or sales. In matter of sub-contracting and back-to-back tie up, the Commission has issued guidelines and dissuaded tendering on nomination basis.

For absolute transparency of tender procedure, the Commission has directed that all organisations who have a web-site, should put their entire tender documents on the web-site by January 1, 2004 and other organisations should put their tender documents on the web-site by April 1, 2004. In this regard the Commission in a meeting of important PSUs urged upon them to go in for e-procurement module to ensure transparency and effectiveness in execution of tenders/contracts for works etc.

Initiatives taken by the Commission

The Commission is of the view that during formative years it is easier to mould the behaviour of probationers, which at times affects their performance and also manifests in certain undesirable conduct in dealings with colleagues and the public. Such traits contribute to awkward inter-personal problems while dealing with colleagues in service, members of other services and even with the public. To overcome these aspects it was felt that all the training academies should employ a full-time psychologist/counsellor to interact with the probationers and help develop healthy psychological balance among the probationers. These psychologists/counsellors through the various professional methods, in which they are properly trained, should be able to detect and deal with any personality/behavioural problems that the probationers might exhibit. This would help tackle the majority of the problems during the training period at the academies itself. In more complex cases, the experts could prepare suitable profiles and possibly guide the officers concerned on a more long-term basis till the problems get sorted out and the officers develop into more balanced and well-rounded personalities. Accordingly, the Commission suggested to the Government the presence of psychologist/counsellor in some of the leading Civil Service Training Institutions at Mussoorie, Hyderabad, Nagpur and Vadodara.

After examining the matter, the Department of Personnel & Training has advised the Director, Lal Bahadur Shastri National Academy of Administration, in this regard. The other cadre controlling authorities have also been advised to consider similar steps in respect of some of the training institutions under their control.

General Instructions issued by the Commission-January 2003 to December 2003

- Instructions on not mentioning brand names for purchase of computer system by the Government departments/organisations [circular No. 98/ORD/1 dated 5.5.2003]
- Instruction for Procedure for making reference to the Commission for seeking advice [circular No. NZ/PRC/1 dated 12.5.2003]

- Banks to ensure that fully computerized branches do not undertake manual entry in pass book without proper authentication [circular No. 003/VGL/17 dated 26.5.2003]
- Role and functions of CVOs [circular No. 003/VGL/9 dated 27.5.2003]
- Re-constitution of Advisory Board on PSBs/PSUs, Commercial and Financial Frauds-regarding. The Commission appointed Shri G.P. Muniappan, Dy. Governor, RBI (Retd.) as new Chairman of the Advisory Board [circular No.98/Misc/1 dated the 3rd June 2003]
- Staff accountability in composite cases of frauds in public sector banks [circular No. 003/MSC/4 dated 12.6.2003]
- Definition of terms of stiff/severe minor penalty to all the CVOs [circular No. 99/DSP/1 dated 20.6.2003]
- Short-comings commonly noticed in bid documents [circular No. 98/ORD/1 dated 9.7.2003]
- Guidelines regarding Commission's jurisdiction over the employees of Organisations which have 50% or less Government equity [circular No. 000/VGL/66 dated 24.7.2003]
- Ban on accepting a gift by the Government Servants on festival occasions etc. Directed all PSUs that such gifts need not be sent to the Government officials [circular No. 002/MSC/70 dated 27.8.2003]
- Preventive measures for avoiding irregularities in the award of contracts [circular No. 98/ORD/1 dated 4.9.2003]
- Guidelines to streamline the procedure of making references to the Commission for its 2nd stage advice [circular No.NZ/PRC/1 dated 10.9.2003]
- e-procurement/Reverse Auction System in purchases or sales [Circular No. 98/ORD/1 dated 11.9.2003]
- Self-contained speaking and reasoned final order by the authorities exercising disciplinary powers [circular No. 003/DSP/3 dated 15.9.2003]
- Streamlining the procedures for sanction of loan against the pledge of Cold Storage receipts/bonds issued by the Cold Storage Owner [Circular No. 003/VGL/29 dated 23.9.2003]
- Modification in the tender sample clause [circular No. 2EE-1-CTE-3 dated 15.10.2003]
- Back to back tie up by PSUs in the matter of sub-contracting of works [circular No. 06-03-02-CTE-34 dated 20.10.2003]

Contd...../

- Review of progress of vigilance work in Public Sector Enterprises by the Board of Directors [circular No. 98/VGL/51 dated 9.12.2003]
- Constitution of a committee to study the working of vigilance administration in PSUs [circular No. 003/VGL/34 dated 15.12.2003]
- Transparency in the procurement in and tendering processes: issued organisations to publish complete bid documents alongwith application form on the website of the organisations [circular No. 98/ORD/1 dated the 18.12.2003]

CHAPTER 4

Non-compliance, Delays and other Matters of Concern

Non-compliance

The Central Vigilance Commission is an apex anti-corruption body and an independent authority, which plays an important advisory role in all aspects of vigilance administration. The advice tendered by the Commission is after due and careful consideration of the facts of the cases forwarded to it. It has been the experience of the Commission that its advice is almost always accepted and implemented by the Disciplinary Authorities. However, there are a few cases of either non-acceptance of Commission's advice or non-consultation with the Commission w.r.t. officers under its jurisdiction.

Non-acceptance of Commission's advice or non-consultation with the Commission vitiates the vigilance process and weakens the impartiality of the vigilance administration. In all such cases the Commission conveys its concerns to the Department concerned. However, a few cases of deviation from procedure or non-acceptance of Commission's advice are considered fit for specific mention in this Report. During the year under report the Commission observed that in 5% of cases wherein final orders were issued in 2003 there was deviation from the Commission's advice. Some of the significant cases are as follows:

Table-9

Cases of Non-compliance

Department/ Organisation	Commission's advice	Action taken by the Department	Remarks
Central Board of Direct Taxes (CBDT)	Major penalty	Exoneration	Non-consultation
D/o Animal Husbandry & Dairying	Major penalty	Exoneration	Non-consultation & Non-implementation
D/o Personnel & Training (DOPT)	Cut in pension	Closure	Non-acceptance / Disagreement
D/o Personnel & Training (DOPT)	Prosecution	RDA	Non-acceptance
D/o Supply	Major penalty	Minor penalty	Non-acceptance
M/o Defence	Report called for	Case closed	Non-acceptance
M/o Defence	Report called for	No action taken	Non-acceptance
M/o External Affairs	Compulsory retirement	Allowed to retire and issued Govt.'s displeasure	Non-compliance

Department/ Organisation	Commission's advice	Action taken by the Department	Remarks
M/o Civil Aviation	Report called for	Major penalty action initiated without Commission's advice and converted to Minor penalty proceedings.	Non consultation
Bank of India	Compulsory Retirement	Reduction in pay by five stages	Non-acceptance
Bank of India	Dismissal from Service	Reduction in Grade	Non- acceptance
State Bank of Travancore	Prosecution	Prosecution Declined	Non-acceptance
State Bank of Travancore	Major penalty	Minor penalty	Non-acceptance
Central Warehousing Corporation (CWC)	Minor penalty	No action	Non-acceptance
Central Warehousing Corporation (CWC)	Major penalty	No action	Non-acceptance
Central Warehousing Corporation (CWC)	Major penalty	No action	Non-acceptance
Central Warehousing Corporation (CWC)	Major penalty	Recordable warning	Non-acceptance
Food Corporation of India (FCI)	Minor penalty	Exoneration	Non-acceptance
Rural Electrification Corporation (REC)	Major penalty	Caution	Non-acceptance
Border Roads Development Board (BRDB)	Major penalty	Minor penalty	Non-acceptance
Govt. of NCT Delhi (GNCTD)	Stiff minor penalty	Closure	Non-acceptance
Govt. of NCT Delhi (GNCTD)	Cut in pension	Exoneration	Non-acceptance
Municipal Corporation of Delhi (MCD)	Major penalty	Warning	Non- acceptance

Ministries/Departments

<p>Central Board of Direct Taxes (CBDT)</p> <p>Non-consultation with the Commission w.r.t. officer under its jurisdiction and then showing leniency in serious matters, dilutes the very essence of vigilance administration. In a case against an ITO regarding processing returns of income/ loss of over Rs. 2 lacs, in 31 cases, over which he had no jurisdiction; the Directorate General of Income Tax obtained the first stage advice of the Commission on post-facto basis. On the merits of the case, the Commission advised major penalty</p>
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proceedings against the officer in July 2001. The Commission also advised the department to refrain from making post facto references.

However, in June 2003, the Directorate General of Income Tax approached the Commission for its second stage advice again on a post-facto basis after exonerating the officer, on his reply to the minor penalty charge sheet. The department intimated the Commission that the charge sheet already issued to the officer was for minor penalty proceedings and the Commission's advice which was for major penalty action could not be noticed by them. The Commission has taken a serious view that the department did not adhere to its advice, in order to shield the officer and allowed the case to go by default **thus exonerating a guilty officer**.

Department of Animal Husbandry & Dairying

CBI reported that a Marketing Officer and Processing Technologist in Integrated Fisheries Project (IFP), Cochin during the period July to November, 1995 committed gross misconduct including an attempt to **remove clandestinely stocks** of dried fish and bottles of pickles belonging to a private firm, from the premises of IFP, Cochin. They failed to ensure proper maintenance of the stock registers.

On 24.02.1998, the **Commission had advised initiation of major penalty** proceedings against the Marketing Officer and the Processing Technologist of Integrated Fisheries Project, Cochin on the aforementioned charges. The **Disciplinary Authority (IFP) exonerated both** the officers on 23.11.2001 without consulting the Commission at the 2nd stage. The Commission was not even kept informed of the decision. The whole matter had been handled improperly, raising doubts about the objectivity of the decision of the Disciplinary Authority.

Department of Personnel & Training (DOPT)

Case-1

The CBI, Mumbai, after investigation into a case relating to issue of reclassification of 'Old Spice' After Shave Lotion (ASL) during 1985 recommended prosecution of the then Commissioner of Excise, Sales Tax and Entertainment Tax, Govt. of Goa and others. The DOPT referred the matter to the Commission for considering issuance of sanction for prosecution against this IAS officer. Allegation against this officer was that in the capacity of Excise Commissioner, Goa in 1985 she reclassified Old Spice After Shave Lotion (ASL) as a medicinal preparation and fixed the excise duty under Tariff item 1 (i) (b) from ad valorem duty @ 100%, thus causing financial loss to the Government and corresponding gain to Ms. Colfax Ltd. as the company did not pass on the benefit of reduction in excise duty to the consumers.

On examination of the case the **Commission advised issuance of sanction** for prosecution against the officer. The **Competent Authority** has decided to **refuse sanction for prosecution** in the light of facts and circumstances of the case and **ordered the State Government to initiate RDA proceedings**, in disagreement with the advice of Central Vigilance Commission. The Commission desired the DOPT to

forward the relevant file as well as the comments of the DOPT as to why they preferred to disagree with the Commission. **The DOPT chose not to send the relevant** file in the case and explained that “the sanctioning authority has the absolute discretion either to grant or to withhold sanction.

The refusal to show the relevant file for perusal by the Commission is most unprecedented and uncalled for and is a cause for great concern, coming as it does from DOPT, the administrative Department in charge of vigilance. If a statutory Commission has no access to information on such a vital matter, it does not speak well of Government’s commitment to transparency and openness and the right to information.

Case-2

The Department of Personnel and Training had sought the Commission’s second stage advice in respect of an IAS (Retd.) officer for his alleged involvement in the acts of omissions and commissions relating to disposal of an appeal in the capacity as Urban Land Tribunal in Gujarat. This officer while considering an appeal in his capacity as Urban Land Tribunal **treated unregistered gift deed, which was a fabricated document, as valid and nullified an order declaring the land as surplus** available to the Government. He also **extended the time limit of a case**, which was subjudice. Earlier the Government of Gujarat, had proposed a cut in pension of Rs.500 per month from the pension of this officer for a period of three years.

After examination of the case records IO’s report etc., the Commission, in agreement with the views of the State Government, observed that the charges against him were indeed very serious. Even though the officer acted in the exercise of his quasi-judicial functions, it does not mean that he could circumvent the legal precedents in Urban Land matters. The **Commission**, after examining the records and other connected documents, **advised imposition of a cut in pension of Rs.500** per month for a period of three years on this retired officer on 07th May 2003. The **Department of Personnel and Training**, however, did not agree with the advice given by the Commission and **ordered closing the proceedings** for the reasons that the extent of charges proved against him do not constitute grave misconduct warranting imposition of penalty of cut in pension as recommended by the State Government. If in the opinion of the Department, such gross abuse of official position did not constitute misconduct, it is indeed a cause for concern. The Commission is also concerned that this would send a wrong message that in the case of senior all-India Service officers, Government tends to be soft.

Department of Supply

In a case originating from CBI investigation, Regular Departmental Action for major penalty was advised by the Commission on 23.3.2000 against the Assistant Accounts Officer (AAO) of the World Bank Section of the office of Controller of Accounts, Department of Supply. The case involved the import of four Mobile Bridge Inspection Units (MBIUs) by Ministry of Surface Transport (MOST) through Directorate General of Supply & Disposal (DGS&D) in 1995-96. The **equipment**

supplied by the firm did not conform to the specifications but due to omissions on the part of offices of DGS&D, MOST and of Chief Controller Accounts (CCA), the firm managed to get paid 90% of the CIF value i.e. US\$ 11,92,200. The **equipment worth over Rs. 4 crores, received in June/July-1996 remained unutilised** in the ports of Mumbai and Kolkata.

On 11.10.95 DGS&D requested office of CCA to open a letter of Credit with State Bank of India, London, for a net amount of US\$ 11,92,200 in favour of an Italian Company. **An important clause** mentioned in this letter was that the payment would be released only on production of an Inspection Certificate. But in the final draft sent by CCA to SBI, London, this clause **was omitted**. CBI held PAO and AAO responsible for this lapse. This omission was noticed by DGS&D and pointed out to CCA (with a copy to SBI, London) on 30.5.1996 but the letter was despatched from DGS&D only on 13.6.1996 where it languished with no further action till 24.7.1996. Valuable time was lost in communicating the same by CCA to SBI, London which facilitated the encashment of L/C, without a favorable Inspection Certificate.

Considering the seriousness of the charges, the **Commission had advised** on 27.05.2002 **imposition of suitable major penalty** on the CO. However, deviating from the Commission's advice the **Disciplinary Authority** (Ministry of Urban Development (PAO) on 26.12.2002 **imposed a minor penalty** of reduction of pay by two stages for four months without cumulative effect and not adversely affecting pension of the officer. The punishment in the view of the Commission reveals undue leniency shown by the DA in the face of serious misconduct causing a huge loss to the public exchequer.

Ministry of Defence

Case-1

This is a case of shielding an officer who had vitiated the recruitment process. The Commission had in the year 1992 called for a report from the Ministry of Defence on a complaint which alleged that a **large number** of candidates belonging to the forward communities have been **appointed/promoted on the basis of false caste certificates** in the Eastern Naval Command. The verification of the caste certificates submitted by 4 employees established the truth of the allegation. It was also revealed by Ministry of Defence that out of 2570 SC/ST employees in the Eastern Naval Command, complaint was received against 60 employees. In 24 cases, the certificates submitted by the employees were found to be false. In its factual report submitted in the year 1998, Ministry of Defence stated that the specific allegations pertained to 4 officials including an Office Superintendent (OS), Ministry of Defence had earlier initiated disciplinary action against the O.S. without consulting the Commission. Being a Gazetted Officer, the Commission had advised Ministry of Defence to expedite the proceedings and seek second stage advice of the Commission. **Ministry of Defence however informed on 11.02.2003 that the disciplinary proceedings against the officer had been closed by canceling the chargesheet without consulting the CVC** because HQ Eastern Command was not aware of the instructions that CVC was to be consulted even in cases where charges are to be dropped. This was thus a clear case of non-acceptance of Commission's advice and directions.

Case-2

The case relates to allegations of **favouritism in the award of tender** relating to retreading of tyres to two vendors by the Ministry of Defence in the year 1999. The Commission asked the Ministry of Defence for investigation of the complaint and report. On submission of some files by the Ministry of Defence and subsequent examination thereof, the **Commission found a number of irregularities some of which are listed below:-**

- (a) A higher rate, almost double the previous years purchase price was arrived at without proper justification and approval of Chief Financial Adviser.
- (b) Contract was awarded to Delhi firm inspite of, the inconvenience faced in previous years in moving the tyres to and from depots and retreading centres and the directions that, inter-command movement of tyres may be avoided.
- (c) Notice Inviting Tender (NIT) specifically mentioned that "Military credit note be provided by the Government" whereas this condition was waived without justification.

Further the Commission found unreplied questions relating to the tender. Though **Ministry had suggested closure of the case**, the Commission found that the process was not transparent and since retreading of tyres of different types is a regular feature in Defence, such type of complaint could have wider ramifications and was needed to be thoroughly investigated. Therefore, the **Commission on 16.06.2000 asked Ministry of Defence to forward all the relevant purchase files for taking a comprehensive view in the matter**. After about three years and after issue of many reminders, the Ministry of Defence forwarded three pre-contract files and no post-contract files were sent. The Commission further advised on 27.06.2003 the Ministry of Defence to re-examine the case in the light of the Commission's observations within a period of three months. The Commission again reminded the Ministry of Defence to reply by 15th November, 2003. The **reluctance of the Ministry of Defence** to take action or provide the required information and papers to the Commission has **virtually blocked further action** in this case and the Commission cannot help putting on record its serious concern over this and express its displeasure in the strongest possible terms.

Ministry of External Affairs (MEA)

The Commission had in its 2nd stage advice advised imposition of a **major penalty of compulsory retirement** on an officer belongs to the Indian Foreign Service on charges of serious misconduct relating to **major financial irregularities, fraudulent claims, abuse of official position** etc. when he was an Ambassador.

The Ministry of External Affairs after conclusion of inquiry had proposed a penalty of "Censure" on the officer. The **Commission in its 2nd stage advice** disagreed with the quantum of punishment suggested by Ministry of External Affairs and **advised the penalty of compulsory retirement**. The same was reiterated while examining MEA's proposal for reconsideration on 16.05.2002. The UPSC to whom the case

was referred also disagreed with the view of the Disciplinary Authority and **advised compulsory retirement** of the officer with **immediate effect coupled with 25% cut in pension**. The **disciplinary authority**, however, **disagreed with both CVC and UPSC** and referred the case to **D/o Personnel & Training who concurred with the view of the disciplinary authority** to impose penalty of 'Censure' on the officer on 24.07.2003. Since by that time, the officer had already retired from Government service on 30.06.2003, Ministry of External Affairs issued displeasure of the Government to the retired officer. It is a matter of serious concern that the Ministry of External Affairs & Department of Personnel & Training disagreed with the advice of two Commissions and chose to condone serious misconduct reflecting on the officer's integrity. **The Commission is concerned at Government's inability to take hard decisions concerning very senior officers. This would certainly send a wrong message down the service and the Ministry.**

Ministry of Civil Aviation

In a case against the Dy. CVO, the Airports Authority of India has blatantly violated the consultation mechanism with the Commission and let off the officer with a minor punishment.

The Commission had forwarded a complaint relating to various acts of favours and tender irregularities against the then Dy. CVO, Airports Authority of India for investigation and report. Despite a number of reminders, the Ministry of Civil Aviation did not furnish the report or their comments but initiated Major Penalty Proceedings against the officer. Further, the inquiry report was also not forwarded to the Commission and the Disciplinary Authority imposed a penalty of withholding two increments with cumulative effect which was further reduced to a minor penalty of reduction of one increment without cumulative effect, on appeal. All these actions were taken by the Ministry without consulting the Commission and finally the Ministry approached the Commission to treat the matter as closed. Thus the manner in which the Airports Authority of India has gone about the case is very suspicious and condemnable due to complete violation of consultation mechanism with the Commission and apparent favour to the concerned officer.

Public Sector Banks

Bank of India

Case-1

This is a case of an officer who chose to disregard deliberately, specific instructions of his Controlling Office, **acted recklessly and caused undue financial benefit to a private Company**, jeopardising the Bank's interests but was eventually let off with a mild punishment.

An internal investigation made by the Bank of India had revealed that a Deputy Chief Manager (Foreign Exchange) along with another officer of their branch at Kalbadevi had opened an Inland Letter of Credit (LC) for Rs.130 lacs in the account of a private

Company in flagrant violation of the specific instruction of the Zonal Manager. The LC for Rs.130 lacs (over and above the restricted limit) subsequently devolved and the **Bank was exposed to a huge financial loss of Rs.130 lacs** plus interest.

The charge as framed was established in an inquiry conducted by the Bank's own officer. Considering the gravity of the charge and the huge loss, the CVO of the Bank recommended imposition of major penalty of 'Compulsory Retirement' on the officer. The Commission after examining the entire material evidence, came to the conclusion that the penalty proposed by the Bank was just, fair and commensurate with the misconduct of the officer. Eventually, the **DA imposed the said punishment** on 25th June, 2002. The Officer preferred an appeal but the **Appellate Authority** also did not find any merit in the submission of the officer and accordingly **rejected his appeal**.

The Officer thereafter filed a Review Petition before the **CMD of the Bank who took a very lenient view** of the matter, reinstated the officer and disposed of the petition by imposing the major penalty of reduction in pay by five stages. It is to be noted that the Reviewing Authority had himself termed the action of the officer as 'reckless'. Such leniency on the part of Management while dealing with proven cases of grave misconduct would, in the Commission's view, send wrong signals across the board.

Case-2

In this case, the **Commission** had conveyed an **advice of 'dismissal from service'** against a Staff Officer, which **was imposed by the Disciplinary Authority**, who had found the majority of the charges as proved. The **allegations** established against the official, related to **preparing of loan proposals in utter disregard of various norms** and also despite Regional Office (RO) instructions not to perform the duties of credit. The Commission has observed that the charged officer in spite of the bank's Regional Office's instructions, not to involve himself in credit matters, indulged in preparing and processing various loan applications in gross violation of such instructions. The **Appellate Authority** came to the conclusion that though some of the allegations are proved "depicting failure of discharge of duties", the penalty by the DA was not commensurate with the gravity of the misconduct and **changed the penalty to reduction in grade**. Such action by the Appellate Authority reducing the penalty imposed by the DA (from 'dismissal' to 'reduction in grade') was not appropriate. **Misplaced compassion in such serious disciplinary cases sends a very wrong signal to the staff and officers**. Hence the Commission views this matter seriously and with great concern.

State Bank of Travancore

Case-1

CBI had recommended launching of prosecution against two officers of State Bank of Travancore. The Bank was not inclined to grant prosecution sanction and the matter was referred to the Commission for resolving difference of opinion. The whole issue was discussed in a joint meeting with the CBI authorities and the Bank Authorities. On a scrutiny of the case, it emerged that the bank officers **issued**

letters of credit in favour of a private party in excess of the sanctioned limit which had already been exhausted by the party and **no further limit was sanctioned to the party** by the Bank. The plea taken by the bank was that the limit sanctioned to the party was a revolving one or a continuous facility but from the facts it emerged that in the sanction note it was not mentioned anywhere that the facility would be a revolving facility.

A Consortium meeting was held on 19.12.94 to discuss the working capital requirement of the party for the project in which **State Bank of Travancore was not taken as a member of the consortium formed to finance** the working capital requirement of the Project. In view of this position, the **LCs opened from January 1995** onwards were not only beyond the sanctioned limit but was also unauthorized. This unauthorized opening of LCs was not even brought to the notice of the members of the consortium.

The **Commission**, keeping in view the seriousness of the charges on the part of bank officials and the huge financial consideration involved in the matter, agreed with the CBI's **recommendations of prosecution of bank officials** and the same was conveyed to the bank. The Bank vide their letter dated 10.9.2002 sought Commission's reconsidered advice by declining the sanction for prosecution on the ground that the whole issue should be viewed as a commercial decision only. The Commission after considering all the facts of the case, reiterated its earlier advice of launching of prosecution against the bank officials. The Bank vide their letter dated 1.2.2003 conveyed to the Commission that the **Board of Director has finally decided to decline sanction for prosecution.**

The Commission is of the view that the lapses on the part of two bank officials are grave in nature and can be established fully on the basis of records/evidence available in the case. The bank's action in declining the prosecution sanction has resulted in such serious lapses going unpunished. The Commission therefore, treats the case as one of non-acceptance of Commission's advice.

Case-2

This case pertains to financing of group companies by a consortium of banks. The State Bank of Travancore one of the members of consortium, approached the Commission for first stage advice in respect of irregularities noticed on the part of bank officials. It was seen that the bank officials recommended export bills limit with 180 days DA basis on a non LC terms against the industry norms of DP basis for $\frac{3}{4}$ months DA basis. The need for such deviation was not examined by the bank officials. The **adverse features were not critically examined** by an independent appraisal. There were **unsatisfactory features like high receivables high sundry creditors and overdue export bills.** There were far too many procedural irregularities in sanction and operation of the facility.

Keeping in view the seriousness of the allegations against the officials at branch level, the Commission advised initiation of major penalty proceedings against the bank officials. During the departmental inquiry the charges against the officials were substantially proved and the bank itself had recommended imposition of major penalty on the two officials of the bank. The **Commission** after considering the IO's

findings and bank's recommendations, **advised imposition of major penalty** on the two officials. The **appellate authority** in the bank **modified the penalty from major penalty** to a **minor penalty** of censure on the two officials.

Keeping in view the severity of the charges, the Commission feels that the penalty imposed is too lenient and sends a wrong signal.

Public Sector Enterprises

Central Warehousing Corporation (CWC)

The Commission has come across 4 cases of the Central Warehousing Corporation, wherein the Board of Directors in the capacity of Disciplinary Authorities have failed to accept the advice of the Commission in cases of serious concern. Taking lenient view in such cases of malpractices sends very wrong signals to the entire set-up. The Commission therefore reports these cases of non-acceptance of its advice.

Case-1

In this case, the CBI report had indicated that the Regional Manager Mumbai had failed to **take timely action in respect of proper fixation of storage charges of PBWH, Dolvi and allowed a private company to occupy the space on the rates prevailing** at Central Warehousing, Taloja. Further a case for reduction of storage charges from Rs.27/sqm/week to Rs. 19/sqm/week w.e.f. 1.4.96 was suggested by the RM in his proposal, whereas the said company had asked for reduction only w.e.f. 8.11.96, in their representations. This resulted in a loss of Rs.48.86 lacs for the period upto 7.11.97 due to the adjustments made in favour of the said company at a lower rate. The **Commission** had advised initiation of **major penalty proceedings** against a Regional Manager and a Commercial Manager; and minor penalty proceedings against a Joint Manager and I.F.A.

However, after issue of the Commission's advice, the CWC furnished their comments stating that the Board of Directors' (BOD) after considering the CBI's recommendations came to conclusion that there was no grave lapse on the part of any officer, which warrants RDA. On reconsideration of the CWC's proposal the Commission found that it was devoid of any merit and reiterated its advice on 1.3.2002. But the **BOD** of CWC reiterated their earlier decision that there was no grave lapse on the part of any officer warranting RDA and **decided not to take any action against any officer**. The Commission is of the view that **a serious matter of wrongful gain to the private party, to the tune of Rs. 49 lacs, was treated leniently by the BOD of CWC.**

Case-2

The case relates to **irregular purchase of Black Polythene Covers (BPC)** for CAP storage. The item had been purchased without its suitability assessed/ recommended by the expert Committee, constituted by the Managing Director. No cost analysis of BPC vis-à-vis Multi Layers Covers was undertaken. It was recommended that in case the other bidder do not agree for CWC conditions, the

covers may be **purchased from IPCL without examination of rates and technical suitability** to meet the urgent requirement. Hence the CWC bought the same item @ Rs.2085/- excluding the freight and taxes which was bought by the user, FCI @ Rs.1400/-. The **Commission had advised major penalty proceedings** against a General Manager, Secretary, Financial Advisor, Superintending Engineer, Jt. Manager (Finance) and Manager involved in this case. However, CWC informed the Commission on 24.3.2003 that the **Disciplinary Authority (Board of Directors) had decided that no action need be taken** against the GM and the SE and they were even allowed to retired on 31.3.2003 without any action and consulting the Commission. Thus in a case where the CWC initially itself suggested major penalty proceedings, it did not follow the procedure laid down by the Commission and the Board of Directors (BOD) **allowed the persons to go scot-free without any proper inquiry into the matter.**

Case-3

The case relates to **tampering in the stack card** in the CWC godown at Sidhapudur. No entry was made in the fortnightly inspection conducted on 17.4.2000 in the column "infestation" but in the remark column, it was later added. One JTA was found negligent in discharge of duty. The **CVO recommended immediate suspension of the JTA.** However, the GM decided that suspension of the JTA was not called for and that the JTA's negligence would be best handled with minor penalty proceedings, as there was no loss to CWC.

The Commission viewed the GM's inaction seriously. There is no doubt that the DA can take administrative decision on the issue of suspension, but in this case, it is evident that **in total disregard for CVO's recommendation for immediate suspension, the GM allowed the concerned officials to tamper with the records.** The GM first delayed taking action and then he decided to send a representative for inspection after more than one and a half months. The **GM's lenient stand on a serious issue,** which involves tampering of records, would send wrong signals down below; the **Commission hence advised initiation of major penalty proceedings against the then GM.** However, the Ministry reported that advice of the Commission was considered by the Board of Directors and **Board did not find any lapse on the part of the GM and decided not to initiate any disciplinary action against him.** The Commission is of the view that the Disciplinary Authorities, should be held responsible for their inactions.

Case-4

The case relates to the work of construction of 45000 MTC godown awarded to a private company. The said contract was rescinded due to slow progress of work. The contractor started litigation and an Arbitrator was appointed to adjudicate upon the disputes. The Arbitrator gave the award in favour of the contractor which was contested by CWC in the High Court of Allahabad. The **High Court passed strictures against the CWC officials with regard to their slackness and failure in protecting the public interest** and directed the CWC to take appropriate action against the guilty persons.

Simultaneously, on the same issue a complaint was received in the Commission also

which was forwarded to CWC for investigation. After receipt of the investigation report, the **Commission advised initiation of major penalty proceedings** against 5 officers (a CE, two SEs and two EEs) and minor penalty proceedings against one officer (EE). However, **CWC issued a recordable warning before retirement to one SE without seeking reconsideration of Commission's advice**, thus sending wrong signals by taking such a serious matter leniently.

Food Corporation of India (FCI)

The then Senior Regional Manager, FCI in connivance with Dy. Managers and Asstt. Manager (A/cs) awarded the handling of transport work pertaining to CAP storage Udasar in Bikaner District to a firm for a period of two years w.e.f. 20.1.1996 and for transportation of food grains Ex. –Lalgarh to CAP storage Udasar on exorbitant rate of Rs.541/- per 10MT; without taking into consideration the rate of Rs. 176/- per 10MT at which the existing contractor was working at that centre. Thus due to connivance hatched by him with the contractor and the FCI officers for pecuniary gains, a **quantum jump in rates was allowed**, putting FCI into substantial loss of approximately Rs. 15 lacs.

The **Commission** on 6.5.2003 considering the IO's report had **advised** imposition of **minor penalty** other than censure on four officials. However the **FCI** issued orders on 27.11.2003 **exonerating all the four officials**, which is unacceptable for such cases involving abuse of position conferring pecuniary gains to private parties.

Rural Electrification Corporation (REC)

The case relates to irregularities in selection of Officer Trainees, in 1996, by M/s Rural Electrification Corporation (REC). It was detected that though as many as 1000 candidates were shortlisted for the written test on the basis of scrutiny of applications made by an outside agency, **four additional names were included** in the list (of eligible candidates) without any basis, on receipt of telephonic message from an executive of the Company. Three of these did not fulfill the criteria adopted by the outside agency; and as it happened, **one of them was eventually selected**.

The investigation clearly revealed that the impugned manipulation was done at the instance of the then CMD and the GM (Pers & Admn). The GM was, in fact, a member of the Interview Committee also.

In short, this was a case where the **appointment was made in a surreptitious manner**. However, **without consulting the Commission** (as was required as per the extant instructions), **the Corporation closed the case by simply 'cautioning' the concerned GM and the officer**. When this was reported to the Commission, the **Commission advised** the Corporation, in Nov' 1998, to initiate **major penalty action against the two**. No action could be taken against the then CMD who left the Corporation. REC came up twice requesting re-consideration of the matter, the Commission reiterated its earlier advice on both the occasions. The **REC**, however, eventually **decided not to accept/implement the Commission's advice**. The reason given by the Corporation for this was that since the officials had already been

advised suitably, re-opening the case for initiating major penalty action would not be legally sustainable. The Commission could find no merit in this stand. On the other hand, Commission had no doubt that this was a case where the Corporation had deliberately **disregarded Commission's advice on a serious matter of manipulation of selection process.**

Autonomous/Local Bodies

Border Roads Development Board (BRDB)

In the Border Roads Development Board, one of the officials AEE (E&M) while functioning as Local Purchase Officer, EBW (GREF) recommended for **procurement of Category A stores worth Rs. 23.83 lacs without inviting quotations** and supply orders in utter violation of extant rules. He also **manipulated the documentary records** in order to regularise the irregular procurement. Besides, in order to facilitate payment to the suppliers he also unauthorisedly **diverted the funds** to the tune of Rs.9.77 lacs meant for Category B stores, for utilization in Category A stores.

The Inquiring Authority (IA) after conducting a regular oral inquiry held all the above mentioned charges as proved. Due to seriousness of the charges, **the Commission had advised imposition of a suitable major penalty** on AEE (E&M), BRDB. However, the BRDB vide their Order dated 11.03.2003 simply **imposed a minor penalty and did not accept Commission's advice**, on serious violations of irregular procurement and forgery of records. Commission is of the view that **lenient action on serious lapses undermines vigilance administration.**

Govt. of NCT of Delhi (GNCTD)

Exoneration of officers where charges have been established by the inquiry, weakens the vigilance administration and makes mockery of the whole process. Commission came across two such cases of GNCTD where the Commission had advised imposition of penalty but the GNCTD exonerated the officers without consulting the Commission.

Case-1

The **Commission** in May 2001 **advised major penalty proceedings** against a lecturer in Polytechnic. The charge against the officer was that while appointed as an expert for short listing candidates for a post to be filled by Delhi Subordinate Services Selection Board, he **recommended candidates who were not eligible** as per the recruitment rules.

The department approached the Commission for its second stage advice in October, 2002. The IO held the charge against the CO as 'proved' and department accepted the findings of IO. **The Commission advised** imposition of a **stiff minor penalty**. The department, however, **closed the case** against the officer **without consulting the Commission.**

Case-2

In a case pertaining to Drug Inspector of GNCTD relating to the charge of **suppressing the fact of detention in judicial custody in connection with a criminal case, the Commission** in its second stage advice, **advised imposition of a suitable major penalty** on the officer, as the charges were found established in the oral inquiry. However, in first week of April 2003, GNCTD informed the Commission that the officers have retired. Accordingly Commission modified its advice for effecting suitable cut in pension of the officer. However the **Department passed an order exonerating the officer without consulting the Commission** in July, 2003.

Municipal Corporation of Delhi (MCD)

In a case pertaining to MCD, Commission advised major penalty proceedings against a Zonal Health Officer. The allegation against the officer was that he in connivance with the owner and his subordinate **recommended the case of grant of NOC in respect of an Ice Cream Factory** without ensuring absence of any unauthorized construction and **without having proper report** from the building **Department, West Zone**. He also **allowed the factory to run without a license** and failed to issue a notice in respect of unlicensed factory. **The Commission advised** imposition of a **suitable major penalty** on the officer in June 1996 after the allegations were proved in a departmental inquiry. However, the **department issued a recordable warning** to the officer. The Commission asked MCD to place the matter before the reviewing authority who upheld the order of Disciplinary Authority. Thus, an officer who deserved imposition of a major penalty was let off by issuing of just a 'warning'.

Delays and Deficiencies

The need for expeditious follow up actions on complaints, investigation reports, inquiry reports etc. need hardly to be emphasized. In fact, the Commission has always been underlining the imperative of this. It goes without saying that undue delay in processing of vigilance matters is neither in public interest nor in the interest of the individual officials concerned. If the individual is really guilty, delay comes to his rescue in many ways: like, for example, in his escaping any punishment through the retirement-route, in his earning promotions etc. And if the individual is not guilty, the delay contributes to his agony and harassment, besides depriving him of his due promotions. It also aggravates his social approbation. Thus, in short, delay leads to miscarriage-and at times denial-of justice. Despite all this, it is unfortunate that many of the organisations go about vigilance-job in a routine and insensitive manner. The prominent areas of delays were in the investigation of complaints/cases, issue of chargesheet for initiating proceedings, appointment of inquiry officers and issue of final orders after completion of disciplinary proceedings.

Delay in Investigation of Complaints

Cases have also come to notice of the Commission wherein the Departments have failed to take action on complaints forwarded by the Commission in a timely and

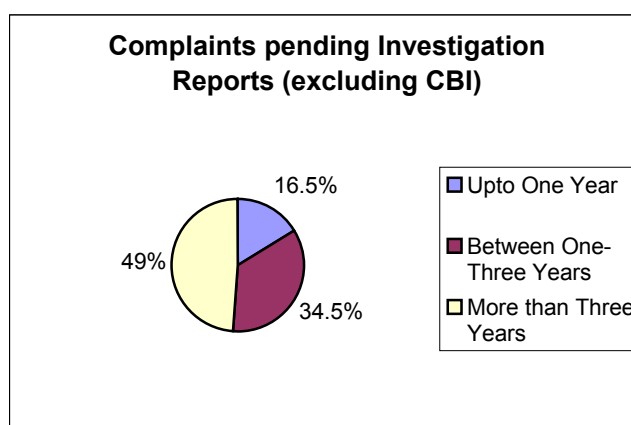
efficient manner. Though such cases are not being individually put on record. However, some of the Organisations who have delayed reports on large number of complaints are:

Delay in submission of reports on complaints for more than 3 months

Organisations/Departments	Delays report on complaint
Central Board of Excise & Customs	168
M/o Railways	119
Central Board of Direct Taxes	100
D/o Health	92
Govt. of NCT of Delhi	83
D/o Telecom	48
Indian Council of Agricultural Research	41
D/o Education	40

The administrative authorities are required to complete investigation into a complaint normally within a period of three months. In case of the Central Bureau of Investigation (CBI), the expected period for completion of an investigation is six months. However, **at the end of the year 2003, investigation reports were awaited on 1563 complaints forwarded by the Commission to departmental vigilance units for investigation and report. Of these, 765 complaints (nearly 49 per cent) were pending investigation for more than three years and 540 complaints (nearly 34.5 per cent) for periods ranging between one to three years** (Chart-12). The organisation-wise break-up of this pendency is given in **Annexure-IV**. Besides 7 complaints are pending with the CBI for investigation and report for more than three years.

Chart – 12



Some of the illustrative cases of delay in handling complaints by the organisations are listed below:

Department of Coal

In a complaint made by a Member of Parliament in November 2001, it was alleged that irregularities had been committed in the award of a tender in Mahanadi Coalfields Ltd.(MCL). The CVO of Coal India Ltd. who was directed to investigate the matter submitted a report to the Deptt. of Coal in January 2002. However, the matter remained under '**process/correspondences**' between Department of Coal and Coal India for **almost two years**. Meanwhile, as many as **four officials** who were **associated with the impugned tender, retired from service**, rendering it not possible to take any disciplinary action against them. A fifth officer was to retire on 30.09.2003: and it was only at this juncture- on 25.09.2003 to be precise- that the Ministry referred the case to the Commission for its advice.

Food Corporation of India

It is noticed that in complaints containing serious allegations against senior functionaries of FCI timely investigations are not carried out. For example, in 1998 two complaints were sent against Senior Regional Manager of FCI. One pertained to allegations of **serious irregularities in fixing the strength of depot labourers** and induction of 250 labourers in **violation of High Court orders** among other allegations. Till date complete **reply has not been received** in this complaint and the Commission has sought certain clarifications by its communication dated 31.3.2003. In another **complaint** it was interalia **alleged** that the **Senior Regional Manager was drawing HRA while residing in Government accommodation**. There were other serious allegations also. Though more than five years have lapsed the organisation has not sent any reply to the Commission.

Department of Heavy Industry

A set of allegations against some senior functionaries of Cement Corporation of India were referred, by the Commission, to the Department of Heavy Industry for investigation and report in March-June 1998. However, it was only as late as in October 2002 (i.e. after more than four years) that the Department furnished a report to the Commission. And by then, **one of the suspected officers had left the organisation** and he ceased to be a public servant. As such, it was no more possible to take any action against him although it has been found, in the course of investigation, that his conduct in many of the impugned matters was questionable.

Municipal Corporation of Delhi (MCD)

Case-1

The complainant alleged that he was facing hardship due to unauthorized

construction carried out by a neighbour and his complaints in this regard to Municipal Authorities were not being heard. The Commission asked for a report from MCD in January, 1998, MCD furnished its report only in May, 2003 i.e. **after five years of reference** to them. MCD expressed its inability to pinpoint the actual period when unauthorized construction took place. Thus the officials in whose tenure the unauthorized construction took place could not be identified due to delay in conducting enquiry in this matter.

Case-2

It was alleged that an IRS officer who was on deputation with MCD as Joint Assessor and Collector had assessed a property at lower value. The Commission asked for a report from MCD in October, 1995. However, the report from MCD was received only in April, 2003. Since the charge against the officer was established, Commission advised major penalty proceedings against him. However, only subsequently it was informed that the officer had retired way back in March, 1997. Thus **due to inordinate delay** on the part of MCD **no action could be taken** against a guilty officer.

Ministry of Information & Broadcasting

In a case against one Director, (Publication Division), M/o Information & Broadcasting regarding **irregularities in tender procedures** in printing of arts books in the Publication Division, the Commission advised to investigate the matter properly, but **no preliminary inquiry was held** by the Ministry and only protracted correspondences were going on. The Commission has recently directed the Ministry of I&B to conduct the inquiry and furnish the report at the earliest.

Delay in Holding Oral Inquiry

In cases where the Commission advises initiation of departmental proceedings against an erring official on the basis of a preliminary investigation report, the disciplinary authority is required to issue a charge sheet to the delinquent employee within one month of receipt of the Commission's advice. Keeping in view the time frame prescribed for issuing a charge sheet and obtaining written statement of defence from the CO, it should be possible for the disciplinary authority to appoint inquiry officers (IO) within two months of the receipt of the Commission's advice for initiation of major penalty proceedings.

There were, however, 125 cases in which the disciplinary authorities had not issued orders appointing the Commissioner for Departmental Inquiries (CDI), nominated by the Commission as Inquiry Officers, for more than three months. Of these, 21 cases were more than one year old and 104 cases were more than three months old. The organisation-wise break-up of these cases of delay in appointment of CDIs is given in **Annexure-V**.

Further the IO appointed by the disciplinary authority to conduct departmental inquiry in a particular case cannot start the inquiry unless related documents, viz., a copy of the charge sheet, reply of the charged officer, order of appointment of the Presenting

Officer and the listed documents/witnesses, are furnished to him. These documents are required to be made available to the IO immediately on his appointment as IO. However, at the end of the year under report, 12 cases were pending for more than three months, in which the disciplinary authorities had not furnished the relevant documents to the CDIs appointed as Inquiry Officers.

Delay in Implementation of Commission's Advice

The Commission vide its order dated 3rd March 2003 expressed serious concern in continued delay by the Departments in implementation of its advice at different stages of inquiry proceedings. Perturbed by the continued delay the Commission had emphasized that the administration will be called upon to explain inordinate delay over and above the prescribed time limits for finalizing disciplinary cases. 'Delay in finalization of disciplinary cases' will be viewed by the Commission as misconduct and will render the concerned officials of the personnel department and others concerned liable for being proceeded from the vigilance angle with its attendant ramifications. Accordingly the Commission notes with concern cases of such delays brought to its notice during 2003.

At the end of the year under report, as many as 3942 cases were pending for over six months for implementation of first stage advice of the Commission and 959 cases pending for over six months for implementation of second stage advice of the Commission. The organisation-wise break-up of these cases is given in **Annexure-VI**.

Table –11

Delay in Implementation of Second stage Advice for over 3 months

Organisations/Departments	Second stage advice
Central Board of Excise & Customs	118
D/o Telecom	58
Delhi Development Authority	44
Govt. of NCT of Delhi	42
M/o Urban Development & PA	38
Bank of Baroda	35
M/o Railways	30
Central Board of Direct Taxes	26
M/o Information & Broadcasting	16

Illustrative Cases

Some of the illustrative examples of such cases, which the Commission had processed during the year, are highlighted.

Ministries/Departments

Central Board of Excise & Customs (CBEC)

During the course of the year, the Commission in several cases communicated

its displeasure and concern over avoidable delays in processing of the vigilance cases and action on the Commission's advice by the CBEC. Such delays caused dilution of evidence thus resulting in delinquent officials escaping penalties. Two cases are illustrated below:

Case-1

An Inspector of the Customs and Central Excise department had been charge sheeted during February 1988 for **serious acts of misappropriation** and after completion of the departmental inquiry, the **Commission** had during 1994, advised the award of penalty of **compulsory retirement** of the official. The official was served a **show-cause** notice in this regard only on 28.1.97, i.e. **after almost 3 years**.

The delinquent official approached the Central Administrative Tribunal (CAT), who restrained the department from taking action until further orders. The CAT vacated the stay in June 2001. Again CBEC took its own time and informed the Commission during June 2003 that the proposal for seeking reconsideration of Commission's advice of March 1994 was under process. Thus, due to **utter lack of expedience** in matters of corruption, a **delinquent official** could **continue to be in service for more than 9 years** after Commission's advice for his compulsory retirement was sent during March 1994. The Commission had conveyed its concern for this inordinate delay, in such serious matters.

Case-2

In a case for **demand and acceptance of bribe**, CBI recommended criminal prosecution during August 2000, against two officials of Central Excise Department. As per clear instructions of the Commission simultaneous major penalty proceedings were to be initiated against the suspect officials. However, the department **approached the Commission after two years** in September 2002, for advice for commencing major penalty proceedings. It is seen that with such delay, the department undermined the importance of vigilance issues, where evidence gets diluted with delay.

Central Board of Direct Taxes

There are a number of cases of CBDT pending for action on Commission's advice. The Commission has expressed its displeasure and held meetings to ensure faster disposal of cases.

Case-1

The Commission had in year 1997 advised the department to look at the involvement of a **Chief Commissioner of Income-Tax** in a **case for having shown special favour to an assessee**. No reply was received despite reminders and the department informed the Commission in February 2003, that the suspect officer had been persuaded to seek retirement under Rule 56(k) as the procedure under Rule 56(j) was lengthier and complex. It is thus seen that the department has summarily

tried to dispose the issue to cover up the delay of over five years.

Case-2

An Assistant Commissioner was placed under suspension from March 1995 to September 2002, in a **case of disproportionate assets**. CBI could not sustain the prosecution case, and recommended minor penalty action against him. The Department approached the Commission in November 2002, for dropping the proposed minor penalty proceedings and also informed that another departmental inquiry for major penalty proceedings was pending against him since November, 2000. The Commission advised that the inquiry proceedings be completed expeditiously but despite the **Commission having conveyed its displeasure over delay**, the **department dragged on the case till** December 2003, when the said **official superannuated**.

Ministry of Defence

The Commission had in its **second stage advice** on 18.01.2002 advised imposition of major penalty on the then DCWE & AGEs of MES, Ambala on charges of **irregularities in purchase of bearings** from local traders **at exorbitant rates**, instead of purchasing the same from manufacturers/authorized distributors. The bearings were purchased without establishing the genuineness of the quality and false FAG bearing were accepted without proper technical sanction. Other allegations included placing excess order and not taking cognizance of the cutting/overwriting in the quotations of the firms.

The Commission had **advised imposition of major penalty** on the COs.

The Ministry, however, did not take any action on the advice of the Commission for **more than one and half years** and submitted the case to the Commission for reconsideration proposing minor penalty **against the then DCWE who had by that time retired from service**. The Commission's advice, therefore, became infructuous because of this inordinate delay in implementing this advice.

Ministry of Information & Broadcasting

Ministry of Information and Broadcasting has also shown considerable delay and inept handling of cases of serious nature, wherein Doordarshan had suffered considerable loss. Seven different cases came to the notice of the Commission in 2003, wherein due to delay in handling the cases, the action of the suspected public servants had become time-barred and the persons showing serious violations were allowed to retire without any penalty. Three such cases are listed below:

Case-1

Following a **complaint that most of the programmes** in Doordarshan Kendra (DDK), Kolkata were being **allotted to a particular producer**, Prasar Bharti held an internal inquiry in which it was found that the then DDG, processed a proposal on

24.07.1998 titled “Khas Khabar” submitted by M/s Rainbow Productions Pvt. Limited, Calcutta for approval. While the application was for a daily news programme, “Khas Khabar”, the same was processed as a news based current affairs programme. The fact that the application was for a daily news programme was not brought out to the notice of the competent authority. While the programme was approved as a news based current affairs programme by the competent authority, the same was communicated to the DDK, Kolkata as a news and current affairs programme and it was also not clarified that the request of the producer for a daily news programme had not been acceded to. Because of this defective communication the producer got the advantage he wanted. The then DDG was found responsible for the above lapses and consequent loss to the Doordarshan. The case was received in the Commission on 18.02.2002 for first stage advice and the **Commission** on 27.02.2002 advised **initiation of RDA for major penalty**. Since the event occurred on 24.07.98, the case was to be time barred on 24.07.2002. Commission’s advise was therefore given well in time. But **the Ministry did not act on the Commission’s advice and referred the case for reconsideration after 5 months on 24.07.2002 the date when the case got time barred**. The Commission had on that day itself advised Ministry of Information & Broadcasting to initiate proceedings under CCS (Pension) Rules. Ministry in June 2003 again approached the Commission for closure of the case stating that the case has become time barred. It is thus seen that because of laxity and inept handling by the Ministry of Information & Broadcasting, this case became time barred resulting in non-compliance of the Commission’s advice and the same was closed as a fait accompli.

Case-2

The Commission had on 11.12.2001 **advised RDA for major penalty** against the then Director, Doordarshan Kendra, Kolkata for **irregularities in sanctioning of programmes** at DDK, Kolkata and thereby an indirect loss of Rs.3.11 crore to the Government. The following is the chronology of the events:

Date of complaint	: 27.03.2000
Date of first note initiated in PB	: 09.05.2000
Date of calling explanation of C.O.	: 20.01.2001
Date of reply of C.O.	: 12.02.2001
Date of reference from PB to the Administrative Ministry i.e. M/o I&B	: 11.05.2001
Date of first note initiated in the Ministry	: 18.09.2001
Date of reference to CVC for first stage advice	: 21.09.2001
Date of CVC’s first stage advice	: 12.12.2001
Date of retirement of C.O.	: 31.01.2002
Date of reconsideration	: 19.06.2003

As the public servant had retired from Government service on 31.01.2002, the ministry on referring the case to the Commission in June, 2003 for reconsideration stated that out of the three allegations, two allegations have become time barred on the date of his superannuation and only one allegation relating to enhanced bank guarantee is not time barred which is not serious enough to impose cut in pension. This was thus a clear case of inept handling by the Ministry in which the **case became time barred** and the Commission had to advise closure of the case as a fait

accompli. As there was **inordinate delay in all levels**, the Commission expressed its displeasure to the Ministry.

Case-3

This case was received in the Commission on 6.02.2001 in which serious lapses and irregularities on the part of the then Engineer-in-Chief; the then Chief Engineer (D); the then Divisional Engineer (R) and DD (E) in processing of contract for FM-RDs radiopaging service like **violation of tender conditions**, formal agreements/contracts not being awarded, issue of letters of intent in violation of tender documents, obtaining less bank guarantees etc.

The agreement for the contract was not signed at the initial stages before issue of Letter of Intents and this resulted in a **total loss of Rs.7.95 crores** to the exchequer. The whole case was handled in a very casual and imprudent manner right from the initial stages of implementation of the scheme of the FM-RDs paging services. It was also observed that the irregularities started from Feb. 1994 when LOIs were issued to the private firms and continued upto Jan./Feb. 1997. It is clear from the investigation that the irregularities were allowed to continue by the suspected officials till such time the DG, AIR ordered termination of the contract in the end of March 1998.

The Commission had therefore **advised initiation of major penalty proceedings** against the four officers mentioned above on 27.04.2001. Later on it was found that the then CE(D) had already retired in September 2000. When the case was being referred to the Commission another alleged officer the then Engineer-in-Chief had already retired and another accused officer the then Director (Engineering) was allowed to take voluntary retirement. The Ministry was able to **chargesheet only one of the four charged officers**, the then DD(E) on 22.01.2003; whereas the Commission's first stage advice was tendered on 27.04.2001 by the time the **cases** of another two officers also **got time barred** as per rule 9(2)(b)(ii) of the CCS (Pension) Rules.

In this case the Government had incurred a loss of Rs.7.95 crores due to the alleged lapses/irregularities of the above mentioned officers. It is thus clearly seen that the case has been very badly handled and the guilty officials had been allowed to escape one by one.

Food Corporation of India

Besides delays in conducting preliminary inquiries observed by the Commission w.r.t. FCI, even in cases, where **charges have been prima facie established** in CBI inquiry, against senior functionaries prompt action is not being taken for holding a departmental inquiry against the concerned officers. On the basis of a CBI report the Commission in November 2001 had advised initiation of major penalty proceedings against a Senior Regional Manager who is a senior IAS officer. **Till date inquiry has not been commenced.**

Such **inordinate delays in inquiring into serious allegations against senior**

functionaries is viewed with displeasure by the Commission.

Other Areas of Concern

The functioning of vigilance units and the administrative authorities in some departments has been an area of serious concern for the Commission, mainly due to their indifferent and lax approach to vigilance matters. A few such examples of Departments/Organisations are given below:

Airports Authority of India (AAI)

A complaint was received in the Commission in 1996 alleging Ex. Chairman, Airports Authority of India **paid a sum of Rs. 5 lacs to NAFEN from the funds of AAI** for publicity and **showed undue favour to M/s. East West Airlines** by which AAI lost several crores of rupees.

AAI, in its report (in 1998) informed that no irregularity was noticed on the part of Ex-Chairman in financing the advertisement to NAFEN. As regards undue favour shown to M/s East West Airlines, its flights were allowed to operate though it **defaulted in making payment of arrears worth crores of rupees** and no efforts were made to realise the outstanding amount. Ministry of Civil Aviation had asked AAI to fix responsibility for non-recovery of dues from the Airlines company.

The AAI has not been able to fix responsibility on any individual towards the lapse of non-recovery of dues from this private airline. **After a period of nearly 5 years, M/o Civil Aviation has furnished an unclear response seeking** Commission's advice on whether to pursue the matter further and entrust the case to CBI. The Commission states/feels, the department should have taken the decision earlier itself depending on the gravity of the issue; to recover the dues and fix responsibility on account of loss suffered by the AAI. In this case the vigilance matter has not been dealt with promptitude and application of mind which was warranted.

Department of Personnel & Training

In this case, Govt. of Gujarat had proposed imposition of major penalty against Ex. Officio Secretary & Addl. Chief Secretary to Govt. of Gujarat and Urban Land Tribunal. While working as Urban Land Tribunal, Gujarat, he has been **accused of making pronouncements which resulted in pecuniary gains and monetary advantage to individuals and organisations.** The Commission found that his conclusions were not judicious and were in violation of rules in vogue. This consistent act of giving exemptions without relying on ground rules have caused pecuniary loss to the Govt. of Gujarat. Considering all such lapse on the backdrop of the PC Act, 1988, the **Commission** agreed with the Govt. of Gujarat and **advised imposition of a major penalty** on him. The Commission had also advised Department of Personnel & Training to obtain legal opinion of Law Ministry in the matter. However, the **Department of Personnel & Training on the advice of UPSC, exonerated him of all the charges** in its order dated 30.12.2003. The Central Vigilance Commission is concerned about such cases especially of very

senior functionary of Government where, not only are the matters delayed but the officers are shown undue clemency. This clearly points to **lack of willingness to take hard decisions** concerning senior officials.

Ministry of Textiles

This is, a case where a CVO who was found to have resorted to blatant misuse of his office by engineering the irregular appointment of his ineligible son in the very same organisation where he worked was allowed to go unpunished due to the mishandling of the case by the department. Further, the **Disciplinary Authority concerned who took the wrong decision to exonerate** the officer also **escaped through the retirement-route**.

This officer of a Central Public Undertaking who was working, during 1995-99, as Chief Vigilance Officer of another PSU (on deputation) got his son appointed in the latter organisation first as Management Trainee and thereafter as Sales Officer in a clandestine manner. In the inquiry that followed on Commission's advise the **charge** against the officer **was held as proved**. Despite this, the concerned **Disciplinary Authority** disagreed with the Inquiry Officer and **passed an order on 31.12.2001 exonerating the delinquent officer**, who had already retired by then. The Disciplinary Authority also retired on 31.12.2001 (i.e. the very day on which he passed his order).

When this was reported to the Commission, the Commission advised the Ministry of Textiles, in September 2002, to place the matter before the 'Appellate Authority' with a view to awarding a suitable penalty to the delinquent.

The Ministry came back in February-2003 saying that in the Rules of the PSU, there is no provision enabling the 'Appellate Authority' to review, suo-moto, the orders passed by a Disciplinary Authority in a particular case: and that, therefore, the present case will have to be left at that.

CHAPTER-5

Chief Technical Examiners' Unit

The Chief Technical Examiners' Unit of the Commission conducts inspection of Civil/ Electrical and Horticulture works being carried out by the Central Government Departments, Public Sector Undertakings/Enterprises of Government of India and Central Financial Institutions/Banks etc. This unit also conducts inspection of stores/purchases contracts and works for computerization etc.

The works or contracts for intensive examination were selected from the details furnished by the CVO in the quarterly progress reports sent to the CTE Unit. The intensive examination of works carried out by the organisations helps in detecting cases related to execution of substandard materials, avoidable and/or ostentatious expenditure, and undue favours or overpayment to contractors etc. Information in respect of civil works in progress having the tender value exceeding Rs.1 crore, electrical/mechanical/electronic works exceeding Rs.30 lacs, horticulture works more than Rs.2 lacs and store purchase contracts valuing more than Rs.2 crores were required to be sent by the CVOs of all organisations. However, the Chief Vigilance Officers were free to recommend other cases also, while submitting the returns for examination of a particular work, if they suspect that any serious irregularities had been committed. The inspections carried out by the CTE helped in detecting deficiencies and malpractices in the execution of works/contracts, as well as suggesting remedial measures to prevent recurrence of such instances.

One of the important aspects revealed during the inspections by the CTE and viewed seriously by the Commission, has been award of contract on nomination/single tender basis and further "back to back" tie up by the PSU getting the contract. It was observed in the CTEs' inspections that there are instances of awarding of works on a single tender/nomination basis. The PSUs to whom such tenders were awarded had further subcontracted it on a back to back basis to lesser known organisations whose capabilities of handling the project were doubtful and were at times originally rejected by the PSU awarding the contract during the pre-qualification exercise. The other common lapses/discrepancies observed by the CTE in such contracts have been clearly pointed out by the Commission in its OM dated 20.10.2003. **(Annexure-VII). The Commission is of the view that the practice of award of work to PSUs on nomination basis by the Government of India/PSUs needs to be reviewed forthwith since by and large this is being misused to favour chosen private parties.**

Another important aspect found during the investigations of the CTE was the appointment of Consultants on a full time basis for projects. It was observed that the appointment of these consultants itself was arbitrary, without clear and object criterion and non-transparent, thus not generating adequate competition. The Commission also noted with concern that recommendations by the Consultants, to the high level tender committees were accepted without any questions being raised.

Once such consultants were appointed or the work was awarded to the PSUs on a nomination basis; the PSU did not bother to provide for proper checks and balances and left everything to the consultants/PSU thus appointed. No suitable penal

provisions with respect to the work of consultants of PSU were provided in the contract. As a result several instances of award of works at abnormally high rates, long contract periods, transfer of technology with no obligation towards the organisation, irregularities in execution of work etc. had come to the notice of the Commission. **The Commission, therefore, urges the organisations to be extremely careful and follow proper procedure ensuring transparency and competitiveness in selection/appointment of consultants to avoid wastage of public resources.**

Technical Examinations

Based on the Quarterly Progress Reports received from about 450 organisations, the Chief Technical Examiners' (CTE) Unit inspected works of 65 organisations and submitted 153 reports. The details of these examinations are as follows:

Table – 7

Inspection by CTEU During 2003

Details of Organisation	No. of Deptts./PSUs	No. of I.E. Reports
Government Departments	17	29
Banks/Insurance Companies and Financial Institutions	8	11
Public Sector Undertakings, Autonomous Bodies, etc.	40	113
Total:	65	153

Depending upon the seriousness of lapses and irregularities noticed in course of inspections or during the subsequent processing; the inspection reports were referred to the CVOs or the CBI, for detailed investigation from vigilance angle. During the year, 47 such cases were referred to the CVOs for investigation. Of these 41 reports pertained to matters relating of Civil Works, 5 were relating to electrical works and 1 was regarding stores and purchases. Investigation reports received from the CVOs were examined by the Commission to tender appropriate advice. A few illustrative examples of prima facie lapses/irregularities which resulted in advice of penalty proceedings by the Commission, is given in **Annexure-VIII**.

As a result of the inspections conducted by the CTE during the year, recoveries were effected to the extent of Rs. 20.69 crores for over payments made by different organisations. Such recoveries were to the tune of **Rs.16.46 crores** during the previous year.

Table – 8

Recoveries Effected During Last Three Years

Year	Amount (Rs. in crores)
2001	11.35
2002	16.46
2003	20.69

The preventive aspects of vigilance have always been emphasized by the Commission and in pursuance of this objective to create awareness for quality control, economy and adherence to rules and procedures, the CTE unit, during the year issued circulars on important issues. In order to make the functioning of the CTE more effective the Commission had advised the CTE to act more like a vigilance audit wing and get the organisations to rectify smaller and procedural deficiencies then and there. This would also result in saving time in undue correspondences. Only serious instance of lapses noted by the CTE's in their inspections reports were sent for further comments/explanations by the departments/organisations concerned.

Some of the select organisations inspected by the CTE during this year i.e. 2003 were Delhi Metro Rail Corporation, Chennai Petroleum Corporation Ltd., Delhi Development Authority, Mumbai Port Trust, Airport Authority of India, Civil Constructions Wing All India Radio/Prasar Bharti, Steel Authority of India Ltd., National Thermal Power Corporation, Power Grid Corporation of India Ltd., Mishra Dhatu Nigam Ltd., Reserve Bank of India, Mumbai, Oil and Natural Gas Corporation Ltd., Central Reserve Police Force, Mahanagar Telephone Nigam Ltd., Gas Authority of India Ltd., Bharat Sanchar Nigam Ltd., Damodar Valley Corporation, Kolkata and National Highways Authority of India.

CTE inspections on important organisations

During the year the CTE conducted inspections of some of the major works of important organisations. These inspections had revealed that even if the organisations were known to be reputed and doing excellent work, there were areas of deviations and sub-standard work which affect their credibility and if not dealt with properly will create nexus and thereby corruption. It was the endeavor of the CTE to point out such areas so that the organisation can take immediately corrective steps in cases of negligence and procedural lapses and also effect recovery from unscrupulous contractors. These deficiencies were to be further investigated by the CVOs to take vigilance action as warranted.

Lapses Detected

Following were **some of the lapses which occurred** despite instructions/guidelines issued by the Chief Technical Examiners' Unit.

Splitting of works

In a Mega housing project which included construction, design and development, the eligibility criteria for pre-qualification of contractor was kept considering the estimated cost of work as Rs.100 cores. Contractor capable of executing works of estimated costs were pre-qualified. However, at later stage the large works were split into smaller ones with the estimated costs ranging from 20-40 crores. This resulted in restricted competition as the firms capable of executing works in range of 40-100 crores were excluded.

Inadequate competition

In the hiring of Platform Supply Vessel, competition was inadequate and the contract was awarded on single offer basis. Without opening price bid of this firm, their earnest money was released showing undue favour. No market rate justification or rate of similar work elsewhere were prepared for comparison of rates received. No recovery for lesser number of employees employed by the contractor has been made in terms of contract provisions. 50% of the Vessels owned by the companies are currently under repair.

Not following pre-qualification criteria

In a large value work for laying of High Tension Line, one bidder was prequalified by the PSU and awarded the work, though the firm was not meeting the pre-qualification criteria. As per the PQ conditions, the prospective bidder was required to have executed one work of minimum 200 Kms of similar transmission line. Against this requirement, the bidder submitted experience of four separate contracts of 15 Km, 71 Km, 74 Km and 40 Km, which was accepted and contract awarded to this bidder.

Not protecting its interest in pre-bid tie-up

In another case, a central PSU entered into a pre-bid tie-up with a private manufacturer of DI pipes, for participating as a lead partner in a bid for a state government project. The PSU while extending all safeguards to the client failed to protect its own interests in the pre-bid tie up with the private manufacturer. It was observed that in the contract between the state government and this PSU, there was a penalty clause for delay in completion with a maximum penalty of 7.5% and state government was to give only 75% of payments against the supply of the items. However, in the pre-bid tie-up between the PSU and the private manufacturer, there was no penalty clause for delay in supply and 100% payments were made by the PSU to the pipe manufacturer on supplies. In the process the PSU made 25% extra payments over long periods of time. Further, the PSU kept no security or bank guarantee to safeguard its interest in case the pipes were found defective or failed during testing.

Recoveries Effected

The CTE during their inspections had come across certain persistent and glaring omissions by the organisations by not enforcing the 'Contract', specifically relating to delays in execution of works and recovering the liquidated damages, in this regard. **Few such cases resulting in recoveries** after the CTE's report **are listed below:**

The CTE inspected the **"Civil Works for Power Station & Waterways (Lot-II Works) of Dhauliganga"** of NHPC. As per contract agreement, the 3rd milestone was to be achieved by 02.06.2002 but actually, the same was achieved on 31.10.2002 but no damages were recovered. The organisation was **asked to impose "Liquidated Damages"** (LD) and to recover the amount. An **amount of Rs. 3,58,51,527** (Rupees Three Crores, Fifty Eight Lakhs, Fifty One Thousand, Five Hundred and Twenty Seven only) had been **recovered** from the contractor, by the organisation.

In the project of **"Combined Blowing Technology SMS-II in Bokaro Steel Plant"**, as per contract, the work was to be completed by 10.11.2000 but the work was not actually completed even till date of inspection i.e. 13.1.2003. The organisation **did not invoke "Liquidated Damages"** (LD) clause despite this abnormal delay. However, based on CTE's observation, the organisation imposed LD and **recovered an amount of Rs. 10,17,987/-** from the contractor.

As per the contract for **"SITC of power supply system work for the cluster of sophisticated building & industrial structures at BDL, Hyderabad"**, the work was to be completed by 29.11.2000, but actually the work was not completed even upto 25.4.2001. The organisation **did not invoke "Liquidated Damages"** (LD) clause of the contract. It was only after CTE's observation that the organisation recovered Liquidated Damages to the tune of Rs. 12,03,341/-. Besides, CTE also observed that an item with quoted rates of Rs. 62,014/- was not payable as the rates were already included elsewhere, this was also agreed by the organisation thus saving an amount of Rs. 62,014/-. Thus, a total amount of **Rs. 12,65,355/- was recovered** by BDL due to CTE's inspection.

CTE inspected the work of **"Mechanical, Piping Electrical installation related civil works for units & off sites of DHDS project of Madras Refinery Ltd."** As per contract, the work was to be completed by 28.3.99, but the same was completed on 15.8.99. Incidentally, **no "Liquidated Damages"** (LD) were imposed by the organisation due to the delay. It was only after CTE's observation, the organisation levied the penalty for delay. The total amount thus recovered was to the tune of **Rs. 74,97,000/-**.

During inspection of the work of **"Design, Manufacture, Supply, Erection, Testing, Commissioning of 600 TR, AC Plant for Thermal Station-I, Neyveli Lignite Corporation Ltd., Neyveli"**, certain shortcomings with respect to specified items vis-

à-vis actually supplied items were noticed. Based on the observation a total recovery of Rs. 82,420/- was effected by the organisation. Besides, the work was to be completed by 19.5.98 as per contract, but actually the work was not completed even upto 27.10.98 nor were any penalties imposed because of the delay. It was only when CTE raised an observation, the organisation **recovered “Liquidated Damages”** (LD) amounting to Rs. 16,20,000/- thus, making a **total recovery of Rs. 17,02,420/-**.

During the inspection of **“Reclamation work behind proposed shallow water berth” commissioned by Jawaharlal Nehru Port Trust**, it was observed that as per contract agreement, there was a provision of deduction of voids from the quantity of earth works in filling with quarry run material in a reclamation work. However, no such deduction was made on account of voids which resulted in an over payment of Rs. 50 lacs to the contractor. The organisation was asked to recover this overpayment from the contractor’s bills. The organisation accordingly effected a **recovery of Rs. 50 lacs**.

During the inspection of **“Civil Works for head rate tunnel from station/6042 M to 27295 (surge shaft)”** of Nathpa Jhakri Power Corp., it was found that the **contractor had not obtained insurance as required under the contract provisions**. The organisation was asked to work out the total insurance amount and recover the same from the contractor’s bills. An **amount of Rs. 6.50 crores has been recovered** from the contractor under the various contracts.

Lapses Involving Vigilance Angle

Further the CTEs inspections have also revealed instances of **lapses of serious nature involving vigilance angle**. Such cases are referred to the CVO for vigilance investigation. A few such cases are illustrated below:

The CTE inspected the work of **“Chartering of platform supply vessel (PSV)” undertaken by ONGC**. The offer of one of the bidders was rejected on the grounds that the bidder had amended his bid i.e. Acts of Terrorism to be included in Force Major Clause, just before opening the price bid but as per bid conditions, in case bidder amends the bid the organisation had the **right to forfeit the Earnest Money Deposit (EMD)**. In this case, the **organisation did not exercise that right** and released the EMD amount of Rs. 40.80 lacs which, prima facie, amounts to extending undue financial favour to the firm.

The other issue involved was reasonableness of rates of hiring the PSV. The rates compared by the ONGC were for a bigger PSV while justifying the rates for a smaller PSV. On further scrutiny, it was revealed that even the **earlier rates**, based on which the present rates were justified, were found to be **2.85 times the estimated rates**. No market trend or rates of similar PSVs chartered elsewhere were established for comparison of rates received. Therefore, in view of no competition and the unrealistic comparison of rates, the contract was awarded at high rates.

During the inspection of “**Design, manufacture, installation & commissioning of High Vacuum wire coating plant on Turnkey basis**” undertaken by Mishra Dhatu Nigam Ltd. (MIDHANI), it was found that the machine costing approximately Rs. 40 lacs was got installed by MIDHANI for coating of wires of Copper, Aluminum and Nickel. MIDHANI accepted the machine even when the performance of the machine was not satisfactory as the coating done by the machine failed to meet the required specifications. It was further noted that MIDHANI officials even **failed to take necessary corrective action during the liability period** of the contract. On examining the log book maintained for recording the operations on the machines, it was found that no coating of wires was being done on the machine and the very purpose of purchasing this costly machine was defeated and the expenditure incurred turned out to be infructuous.

During the inspection of “**Design, engineering, Supply, Erection, testing & commissioning and technical supervision for up gradation of combustion system of RHF No. 1 of HSM at Bokaro Steel Ltd. (BSL)**” undertaken by the SAIL, it was found that in the bid, **Prequalification Criteria was not defined properly**. In the first round of technical evaluation, the offer of one firm was found technically deficient. Subsequently, on recommendations of an Ex-ED of BSL, the offer of this firm was considered after opening of price bids. A central PSU was L-1, yet price negotiation was held with all the bidders, and by giving heavy reduction, the firm indicated above became L-1. In contravention with govt. policy, the Central PSU was not given purchase preference which establishes it to be a case of **favouritism to a private firm**.

The other issue in the same tender relates to **purchase of items worth more than Rs. 8 crores but with no utilization of such items**. The items were found lying in a dilapidated condition in open yard and were **not installed even after 8/9 years** of their supply whereas the **contract stipulated supply & installation of all items within two years**.

During the inspection of “**Earth work in excavation and filling by heavy earth moving machineries i/c Road of new township at Rajarhat**” undertaken by IRCON, the following lapses were found:

The organisation included ‘rate only items’ in the BOQ in contravention with CVC instructions issued vide no. 3W-DSP-12 dated 10.09.92.

For one of the five packages, the work was awarded to a firm when lower rates of other firm were available for the same package thus rendering it to be a case of **favouritism to a particular firm**.

A **part of security deposit** amounting to Rs. 60 lakhs and performance deposit amounting to Rs. 15 lakhs was **released before completion of work**, thus giving financial benefit to the contractor. As per contract agreement, the security deposit was to be released after completion of work and performance deposit was to be released after completion of defect-liability period.

An amount of **Rs. 118 lakhs** though **not payable contractually** but was **claimed** by IRCON from the principal client and was apparently **paid to the sub-contractors** of M/s IRCON.

During the inspection of **“Civil Work for HRT from station 0.00 to station 16024.00 including shouldering works”** undertaken by Nathpa Jhakri Power Corporation, it was observed that the samples collected for testing failed to meet the tender specification in regard to compressive strength. In 7 out of the 8 samples collected during intensive examination, the average compressive strength was found in the range from 192 Kg/cm² to 197 Kg/cm² as against the Technical Specification requirement of 250 Kg/cm².

CHAPTER - 6

Functioning of Delhi Special Police Establishment (Central Bureau of Investigation)

As per the CVC Act, 2003, the Commission is empowered to exercise superintendence over the functioning of DSPE, issue directions and review the progress of investigations under the PC Act, 1988 or an offence with which a public servant may be charged under the Cr.P.C. at the same trial.

The Supreme Court in the Vineet Narain Judgement had directed that the CVC be entrusted with the superintendence over the functioning of the CBI. The CVC Act 2003, however, has limited the scope of such superintendence to CBI investigations under the PC Act alone. From a reading of the Supreme Court Judgement, it would appear that the intention of the Court was to insulate CBI from external influences and pressures in respect of all investigations and not just under the PC Act. Since the DSPE has been given powers of investigations into a large number of offences under the IPC and several other enactments under the Section 3 of DSPE, if the superintendence of CVC were to be confined to functioning of the DSPE under the PC Act, it would leave a vacuum as far as other investigations being undertaken by the CBI are concerned. It would therefore be necessary for the Government to take care of this lacuna and make suitable arrangements for the superintendence of the CBI functioning in respect of the other issues.

Monthly Review Meetings

In the exercise of its superintendence over the DSPE, the Commission had adopted a mechanism of monthly review of cases investigated by the CBI. The Commission also ascertains that the investigations in all the cases registered by the CBI are being conducted without any external factor, coming in the way of such investigations. The Commission periodically follows-up with the Ministries and Departments as well as in Public Sector Organizations to expedite the sanction of prosecution wherever required. The Commission continued its efforts to bring about agreement in cases where the sanctioning authorities and CBI have different point of views. In this regard joint-meetings were held with the department concerned and CBI representatives to resolve the issues and speed up the process of sanctions of vigilance clearance. Such efforts have been very successful specifically in regard to nationalised banks and PSUs.

The Commission had held 10 review meetings with the Director, CBI during the year 2003 in which cases of senior officers of the Government, Executives of Banks/Public Sector Enterprises (PSEs) and others were reviewed. The cases pending sanction of prosecution of public servants with the competent authorities and sanctions received by the CBI during the year 2003 are given in the table below:

Table-12

Month	No. of cases relating to prosecution of public servants pending	Sanctions Received
Jan.2003	235	23
Feb.2003	213	32
Mar.2003	186	51
Apr.2003	188	38
May2003	175	50
Jun 2003	187	31
July 2003	160	56
Aug.2003	171	35
Sep.2003	174	53
Oct.2003	166	37
Nov.2003	163	35
Dec.2003	142	53

It can be observed that the number of cases pending sanction of prosecution have come down to 142 in December 2003 as against 235 in the beginning of the year.

Prosecution against Central Government employees posted in States

As per rules, if the CBI proposes to register a case against Central Government Employees posted within the territory of the State, the consent of concerned State Government is required. While most States have given blanket consent in this regard, the Government of Karnataka and Mizoram had given such sanction on case-to-case basis. Earlier, however, the Government of Karnataka as well as Government of Mizoram were giving general consent, which was subsequently withdrawn by them. On the request of the Director, CBI, the Commission had pursued the issue of general consent from these two states with the Department of Personnel & Training (DOPT). However, the DOPT has informed that Government of Karnataka had again refused general consent to CBI in such cases.

It was brought to the notice of the Commission that there were a number of cases of sanction of prosecution which were pending with the State Governments. The Commission took up this matter with the Secretary, Ministry of Home Affairs. The Commission also took up the matter with the concerned disciplinary authorities wherever it was observed that the sanction for prosecution was delayed beyond three months especially in respect of Ministry of Finance.

The Commission had observed that there are no special courts in the State of West Bengal to try CBI cases. The Commission took up the matter of setting up of special courts in West Bengal at appropriate level i.e. Ministry of Law/Chief Justice/Cabinet Secretariat. The Commission has been intimated that the **Government of West Bengal has initiated the process of the constitution of new Special Courts.**

Department-wise details of cases pending sanction of prosecution as on 31.12.2003 are given in table below (Table-13). Out of these 142 cases, 37 cases were pending for more than 1 year, 18 cases between 6 months to 1 year and 35 cases between 3-6 months:

Table-13

Number of cases pending for sanction for prosecution as on 31.12.2003

Ministry	Number of cases
Ministry of Agriculture	1
Ministry of Civil Aviation & Tourism	1
Ministry of Coal	2
Ministry of Commerce	1
Ministry of Communication	11
Ministry of Defence	9
Ministry of Finance (Banking)	23
Ministry of Finance (Company Affairs)	1
Ministry of Finance (Custom & Central Excise)	11
Ministry of Finance (Income Tax)	4
Ministry of Finance (Insurance)	3
Ministry of Food	1
Ministry of Health & Family Welfare	5
Ministry of Home Affairs	22
Ministry of Industry	1
Ministry of Information & Broadcasting	2
Ministry of Personnel, Public Grievances & Pensions	6
Ministry of Railways	5
Ministry of Steel	1
Ministry of Urban Development	4
Lok Sabha	1
Govt. of Assam Meghalaya	2
Govt. of Bihar	10
Govt. of Chattisgarh	1
Govt. of Gujarat	1
Govt. of Jharkhand	5
Govt. of Karnataka	1
Govt. of Mizoram	1
Govt. of NCT Delhi	6
Govt. of Orissa	2
Govt. of Punjab	2
Govt. of Rajasthan	2
Govt. of Tamilnadu	2
Govt. of Uttar Pradesh	6
Total	156*

**However, a total of only 142 cases are pending for prosecution sanction, as 14 cases are common to more than one Ministry/State Govt., etc.*

Age Wise Pendency of Above Cases

<3 m	3-6 m	6m-1yr.	>1yr.	Total
52	35	18	37	142

Activities of the Central Bureau of Investigation

Registration of cases:

During the year 2003, 1068 cases were registered as against 1159 cases registered in last year. The cases registered included 24 cases taken up at the instance of State Government/Union Territory Administrations and 69 cases taken up for investigation on the directions of the Supreme Court/High Courts.

The Anti-Corruption Division accounted for 78.46% of the total cases registered. These cases mainly pertained to criminal misconduct by showing undue favour, obtaining bribes, amassing assets disproportionate to known source of income etc. 233 trap cases and 81 cases of possession of disproportionate assets by public servants were registered.

The following charts contain the comparative status during the last three years of the registration and disposal of cases (Chart - 13) and the nature of disposal of cases (Chart - 14) by CBI.

Chart 13

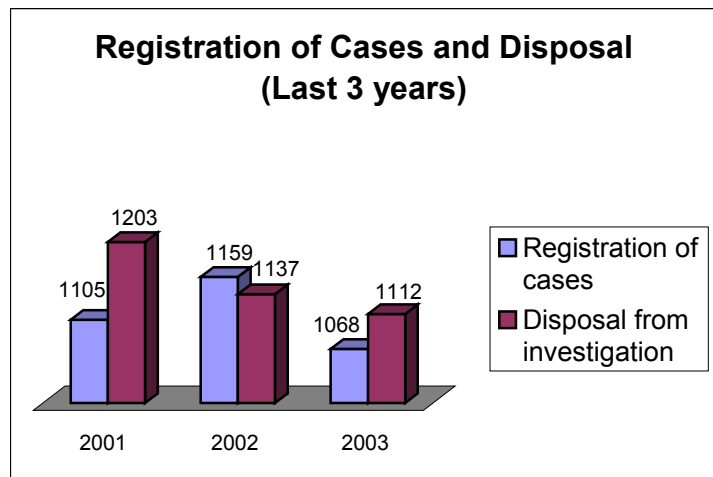
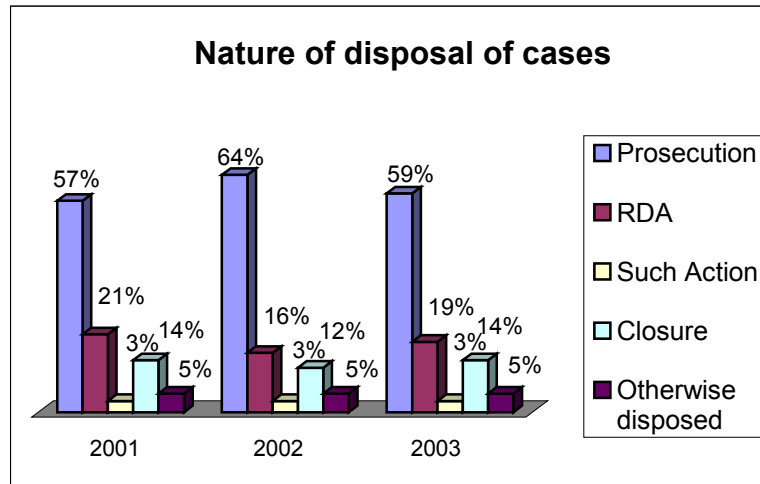


Chart 14



Cases pending investigation:

During 2003, the CBI completed investigations of 1112 cases. On the other hand, at the end of the year 2003, 1435 cases were pending under investigation in comparison to 1478 cases pending as on 31.12.2002. The pendency of cases under investigation for over 2 years as on 31.12.2003 is 208 cases. At the end of 2002, there were 214 cases under investigation for over 2 years. Out of these, 88 cases were pending sanction for prosecution.

The Commission, however, noted that there was reduction in pendency of cases under investigation beyond 2 years and advised the CBI to ensure that there should be no cases pending beyond 2 years by the end of year.

Cases of trial and their conviction:

During the year 2003, various courts, disposed of 692 cases under trial, as compared to 673 cases in 2002 and 448 in 2001. The overall rate of conviction in CBI cases during 2003 was 68.4 percent as compared to 68.7 percent in 2002 and 70 percent in 2001. 6327 cases were pending under trial as on 31.12.2003, as compared to 6277 cases as on 31.12.2002.

Departmental Punishments:

A total of 435 RDA cases were disposed of during the year 2003. Out of these, 108 (24.8 percent) cases ended in punishment, 16 (3.7 percent) in exoneration and 311 (71.5) were otherwise disposed of.

Dealing with investigation of CBI with RDA recommendations

The Commission has observed that cases investigated by the CBI which do not result in prosecution, but only regular departmental action is recommended need not be followed-up by the concerned IO of CBI. The Commission in consultation with the concerned Disciplinary Authority and CVO would decide these cases.

Directorate of Prosecution

The Commission had informed that a Directorate of Prosecution was set-up in 2002. The Directorate of Prosecution/CBI is required to perform the following duties:

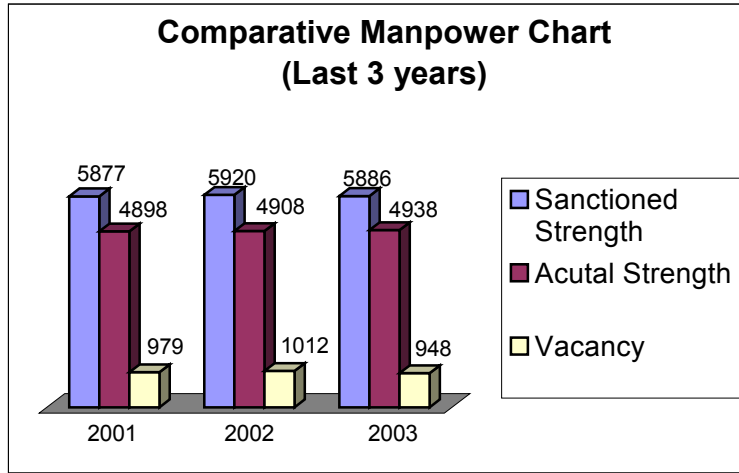
- (i) Supervising and monitoring the conduct of prosecution in Courts;
- (ii) Preferring as well as appearing in appeals, revision etc. on behalf of the CBI in appellate and revisional Courts;
- (iii) Giving advice to police officers on all matters relating to criminal offences during investigation and trial;
- (iv) Advising on the feasibility of filing appeals, revision etc.;
- (v) Preparing a panel of Special Counsel to conduct prosecution, appeals or revisions on behalf of CBI with the approval of the Government and operating the same; and
- (vi) Selecting Retainer Counsel for High Courts.

During the last few years, there is greater inflow of cases entrusted to CBI under orders of Supreme Court and High Courts, on petitions filed as PIL/Miscellanies. The Director of Prosecution/CBI rendered valuable assistance in dealing with all such references and also in Quarterly Conference of CBI officers and the third International Conference on fugitives during the year 2003.

Manpower

The total sanctioned strength of CBI as on 31.12.2003 was 5886. However, the actual manpower available was 4938. There were 948 posts lying vacant at the end of the year (Chart-15). These vacancies were mainly in the ranks of Senior Superintendent of Police (SSP)-8; Superintendent of Police (SP)-9; Additional Superintendent of Police (ASP)-20; Deputy Superintendent of Police (DSP)-96; Inspectors-105; Sub-Inspectors-102; Asstt. Sub-Inspectors-16; Head Constables-9 and Constables-225. Besides, there were vacancies of 70 Law Officers at various levels. 39 Technical posts were also lying vacant.

Chart 15



ANNEXURES

Annexure – I

Group-wise staff strength and related information

Group wise Staff Strength as on 31.12.2003

	Group `A`	Group `B`	Group `C`	Group `D`	Total
Sanctioned Strength	44*	92	73	73	282
Officials in Position	36	81	55	64	236

* Excluding the post of CVC & VCs

Representation of Scheduled Castes, Scheduled Tribes and OBCs

As per the Government's policy and instructions, the Commission has been making every effort for implementing the same in respect of the posts under its administrative control. During the year under report 8 (UR:6, ST:1, OBC:1) persons have been appointed to Group `B`, 4 (UR:1, OBC:3) in Group `C` and 1 (SC:1) in Group `D` posts on direct recruitment basis. The percentage of Scheduled Castes/Scheduled Tribes and OBCs in the various group of posts filled/held otherwise than by deputation, as on 31.12.2003 is given below:

	Group `A`	Group `B`	Group `C`	Group `D`
Scheduled Castes	28.57%	19.71%	16.98%	44.44%
Scheduled Tribes	14.28%	4.22%	3.77%	3.17%
OBC	-	8.45%	20.75%	12.69%

Progressive Use of Hindi

The Official Language Policy is being given due emphasis by the Commission for implementation of the provisions as also achievement of the objectives envisaged in the Office Language Act, 1963.

Annexure - II

Organisation-wise details of Punishments imposed During 2003 in respect of cases where Commission's advice was obtained

S. No.	Name of the Department/ Organisation	Prose-cution	Major Penalty	Minor Penalty	Admn. Action
1.	Airports Authority of India	-	-	1	4
2.	Allahabad Bank	-	25	21	-
3.	Andaman & Nicobar Administration	1	1	-	-
4.	Andhra Bank	-	6	7	-
5.	Andrew Yule & Co. Ltd.	-	-	-	1
6.	Bank of Baroda	-	31	41	2
7.	Bank of India	-	64	65	7
8.	Bank of Maharashtra	-	7	6	1
9.	Bharat Coking Coal Ltd.	-	4	3	-
10.	Bharat Heavy Electricals Ltd.	-	-	4	-
11.	Bharat Petroleum Corporation Ltd.	-	-	-	6
12.	Border Roads Development Board	-	-	2	1
13.	Bureau of Indian Standards	-	-	3	-
14.	Canara Bank	-	32	18	7
15.	Cement Corporation of India	-	1	7	-
16.	Central Bank of India	-	13	7	-
17.	Central Board of Direct Taxes	5	9	3	8
18.	Central Board of Excise & Customs	26	54	22	-
19.	Central Public Works Department	-	15	21	23
20.	Central Warehousing Corporation	-	-	2	-
21.	Chandigarh Administration	-	-	2	-
22.	Coal India Ltd.	-	-	2	6
23.	Coir Board	-	-	-	1
24.	Controller General of Defence Accounts	-	2	-	-
25.	Corporation Bank	-	23	18	-
26.	Council for Scientific & Industrial Research	-	1	6	1
27.	D/o Atomic Energy	1	6	1	-
28.	D/o Chemicals & Petrochemicals	-	-	-	2
29.	D/o Coal	-	-	-	1
30.	D/o Company Affairs	1	1	-	-
31.	D/o Consumer Affairs	-	2	-	-
32.	D/o Culture	1	-	-	-
33.	D/o Defence Production & Supplies	-	2	9	-
34.	D/o Food & Public Distribution	-	1	-	-
35.	D/o Health	1	1	-	-
36.	D/o Heavy Industry	-	6	-	1
37.	D/o Industrial Policy & Promotion	-	3	-	-
38.	D/o Information & Technology	-	1	-	2
39.	D/o Personnel & Training	15	-	-	-
40.	D/o Posts	-	5	1	2

S. No.	Name of the Department/ Organisation	Prose-cution	Major Penalty	Minor Penalty	Admn. Action
41.	D/o Science & Technology	-	1	-	-
42.	D/o Small Scale Industries	-	2	1	1
43.	D/o Space	-	1	-	-
44.	D/o Steel	-	-	1	2
45.	D/o Telecom	-	82	121	24
46.	D/o Tourism	-	-	-	1
47.	Daman & Diu and Dadra & Nagar Haveli Administration	-	-	-	1
48.	Damodar Valley Corporation	-	1	-	-
49.	Delhi Development Authority	-	27	36	12
50.	Delhi Jal Board	-	4	4	-
51.	Delhi Transport Corporation	-	2	1	6
52.	Delhi Vidyut Board	-	-	4	5
53.	Dena Bank	-	5	9	-
54.	DSIDC	-	-	1	-
55.	Employees Provident Fund Organisation	-	-	3	-
56.	Employees State Insurance Corporation	-	1	4	-
57.	Food Corporation of India	3	1	5	-
58.	Gas Authority of India Ltd.	-	-	-	1
59.	Govt. of NCT, Delhi	-	15	14	15
60.	Govt. of Pondicherry	-	-	6	-
61.	Hindustan Copper Ltd.	-	-	4	-
62.	Hindustan Machine Tools Ltd.	-	-	-	2
63.	Hindustan Steel Works Construction Ltd.	-	-	-	2
64.	I.I.M. Indore	-	-	-	1
65.	IBP Co. Ltd.	-	-	-	4
66.	Indian Bank	2	34	14	3
67.	Indian Council of Agricultural Research	-	-	3	-
68.	Indian Oil Corporation Ltd.	-	3	5	-
69.	Indian Overseas Bank	-	50	18	1
70.	Industrial Investment Bank of India	-	2	-	-
71.	Kendriya Vidyalaya Sangathan	-	1	-	-
72.	Khadi & Village Industries Commission	-	2	1	-
73.	Kolkata Port Trust	-	-	1	-
74.	Life Insurance Co. Ltd.	-	24	1	-
75.	M.M.T.C. Ltd.	3	-	-	-
76.	M/o Commerce	3	-	-	1
77.	M/o Defence	2	1	2	-
78.	M/o External Affairs	12	3	3	-
79.	M/o Finance	1	6	2	-
80.	M/o Home Affairs	2	9	-	-
81.	M/o Information & Broadcasting	11	1	5	-

S. No.	Name of the Department/ Organisation	Prose-cution	Major Penalty	Minor Penalty	Admn. Action
82.	M/o Labour	3	-	-	1
83.	M/o Power	-	-	-	1
84.	M/o Railways	16	144	207	199
85.	M/o Social Justice & Empowerment	-	1	1	-
86.	M/o Textiles	-	-	-	2
87.	M/o Urban Development &PA	-	6	10	8
88.	M/o Water Resources	-	-	2	-
89.	Mahanadi Coalfields Ltd.	-	3	-	2
90.	Mineral Exploration Corporation	-	-	-	1
91.	Municipal Corporation of Delhi	-	12	6	-
92.	National Aluminium Co. Ltd. (NALCO)	-	1	1	-
93.	National Building Construction Corporation	-	-	7	-
94.	National Consumer Co-operative Federation	-	1	3	1
95.	National Hydro-Electric Power Corporation Ltd.	-	-	1	-
96.	National Insurance Co. Ltd.	2	7	18	1
97.	National Small Industries Corporation	-	-	-	1
98.	National Textiles Corporation	-	-	1	-
99.	National Thermal Power Corporation	-	-	2	-
100.	National Water Development Agency	-	-	1	-
101.	New Delhi Municipal Council	-	1	1	-
102.	New India Assurance Co. Ltd.	-	21	6	-
103.	Neyveli Lignite Corporation Ltd.	-	-	-	3
104.	Northern Coalfields Ltd.	-	-	1	-
105.	Nuclear Power Corporation of India Ltd.	-	-	-	1
106.	O/o Comptroller & Auditor General of India	2	-	-	-
107.	Oil & Natural Gas Corporation	-	-	-	1
108.	Oil India Ltd.	-	-	-	1
109.	Oriental Bank of Commerce	-	34	28	-
110.	Oriental Insurance Co. Ltd.	2	3	4	-
111.	Power Grid Corporation of India Ltd.	-	-	4	-
112.	Punjab and Sind Bank	-	5	9	-
113.	Punjab National Bank	1	70	101	8
114.	Pyrites, Phosphates & Chemicals Ltd.	-	1	3	-
115.	Reserve Bank of India	-	1	-	-
116.	Semi-Conductor Complex Ltd.	-	-	-	1
117.	Small Industries Development Bank of India	-	-	1	-
118.	South Eastern Coalfields Ltd.	-	1	9	-

S. No.	Name of the Department/ Organisation	Prose- cution	Major Penalty	Minor Penalty	Admn. Action
119.	State Bank of Bikaner & Jaipur	-	19	3	-
120.	State Bank of Hyderabad	-	22	7	-
121.	State Bank of India	-	279	247	166
122.	State Bank of Indore	-	1	-	-
123.	State Bank of Mysore	-	1	-	-
124.	State Bank of Patiala	-	9	4	-
125.	State Bank of Saurashtra	-	3	-	-
126.	State Bank of Travancore	-	1	-	-
127.	Steel Authority of India Ltd.	-	7	13	-
128.	Super Bazar	4	2	5	-
129.	Syndicate Bank	-	18	15	1
130.	The State Trading Corporation	-	1	1	-
131.	UCO Bank	-	23	2	1
132.	Union Bank of India	-	74	44	10
133.	United Bank of India	-	11	19	-
134.	United India Insurance Co. Ltd.	7	17	2	-
135.	Vijaya Bank	-	36	38	-
136.	Western Coalfields Ltd.	-	2	4	-
	TOTAL:	127	1432	1372	568

Work done by Chief Vigilance Officers during the period 1.1.2003 to 31.12.2003

1. Col.2 indicates the ministry including departments & public sector undertakings attached to it, except when such departments/public undertakings are indicated separately.
2. F.D.= For Disposal; (3) D= Disposed off; (4) P = Pending (5) Inv.= Investigation; (6) Inq.= Inquiry; (7) Rpt. = Report.

S. NO.	DEPARTMENT	NO. OF COMP. AGAINST ALL CATEGORIES			CASES INVOLVING GAZ. & EQUIVALENT OFFICERS												OTHER OFFICERS					
					UNDER INVESTIGATION			INVESTIGATION REPORT			UNDER ORAL INQUIRY			ACTION AFTER PROCEEDINGS			UNDER INV. & FOR ACTION ON INV.REPORT			UNDER ORAL INQ.& FOR ACTION ON PROCEEDINGS		
					F.D.	D.	P.	F.D.	D	P.	F.D.	D	P.	F.D.	D	P.	F.D.	D	P.	F.D.	D	P.
1	Agriculture	48	36	12	26	11	15	18	15	3	11	2	9	10	3	7	22	12	10	26	12	14
2	Atomic Energy	95	89	6	5	1	4	4	4	0	1	0	1	0	0	0	93	69	24	103	94	9
3	Banks	2791	2552	239	776	739	37	937	708	229	1117	574	543	1826	1429	397	3944	3315	629	4245	3922	323
4	Chemical & Petro-Chemicals	28	33	0	2	3	0	4	3	1	4	2	2	1	1	0	72	55	17	15	8	7
5	Civil Aviation	217	212	5	10	9	1	10	9	1	9	0	9	30	30	0	613	485	128	229	121	108
6	Coal	1068	887	181	70	30	40	27	19	8	32	14	18	44	29	15	487	342	145	227	72	155
7	Commerce	250	216	34	88	48	40	63	33	30	19	6	13	17	8	9	340	270	70	109	57	52
8	Customs & Excise	1116	1334	0	332	246	86	288	267	21	217	96	121	218	145	73	1341	1186	155	663	544	119
9	Defence	329	239	90	14	9	5	14	12	2	17	9	8	23	14	9	316	260	56	175	104	71
10	Govt. of NCT Delhi	871	554	317	96	87	9	87	87	0	41	27	12	42	38	4	881	664	217	586	458	128
11	Fertilizers	81	74	7	5	1	4	2	2	0	1	0	1	1	0	1	175	147	28	52	35	17
12	Finance	4	1	3	1	1	0	1	1	0	0	0	0	0	0	0	6	6	0	26	7	19
13	Food & Consumer Affairs	26	26	0	5	4	1	4	2	2	0	0	0	0	0	0	68	49	19	45	27	18
14	Food Corporation of India	905	695	210	0	0	0	0	0	0	3	1	2	2	1	1	827	444	383	1535	549	986
15	Health & Family Welfare	27	7	20	0	0	0	0	0	0	0	0	0	0	0	0	4	2	2	11	13	0

Note:- Data is based on QSR received for 2003 and does not include the data not reported or Departments which have not submitted the QSR.

S. NO.	DEPARTMENT	NO. OF COMP. AGAINST ALL CATEGORIES			CASES INVOLVING GAZ. & EQUIVALENT OFFICERS												OTHER OFFICERS					
					UNDER INVESTIGATION			INVESTIGATION REPORT			UNDER ORAL INQUIRY			ACTION AFTER PROCEEDINGS			UNDER INV. & FOR ACTION ON INV.REPORT			UNDER ORAL INQ.& FOR ACTION ON PROCEEDINGS		
					F.D.	D.	P.	F.D.	D.	P.	F.D.	D.	P.	F.D.	D.	P.	F.D.	D.	P.	F.D.	D.	P.
16	M/o Home Affairs	194	171	23	2	0	2	3	2	1	2	0	2	8	4	4	103	64	39	22	16	6
17	Human Resource Development	10	1	9	0	0	0	2	1	1	7	1	6	1	1	0	7	0	7	7	0	7
18	Income Tax	3567	3448	119	356	271	85	352	391	0	115	36	79	132	89	43	1051	593	458	236	189	47
19	Industrial Development	94	62	32	11	8	3	10	9	1	7	0	7	5	4	1	6	3	3	5	3	2
20	Insurance	784	748	36	102	61	41	91	61	30	50	9	41	38	27	11	1960	1127	833	722	419	303
21	Labour	43	43	0	0	0	0	0	0	0	0	0	0	4	1	3	176	114	62	287	183	104
22	Mines	26	23	3	4	3	1	3	3	0	3	1	2	2	1	1	25	13	12	14	9	5
23	Petroleum	880	838	42	14	9	5	22	10	12	10	8	2	23	16	7	1073	584	489	391	278	113
24	Power	350	340	10	24	21	3	20	18	2	8	6	2	19	19	0	831	678	153	124	109	15
25	Heavy Industry	89	60	29	10	3	7	6	4	2	5	3	2	10	7	3	297	132	165	122	40	82
26	Railways	11578	11145	433	580	262	318	319	282	37	133	45	88	337	328	9	17659	16347	1312	11555	6317	5238
27	Rural Development	2	2	0	1	0	1	1	1	0	0	0	0	0	0	0	1	0	1	36	28	8
28	S.A.I.L.	386	383	3	27	20	7	32	20	12	6	2	4	5	4	1	560	511	49	150	118	32
29	Science & Technology	16	16	0	16	4	12	7	5	2	1	1	0	1	0	1	28	27	1	21	13	8
30	Steel	112	108	4	5	4	1	6	4	2	3	1	2	3	3	0	175	155	20	76	54	22
31	Surface Transport	571	351	220	106	61	45	53	46	7	29	3	26	18	11	7	364	288	76	120	66	54
32	Telecommunication	1504	1453	51	594	417	177	1384	1012	372	147	124	23	298	286	12	1447	608	839	411	310	101
33	Tourism	116	116	0	3	3	0	3	3	0	0	0	0	0	0	0	123	104	19	104	108	0
34	Urban Affairs	69	58	11	12	8	4	7	16	0	2	0	2	6	3	3	123	107	16	69	38	31
35	Water Resources	48	43	5	38	21	17	21	17	4	9	3	6	19	8	11	74	60	14	39	21	18
36	Miscellaneous	72	73	0	87	39	48	53	40	13	6	3	3	15	8	7	94	54	40	19	1	18
	TOTAL	28367	26437	2154	3422	2404	1019	3854	3107	795	2015	977	1038	3158	2518	640	35366	28875	6491	22577	14343	8240

Note:- Data is based on QSR received for 2003 and does not include the data not reported or Departments which have not submitted the QSR.

Annexure - IV

List of Organisations yet to submit reports on Complaints Forwarded by the Commission

S. No.	Name of the Organisation	Complaints pending with CVOs for Investigation		
		Upto One Year	Between One-Three Years	More than Three Years
1.	Air India	-	1	-
2.	Airports Authority of India	7	4	1
3.	All India Institute of Medical Sciences	1	2	1
4.	Allahabad Bank	1	-	-
5.	Andaman & Nicobar Administration	-	1	5
6.	Bank of Baroda	-	1	2
7.	Bank of India	-	-	1
8.	Bank of Maharashtra	-	2	1
9.	Bharat Heavy Electricals Ltd.	2	-	-
10.	Bharat Immunologicals and Biologicals	1	-	-
11.	Border Roads Development Board	-	2	3
12.	Bureau of Indian Standards	-	1	-
13.	C.C.R. in Unani Medicine	-	1	1
14.	C.T.R. and T. Centre	1	-	-
15.	Cement Corporation of India	-	1	-
16.	Central Bank of India	1	4	1
17.	Central Board of Direct Taxes	4	44	52
18.	Central Board of Excise & Customs	2	84	82
19.	Central Board of Secondary Education	-	2	-
20.	Central Bureau of Investigation	-	-	7
21.	Central Council for Research in Ayurveda & Siddha	-	-	1
22.	Central Public Works Department	4	-	4
23.	Central Silk Board	-	-	5
24.	Central Warehousing Corporation	1	4	2
25.	Coal India Ltd.	2	-	1
26.	Cotton Corporation of India	-	-	2
27.	Council for Scientific & Industrial Research	1	-	-
28.	D/o Scientific & Industrial Research	-	-	2
29.	D/o Agricultural Research & Education	-	-	1
30.	D/o Agriculture & Co-operation	1	5	7
31.	D/o Animal Husbandry & Dairying	3	6	-
32.	D/o Atomic Energy	1	-	-
33.	D/o Coal	2	3	3
34.	D/o Company Affairs	2	3	5
35.	D/o Consumer Affairs	1	1	1

S. No.	Name of the Organisation	Complaints pending with CVOs for Investigation		
		Upto One Year	Between One-Three Years	More than Three Years
36.	D/o Culture	-	5	4
37.	D/o Defence Production & Supplies	-	1	3
38.	D/o Education	-	31	9
39.	D/o Food & Public Distribution	-	2	4
40.	D/o Health	11	48	33
41.	D/o Heavy Industry	-	-	7
42.	D/o Industrial Policy and Promotion	1	-	-
43.	D/o Mines	-	-	1
44.	D/o Personnel & Training	2	1	7
45.	D/o Posts	14	15	8
46.	D/o Science and Technology	2	-	-
47.	D/o Steel	-	1	3
48.	D/o Supply	-	5	8
49.	D/o Telecom	23	15	10
50.	D/o Women & Child Development	-	2	1
51.	D/o Youth Affairs & Sports	-	4	3
52.	Daman & Diu and Dadra & Nagar Haveli Administration	1	-	3
53.	Damodar Valley Corporation	-	1	-
54.	Delhi Development Authority	9	1	-
55.	Delhi Jal Board	5	-	2
56.	Delhi Metro Rail Corporation	2	-	-
57.	Delhi Transport Corporation	-	-	1
58.	Delhi Vidyut Board	1	2	37
59.	Dena Bank	-	1	2
60.	Dental Council	1	-	-
61.	DSIDC	5	1	2
62.	Eastern Coalfields Ltd.	-	-	1
63.	Electronics Corporation of India Ltd.	1	-	-
64.	Fertilizers & Chemicals Travancore Ltd.	1	-	-
65.	Food Corporation of India	-	6	5
66.	Geological Survey of India	-	-	1
67.	Govt. of NCT, Delhi	33	13	37
68.	Govt. of Pondicherry	-	-	1
69.	Hindustan Latex Ltd.	2	-	-
70.	Hindustan Machine Tools	1	-	-
71.	Hindustan Petroleum Corporation Ltd.	1	-	-
72.	Hindustan Salts Ltd.	1	-	-
73.	HUDCO	1	-	-
74.	I.C.M.R.	1	1	-
75.	I.S.M.H.	-	8	-
76.	India Tourism Development Corporation	1	1	-

S. No.	Name of the Organisation	Complaints pending with CVOs for Investigation		
		Upto One Year	Between One-Three Years	More than Three Years
77.	Indian Airlines Ltd.	-	1	1
78.	Indian Bank	-	-	1
79.	Indian Council of Agricultural Research	-	23	18
80.	Indian Overseas Bank	-	2	-
81.	Industrial Investment Bank of India	1	-	-
82.	ITI	2	-	-
83.	Jawaharlal Nehru University	-	2	-
84.	Kandla Port Trust	1	-	1
85.	Kendriya Vidyalaya Sangathan	-	4	10
86.	Kolkata Port Trust	1	-	1
87.	Lakshadweep Administration	-	-	2
88.	Life Insurance Corporation	2	6	10
89.	M/o Civil Aviation	1	4	4
90.	M/o Commerce	3	4	6
91.	M/o Defence	1	9	14
92.	M/o Environment & Forests	-	12	4
93.	M/o External Affairs	-	1	-
94.	M/o Finance	-	9	22
95.	M/o Home Affairs	2	1	25
96.	M/o Information & Broadcasting	5	7	17
97.	M/o Labour	5	5	7
98.	M/o Petroleum & Natural Gas	-	1	2
99.	M/o Power	1	3	8
100.	M/o Railways	-	31	88
101.	M/o Shipping	-	1	-
102.	M/o Small Scale Industries	-	1	-
103.	M/o Social Justice & Empowerment	-	2	9
104.	M/o Textiles	1	-	7
105.	M/o Tourism	-	-	2
106.	M/o Urban Development & P.A.	5	-	10
107.	M/o Water Resources	2	3	1
108.	Madras Fertilizers Ltd.	-	-	3
109.	Mahanagar Telephone Nigam Ltd.	1	-	-
110.	Metallurgical Engg. Consultants India	-	-	1
111.	Mumbai Port Trust	2	-	-
112.	MMTC Ltd.	-	2	-
113.	Municipal Corporation of Delhi	37	17	-
114.	N.D.D.B.	-	-	1
115.	N.S.C.	-	1	-
116.	Nathpa Jhakri Power Corporation	-	-	1
117.	National Aluminium Co. Ltd.	-	1	-

S. No.	Name of the Organisation	Complaints pending with CVOs for Investigation		
		Upto One Year	Between One-Three Years	More than Three Years
118.	National Bank for Agriculture & Rural Development	-	1	-
119.	National Building Construction Corporation	1	-	-
120.	National Highways Authority of India	7	-	-
121.	National Industrial Development Corporation Ltd.	-	-	2
122.	National Insurance Co. Ltd.	1	5	10
123.	National Mineral Development Corporation	1	-	-
124.	National Small Industries Corporation Ltd.	1	-	1
125.	National Textile Corporation	-	1	-
126.	Navodaya Vidyalaya Samiti	-	-	1
127.	New Delhi Municipal Council	5	1	2
128.	New India Assurance Co. Ltd.	-	5	12
129.	Northern Coalfields Ltd.	-	1	1
130.	Nuclear Power Corporation of India Ltd.	1	-	-
131.	O/o Comptroller & Auditor General of India	-	-	3
132.	O/o Controller General of Defence Accounts	-	1	3
133.	Oriental Bank of Commerce	-	-	4
134.	Oriental Insurance Co. Ltd.	-	4	6
135.	Paradip Port Trust	-	-	1
136.	PGIMER	1	-	1
137.	Planning Commission	-	-	1
138.	Power Grid Corporation of India Ltd.	1	-	-
139.	Punjab and Sind Bank	-	1	-
140.	Punjab National Bank	-	6	14
141.	Pyrites, Phosphates & Chemicals Ltd.	-	-	1
142.	Rashtriya Ispat Nigam Ltd.	1	-	-
143.	Reserve Bank of India	-	2	6
144.	South Eastern Coalfields Ltd.	-	1	-
145.	Sports Authority of India	-	-	1
146.	State Bank of Bikaner & Jaipur	-	-	1
147.	State Bank of Hyderabad	-	2	2
148.	State Bank of India	2	2	9
149.	State Bank of Indore	-	1	-
150.	State Bank of Patiala	1	3	-
151.	State Bank of Travancore	-	-	1
152.	Super Bazar	-	-	3
153.	The State Trading Corporation Ltd.	-	-	4

S. No.	Name of the Organisation	Complaints pending with CVOs for Investigation		
		Upto One Year	Between One-Three Years	More than Three Years
154.	Tobacco Board	-	-	2
155.	Tungabhadra Steel Products Ltd.	1	-	-
156.	UCO Bank	-	2	-
157.	Union Bank of India	2	2	-
158.	United Bank of India	-	1	-
159.	United India Insurance Co. Ltd.	-	7	9
160.	University Grant Commission	-	1	-
161.	Vijaya Bank	-	-	2
162.	Visakhapatnam Port Trust	1	-	2
	TOTAL	258	540	765

Annexure - V

List of Organisations yet to appoint CDIs nominated by the Commission

S. No.	Name of the Organisation	No. of nominations pending	
		>3 months but <1 year	>1 year
1.	Airports Authority of India	6	-
2.	All India Radio	-	1
3.	CBDT	6	2
4.	CBEC	8	1
5.	Chandigarh Admn.	1	1
6.	D/o Coal	9	-
7.	D/o Defence Production & Supplies	9	-
8.	D/o Food & Public Distribution	2	1
9.	D/o Personnel & Training	1	-
10.	D/o Telecom	4	-
11.	Delhi Jal Board	3	-
12.	DSIDC	1	-
13.	DTC	1	-
14.	EPFO	1	-
15.	Food Corp. of India	2	1
16.	Govt. of NCT of Delhi	-	1
17.	Hindustan Vegetable Oil Corp. Ltd.	-	2
18.	Indian Bank	-	2
19.	ITDC	4	-
20.	M/o Defence	2	-
21.	M/o Health & Family Welfare	2	1
22.	M/o Home Affairs	1	1
23.	M/o Information & Broadcasting	-	3
24.	M/o Railways	1	-
25.	MCD	15	2
26.	MMTC Ltd.	3	-
27.	National Insurance Co. Ltd.	4	-
28.	New India Assurance Co. Ltd.	3	-
29.	NSCFDC	4	-
30.	Oriental Bank of Commerce	5	-
31.	Punjab National Bank	1	-
32.	State Bank of Hyderabad	4	-
33.	State Bank of India	-	1
34.	Super Bazar	-	1
35.	Visakhapatnam Port Trust	1	-
	Total	104	21

Annexure – VI

Organisation-wise list of cases in which Commission has not received information about implementation of its advice

S. No.	Name of Organisation	No. of Cases Pending Implementation of CVC's Advice for more than Six Months	
		First Stage Advice	Second Stage Advice
1.	Air India	1	-
2.	Airports Authority of India	2	-
3.	All India Institute of Medical Sciences	2	-
4.	Allahabad Bank	25	2
5.	Andaman & Nicobar Administration	19	5
6.	Andhra Bank	21	1
7.	Bank of Baroda	86	35
8.	Bank of India	67	1
9.	Bank of Maharashtra	45	22
10.	Bharat Dynamics Ltd.	3	-
11.	Bharat Petroleum Corporation Ltd.	1	-
12.	Bongaigaon Refineries & Petrochemical Ltd.	-	1
13.	Border Roads Development Board	1	8
14.	Bureau of Indian Standards	2	-
15.	Cabinet Secretariat	5	13
16.	Canara Bank	41	5
17.	CAPART	1	3
18.	Central Bank of India	28	-
19.	Central Board of Direct Taxes	10	26
20.	Central Board of Excise & Customs	31	118
21.	Central Bureau of Investigation	5	4
22.	Central Public Works Department	48	18
23.	Central Tibetan School Administration	-	1
24.	Central Warehousing Corporation	1	-
25.	Chandigarh Administration	31	1
26.	Chennai Port Trust	1	-
27.	Coconut Development Board	1	-
28.	Coir Board	-	1
29.	Corporation Bank	10	1
30.	Council for Scientific & Industrial Research	2	3
31.	D/o Agriculture & Co-operation	2	4
32.	D/o Animal Husbandry & Dairying	-	2
33.	D/o Atomic Energy	-	2
34.	D/o Chemical & Fertilizers	1	2

S. No.	Name of Organisation	No. of Cases Pending Implementation of CVC's Advice for more than Six Months	
		First Stage Advice	Second Stage Advice
35.	D/o Chemicals & Petrochemicals	-	2
36.	D/o Coal	1	-
37.	D/o Company Affairs	10	1
38.	D/o Culture	7	-
39.	D/o Defence Production & Supplies	22	4
40.	D/o Education	2	1
41.	D/o Environment & Forests	2	12
42.	D/o Food & Public Distribution	1	-
43.	D/o Health	18	16
44.	D/o Information Technology	1	-
45.	D/o Personnel & Training	24	5
46.	D/o Posts	48	11
47.	D/o Science & Technology	-	2
48.	D/o Space	-	1
49.	D/o Steel	2	2
50.	D/o Sugar & Edible Oils	1	-
51.	D/o Supply	1	-
52.	D/o Telecom	876	58
53.	D/o Women & Child Development	1	1
54.	D/o Youth Affairs & Sports	3	1
55.	Daman & Diu and Dadar & Nagar Haveli Administration	37	10
56.	Delhi Development Authority	116	44
57.	Delhi Jal Board	8	7
58.	Delhi Transport Corporation	12	1
59.	Delhi Vidyut Board	105	91
60.	Dena Bank	28	1
61.	DSIDC	2	1
62.	Employees Provident Fund Organisation	5	3
63.	Employees State Insurance Corporation	1	1
64.	Food Corporation of India	2	-
65.	Govt. of NCT, Delhi	117	42
66.	Govt. of Pondicherry	39	1
67.	Hindustan Aeronautics Ltd.	2	1
68.	Hindustan Machine Tools	-	1
69.	Hindustan Shipyard Ltd.	1	-
70.	Hospital Services Consultancy Corporation	-	1
71.	HUDCO	2	4
72.	IBP Co.	1	-
73.	Indian Bank	88	4

S. No.	Name of Organisation	No. of Cases Pending Implementation of CVC's Advice for more than Six Months	
		First Stage Advice	Second Stage Advice
74.	Indian Council of Agricultural Research	5	-
75.	Indian Overseas Bank	85	3
76.	Indira Gandhi National Open University	2	-
77.	Industrial Development Bank of India	1	-
78.	Industrial Investment Bank of India	1	1
79.	ISMH	3	6
80.	ITPO	-	1
81.	Jawahar Lal Nehru Port Trust	1	-
82.	Jute Corporation of India	-	1
83.	Kendriya Bhandar	1	-
84.	Kendriya Vidyalaya Sangathan	5	3
85.	Lakshadweep Administration	6	-
86.	Life Insurance Corporation	-	5
87.	M/o Civil Aviation	1	-
88.	M/o Commerce	-	1
89.	M/o Defence	88	19
90.	M/o External Affairs	19	2
91.	M/o Finance	3	6
92.	M/o Home Affairs	44	25
93.	M/o Information & Broadcasting	73	16
94.	M/o Labour	5	-
95.	M/o Petroleum & Natural Gas	1	-
96.	M/o Power	1	-
97.	M/o Railways	389	30
98.	M/o Textiles	1	-
99.	M/o Tourism	-	2
100.	M/o Urban Development & P.A.	81	38
101.	M/o Water Resources	5	1
102.	Mahanadi Coalfields Ltd.	-	2
103.	Mazagaon Dock Ltd.	2	1
104.	MIDHANI	1	1
105.	Municipal Corporation of Delhi	75	20
106.	National Aluminium Co. Ltd.	1	-
107.	National Bank for Agriculture & Rural Development	4	-
108.	National Building Construction Corporation	9	5
109.	National Consumer Co-operative Federation	1	-
110.	National Highways Authority of India	2	-
111.	National Housing Bank	-	1

S. No.	Name of Organisation	No. of Cases Pending Implementation of CVC's Advice for more than Six Months	
		First Stage Advice	Second Stage Advice
112.	National Insurance Co. Ltd.	16	16
113.	National Mineral Development Corporation	1	2
114.	National Thermal Power Corporation	1	2
115.	Navodaya Vidyalaya Samiti	1	-
116.	New Delhi Municipal Council	3	2
117.	New India Assurance Co. Ltd.	2	2
118.	Nuclear Power Corporation of India Ltd.	1	-
119.	O/o Comptroller & Auditor General of India	3	3
120.	O/o Controller General of Defence Accounts	17	6
121.	Oil & Natural Gas Corporation	2	-
122.	Ordnance Factory Board	2	-
123.	Oriental Bank of Commerce	35	-
124.	Oriental Insurance Co. Ltd.	2	-
125.	Paradip Port Trust	1	-
126.	PGIMER	2	-
127.	Planning Commission	1	-
128.	Punjab and Sind Bank	36	4
129.	Punjab National Bank	107	-
130.	SAI	1	1
131.	Shipping Corporation of India	-	1
132.	Small Industries Development Bank of India	2	-
133.	South Eastern Coalfields Ltd.	1	-
134.	State Bank of Bikaner & Jaipur	44	6
135.	State Bank of Hyderabad	35	18
136.	State Bank of India	318	10
137.	State Bank of Indore	12	7
138.	State Bank of Mysore	47	14
139.	State Bank of Patiala	15	3
140.	State Bank of Saurashtra	30	4
141.	State Bank of Travancore	56	38
142.	Super Bazar	1	-
143.	Syndicate Bank	21	1
144.	The State Trading Corporation of India	-	1
145.	TRIFED	2	-
146.	UCO Bank	51	17
147.	Union Bank of India	47	-
148.	United Bank of India	7	-

S. No.	Name of Organisation	No. of Cases Pending Implementation of CVC's Advice for more than Six Months	
		First Stage Advice	Second Stage Advice
149.	United India Insurance Co. Ltd.	4	-
150.	Vijaya Bank	20	2
	TOTAL	3942	959

Back to back tie up by PSUs - Instructions regarding by CTE

It has been observed during intensive examination of various works/contracts awarded by construction PSUs on back to back basis that the works are being awarded in an ad-hoc and arbitrary manner without inviting tenders and ascertaining the performance, capability and experience of the tenderers. In some cases, the works were awarded on single tender basis/limited tender basis though sufficient time was available with the Organisation to invite open tenders.

Some of the common irregularities/lapses observed during the examination of works were as under:

- a) No transparency in selection of contractor for the back to back tie up which is the main source of corruption.
- b) Collusion among the contractors was observed where more than one contractors were involved at various stages.
- c) Ineligible contractor obtains the contract through the PSUs.
- d) Purchase preference misused by the PSUs.
- e) PSUs sublet the complete work to a private contractor without obtaining permission from the client which invariably put a condition insisting such permission since the client is generally not interested in such back to back sublet of the work.
- f) Infructuous work (to the exchequer) due to the involvement of intermediary PSUs and cost of project goes up ultimately.
- g) No supervision by the PSU as they put the staff mainly for coordination work.
- h) Quality ultimately suffers due to lack of supervision by the PSUs.

Commission is of the view that the practice of award of works to PSUs on nomination basis by Govt. of India/PSUs needs to be reviewed forthwith.

The irregularities observed during intensive examination of work and difficulties being faced by the PSUs in inviting tenders were considered and it has been decided that the procedure to be followed for award of work by Construction PSUs shall be finalised taking into account the following points:

- a) PSUs (when bag the contract from the client Department) as a contractor, as to execute the work by functioning like a contractor instead of sub-letting the 100% work on back to back basis.
- b) Open tenders to be invited for selection of sub-contractors as far as possible.

- c) In case, it is not possible to invite open tenders, selection should be carried out by inviting limited tenders from the panel approved in the following manner. Panel of contractors are to be prepared for different categories, monetary limits, regions, in a transparent manner clearly publishing the eligibility criteria etc. The above panel is to be updated every year.
- d) Tenders to be opened confidentially by a high level committee to maintain the secrecy of rates, if required. Tender opening register should be maintained in this regard duly signed by the officers opening the tender and kept confidentially. This should be available for perusal when required by audit/vigilance.
- e) The terms and conditions of the contract of the client especially those pertaining to subletting of works should be strictly adhered to by the PSUs.
- f) Adequate staff to be deployed by the PSUs to ensure quality in construction etc.
- g) The record of enlistment/updation of contractor and tender opening register shall be produced to the CTEO as well as audit officials when demanded for scrutiny.

It is, therefore, suggested that the procedure for award of work on back to back basis be finalised keeping in view the above points and circulated amongst the concerned officials of your organisation for strict compliance in future works.

Annexure- VIII

Cases Inspected by CTE Resulting in Advice of Penalty Proceedings by the Commission

S.NO.	ORGANISATION	TYPE OF CASES	NATURE OF 1ST STAGE ADVICE	NUMBER OF OFFICERS
1.	CPWD	C/o CPWD Training Institute Building, Ghaziabad. SH: C/o Hostel Building i/c Dinning Hall with Kitchen and Utility area	Minor Penalty	1 Officer
2.	NBCC	C/o permanent NIFT Centre at Bangalore	Minor Penalty	3 Officer
3.	NMDC	Procurement of Heavy Duty Tertiary Cone Crushers	Minor Penalty	2 Officers
4.	Visakhapatnam Port Trust	Supply and Commissioning of wagon re-railing equipment for OHC.	Major Penalty Minor Penalty	1 Officer 1 Officer
5.	M/o Urban Development and Poverty Alleviation	C/o 60 Nos. type III quarters, 30 Nos. Type IV quarters and 20 Nos. Type V quarters at IGNOU, Maidan Garhi, New Delhi.	Minor Penalty	1 Officer
6.	Chennai Petroleum Corporation Ltd.	Examination of works related to DHDS project	Minor Penalty	5 Officers
7.	Railway Board	The work of providing of signaling arrangements of Satur, Kovilpatti, Sulakharai, Nalli and Kumarapuram Stations in connection with Madurai-Virudhunagar-Maniyachchi section BG conversion work.	Minor Penalty	2 Officers
8.	DDA	C/o 160 houses under SFS in Sector D, Pocket 7 & 8 at Vasant Kunj	Minor Penalty	8 Officers