

CHAPTER 19

FINAL REPORTS, SP's REPORTS AND COMMENTS OF SUPERIOR OFFICERS

OBJECT OF FINAL REPORT

19.1 On completion of enquiry/investigation, every Investigating Officer is required to submit a report called the 'Final Report' – Part-I, setting out in detail in the prescribed proforma, the result of the enquiries/investigation and containing his recommendation for the type of action to be taken. The Final Report is a confidential document and its primary purpose is to apprise the Superior Officers and Law Officers of the CBI of the result of the enquiries with a view to assess the merits and demerits of a case and facilitate the passing of final orders thereon by the Competent Authority. It is imperative, therefore, that Final Reports should present a clear, complete and well-connected picture of the case and explain and analyse the available evidence. This report is for in-house use of CBI and shall not be discussed / quoted outside CBI.

19.2 The Final Report is written in all Preliminary Enquiries and Regular Cases. If, however, a Preliminary Enquiry is to be converted into a Regular Case, a Final Report is not always necessary. Instead, only a brief note is to be sent to the Competent Authority setting out the material available to justify the registration of regular case.

19.3 Final Reports should be prepared by Investigating Officers according to the prescribed proforma. Part I of the Final Report is to be prepared by the I.O. himself. Explanatory notes and instructions under the various heads are given in the proforma. The following information in respect of suspect/accused persons should invariably be furnished:–

- (a) Name in full (with parentage):
- (b) Aliases, if any:
- (c) Address :
 - (i) Present :
 - (ii) Permanent :
- (d) Designation/Status and Pay Scale:
 - (For Public Servants):
 - (i) At the time when impugned act was committed
 - (ii) At the time when this report is written
- (e) Ministry/Department in which the suspect/accused is working
(For Public Servants)
- (f) Date of birth and date of retirement
- (g) Whether arrested, in judicial custody, on bail, or absconding.
- (h) Whether under suspension and the date thereof.
- (i) Whether suspended by Department, *suo motu* or on the recommendations of the CBI.

19.4 Comments of Law Officer should be in the format given in Part-II of the proforma. Explanations and instructions are also given in this proforma. In all cases against Gazetted

Officers and in other important cases indicated by the Superintendent of Police these comments should be originally prepared by the Law Officers of the Branch as ordered by the SP or senior most Law Officer of the Branch.

If any of the statutory sanction is required or if the case can be prosecuted only on a complaint by a competent statutory authority, this shall be indicated in Final Report – Part-II.

19.5 The Law Officers must not depend entirely on the Final Report of the Investigating Officers nor base their comments only on them. They should examine case diaries and statements of important witnesses as well as material documents/articles etc., before offering their comments. They have to consider not only the opinions and suggestions of the Investigating Officer, but also the relevant facts of the case. All legal issues in the case should be brought out by him in his comments.

19.6 The comments of the Supervisory Officer (SP) are to be recorded under the following columns:–

- (1) Case No. and date of registration
- (2) (i) Recommendations of the I.O.
(ii) Recommendations of the Law Officer.
- (3) Comments (allegation-wise).
- (4) Recommendations of SP(allegation-wise).

NOTE: (i) The SP's comments and recommendations must be clear and specific.
(ii) In case the SP differs from the recommendations of the I.O. and /or the Law Officer, grounds thereof should be furnished.

19.7 Disposal of cases taken up by the CBI can be grouped under the following five categories, which should be borne in mind while making recommendations:–

- (a) Cases in which sufficient evidence is available to warrant criminal prosecution.
- (b) Cases which are fit to be forwarded to Ministries or Departments concerned for Regular Departmental Action, either because:
 - (i) The evidence is not strong enough for prosecution;
or
 - (ii) The specific charges are of procedural violations and not of a criminal nature;
or
 - (iii) Departmental Action is preferable for some other important reasons;
- (c) Cases which are fit to be referred to Ministries or Departments concerned for their information and such action as they may consider appropriate;
 - (a) Cases in which enquiry or investigation has not yielded any fruitful result or in which the allegations have not been substantiated and which have, therefore, to be closed ; and
 - (b) Cases in which allegations have been found to be false and/or *mala fide*. In such cases, it should be considered whether any action can be taken against the complainant.

19.8 The distinction between (b) and (c) above should be clearly understood. In category (b) are included cases in which there is sufficient evidence for Regular Departmental Action on specific charges. In category (c) are included cases in which sufficient evidence is not available for Prosecution or for Regular Departmental Action, but in which there is reasonable suspicion about the honesty or integrity of the Government servant concerned or about his having indulged in irregular practices or having infringed Departmental rules or procedures or being guilty of

negligence or of dereliction of duty. In such cases, though Regular Departmental Action may not be possible, the suspicion and irregularities may be of such a nature that it is considered desirable to bring the matter to the notice of the Ministry or the Departmental head for such administrative action as they may consider feasible or appropriate. No reminders should be sent for obtaining the result of such cases but if the Ministry/Department on its own communicates to the CBI the action taken in the matter the same should be reported to the Head Office.

There should be no tendency to unnecessarily refer a case for "such action as deemed fit" under category (c) above solely because a case has been registered. If a case deserves to be closed, then this should be specifically recommended without any hesitation. It should be borne in mind that clearing an innocent person is as much the objective of an investigation as proceeding against a guilty person.

Final Reports in cases against Non-Gazetted Government Servant

19.9 Superintendents of Police are authorized to pass final orders according to delegation of powers which are extant from time to time. In such cases, copies of Final Reports need not be sent to the Head Office. The decision taken by the Superintendent of Police should, however, be reported to the Head Office by endorsing a copy of the SP's Report/Closure Report prepared for being sent to the Department concerned.

Closure Reports

19.10 The result of the enquiry in every case which is closed after enquiry should be communicated to the Ministry/ Department/Undertaking concerned in the proforma circulated vide Policy Division Circular No. 21/2/64-PD, dated 20-2-1967. A copy of the proforma statement in such cases, in respect of GOs only, should be endorsed to the Central Vigilance Commission also. The Closure Report should be sufficiently detailed to enable the Disciplinary Authority to understand why the allegations could not be substantiated and what was the type of evidence collected. For example, in Disproportionate Assets cases, the suspect's income from various sources, expenditure under various heads and the details of assets acquired should be mentioned.

19.11 Final Reports in cases requiring orders of DIG/ JD/ ADCBI/ SDCBI/ DCBI shall be sent by the Branch to the Regional DIG in duplicate and the orders of the Competent Authority obtained regarding further disposal of the case.

19.12 If prosecution is recommended in the Final Reports against public servant, then at the end of the Final Report the rank and designation of the authority competent to remove the accused Officer from service should be mentioned. Information concerning this should be collected when the investigation of the case is proceeding and it is felt that the case is likely to end in prosecution so that the submission of Final Report is not delayed for want of this information after completion of the investigation.

Point to be noted while preparing Final Reports

19.13 The following points should be kept in mind while preparing Final Reports:—

- (i) The typing should be in double space. The ink impression should be dark enough for easy reading. Para numbers should be given.
- (ii) Enquiries/investigations should be thorough and complete and the information supplied in the Final Reports should be adequate on all points so that it is not necessary for senior Officers to raise any avoidable queries.
- (iii) The allegations, the facts of the case, the evidence available and the opinions and comments should not be mixed up in the Final Reports. They should be dealt with separately and succinctly.

- (iv) Repetition should be avoided. The allegations should be listed in proper order in a clear and definite form and discussed separately in detail.
- (v) The analysis of the facts of the case should be kept separate from the opinion. When there are a number of allegations and a number of accused persons, care should be exercised so that the conclusion is very clear in respect of each allegation and in respect of each accused. In the final recommendation, the name of each accused person as well as his accused number should be furnished, e.g., A.K. Manchanda (A-6).
- (vi) If any of the necessary witnesses could not be examined or if some of the documents could not be obtained, the same should be mentioned clearly in the Final Report, giving clear reasons.
- (vii) There should be no delay in the submission of or dealing with Final Reports or in furnishing any supplementary information asked for by the Regional or Head Office on the Final Reports. Superintendent of Police should see that the Investigating Officer and the Law Officer do not take more than the required time to prepare the Final Reports and to give their comments. Setting of target dates for submission of FR-I and FR-II would help in this regard.
- (viii) The Conduct Rule or Rules which have been violated by the suspect working in a Government Department or Undertaking should be quoted and reproduced in the Final Reports–I and II as well as in the SP's report.
- (ix) The correct import of the relevant Conduct Rule(s) should be considered and the manner in which the Conduct Rule or Rules has been violated should be clearly brought out.
- (x) In respect of cases of disproportionate assets, the income, expenditure and assets should be discussed in detail in the prescribed manner. The prescribed Statements A to D should be furnished in the Final Report. Reasons for accepting or rejecting various items under each head should be discussed in sequence and the evidence marshalled properly to facilitate final decision regarding each item.
- (xi) Opinion received from the expert or at least the relevant portion thereof should be incorporated in the Final Reports.
- (xii) In cases pertaining to misappropriation of Government money or property, several instances of misappropriation are dealt with as a whole. In Final Report–Parts-I and II, each item should be discussed separately with a clear opinion about any difficulty that we may have to face in proving misappropriation of each item.
- (xiii) The Branch Law Officers should not merely summarise the evidence collected during the investigation/ inquiry. They should give a careful analytical note which should, *inter alia*, bring out the points which are to be established and the evidence which establishes the particular points. They should highlight the important propositions requiring decision in the Regional or Head Office. If any further investigation is required to be done, it should also be set out.

Superintendent of Police's Report

19.14 Reports giving the result of enquiries/investigation are required to be sent to Ministries or other Departmental authorities for the following purposes:–

- (a) for getting sanction for prosecution;
- (b) for obtaining a complaint for prosecution as required under the relevant provisions of different Acts;

- (c) for taking Regular Departmental Action;
- (d) for taking such action as may be considered appropriate by the Department;
- (e) for information only (This includes the report about closure of a case).

19.15 SP's Report is a very important document and should be prepared personally by the SP in the prescribed format. The concerned Departments/ Government Undertakings assess the CBI investigation of their cases solely on the basis of the SP's Reports. The report should be grammatically correct, clear and unambiguous. The report should be brief without repetitions and should contain all necessary data. The internal differences of opinion among CBI Officers should not find mention in the SP's Report, which should advance all arguments to justify the final order passed by the Competent Authority in the CBI. The final recommendation should be precise. If sanction is required, the relevant Section (including sub-section) of law under which sanction is required should be mentioned with brief grounds. In some of the cases, charge sheets cannot be filed and only complaints by certain statutory authorities can be filed in the Court. In such cases, the relevant section prescribing the filing of a complaint should be mentioned in the SP's Report. It should be borne in mind by the SP that the efficiency and the quality of work done by the CBI would be viewed mainly on the basis of the SP's Report and, therefore, no effort should be spared to make it factually correct, systematic, cogent and logical.

Preparation of SP's Report

19.16 The following instructions should be carefully noted in connection with the preparation of SP's Reports:-

- (a) The Report should be prepared with care, due attention being paid to quality and presentation.
- (b) The Report should contain all useful and relevant information from the Final Reports/Records of the case. However, information of a Departmental nature which is of interest to CBI Officers only, e.g., names of IOs, dates of inquiry, references to routine orders etc. need not be incorporated in the SP's Report.
- (c) In regard to controversial points on which different opinions may have been expressed by different Officers of the CBI, these differences should be settled within the CBI and only the final opinion of the CBI is to be forwarded to the outside authorities.
- (d) Very minor points which do not materially affect the merits of the case could be omitted.
- (e) The defence pleas advanced by the suspected or accused persons or firms are to be mentioned in full and not briefly or in a concise manner. The accused's explanation should be taken into consideration on all the points alleged against him. It is also necessary to indicate clearly how the defence pleas can be rebutted and explained. While both the prosecution and the defence evidence has to be stated, it is to be presented, analyzed and discussed in this report in such a way as to support the course of action suggested.
- (f) The exact amount of pecuniary advantage caused or the overpayment made in case of purchases or construction work should be mentioned.
- (g) In cases requiring Regional or Head Office orders, the draft of the SP's Report shall be prepared even at the time of forwarding the FRs to the Regional or Head Office in order to obviate delay.
- (h) In cases in which final orders regarding Regular Departmental Action or Prosecution are required to be passed by the DIG, the SP's Report may be sent

directly by the Branch to the concerned authorities with a copy to the Regional and Head Offices for information.

- (i) In cases in which final orders are passed by the Superintendent of Police, the SP's Report will be sent directly from the Branch to the authorities concerned with a copy to the Regional and Head Offices for information.
- (j) When sanction for prosecution is required, a draft sanction order should be enclosed with the report. The draft sanction order should be prepared carefully by the Law Officers in the light of Circular No.21/33/98-PD, dated 1-12-1998
- (k) Wherever it is decided to recommend Suitable Action against an Officer for minor lapses which are not serious enough to warrant any kind of Regular Departmental Action, the lapses must be pin-pointed in the SP's Report itself and it should not be left to the concerned Department to go through the report and try to find out which minor lapses were committed by the concerned Officer.
- (l) In para 4 of the SP's Report under the title "Allegations", the allegations against each of the accused/ contractor/ firm which would necessitate action / banning of business etc. should be mentioned specifically.
- (m) Under the heading "Detailed Analysis", in addition to discussing the evidence in support of each allegation, the culpability of each of the accused, i.e. the evidence available against each of the accused to establish a criminal offence or Departmental misdemeanour should be discussed. Similarly, in regard to the contractors/firms the evidence available to prove the offences/ irregularities committed should be discussed allegation-wise.
- (n) In Para 7 titled as "Conclusion", the exact offence committed by each of the accused or the Conduct Rule contravened by him has to be spelt out clearly. In regard to recommendations pertaining to action against contractors/ firms, it should also be mentioned if the allegation has been substantiated or not and, if so, what action is recommended against the accused contractor/firm.
- (o) When a complaint is required to be filed by a public servant, a draft complaint duly vetted by a Law Officer should be prepared for enclosing with the report.
- (p) When Regular Departmental Action is suggested, the following, documents should be prepared for enclosing with the report:-
 - (i) Draft Article of charge.
 - (ii) Draft Statement of imputations of misconduct in support of each article of charge.
 - (iii) Lists of witnesses and documents to prove the charges.

These documents may be prepared by the Investigating Officers, vetted by the Law Officer and checked by the Superintendent of Police himself.

- (q) The following information should invariably be furnished under the heading 'Suspects/ Accused persons' in the SP's Report:-
 - (i) Name in full (with parentage) :
 - (ii) Alias, if any :
 - (iii) Address:
 - (a) Present :
 - (b) Permanent :
 - (iv) Designation/Status and Pay Scale (For Public servants):
 - (a) At the time, when the impugned act was committed.

- (b) At the time when this Report is being sent.
- (v) Ministry/Department in which the suspect/ accused is working (For Public Servants)
- (vi) Date of retirement.
- (vii) If arrested, whether in judicial custody, on bail, or absconding.
- (viii) Whether suspended, if so, the date thereof.
- (ix) If suspended, whether by the Department. *suo moto* or on the recommendations of the CBI.
- (r) The draft charges should be in the prescribed form. In Departmental proceedings, charges would necessarily involve negligence, irregularities, breaches of Departmental rules, disobedience of orders or instructions, misconduct or unfitness for service. The draft charges should, therefore, be based on these lines, and should not mention specific offences under the IPC or other Criminal Laws.
- (s) The Departmental rules or circular/orders infringed should be quoted in the statement of imputations and a copy of the concerned rule or order should accompany the SP's Report.

19.17 The SP's Report should be self-contained and the issues involved in the case should be fully discussed so that it should not be necessary to refer to any other document for the full understanding of the prosecution case. In order to meet this requirement, the SP's Report should logically marshal the arguments so as to lead to convincing conclusions. The report should never be too long, save in exceptional cases.

19.18 Unless the contents of the SP's Report so demand, the SP's Report should ordinarily be classified as "Confidential". A higher security grading, viz., "Secret" may be given if the contents satisfy the requirements as prescribed in the rules regarding security grading. Privilege u/s.124 Evidence Act should be claimed for production in Court of FR-I, FR-II and the SP's Report, when so called for by the Court.

Lapses, Loopholes noticed

19.19 Lapses in the enforcement of rules and regulations and loopholes in the administrative procedure noticed in the course of an open enquiry by the CBI, which facilitated the misconduct and the malpractices, should be brought out under the prescribed heading (Annexure-III) in the SP's Report. Suggestions of the CBI for avoiding such lapses and plugging of the loopholes noticed during the investigation should also be given in this para. An extract of this part of the SP's Report should also be sent to the Policy Division of the CBI for taking follow-up action, along with a copy of the covering letter with which the SP's Report was transmitted to the Ministry/CVC.

Enclosures to SP's Report

19.20 The following shall form enclosures of the SP's Report:–

- (i) Draft sanction order
- (ii) Draft articles of charge and statement of imputations
- (iii) Lists of witnesses and documents
- (iv) Statement of the accused in narrative form followed by specific questions and answers.
- (v) Statement A to D in cases of disproportionate assets.
- (vi) Draft complaints, with lists of witnesses and documents, in those cases in which complaints are required to be filed by the Competent Authority.

- (vii) In cases where the SP's Reports are sent to the CVC for giving its advice to the Department, a copy of the opinion of the Law Officer should be sent along with the SP's Report to the CVC only. In certain cases the opinion of the Law Officers may not have been accepted by the DIG/ JD/ADCBI/DCBI, as the case may be, and, therefore, recommendations contained in the SP's Report may be at variance with the opinion tendered by the Law Officers. In such cases, while forwarding the SP's Report along with the opinion of Law Officers, grounds on which the DIG/JD/ADCBI/DCBI did not accept the opinion of the Law Officer, should also be communicated to the CVC.

19.21 The SP's Report should be sent through a special messenger or by Registered Post/Speed Post only.
