MUMBAI PORT AUTHORITY

VIGILANCE DEPARTMENT

Comprehensive Guidelines on

COMPLAINTS HANDLING MECHANISM

If anyone from Mumbai Port Authority (MbPA) demands a bribe or if you have any information on corruption / corrupt practices in MbPA or if you are the victim of corruption in MbPA, you can address/register a complaint to the Chief Vigilance Officer (CVO) of MbPA or Central Vigilance Commission (CVC). The CVO, MbPA is mandated under the Vigilance manual of CVC to inquire or cause an inquiry into complaints against any official of MbPA wherein allegations of corruption are involved.

A. Jurisdiction of Vigilance Department, Mumbai Port Authority:

1. Complaints can be lodged only against officials of Mumbai Port Authority (MbPA).
2. The Vigilance Department, MbPA has no jurisdiction over private individuals and organizations of State or Central Government.

B. Lodging of complaints:

1. Complaints can be lodged against any official of MbPA by addressing the written communication/ letter directly to the Chief Vigilance Officer (CVO) of MbPA at the following address:

   Shri Vikas Verma
   Chief Vigilance Officer
   Mumbai Port Authority
   Vigilance Department
   3rd Floor, Krupanidhi
   9, Walchand Hirachand Marg
   Ballard Estate, Mumbai 400001

   Email: cvo@mumbaiport.gov.in

2. The Complaints can also be lodged on MbPA's website https://mumbaiport.gov.in/ under the link "Vigilance" on home page or through "MbPA e-Seva" android or ios app on mobile phone.

3. Complaints can be lodged with the Commission online, on the Commission's portal i.e https://portal.cvc.gov.in or through

the Commission's website https://cvc.gov.in under the link "Lodge Complaints", available on home page. For lodging complaint through the portal, it is mandatory for the complainant to provide Mobile Number, so that an auto generated OTP can be sent on the mobile number of the complainant for authentication purpose. As soon as the complaint is registered on the portal, an SMS confirming the registration of the complaint and also containing the complaint reference number would be sent to the complainant. The status of complaints lodged through the portal can be tracked through e-mode only.

4. Since MbPA has implemented the Integrity Pact for all contract works irrespective of cost of work, the complaints regarding such contracts may be referred to the Independent External Monitors (IEMs) whose names and contact details are given below:

(i) Shri Divya Prakash Sinha, IPS (Retd.)
83, Lodi Estate,
New Delhi – 110003
Mobile No.: (+91) 9868264271/9810090291
E-mail: dpsinha.ips@gmail.com

(ii) Shri Girraj Prasad Gupta, ICAS (Retd.)
C-2/29, Tilak Lane,
New Delhi – 110001
Mobile No.: (+91) 9868266056
E-mail: gpgupta1804@gmail.com

5. Complainant may give any information related with corruption on Toll Free No.1800 209 4441 which should be followed with written communication with details, as stated herein above paragraphs.

6. Complaints sent through written communication/ letter should contain complete postal address, (mobile/ telephone number, if any) of the sender with specific details/ information of the matter.

7. Complaints sent on any email ID of officers of the Vigilance Department (except that of the CVO, MbPA) will not be entertained or taken cognizance of by the Vigilance Department. Complaints made through email to the CVO, MbPA, should contain complete postal address.

8. Complaints should be genuine and not malicious, vexatious or frivolous and should be based on verifiable facts. The

complaint should not be biased or based on any personal grievances.

9. Complaints should be specific with adequate evidence and facts and should not be vague or contain sweeping general allegations.

10. Complaint should be addressed directly to the CVO, MbPA. Complaint should not be marked as a copy to the CVO, MbPA.

11. The Complaints should not be anonymous or pseudonymous.

12. Normally one specific issue should be raised in one complaint. However, if more than one specific issues are there, it is better to raise the same in separate complaint.

13. A complaint should preferably be typed or written form in English or Hindi or Marathi language. All complaints, even if printed or photocopied, should be clearly legible.

14. The complainant should lodge complaints only regarding issues having vigilance angle and which are not part of any litigation in any courts, tribunals, etc. i.e. the matter should not be subjudice.

15. No fee shall be chargeable for lodging complaints in Vigilance Department, MbPA.

C. Action taken on complaints in the Vigilance Department, MbPA:

1. Only those complaints which are against officials of MbPA and within the jurisdiction of Vigilance Department, MbPA and having vigilance angle will be investigated by the Vigilance Department.

2. If the complaints are against the Board level officers such as the Chairperson, Dy. Chairperson and the Head of the Department level officers, the same will be forwarded to the Chief Vigilance Officer of Ministry of Ports, Shipping & Waterways for necessary action.

3. Once a complaint is registered in the Vigilance Department, MbPA, further correspondence in the matter will not be entertained. However, Vigilance Department, MbPA assures that the complaints are investigated and action taken to its logical conclusion.

4. As regard complaints against tenders/ contracts, it is clarified that the Vigilance Department would investigate into the matter, however, it would not generally interfere in the tendering process. The intention is not to stop the work in the organization.

5. As the Vigilance Department, MbPA deals with matter related to corruption, redressal of grievances should not be the focus of complaints to the Vigilance Department. If the complaint is regarding the administrative matters, the same will be referred to the concerned authorities for necessary action.

6. In case the complaint is addressed and marked copy to the multiple authorities, the Vigilance Department at its discretion may inquire into the complaint or may file the same without initiating any action.

7. If a complaint contains specific and verifiable allegations of corruption/ vigilance angle and a view is taken to investigate & report on a complaint, the Vigilance Department seeks confirmation from the complainant for owning or disowning the complaint. This step is necessary because, as per policy of the CVC, the Vigilance Department does not take cognizance of anonymous or pseudonymous complaints. The complainant is also required to provide a copy of his/her identity proof. A communication in this regard is sent to the complainant, and he/she is required to respond within 15 days of the receipt of the communication from MbPA. However, in case of non- receipt of response within 15 days from the complainant, a reminder is also sent to him/her, giving another opportunity. In case of no response after 15 days of reminder, the complaint would be filed treating it as a pseudonymous complaint and no inquiry/ investigation be initiated on such complaint.

8. Complaints received from the CVC under the provisions of PIDPI Resolution are not required to be verified for genuineness by the Vigilance Department, MbPA, as the process of verification/ confirmation is completed in the CVC prior to referring it for investigation or further necessary action. Therefore, such complaints normally be taken up for investigation immediately on receipt of the same from the CVC and a report by CVO, MbPA would be required to be sent to CVC within three months from the date of receipt of reference.

9. The complaints where the CVC has called for Investigation Report, shall be treated as a signed complaint and need not required to be verified and be taken up for investigation.

10. If the complainant makes a complaint on phone and do not disclose his identity, the complaint may be treated as anonymous. If the complainant gives his identity over the phone and later on do not send the complaint in writing, the cognizance of such complaint will not be taken.

11. The complaints made through email and contains complete postal address, will be dealt as a normal complaint by following the above procedure. If the email does not contain complete postal address, such complaints will be treated as anonymous/ pseudonymous and will be dealt accordingly.

12. Complaints which do not meet the above criteria will be filed.

13. The complaints received from/ through Member of Parliament/ VIPs, shall be dealt with on priority, upon receipt of confirmation of owning/ disowning from the complainant.

14. All the complaints received by the CVO, MbPA would be entered in the prescribed format in the complaint register in the Vigilance Department and will be allotted a complaint number.

15. Upon receipt of complaints, initial assessment will be carried out and the complaints are sorted within one month as per the following procedure:

(i) The complaints are closed and filed, if the allegations are not having vigilance angle and vague or prima facie unverifiable, with the approval of the CVO. Wherever considered necessary, the matter will be brought to the notice of Chairperson, MbPA for his/her information.

(ii) If the complaint is regarding grievance redressal or pertaining to administrative matters, the same shall be forwarded to the concerned department for taking necessary action as deemed fit. In such cases, the department will be asked to revert back to Vigilance Department only if they find vigilance angle in the complaints.

(iii) The following categories of complaints would ordinarily be closed and filed without taking any further action:

(a) Complaints which are anonymous or pseudonymous

(b) complaint not directly addressed to CVO, MbPA and/or endorsed to multiple authorities

(c) Complaints about subjudice matter

(d) Complaints against private persons and officials of State or Central Government and which are not

covered within the jurisdiction of Vigilance Department, MbPA.

(e) Complaints which are illegible.

(iv) Complaints received from CVC for necessary action through its portal will be dealt as a normal complaint and will be dealt accordingly.

(v) If on prima facie there appears a vigilance angle into the allegation made in the complaint, the complaint will be taken up for inquiry/ investigation to verify the allegations to decide whether or not, the official concerned should be proceeded against departmentally or in the court of law or both or otherwise. Such inquiry/investigation may normally takes around 3 months after the decision is taken for carrying out detailed investigation. For further process of seeking advice for initiating disciplinary proceedings and actions on such advice, detailed guidelines given in the Vigilance Manual 2021 of CVC will be followed.

16. The status of all pending complaints/ action taken on complaints will be monitored by the CVO during the monthly review meeting with the Vigilance officers for ensuring timely disposal of the cases.

17. A review of complaint handling mechanism will be taken once in every three years.

D. <u>Handling of Complaints against Board level Officers</u>

1. A complaint involving a Board level appointee including the Heads of Departments [who are appointed by the Ministry of Ports, Shipping & Waterways (MoPSW)], whether figuring alone or in association with others, is to be forwarded by the CVO, MbPA to the CVO of MoPSW. Under no circumstances, CVO, MbPA would initiate action on such complaints in accordance with the instructions given in para 3.5 of Vigilance Manual, 2021.

2. If the CVO of MoPSW asks for a factual report against a Board level appointee including HoDs from the CVO, MbPA, the latter will send the same to the CVO of MoPSW, after endorsing a copy of the report to the Chairperson, MbPA.

3. In order to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion, selection or empanelment, the complaints/ cases which are more than 5 years old and against which, no action has been taken till then, should not be taken into

cognizance. However, the limit of 5 years will not apply to cases of fraud and other criminal offences.

E. Handling of Complaints against CVO and Vigilance Officers

Any complaint against the CVO should be immediately referred to the CVC and the CVC would decide the further course of action thereon. However, the complaints against the other Vigilance functionaries shall be looked into the by the CVO, MbPA personally and further action would be taken as per prescribed procedure.

F. Handling of Whistle Blower Complaints (Public Interest Disclosure and Protection of Informer's Resolution):

The Government of India vide Gazette Notification No 371/12/2002-AVD –III dated 21.04.2004 r/w Corrigendum dated 29.04.2004 notified the Public Interest Disclosure and Protection of Informers (PIDPI) Resolution 2004 .and The DoPT vide the DoPT Notification No. 371/4/2013- AVD III dated 14.08.2013 partially amended the PIDPI Resolution 2014.

In view of the above, the procedure to receive complaints relating to disclosure on any allegation of corruption or willful misuse of power or willful misuse of discretion by any Mumbai Port Authority (MbPA) employee and to provide adequate safeguards against victimization of the person making such complaint and for matters connected therewith and incidental thereto, is as under:

i) The Central Vigilance Commission is authorized as the "Designated Agency" as to written complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or control by the Central Government.

ii) The Chief Vigilance Officers of the Ministries or Departments of the Government of India are also authorised as the "Designated Authority" to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies. societies or local authorities owned or controlled by the Central Government or falling under the jurisdiction of that Ministry or the Department. Accordingly, the Chief Vigilance Officer of Ministry of Shipping, Port and Waterways(MoSPW) has been authorised as the 'Designated Authority' to receive written complaints from Whistle Blowers or disclosure on any allegation of corruption or misuse of office by any MbPA employee and to inquire or cause an inquiry into such disclosure and to provide adequate safeguards against victimization of the person making such complaint and for matters connected

therewith and incidental thereto.

iii) Any complaint to be made under this policy should comply with the following aspects:

a. The complaint should be in a closed/ secured envelope.

b. The envelope should be addressed to Secretary, Chief Vigilance Commission or Chief Vigilance Officer of MoSPW and should be **superscribed "Complaint under the Public Interest Disclosure".** If the envelope is not superscribed and closed, it will not be possible for the 'Designated Authority' to protect the complainant under PIDPI Resolution, 2004 and the complaint will be dealt with the normal complaint policy of MbPA. The complainant should give his/her name and address in the beginning or end of the complaint or in an attached letter.

c. Any **anonymous/ pseudonymous complaint will not be entertained**.

d. The text of the complaint should be carefully drafted so as **not to give any details or clue as to his/her identity**. However, the details of the disclosure or complaint should be specific and verifiable and shall contain as full particulars as possible and shall be accompanied by supporting documents or other materials.

e. In order to protect identity of the person, the 'DESIGNATED AUTHORITY' will not issue any acknowledgement and the whistle-blowers are **advised not to enter into any further correspondence** with the 'DESIGNATED AUTHORITY' in their own interest. The Designated Authority, subject to the facts of the case being verifiable, will take the necessary action, as provided under the PIDPI Resolution, 2004.

f. The 'DESIGNATED AUTHORITY' can also take **action against Whistle Blower making motivated/vexatious complaints** under the said Resolution.

iv) Details of PIDPI policy, is available at CVC website under circulars and archive (circular no 25/12/21 dated 24.12.2021). In case of any discrepancy in MbPA's Whistle Blower policy and PIDPI policy of CVC as amended from time to time, the policy as per the CVC circular or as amended from time to time shall prevail.

v) If any complaint is received under PIDPI in Vigilance office of MbPA the same shall be forwarded to the Chief Vigilance Officer

of Ministry of Shipping, Port and Waterways without opening. Further action will be taken by Chief Vigilance Officer of Ministry of Shipping, Port and Waterways.

G. Other Miscellaneous Points regarding Complaint Handling:

1. Each and every complaint and the resultant investigation report will be scrutinized to find out the possibility of systemic lacuna, that may have resulted in irregular acts being committed by the suspected officials. The outcome of such scrutiny should be utilized to devise and implement systemic improvements to stop recurrence of such irregular acts.

2. CVO, MbPA to review all complaints pending for investigation in MbPA at regular intervals, preferably in the first week of every month and take necessary steps for ensuring expeditious finalization of reports and further necessary action, as may be required in individual cases.

3. The CVC has been laying emphasis on timely/ prompt action on complaints. For this purpose, the CVC has issued guidelines on various occasions, specifying the time limit for dealing with complaints. The same is summarized in the following table:

Sr. No.	Description	Timeline
1	Timeline for seeking confirmation from complainant before initiating Investigation process.	15 days
2	If confirmation not received within 15 days, reminder to be sent to complainant (If no response received ever after reminder, complaint may be filed treating as pseudonymous complaints).	15 days
3	Timeline for submission of Investigation Report to the CVC on complaints referred by it to the CVOs concerned for investigation.	3 months (or as may be specified by the CVC, in individual matter)
4	In case, it is felt that it would not be possible to complete the investigation within the specified period, time limit for approaching the CVC for seeking extension of time, with the approval of the competent authority.	15 days
5	Timeline for submission of investigation report in PIDPI complaints, referred by the CVC.	12 weeks
6	Timeline for submitting response by CVOs to the CVC in respect of references made by it to CBI/ Ministries for clarification/ comments in the matter of complaints.	6 weeks

7	Timeline for CVOs to scrutinize and decide about action to be taken on the complaints sent by the CVC for necessary action to the CVOs concerned.	1 month
8	Timeline for giving opinion by the Disciplinary Authority, about existence of vigilance angle on complaint, in case of difference of opinion with CVO	15 days

4. It is to be noted that once a complainant confirms the complaint and investigation has been initiated, it is not permissible to withdraw/ stop the investigation, even if the complainant requests for withdrawal or for stopping the investigation. The allegations contained in the complaint have to be taken to their logical conclusion, once investigation has started.

5. There are specific provisions in law to deal with false, frivolous and motivated complaints. The same are not evoked ordinarily for the sake of genuine complainants. However, in cases where it can be established that the complaints were lodged with a malafide/ ulterior motive to harass or harm an innocent Government servant, necessary action could be taken against such complainants as per law. The following actions may be taken against persons making false complaints:-

(i) Under Section 182 of the Indian Penal Code, 1860, a person making false complaint can be prosecuted.

(ii) Under Section 195(1)(a) of Code of Criminal Procedure, 1973, a person making a false complaint can be prosecuted on the basis of a complaint lodged with a court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

(iii) If the person making a false complaint, is a public servant, departmental action may also be considered against him as an alternative to prosecution.

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