

STATE BANK OF INDIA OFFICERS' ASSOCIATION

(BENGAL CIRCLE)

(Registered under Trade Unions Act 1926-Regd. No. 6908)

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Circular No. 155/2021

Date : 26.10.2021

To All Members (Please Circulate)

We reproduce hereunder the Circular No. 85 dated 26.10.2021 issued by the General Secretary, All India State Bank Officers' Federation, the contents of which are self-explicit.

With revolutionary greetings,

Shubhajyoti Chattopadhyay
(General Secretary)

SANCTION FOR PROSECUTION BY CBI/OUTSIDE AGENCY

We have sent a communication to the Chairman, State Bank of India, Corporate Centre on the captioned subject.

A copy is enclosed for information.

Yours comradely,

(Soumya Datta)
General Secretary

No.7151/39/21

26.10.2021

The Chairman
State Bank of India
Corporate Centre
Madame Cama Road
Mumbai – 400 021

Dear Sir,

SANCTION FOR PROSECUTION BY CBI/OUTSIDE AGENCY

We wish to draw your kind attention to the significant surge in sanction for prosecution to CBI or other external agencies with increase in NPAs, more especially the large corporate advances. It is discerned from the information in public domain that substantial part of corporate lending is being branded as fraud and wilful defaulters and the instances of such cases being referred to CBI is on the incremental trajectory. This is bound to have adverse impact on officials who handled the advances and drag them into the CBI investigation process.

2. In fact, with the advancement in technology, the techno-banking frauds are burgeoning; papers/documents/titles are being fabricated ingenuously, which makes it well-nigh impossible to doubt the authenticity of such documents. Complicated systems and procedures obtaining in various sectors, complex rules of business, sovereign laws, by-laws etc. are too convoluted to be comprehended and followed by bankers and such situation is being exploited by large corporates with battery of perverse intelligence at their disposal. Professionals retained by the Bank like empaneled engineers, valuers and legal experts, in most of the cases, particularly in large advances, are unable to point out lacuna (e) and at times are found to have fabricated their opinion/reports for pecuniary gains, which ensnares our officers into disciplinary net. The very purpose of retaining professionals to have value-added support in decision making by bankers is being defeated, leading to our officers getting embroiled into unwarranted situations leading to disciplinary cases.

Shubhajyoti Chattopadhyay

General Secretary
Mobile : 9434551152

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3. It is an accepted truth that the high value credit appraisal and conducting skills are difficult to acquire and officers having such acumen are fewer in number. With the demographic changes in the bank, a large number of officers handling high value credit are relatively new and inexperienced. The general feedback is that officers' are averse to work in credit due to the large number of charge sheets being issued to officers across the country pertaining to advances. The recently staff accountability policy has offered a protective umbrella; however, that is not reducing the prosecution of officers by external agencies.

4. It is pertinent to point out that the agencies seek the Permission for Prosecution under Section 19 of Prevention of Corruption Act, 1988 (amended in 2018). Such permissions are given under sections 7, 11, 13 & 15 of the said Act.

- Section 7 cannot be invoked in absence of 'Demand & acceptance of illegal gratification'.
 - Section 11 is applicable when a public servant accepts or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate.
 - Section 13 pertains to Criminal Misconduct by a public servant.
 - Section 15 is regarding the punishment and hence may not be relevant to permission for prosecution.
- It is pertinent to mention that barring cases under the above sections, permission for prosecution cannot be granted. Further, Section 13 (Criminal Misconduct) is very often taken in a subjective manner, whereas in the Act, it is well-defined with list of activities.

We also draw your kind attention to the guidelines issued by CVC in this regard vide its Circular No.08/05/15 conveyed through its letter No.005/VGL/011 dated 25 May 2015, mentioned therein inter alia that *"There is an obligation on the sanctioning authority to discharge its duty to give or withhold sanction only after having full knowledge of the material facts of the case. Grant of sanction is not a mere formality. Therefore, the provisions in regard to the sanction must be observed with complete strictness keeping in view the public interest and the protection available to the accused against whom the sanction is sought."*

5. In this connection, we would like to place the following suggestions for your kind consideration:

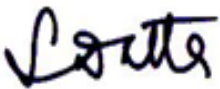
- i) A template/SOP may be prepared for this purpose.
- ii) While granting/withholding permission, the sanctioning authority should, *inter-alia*, mention the section under which such permission is granted/withheld along with the cogent reasons thereof.
- iii) The details of various provisions related to permission for prosecution may be discussed in appropriate platforms like Vigilance Conclave etc. to apprise the persons handling such cases.

6. Sir, you will surely appreciate that the above approach would save the innocent officials of the Bank from unwanted harassments and also enable to safeguard the sanctioning authorities from embarrassment at the Court of Law as the CVC Guidelines says that *the order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all relevant records.*

7. We also hope that these steps will immensely motivate officers to take up the credit portfolio with courage and willingness, which will go a long way to foster growth and development of our esteemed institution.

With best regards

Yours sincerely,



(Soumya Datta)
General Secretary

Shubhajyoti Chattopadhyay

General Secretary
Mobile : 9434551152