



Bill Summary

The Public Interest Disclosure and Protection to Persons Making the Disclosure Bill, 2010

The Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010 was introduced in the Lok Sabha on August 26, 2010 by the Minister of State for Personnel, Public Grievance and Pensions, Shri Prithviraj Chavan.

- The Bill seeks to set up a mechanism to receive complaints of corruption or willful misuse of discretion against a public servant and provide safeguards against victimization of the person making the complaint.
- Any public servant or any other person including a non-governmental organization may make a public interest disclosure to a Competent Authority (Central or State Vigilance Commission).
- Each disclosure shall be accompanied by full particulars and supporting documents. The Competent Authority shall not take any action on a disclosure if the identity of the complainant is not included or is found to be false.
- “Disclosure” is defined as any complaint made in writing or electronic mail against a public servant on matters related to attempt to or commission of an offence under the Prevention of Corruption Act, 1988; willful misuse of power which leads to demonstrable loss to the government or gain to the public servant; attempt or commission of a criminal offence by a public servant.
- A “public servant” is any person who is an employee of the central government or the state government or any company or society owned or controlled by the central or state government.
- The Bill lays down the procedure of inquiry to be followed by the Competent Authority on receipt of a public interest disclosure. It is mandated to conceal the identity of the complainant unless the complainant has revealed his identity to any other authority.
- After conducting the inquiry, if the Competent Authority feels that the complaint is frivolous or there is no sufficient ground to proceed, it shall close the matter. If the inquiry substantiates allegation of corruption or misuse of power, it shall recommend certain measures to the public authority (any body falling within the jurisdiction of the Competent Authority). Measures include initiating proceedings against the concerned public servant, taking steps to redress the loss to the government, and recommend criminal proceedings to appropriate authority.
- The Competent Authority shall not entertain any matter if it has been decided by a Court or Tribunal, if public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850 or the Commissions of Inquiry Act, 1952 or the complaint is on an action that took place five years from the date of the complaint.
- The Bill exempts certain matters from disclosure if it is likely to affect the sovereignty of India, security of the state, friendly relations with foreign states, public order, decency or morality.
- Every public authority shall create a machinery to deal with inquiry into disclosures. The machinery shall be supervised by the Competent Authority.
- The Competent Authority may take the assistance of police authorities to make discreet inquiries or obtain information.
- The Bill creates certain safeguards against victimization of a complainant. There shall be no initiation of proceedings against such person merely on the grounds that the person has made a disclosure. The Competent Authority may give directions to a concerned public servant or authority to protect a complainant or witness either on an application by the complainant or based on its own information.
- The Competent Authority shall protect the identity of the complainant and the related documents, unless the Authority decides against it or is required by a court to do so.
- The Bill lays down penalties for various offences such as not furnishing reports to the Competent Authority, revealing identity of complainant, for false or frivolous disclosure, etc.
- Any person aggrieved by an order of the Competent Authority relating to imposition of penalty may file an appeal to the High Court within 60 days.

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