

Departmental Enquiry

Procedure Manual

(Amended up to 29 April 2023)

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Preface

CIDCO vide BR No 11409 dt 29/08/2015 had approved Manual regarding procedure for conducting Departmental Enquiry. However in view of certain contradiction and omissions regarding appointment and qualifications of defence assistant and second advice of CVO for final decision by Competent Authority, it was felt that there is scope for amending the manual and according with this objective the manual was amended vide B.R.No. 12703 dtd. 29/04/23 empowering the Competent Authorities to await or take final decision pending criminal case in court.

This will be helpful to all concern Competent Authorities to conduct departmental proceedings in fair and just manner.

Navi Mumbai
Date : 29-04-2023

Suresh Mengde, IPS
Dy. Commissioner of Police
& Chief Vigilance Officer

Chief Vigilance Officer's Message.

Effective actions following the due process of departmental enquiries, are a very important vigilance tool. Towards this goal, this Manual has streamlined the procedure required for initiating and conducting Departmental Enquiries.

This manual has taken care to ensure that the guiding principle of departmental enquiry process will have a sense of fairness & impartiality by the officers initiating & conducting DE's. Many a times officers with little or no experience are appointed as Enquiry or Presenting Officer. This Manual will guide them in performing their role in the DE process.

Since this Procedure Manual is a public document, it will be available on the Vigilance Department's webpage on CIDCO's website. It is expected that this endeavour will help CIDCO's staff in this department to work with better clarity on the DE process.

Navi Mumbai
Date : 29-08-2015

Dr. Pradnya Saravade, IPS
Addl. Director General of Police &
Chief Vigilance Officer, CIDCO

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DEPARTMENTAL ENQUIRY PROCEDURE MANUAL

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PROCEDURE FOR CONDUCTING DEPARTMENTAL ENQUIRY

In supersession of earlier circulars, resolutions and practice prevailing for the purpose of departmental enquiry, the following procedure is to be followed with immediate effect. The procedure shall be applicable to all classes of employees of CIDCO. However, it is made clear, that the employee to whom the model standing orders are applicable, in case if any inconsistency, the provisions of model standing order shall prevail.

Part - I: Preliminary investigation/enquiry:

The purpose of preliminary investigation is to determine whether there is a prima-facie case for institution of disciplinary proceedings and to collect evidence. Preliminary investigation/ enquiry is necessary to collect the evidence sufficient for issuance of Charge Sheet against an employee. The Preliminary investigation/enquiry may be dispensed where there is detailed police investigation or the judgment of court. The explanation from the employee may be obtained if necessary. However this aspect is not mandatory and is left to the judgment of the enquiry officer. The manner of preliminary investigation/enquiry is to be determined by the investigation authority. It is not mandatory to inform the sources of information. The investigation may be conducted by Chief Vigilance Officer or by a subordinate on CVO's direction. The complaint may be made over the approval of CVO/VC & MD for investigation by the police. Preliminary investigation / enquiry is always confidential. Normally, preliminary investigation/ enquiry is to be completed within two months, and in exceptional cases it can be extended for further two months period with the approval of the CVO.

Part - II: Disciplinary Proceedings:

- a) If a prima-facie case against an employee is established on the basis of preliminary investigation/enquiry, or materials available then,
 - i) Disciplinary action may be proposed for minor or major penalty, and with or without suspension.

OR

- ii) It may be decided to terminate the charged employee from employment even without departmental enquiry like casual employee, probationer, employee on contract basis, as per their terms and conditions of appointment.
- b) If Departmental Enquiry is to be initiated, the competent authority shall,
 - i) Issue a charge sheet,
 - ii) Collect all the original relevant documents/statement and preserve it.

Part - III: Summary procedure for minor penalty:

1. After perusal of the, preliminary investigation/enquiry report, gravity of misconduct, the disciplinary authority may decide to impose minor penalty on the delinquent. The delinquent's explanation should be obtained after issue of memorandum, along with detailed imputation of alleged misconduct to the delinquent. After receipt of explanation, a speaking order for imposing punishment to be awarded or, the charged employee may be exonerated of the charges.

Part - IV: Charge Sheet:

- a) Where the disciplinary authority is of the opinion that there is sufficient ground for initiating action for imposing major penalty, then the first step is to issue a charge sheet. It consists of a letter or memorandum containing the proposal to take action and has following documents as its annexure: -
- i) Definite and distinct article of charges.
 - ii) The statement of imputation of misconduct or misbehaviour on which the charge is based, containing all relevant facts with full particulars,
 - iii) Copies of documents/statements of the witnesses relied upon.
 - iv) List of witnesses proposed to be examined.
- b) The charge sheet must be clear, concise and contain full particulars. The charges must be precise, definite and conveyed to the employee concerned with the exact nature of alleged misconduct so that, he /she can put up an effective defence.
- c) The charge sheet can be issued by the competent authority declared by MD.
- d) The charge sheet has to be delivered to the concerned employee either in person or through registered post at his last known address as per service record.
- e) The substitute service in exceptional circumstances can be done by affixing charge sheet on conspicuous place at last known residence and by displaying the charge sheet on the Office notice board of CIDCO where the employee worked/ is working.
- f) An employee has liberty to submit his written statement of defence within a time specified in the charge sheet and also state whether he/ she desires to be heard in person.

- g) An employee shall specifically admit or deny the charges leveled against him/her.
- h) The charge sheet for a Class-IV employee should be in Marathi language only.
- i) The enquiry shall be held only on the charges specifically not admitted.

Part - V: Considering written statement of defence:

- 1. The disciplinary authority to give consideration to the reply where it has been submitted,
- 2. Where all or some of the charges are admitted by an employee, then the disciplinary authority shall record its findings on such charges as it may deem fit and proceed to take the final decision,
- 3. Where the charges are not admitted or conditionally admitted or no satisfactory reply to the charge sheet is given, then the disciplinary authority may proceed to appoint an enquiry officer or hold a departmental enquiry by himself/herself.

Part - VI: Appointment of enquiry officer

- a) The disciplinary authority may appoint an enquiry officer for conducting the departmental enquiry on its behalf.
- b) The enquiry officer must not be a witness to the alleged misconduct.
- c) The enquiry officer shall not delegate his power to others.
- d) The enquiry officer shall have the authority to compel a witness to appear or/and to produce the relevant document before him.
- e) The enquiry officer has to verify that the copy of the charge sheet along with all annexure and the statements of the witnesses relied

upon are placed on record.

- f) The acknowledgement from the charged employee should be kept on file as proof of delivery of charge sheet to the delinquent,
- g) To verify whether the copy of appointment of enquiry officer and presenting officer are supplied to both sides,
- h) The copy of reply to the charge sheet as submitted by delinquent be placed on record,
- i) The original documents relied upon as forwarded to enquiring authority along with statements of witnesses,

Part- VII: Appointment of presenting officer:

- a) A presenting officer may be appointed by the disciplinary authority to present the case on its behalf in support of the charges, before the enquiry officer.
- b) The presenting officer must not be a witness or associate with the investigation.
- c) An advocate may be appointed as a presenting officer in certain complicated cases.
- d) The presenting officer should be an employee of CIDCO.

Part - VIII: The duties of presenting officer:

- 1. To act on behalf of the disciplinary authority.
- 2. To put up the case in sequence before the enquiry officer,
- 3. To produce the evidence in support of charges properly,
- 4. To prove the document and its content,

5. To examine the witness in support of charges,
6. To assist the enquiry officer for preventing the irrelevant cross examination of the witnesses,
7. To cross examine the defence witness,
8. To prepare oral and written notes of the argument.

Part - IX: Defence assistance to the charged employee:

1. If the presenting officer appointed by disciplinary authority is a legal practitioner, then the charged employee can also avail the assistance of a legal practitioner,
2. In other cases, the permission of the disciplinary authority is necessary to appoint an advocate as defence assistance.^①
3. The defence assistance can however, be taken from a fellow CIDCO employee or a retired CIDCO employee or a retired Maharashtra State Government Employee.^①
4. The defence assistance must not have more than three cases including present case on hand in which he/she is rendering such assistance,
5. The person rendering the defence assistance has to obtain permission from his/her office controlling authority, to absent himself /herself from place of his /her duty during the hearing of the enquiry,
6. However, no permission is required for taking up the role of defence assistance.
7. The Defence assistance should be qualified as per the circular issued by the Government of Maharashtra GAD No. वशिअ-१२१५/प्र.क्र.७९/११, दि.०७.१०.२०१५ & amended from time to time.^①

8. The defence assistance should not be involved in any Criminal cases/Departmental Enquiry.^①

Part - X: First hearing:

1. The enquiry officer shall hold a preliminary hearing in presence of both sides.
2. The hearing will open with a question by the enquiry officer whether delinquent has received the charge sheet and understood the charges leveled against him/her and whether he/she has admitted or denied the charges.
3. No further enquiry is necessary in case the charges are admitted and recorded by enquiry officer.
4. Inspection of the documents relied upon may be permitted by enquiry officer,
5. The charged employee after inspection of relied document can submit list of additional documents required, if any, along with their relevance and the details of custodian of documents. The Presenting Officer may be permitted to collect inspect and to produce the relevant additional documents.
6. To verify that the copies of statements of witnesses recorded during preliminary investigation / inquiry and relied upon are supplied to the charged officer.
7. To verify the copies of documents and list of defence witness submitted by delinquent.

Part - XI: Regular hearing.

1. The Enquiry Officer shall take the documents from both sides on record and mark them as Exhibits.

2. The examination of his/her witnesses by Presenting Officer will be undertaken first.
3. The other side is entitled to cross-examine these witnesses.
4. No re-examination without permission of Enquiry Officer.
5. Recording of evidence in presence of charged employee is mandatory.
6. The Enquiry Officer is entitled to ask any question to get clarification.
7. The copy of deposition of witnesses to be supplied to both sides.
8. The signature of witness, Presenting Officer, Charged Officer and Enquiry Officer shall be taken below the deposition of witnesses.

Part - XII: Recording of defence evidence.

1. After the evidence of Presenting Officer is over, the Enquiry Officer shall record the defence evidence.
2. After the evidence of both sides is closed, the Enquiry Officer shall put questions, and inform of circumstances appearing against the charged employee in the evidence, enabling the charged employee to explain.

Part - XIII: Final Arguments:

1. After the evidence of both sides, the Enquiry Officer shall permit both sides to sum up their respective cases, either orally or by written submission /argument.
2. The Presenting Officer shall submit his brief first.

3. The copy of written submission will be supplied to the other side.

Part - XIV: Report of Enquiry Officer.

1. The Enquiry Officer will evaluate the documentary and oral evidence adduced in the course of enquiry and discuss the submissions made by both sides.
2. The Enquiry Officer should not make any recommendations in regard to the penalty to be imposed.
3. The Enquiry Report should contain,
 - (i) The appointment of Enquiry Officer and the place of enquiry.
 - (ii) Framing of charge
 - (iii) Admit or denial of charge.
 - (iv) Evidence adduced by both sides.
 - (v) Points for consideration
 - (vi) Evaluation of evidence and findings thereon.
4. The Enquiry Officer shall maintain daily roznama of enquiry.
5. The Enquiry Report along with all documents and records to be forwarded to the disciplinary authority for further action.

Part- XV: Change of enquiry officer:

1. Even if there is a change of enquiry officer during the course of enquiry, the proceeding is to be continued further with the new enquiry officer. There is no need for de-nova proceeding due to the change of enquiry officer for any reason.

Part - XVI: Disciplinary Proceeding and Criminal Trial:

1. Departmental proceeding and proceeding of a criminal case can proceed simultaneously. However, the disciplinary authority will have discretions to await the decision of trial court or to proceed further for final order.^①

Part- XVII: Action on Acquittal:

1. Acquittal in the Criminal case does not automatically bar the continuation or initiation of the disciplinary proceeding. It is necessary for the disciplinary authority to consider the judgment and reason for acquittal and to decide whether disciplinary action is to be continued or not.

Part- XVIII: Action on Conviction:

1. Disciplinary authority need not to wait for a decision in the appeal /revision filed against conviction. However a skeletal enquiry should be conducted by the disciplinary authority before imposing a penalty against an employee concerned. Skeletal enquiry means issue of show cause notice and giving opportunity of hearing to the concerned employee.

Part- XIX: No Departmental Enquiry is necessary:

1. Casual employees, Probationers, employees on contract basis can be terminated without the procedure of the departmental enquiry. Such action should be based only on the terms/conditions in the appointment order.

Part - XX: Action on Enquiry Report:

1. The disciplinary authority may differ with the findings of the Enquiry Officer. In such case, the disciplinary authority may record the disagreement with reasoning in respect of the findings of enquiry officer, before proceeding further for awarding punishment or to

exonerate the employee.

2. The disciplinary authority may return the enquiry report for fresh or further enquiry on specific points.
3. The disciplinary authority shall forwarding copy of the departmental enquiry report to the concerned charged employee, and to hear him/her before awarding punishment.

Part - XXI: Final order:

1. The disciplinary authority shall consider the nature of misconduct, earlier service record of the concerned employee and the defence, while awarding appropriate punishment. However, the disciplinary authority shall be obtained second stage advice of CVO before taking final decision.^①
2. The final order of punishment should be communicated to the concerned employee.
3. The copy of the punishment order will be forwarded to all concerned departments for further necessary action.

Part - XXII: Time limit:

Normally, the department enquiry is to be completed as soon as possible within six months from the day of communication of order of appointment to the Enquiry Officer. However, in exceptional cases the time can be extended.

Part - XXIII: Periodical review of pending disciplinary proceedings:

The Chief Vigilance Officer shall regularly, on quarterly basis review the status of pending disciplinary proceedings and Court cases for appropriate guidance / direction.

Annexure I

विभागीय चौकशी अधिकारी, सिडको प्राथमिक सुनावणीची नोटीस

(वि.चौ. नियमावली भाग-X परिच्छेद १ ते ७)

जा.क्र.सिडको/विचौ/

चौकशी क्रमांक:

दिनांक : / / २०

प्रति,

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(अपचारी)

विषय: विभागीय चौकशी.

महोदय,

आपणां विरुद्ध दाखल केलेल्या दोषारोपासंबंधी विभागीय चौकशी करण्यासाठी चौकशी अधिकारी म्हणून माझी नियुक्ती सक्षम अधिकारी यांनी दि रोजीच्या आदेशान्वये केली आहे. सदर आदेशाची प्रत आपणांस पाठविली आहे.

- याप्रकरणी प्राथमिक सुनावणी दि रोजी वेळ: सकाळी वाजता सिडको मुख्यालय इमारत, , नवी मुंबई या ठिकाणी करण्याचे योजिले असून आपण हजर राहणे आवश्यक आहे असे या पत्राद्वारे आपणांस कळविण्यात येते.
- सादरकर्ता अधिकारी यांनीही सुनावणीस सर्व संबंधित कागदपत्रे घेऊन हजर राहण्याबाबत कळविण्यांत येत आहे.
- आपण जर वर नमूद केल्याप्रमाणे ठरलेल्या ठिकाणी आणि वेळी हजर राहिला नाहीत तर मी ही चौकशी एकतर्फी चालू करीन याची कृपया नोंद घ्यावी.
- आपल्या बचावार्थ आपणांस सहाय्य करणाऱ्या व्यक्तीचे नांव व पदनाम आणि पत्ता मला कळवावा अशी आपणांस विनंती आहे.
- कृपया या पत्राची पोच तात्काळ द्यावी.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

Annexure II

विभागीय चौकशी अधिकारी, सिडको प्राथमिक सुनावणीची नोटीस

(वि.चौ. नियमावली भाग-X परिच्छेद १ ते ७)

जा.क्र.सिडको/विचौ/

चौकशी क्रमांक:

दिनांक : / /२०

प्रति,

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(सादरकर्ता अधिकारी)

विषय: विभागीय चौकशी.

महोदय,

उपरोक्त विभागीय चौकशीकामी आपणांस सादरकर्ता अधिकारी नियुक्त केले आहे. उपरोक्त विभागीय चौकशीकामी आपण सर्व संबंधित मूळ दस्तऐवजांसह दि रोजी वेळ: सकाळी वाजता सिडको मुख्यालय इमारत, , नवी मुंबई या ठिकाणी आपण हजर राहणे आवश्यक आहे, असे या पत्राद्वारे आपणांस कळविण्यात येते.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

प्रति,

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(नियंत्रक अधिकारी)

उपरोक्त सादरकर्ता अधिकारी यांना संबंधित कागदपत्रांसह हजर राहण्याविषयी आदेश द्यावेत.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

Annexure III

विभागीय चौकशी अधिकारी, सिडको प्राथमिक सुनावणीची नोटीस

(वि.चौ. नियमावली भाग-XI परिच्छेद १ ते ८)

जा.क्र.सिडको/विचौ/

चौकशी क्रमांक:

दिनांक : / /२०

प्रति,

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(अपचारी)

विषय: विभागीय चौकशी.

महोदय,

आपणां विरूद्ध दाखल केलेल्या दोषारोपासंबंधी विभागीय चौकशी करण्यासाठी चौकशी अधिकारी म्हणून माझी नियुक्ती दि रोजीच्या आदेशान्वये केली आहे. सदर आदेशाची प्रत आपणांस पाठविली आहे.

२. याप्रकरणी नियमित सुनावणी दि रोजी वेळ: सकाळी वाजता सिडको मुख्यालय इमारत, , नवी मुंबई या ठिकाणी करण्याचे योजिले असून आपण हजर राहणे आवश्यक आहे असे या पत्राद्वारे आपणांस कळविण्यात येत आहे.
३. आपल्या बचावाच्या लेखी निवेदनामधून जे दोषारोप आपण मान्य केले नाहीत त्याबाबत या चौकशीमध्ये तोंडी पुरावा ऐकून घेण्यात येईल. दोषारोपांच्या समर्थनार्थ ज्या साक्षी पुराव्यांची तपासणी होईल त्यांची उलटतपासणी करण्याचा आपल्याला अधिकार राहिल.
त्याचप्रमाणे स्वतः पुरावा देण्याचा आणि बचावाचे साक्षीदारांना तपासण्याचाही आपणांस अधिकार राहिल. बचावाचे साक्षीदार बोलाविण्याची आपण व्यवस्था करावी.
४. जर वर नमूद केलेल्या दिवशी चौकशी पूर्ण झाली नाही तर पुढील तारखेला चौकशीचे काम केले जाईल.
५. आपण जर वर नमूद केल्याप्रमाणे ठरलेल्या दिवशी, वेळी व ठरलेल्या ठिकाणी हजर राहिला नाहीत तर चौकशी एकतर्फी करण्यात येईल याचीही नोंद घ्यावी.
६. या पत्राची पोच कृपया तात्काळ द्यावी.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

Annexure IV

विभागीय चौकशी अधिकारी, सिडको प्राथमिक सुनावणीची नोटीस (वि.चौ. नियमावली भाग-XI परिच्छेद १ ते ८)

जा.क्र.सिडको/विचौ/

चौकशी क्रमांक:

दिनांक : / /२०

प्रति,

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(सादरकर्ता अधिकारी)

विषय: विभागीय चौकशी.

महोदय,

उपरोक्त विभागीय चौकशीकामी आपणांस सादरकर्ता अधिकारी नियुक्त केले आहे. उपरोक्त विभागीय चौकशीकामी आपण सर्व संबंधित मूळ दस्तऐवजांसह दि रोजी वेळ: सकाळी वाजता नियमित सुनावणीच्या वेळी सिडको मुख्यालय इमारत, , नवी मुंबई या ठिकाणी हजर राहणे आवश्यक आहे असे या पत्राद्वारे आपणांस कळविण्यात येते.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

प्रति,

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.....

(नियंत्रक अधिकारी)

उपरोक्त सादरकर्ता अधिकारी यांना संबंधित कागदपत्रांसह हजर राहण्याविषयी आदेश द्यावेत.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

Annexure V

विभागीय चौकशी अधिकारी, सिडको प्राथमिक सुनावणीची नोटीस

(वि.चौ. नियमावली भाग-XI परिच्छेद २)

जा.क्र.सिडको/विचौ/

चौकशी क्रमांक:

दिनांक : / / २०

प्रति,

.....

.....

(साक्षीदाराचे नांव व पत्ता)

विषय: विभागीय चौकशी.

महोदय,

श्री यांच्यावरील दोषारोपाबाबत चौकशी करण्यासाठी माझी विभागीय चौकशी अधिकारी म्हणून नियुक्ती सक्षम अधिकारी यांनी दि रोजीच्या आदेशान्वये केली आहे.

२. प्रस्तुत चौकशीत आपली साक्ष उपयुक्त ठरेल. यास्तव आपण स्वतः दि रोजी वेळ: सकाळी वाजता सिडको मुख्यालय इमारत, , नवी मुंबई या ठिकाणी माझेपुढे हजर राहावे अशी आपणांस विनंती करण्यांत येत आहे.

३. खाली दर्शविलेली कागदपत्रे आपण कृपया येतांना बरोबर आणावीत.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

दस्तऐवजांची यादी:

१.

२.

३.

Annexure VI

विभागीय चौकशी अधिकारी, सिडको प्राथमिक सुनावणीची नोटीस (वि.चौ. नियमावली भाग-XI परिच्छेद ३ ते ६)

जा.क्र.सिडको/विचौ/

चौकशी क्रमांक:

दिनांक : / /२०

प्रति,

.....

.....

(नियंत्रक अधिकाऱ्याचे नांव व पदनाम)

विषय: विभागीय चौकशी.

महोदय,

वरील प्रकरणांत आपल्या नियंत्रणाखाली काम करणारे श्री. यांना बचाव सहाय्यक म्हणून श्री (अपचाऱ्याचे नांव) यांनी निर्देशित केले आहे. आता या प्रकरणाची सुनावणी दि रोजी वेळ: सकाळी वाजता सिडको मुख्यालय इमारत,, नवी मुंबई या ठिकाणी करण्याचे योजिले आहे.

तरी आपणांस विनंती करण्यांत येते की, श्री.यांना नियोजित ठिकाणी व दिनांकास सुनावणीस हजर राहण्याबाबत कृपया कळवावे.

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश

प्रत माहितीस्तव अग्रेषित:

१. श्री. (सहाय्यक अधिकाऱ्याचे नांव व पदनाम)

२. श्री. (अपचाऱ्याचे नांव व पदनाम)

आपला

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विभागीय चौकशी अधिकारी, सिडको
तथा सेवानिवृत्त न्यायाधीश







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