भारत संचार निगम लिमिटेड
BHARAT SANCHAR NIGAM LIMITED
(भारत सरकार का उद्यम)
(A Govt. of India Enterprises)
कार्यालय मुख्य सतर्कता अधिकारी
O/o Chief Vigilance Officer
नई दिल्ली
New Delhi - 110001

भूतल, ईस्टर्न कोर्ट बिल्डिंग
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No.15-02/JKD/2021/VM-I

Dated: 01.08.2022

To,
The Chief General Manager Telecom,
Jharkhand Telecom Circle,
ARTTC, Campus, BSNL, Near Jumar River,
H B Road, Ranchi – 835217

**Sub:** Non- delivery of Memorandum issued by CMD BSNL, in respect of conviction case of Shri Parmeshwar Kumar Hembrom the then SDE, now retired, Dumka SSA, Jharkhand Telecom Circle in CBI Case No. RC-05 /2006-AHD - R -reg.

**Ref:** 1. Letter no. JKD/VIG/Conviction Case/PK Hembrom, Retired SDE/RC-05(A)/06-AHD-R/10 dated 16.07.2022
2. Memo. No.15-02/JKD/2021/VM-I dated 02.05.2022
3. Handbook for IOs and DAs, point no. 4 of Chapter-20, Ex-Parte Inquiry (copy attached)

Kindly refer to the letter under reference-1 vide which DGM(Vig.), Jharkhand Telecom Circle has informed that the Memorandum signed by CMD BSNL cum Disciplinary Authority under reference-2 could not be delivered to Shri Parmeshwar Kumar Hembrom the then SDE, now retired, Dumka SSA, Jharkhand Telecom Circle

2. In this matter, it is requested that the guidelines as mentioned under reference-3 may be referred and take necessary action, accordingly. Further, it is also requested to send the compliance to this office.

This issued with the approval of competent authority.

01.08.22
(Hari Ram)
Asstt. General Manager (VM-I)

AGM(Vig-I) 10/08/2022

Copy to: DGM (Vigilance), Jharkhand Telecom Circle, ARTTC, Campus, BSNL, Near Jumar River, H B Road, Ranchi – 835 217 for information & necessary action.

# CHAPTER – 20

## EX-PARTE INQUIRY

### 1. What is ex parte Inquiry?

An inquiry in which the charged officer is not represented is known as Ex- parte inquiry

### 2. What is the statutory provision regarding ex parte proceedings?

Rule 14(20) of the CCA Rules provides as under:

> *" If the Government servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex parte."*

### 3. What are the conditions under which ex-parte inquiry may be resorted to?

As may be seen from the above extracted provision of the Rule, ex-parte inquiry can be resorted to only when the following conditions are satisfied:

(a) Articles of charge should have been delivered

(b) The charged officer had failed to submit the written statement of defence on or before the specified date or

(c) Does not appear in person before the Inquiring Authority or

(d) Fails or refuses to comply with the provisions of the CCA Rules

### 4. If delivery of articles of charge is pre-requisite for conducting ex-parte inquiry, what will be the possibility of going ex-parte when the charged officer evades or refuses acceptance of Charge Sheet?

Firstly it must be appreciated that delivery of charge Sheet does not mean physical delivery and obtaining an acknowledgement therefor. Constructive delivery of Charge Sheet is adequate to hold that the articles of charge have been delivered.

In this connection, para 20.2 of Chapter X of the Vigilance Manual Volume I (1991 Edition) is extracted hereunder:

*"20.2 If the Government servant evades acceptance of the articles of charge and/or refuses to accept the registered cover containing the articles of charge, the articles of charge will be deemed to have been duly delivered to him on refusal or a registered letter is normally tantamount to proper service of its contents."*

As a measure of precaution, the charge sheet may be pasted on the notice board, doors of the residence of the charged officer, uploaded on the web site of the organization and an advertisement may be issued in a news paper regarding the initiation of the disciplinary proceedings. For the pasting of the charge sheet on the doors, independent witnesses' statements may be obtained.

**5. Is there any difference between holding ex-parte inquiry and dispensing with inquiry under Rule 19 (ii) of the CCA Rules?**

The following differences exist between ex-parte inquiry and dispensing with inquiry

| S.No | Ex-parte inquiry | Inquiry dispensed with under Rule 19(ii) |
|---|---|---|
| (a) | Decision is taken by the Inquiring Authority | Decision is taken by the Disciplinary Authority |
| (b) | There is no statutory requirement of recording any reasons as to why inquiry is to be held ex-parte | There is a statutory mandate to record reasons as to why it is not reasonably practicable to hold an inquiry in the manner provided in the rules |
| (c) | Conditions precedent specified in rule 14(20) must be satisfied | No conditions are prescribed in the Rules; Disciplinary Authority has to record the reason as to why it is not reasonably practicable to hold the inquiry in the manner provided in the Rules |
| (d) | During ex-parte inquiry, the Charges need to be proved by leading evidence on behalf of the Disciplinary Authority | When inquiry is dispensed with, there is no question of leading evidence or establishing that the charge is proved. It is for the disciplinary authority to consider the evidence on record and pass a reasoned order imposing penalty |
| (e) | There is scope for the Charged Officer turning up at a later date and seeking to participate in the ex-parte inquiry | Once inquiry is dispensed with, the Charged Officer has no right to seek participation in the Inquiry |
| (f) | There is a possibility that the inquiry may not result in any charge being established | The process will end in imposition of penalty |