

CHAPTER 14

Legal Proceedings by or Against Judicial Officers

1. Institution of proceedings by Government servant against defamatory attacks on his public acts with the sanction of Government—Without obtaining the authorisation of the Government to which he is immediately subordinate, no Government servant is permitted to have recourse to the Courts for the vindication of his public acts or of his character as a public functionary, from defamatory attacks. In giving authority to institute proceedings the State Government concerned will decide whether the circumstances of the case are that the Government should bear the cost of the proceedings. Civil or Criminal, or leave the officer to institute the prosecution or suit at his own expense, and in the latter case it will also determine, in the event of the matter being decided by the Courts in the officer's favour whether he should be recouped by Government the whole or any part of the cost of the action.

2. No sanction required for private cases—The ruling above laid down does not affect an officer's right to defend his private dealings or behaviour in any way that he may be advised; but his official reputation is in the charge of the Government which he serves, and it is for that Government to decide in each case whether the institution of proceedings to vindicate his public acts or character is necessary or expedient. Section 198-B (*see* Section 198(2) to (6) of the new Code) of the Code of Criminal Procedure inserted by the Act No. 26 of 1955, now provides a speedy remedy for such cases.

3. Detailed rules—Detailed rules in connection with suits by or against Public Officers will be found in Part III, paragraphs 20 to 23, of the Punjab Law Department Manual, 1926 (pages 61 to 63).

4. No criminal prosecution of a Government servant for official acts without sanction of the Government—Attention is also invited to Section 197 of the Code of Criminal Procedure, which prohibits any Criminal Court from taking cognizance of an offence alleged to have been committed by a Judicial Officer while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the appropriate Government exercising its individual judgment; and to Section 80 of the Code of Civil Procedure, which requires two months' notice of a suit against a public officer in respect of any act purporting to be done by him in his official capacity.

5. Report about legal proceedings by or against judicial officer in his official capacity to be sent to Registrar—A detailed report in respect of any legal proceedings civil or criminal which may be brought by or against a Judicial Officer in his official capacity, should be submitted through the usual channels to the Registrar, High Court, by the officer concerned, as soon as the question of their institution arises.