

(2013) 07 SC CK 0123

In the Supreme Court Of India

Case No : Writ Petition (C) No's. 120, 429, 463, 498 and 515 of 2012 and W.P. (C) No. 283 of 2013

Manohar Lal Sharma

APPELLANT

Vs

The Principal Secretary and Others

RESPONDENT

Date of Decision : 10-07-2013

Acts Referred:

Delhi Police Special Establishment Act, 1946 — Section 6A

Citation : (2013) 8 SCALE 760 : (2014) 2 SCC 709

Hon'ble Judges : R.M. Lodha, J; Madan B. Lokur, J; Kurian Joseph, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. At the outset, Mr. Siddharth Luthra, learned Additional Solicitor General, appearing for the Central Bureau of Investigation (CBI) today, submitted that it would be better if some other counsel appears on behalf of CBI. In this view of the matter, we defer the consideration of applications being Crl. M.P. Nos. 14091 of 2013 and 14092 of 2013 made by CBI to enable it to make alternative arrangement. These applications may be posted for consideration on July 17, 2013 at 2 P.M. Pursuant to our order of May 8, 2013 by which we wanted to know from the learned Attorney General whether the Central Government intended to put in place an appropriate law for the independence of the CBI and its functional autonomy and insulate it from extraneous influence(s) of any kind so that CBI is viewed as a non-partisan investigating agency, an affidavit has been filed by the Department of Personnel & Training, Government of India on July 3, 2013. In the affidavit, various actions which were taken in compliance of the directions of this Court in Vineet Narain and Others Vs. Union of India (UOI) and Another, have been indicated. It is also stated that in view of the order of May 8, 2013, a Group of Ministers (GOM) was constituted to consider the matter and to prepare the draft affidavit to be filed before this Court. The details of the amendments in Delhi Special Police Establishment Act, 1946 (for short "DSPE Act") proposed by the GOM and approved by the Cabinet have been indicated in

the affidavit. The proposed amendments are principally under six heads:

- (i) Appointment of Director and other officers;
- (ii) Non interference in investigation;
- (iii) Time limit for sanctions;
- (iv) Directorate of Prosecution;
- (v) Accountability Commission and
- (vi) Financial Autonomy,

2. The amendments as proposed in the DSPE Act are likely to take some time since the Bill in that regard shall be introduced by the Central Government in the Parliament which shall then be considered by both Houses. Our immediate concern is that until that happens, it has to be ensured that the investigations entrusted to CBI are conducted in a non-partisan manner and such investigations are not influenced by extraneous influence(s) of any kind. In this backdrop, we wanted to know from the learned Attorney General as to why clarification should not be made that sanction from the Government for investigation of the offences alleged to have been committed under the Prevention of Corruption Act, 1988 is not necessary as it is the stand of the Government that the power of supervision for investigation has already been shifted from the Government to the Central Vigilance Commission (CVC). We also wanted to know from the learned Attorney General as to why sanction of the Government is necessary in respect of "Court monitored" or "Court directed" investigations. This query was put to the learned Attorney General as we were informed of the categorical stand taken by the CBI before the High Court of Delhi in the matter of Centre for Public Interest Litigation v. Union of India (W.P. (C) No. 11550 of 2009) in which the counsel for the CBI submitted before that court that as the investigation was directed by the Court, grant of approval/permission was not necessary u/s 6A of the DSPE Act.

3. Learned Attorney General prays for some time to respond to the above queries. We shall consider the above aspects on July 17, 2013.

4. It is appropriate that we have the response of the CBI as well in respect of the amendments in DPSE Act proposed by the GOM and approved by the Cabinet. The CBI may file its response to the above by July 16, 2013.

5. In continuation of earlier status reports, further status reports pertaining to the 3 preliminary enquiries and 13 regular cases have been filed by the CBI. The same are taken on record. Registry shall keep these reports in a sealed cover.

6. In the course of hearing, learned Attorney General submitted that in the counter affidavits filed so far, the Union of India has focused on the six queries raised by the Court on 14.09.2012 in Writ Petition (Criminal) No. 120 of 2012 filed by Manohar Lal Sharma. He submitted that 132 coal blocks were allocated in 36 meetings of the Screening Committee and 72 coal blocks were allocated

under government dispensation route. Of these 204 allocations, 40 coal blocks have been de-allocated. He sought some time to enable the Union of India to file appropriate counter affidavit justifying allocation of remaining 164 coal blocks. We grant 4 weeks' time to the Union of India to file further counter affidavit concerning allocation of 164 coal blocks.