

**(2013) 05 SC CK 0084**

**In the Supreme Court Of India**

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

Manohar Lal Sharma

APPELLANT

Vs

The Principle Secretary and Others

RESPONDENT

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**Date of Decision :** 08-05-2013

**Acts Referred:**

**Citation :** (2013) 6 SCALE 771 : (2014) 2 SCC 703

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

**Bench :** Full Bench

**Final Decision :** Dismissed

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## **Judgement**

1. We have heard Mr. Manohar Lal Sharma, Petitioner-in-person in Writ Petition (Criminal) No. 120 of 2012, Mr. Prashant Bhushan, advocate for the Petitioners in Writ Petition (Civil) 463 of 2012, Mr. Goolam E. Vahanvati, learned Attorney General, Mr. Mohan Parasaran, learned Solicitor General, Mr. U.U. Lalit, learned senior counsel for the Central Bureau of Investigation (CBI) and Mr. T.R. Andhyarujina, learned senior counsel for the Union of India. In Vineet Narain and Others Vs. Union of India (UOI) and Another, this Court emphasised the need for insulation of CBI from any extraneous influences to enable it to discharge its duties in the manner required for proper implementation of the rule of law. In para 48 of the report, it was observed that in view of the common perception shared by everyone including the Government of India and the Independent Review Committee of such need, it was imperative that some action was urgently taken. Accordingly, certain directions were issued in this regard. It was, inter alia, directed that the Central Government shall take all measures necessary to ensure that the CBI functions effectively and efficiently and is viewed as a non-partisan agency.

2. On a careful consideration of the affidavit of the Director, CBI filed before this Court on May 6, 2013 pursuant to the order dated April 30, 2013, we find that draft status reports pertaining to PE 2 and PE 4 have been shared with the Law

Minister, Law Officers and the two Joint Secretaries-one from the Ministry of Coal and the other from the Prime Minister's Office (PMO) and at their instance some changes have been made. Some of the changes made in these draft status reports are significant.

3. PE 2 relates to allocation of coal blocks for the period 2006-2009. In the course of inquiry into PE 2, 11 FIRs alleging corruption and conspiracy against unknown public officials of the Ministry of Coal have already been registered by the CBI.

4. In *Vineet Narain and Others Vs. Union of India (UOI) and Another*, whilst acknowledging that overall control of the CBI and responsibility for its functioning has to be in the executive, this Court was of the view that in the matter of investigation, a scheme giving the needed insulation from extraneous influences of the controlling executive was imperative. This Court noted that though the Minister who has been given responsibility for the functioning of the CBI has general power to review its working and give broad policy directions and he has also power to call for information regarding progress of the cases being handled by the agency, but none of these powers would extend to permit the concerned Minister to interfere with the course of investigation and prosecution in any individual case.

5. As noted above, allegations of corruption and conspiracy against unknown public officials of the Ministry of Coal are the subject matter of PE 2. 11 FIRs have already been registered. In light of the position expounded in *Vineet Narain* there was no justifiable reason for the two Joint Secretaries to peruse the draft status reports and recommend changes therein nor there was any justification for the CBI to allow these officers access to the draft status reports and allow the changes in the draft status reports as suggested by them. The Director, CBI and the investigating team ought to have acted as per the law laid down in *Vineet Narain and Others Vs. Union of India (UOI) and Another*,

6. In the backdrop of the above, we wanted to know from Mr. Goolam E. Vahanvati, learned Attorney General, whether the Central Government intended to put in place 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. This query was put to the learned Attorney General as we thought that if the statutory framework was in place, there would not be any necessity for us to undertake exercise in this regard.

7. Mr. Goolam E. Vahanvati, learned Attorney General, stated that he would seek instructions and report to the Court by way of an affidavit on behalf of the Central Government. We accept his statement. Such affidavit may be filed by July 3, 2013.

8. Mr. Prashant Bhushan, learned Counsel for the Petitioners in Writ Petition (Civil) 463 of 2012, in light of the facts that have emerged from the affidavit of the Director, CBI filed on 06.05.2013 raised the following questions for our consideration:

(a) Can the Law Minister ask the CBI to show him the details of any investigation being done by them and seek changes in the status report to be filed in Court, particularly when the investigation involves other Ministers and the PMO?

(b) Can the CBI Director disclose the details of investigation to the Law Minister and the counsel for the Government and allow them to make changes in the report to be filed with the Court? Does this not subvert the integrity of the investigation?

(c) Can the CBI officials disclose the details of the investigation to officials of the Ministries which are being investigated and allow them to make changes in the report to be submitted to the court about the investigation?

9. Mr. Prashant Bhushan also pressed the payer for constitution of a Special Investigating Team (SIT).

10. We leave the above questions and the prayer for constitution of SIT for consideration, if necessary, at a later point of time.

11. As of now, in our considered view, the following directions are required to be followed by the CBI in the matter of inquiry and investigation into PE 2, PE 4 and other inquiries relating to allocation of coal blocks:

(1) Immediate steps shall be taken for reappointment of Mr. Ravi Kant, IPS, on deputation with the CBI for the purposes of inquiry and investigation into allocation of coal blocks.

(2) The Director, CBI shall ensure that 33 officers, list of which has been supplied to this Court in the compilation entitled "CVs of Officers associated with inquiry and Investigation-Coal Block Allocations" and Mr. Ravi Kant, IPS, on his rejoining CBI on deputation basis, are not changed without leave of the Court and the same investigating team continues until further Orders.

(3) The Director, CBI shall henceforth ensure that secrecy of the inquiries and investigations into allocation of coal blocks is maintained and no access of any nature whatsoever in this regard is provided to any person or authority, including any Minister of the Central Cabinet, Law Officers, Advocate(s) of CBI, Director of Prosecution and officials/officers of the Central Government. We may add that this accords with what learned Attorney General and Mr. U.U. Lalit, learned senior counsel for CBI, have submitted before us having regard to the peculiarities of the case.

(4) If any request is received from the Special Judge, CBI-I for filing the status reports concerning the FIRs relating to allocation of coal blocks, we direct that until further order(s), no such status reports need be filed before that Court. Accordingly, further action by CBI pursuant to the communication dated April 23, 2013 received from the Court of Special Judge, CBI-I shall remain stayed.

(5) Should the Director, CBI or the investigating team feel that assistance of some experts in furtherance of the inquiry and investigation is required, liberty is

granted to the CBI to apply for necessary permission.

12. We clarify that we have not expressed any final opinion in the matter.

13. The Director, CBI shall submit status report duly vetted by him of the progress made upto July 5, 2013 by July 8, 2013. List the matters on July 10, 2013.