IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 5780 of 2026

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Shiva Kant Srivastava @ S.K. Srivastava, Aged 78 Years, Son of Late Gopal Krishna Sahay, R/o Devi Mandap, Hesal, P.O.-Hehal, P.S. Sukhdeo Nagar, & District-Ranchi.

.... **Petitioner(s)**

-VERSUS-

1. Union of India through Central Bureau of Investigation (CBI), having office at CBI Headquarters, CGO Complex, P.O. & P.S. Lodhi Road, District-New Delhi-110003.
2. Director of Prosecution, CBI, New Delhi; Office at CGO Complex, P.O. & P.S. Lodhi Road, District-New Delhi-110003.
3. Joint Director, C.B.I, A.C.B., Ranchi, At 2, Booty Road, P.O.+P.S.-Bariatu & District-Ranchi.
4. Head of Branch, CBI, ACB, Ranchi, At 2, Booty Road, P.O.+P.S.-Bariatu & District-Ranchi. **.....Respondent (s)**

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CORAM: **HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner(s) : Mr. Rajeeva Sharma, Sr. Adv.
Mr. Devesh Krishna, Adv
Mr. Gopal K Sinha, Adv

For the Respondent (s) : Mr. Prashant Pallav, ASGI
Mr. Shivani Jaluka, A.C. to ASGI

C.A.V. ON: 07/08/2026 **PRONOUNCED ON:24/08/2026**

1. Heard learned counsel for the parties.

2. The instant petition has been filed, *inter alia*, to quash the order dated 8.7.2026, by which the respondents have terminated the engagement of the petitioner as a public prosecutor. The petitioner has further sought issuance of a writ of mandamus restraining the respondents from disturbing the petitioner in any manner and not giving effect to the order dated 8.7.2026.

3. Ld. Sr. Counsel, Mr. Rajeeva Sharma, with Gopal K Sinha, Ld. Advocate, appearing for the petitioner, submits that the petitioner was working as a counsel in the Additional Panel of Advocates for Animal Husbandry cases conducted by

the respondents vide letter dated 8.4.2003. He submits that there are several cases pertaining to the animal husbandry scam which was being looked after by the petitioner. The Ld. Senior Counsel has placed heavy reliance on a letter dated 18.9.2013 (Annexure-8 of the writ petition) to show that the change in counsel or transfer of officers could only be done with the permission of this Court.

4. Learned Senior Counsel has vehemently argued that, prior to the issuance of the impugned letter, by which the services of the Petitioner have been terminated, no opportunity was given to the petitioner. He further submits that the action of the respondent is discriminatory in nature, as the counsels engaged along with the petitioner are still continuing as counsels for the respondent. He further submits that the action of the respondent is tainted with *malafide,* as the petitioner, being the public prosecutor, was calling upon the respondent to visit the Court in order to give his evidence. On the basis of the above, he submits that the entire action is fit to be set aside not only on grounds of violation of principles of natural justice but also on account of the violation of Article 14 of the Constitution of India. In order to buttress his argument, he has placed reliance on the case of ***Kumari Shrilekha Vidyarthi and Ors. Vs. State of U.P. and Ors (1991) 1 SCC 212,*** by which the Hon'ble Apex

Court had held that public prosecutors could not be removed in violation of Article 14 of the Constitution of India.

5. *Per contra*, Mr. Prashant Pallav, the Ld. Sr. Counsel - cum-Additional Solicitor General of India assisted by Ms. Shivani Jaluka, submits that the impugned order does not suffer from any illegality or arbitrariness, and the decision has been taken in accordance with the notification issued by the Ministry of Personnel, Public Grievances and Pensions on 30.01.1997. The ASGI has produced the said notification, and the same is taken on record.

6. Ld. ASGI, placing reliance on the notification dated 30.1.1997, submits that as per clause IV of the said notification, the appointment of the counsel would be terminable on one month's notice in writing to either side. It is further submitted that the respondents, cannot be compelled to utilize the services of one particular advocate, and the scope of interference in such matters, particularly under Article 226 of the Constitution of India, is minimal. Mr. Pallav, Ld. Sr. Counsel, has also placed reliance on the case of ***State of Uttar Pradesh and Ors vs Rakesh Kumar Kesari and Anr, AIR 2011 SC 1705***.

7. Having considered the rival submissions, the sole issue for consideration before this Court is as follows:

Whether the impugned notice dated 8.7.2026 (Annexure 7), suffers from any illegality as to warrant judicial review?

8. It is not in dispute that the impugned notice/letter dated 8.7.2026 gives a clear one-month notice to the petitioner, and his disengagement is with effect from 9.8.2026. The notification dated 30.1.1997 categorically provides that the services of a counsel could be terminated on one month's notice in writing. In light of the above, the petitioner's contention that the respondent had no authority to terminate his appointment is without force.

9. As far as the letter dated 18.9.2013 issued by the Directorate of Prosecution (attached at Page No. 30 of the writ petition) is concerned; the same would not come to the aid of the petitioner for the reason that trials pertaining to animal husbandry cases are already over. The reliance placed by the Ld. Senior Counsel, representing the Petitioner, on the case of ***Kumari Shrilekha Vidyarthi and Ors v. State of Uttar Pradesh and Ors (Supra)*** is misplaced. The said case involved *en bloc* termination of the entire government advocates/pleaders in the State of Uttar Pradesh. The ratio of the said case was that even in contractual matters, the State is not divested of ensuring compliance with Article 14 and seeing that there is no arbitrariness.

10. The facts of the case at hand are completely different. The action of the respondent is in complete compliance of the notification dated 30.1.1997, by which the terms of engagement of the petitioner were governed. Once the act has been done in accordance with the manner prescribed, it cannot be said that there is any arbitrariness on the part of the respondent in passing such an order.

11. The Ld. Sr. Counsel representing the petitioner, by way of last resort, has also tried to question the action of the respondent on the ground of *mala fide.*

12. However, *sans* any document or proof on record to support such pleadings; this Court is having no hesitation in holding that mere pleading without proof cannot be treated as evidence and is not enough to bring home the allegations of *malafide*. This Court in the case of **Shashi Bhushan Singh, v. State of Jharkhand and Ors (WP(S) No. 1517 of 2024),** has held that the allegations of *malafide* must be based on concrete material so as to inspire the confidence of this Court. In absence of any cogent material to establish the allegations of *malafide*, no interference is required with the impugned order/notice on such grounds. Further, if the petitioner had to show mala fide it has to implead the officer concerned against whom such mala fide is alleged by name. The petitioner's case fails on that account as well.

13. The judgement of ***State of Uttar Pradesh and Ors vs Rakesh Kumar Kesari and Ors, AIR 2011 SC 1705,*** relied upon by the Ld. ASGI seems to cover the *lis* at hand. In the said case, the Hon'ble Apex Court has unequivocally held that the jurisdiction under Article 226 of the Constitution cannot be invoked to compel the State to utilize the service of a person as an advocate. It is open for the State to select its own counsel.

14. Before parting, this Court finds it necessary to refer to the judgement of ***Mundrika Prasad Singh Vs. State of Bihar (1979 INSC 192),*** where the Hon'ble Supreme Court has enunciated that if the government does an act of ending the public office filled by a government pleader, what becomes the incumbent in the land of Gandhi is a dignified renunciation of office, not a chase for lost briefs through the 'writ route'. Advocacy is a noble profession which requires the advocates, who are foremost officers of the Court, to conduct themselves in a dignified manner.

15. In light of the above, the instant writ petition stands dismissed. Interlocutory applications, if any, stand closed. No order as to cost.

(Deepak Roshan, J)

Dated:24 /08/2026
Amardeep/
A.F.R
Uploaded on
29.8.2026