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HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT APPEAL NO. 47 OF 2015**

Dinesh Kumar Rai, Aged about 55 years, S/o Late Shri Dalpati Rai, Occupation Service, Working as Additional Superintendent of Police, Central Bureau of Investigation, New Delhi, R/o E-4, E Block, Nanakpura, South Motibagh, Police Station Dhaula Kuan, Post Office Nanakpur, New Delhi 110021

---- Appellant

Versus

1. Union of India Through Secretary, Government of India, Ministry of Personnel, Public Grievances and Pension, North Block, New Delhi 110001

2. The State Of Chhattisgarh Through Secretary, Government of Chhattisgarh Department Of Home, Mantralaya, Naya Raipur, Capitol Complex Police Station Naya Raipur, Tehsil Abhanpur, Civil and Revenue, District Raipur, Chhattisgarh

3. Central Bureau of Investigation Through Superintendent of Police Central Bureau of Investigation, Anti Corruption Bureau, Chhattisgarh Bhilai, Civil and Revenue, District Durg, Chhattisgarh

---- Respondents

For Appellant	:	Mr. Ravi Kumar Bhagat, Advocate
For Respondent No.1	:	Mr. N.K. Vyas, Assistant Solicitor General
For Respondent No.2	:	Mr. B.Gopa Kumar, Dy. Advocate General
For Respondent No.3	:	Mr. Shivang Dubey, Advocate

HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE SHRI JUSTICE P. SAM KOSHY

ORDER ON BOARD

Per Navin Sinha, Acting CJ

02.03.2015

1. We have heard Learned Counsel for the Appellant and the Respondents.
2. The present appeal arises from order dated 16.12.2014 dismissing Writ Petition (Cri.) No.230 of 2014. The Learned Single Judge held that in view of the *ex post facto* consent granted by the State Government for investigation by the Central Bureau of Investigation ('CBI'), there existed no ground for quashing of the charge sheet and FIR for absence of consent under Sections 5 and 6 of the Delhi Special Police Establishment Act, 1946.
3. Learned Counsel for the State has opposed the application submitting that the order of the Learned Single Judge calls for no interference.
4. We have considered the submissions on behalf of the Parties and find no reason with the order under appeal once the State Government has granted consent for investigation by the CBI. In a similar situation, the Supreme Court also took note of the subsequent grant of consent by the State Government and declined to interfere in (1994) 1 SCC 536 (Maniyeri Madhavan v. Sub-Inspector of Police and Others) observing as

follows:-

“8. We have given our careful consideration to the above submissions. We do not think we can come to the rescue of the police officers. Whether they are guilty or not of the offences for which they are charged is a matter to be established in a criminal trial. Therefore, we refrain from making any observation.

9.Even otherwise, we find a notification has been issued by Government of Kerala to the following effect :.....”

5. The writ appeal stands disposed.

ACTING CHIEF JUSTICE

JUDGE