

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1327 of 2017**

1. Vijay Kumar Shrivastava S/o Late G.S. Shrivastava, Aged About 57 Years Posted As Superintending Engineer, WRD, Kota, R/o Gurudev Nagar, Bilaspur, Chhattisgarh
2. S.K. Awadhiya S/o Late M.L. Awadhiya, Aged About 61 Years Posted As Chief Engineer, WRD, R/o Irrigation Colony, Kududand, Bilaspur, Chhattisgarh
3. Ram Swami Naidu S/o Late Shri K.S. Naidu, Aged About 57 Years Posted As Executive Engineer, WRD, Kota, R/o Green Park, Bilaspur, Chhattisgarh
4. I.A. Siddiqui S/o Shri Ishtique Siddiqui, Aged About 51 Years Post S.D.O., WRD, Kota, R/o Bhartiya Nagar, Bilaspur, Chhattisgarh

---- Petitioners**Versus**

1. Laxmi Kant Nirnejak S/o Lauram Nirnejak, Aged About 42 Years R/o Omnagar, Jarhabhata, Bilaspur, Chhattisgarh, Member RTI Worker Welfare Association, Registration No. 30439, Chhattisgarh
2. State of Chhattisgarh, Through The ACB Bilaspur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Kishore Bhaduri, Advocate.
For Respondent No.2	:	Shri Rajendra Tripathi, Penal Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****11.05.2018**

1. The Petitioners have challenged the order dated 11.07.2017 passed by Special Judge (Prevention of Corruption Act, 1988) Bilaspur (C.G.) wherein the said Court opined regarding taking of cognizance for offences under Sections 420, 467, 468, 471, 472, 120-B of IPC and for offence under Prevention of Corruption Act, 1988 (hereinafter referred to as 'the Act,1988'). The Court earlier passed an order for investigation by Police authorities under Section 156(3) of Cr.P.C. but as per law laid down by the Hon'ble Apex Court no cognizance can be taken under the Act, 1988 unless sanction is

granted as per Section 19(1) of the Act. But the Court further opined that earlier order cannot be reviewed, therefore, order by Competent Court is required.

2. Admittedly the Petitioners are public servants working in Water Resources Department Government of Chhattisgarh and as per their submissions no Court can take cognizance without sanction under Section 197 of Cr.P.C. and under Section 19(1) of the Act, 1988.
3. Per contra, learned counsel for the Respondent submits that cognizance can be taken by the Trial Court without sanction under Section 197 of Cr.P.C. and under Section 19(1) of the Act, 1988.
4. As the Trial Court did not record specific finding that whether cognizance can be taken in the present case without sanction in the peculiar circumstance of the present case, the matter is remitted back to the Trial Court for giving specific finding whether cognizance can be taken in the present case without sanction. The complainant side will appear before the Trial Court on 18.05.2018.
5. With the aforesaid observations the petition stands disposed of.

Sd/-
(Ram Prasanna Sharma)
JUDGE