

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.275 of 2018

N.K. Dwivedi, S/o Shri R.D. Dwivedi, age about 55 years, Former District Education Officer, Mungeli/Raigarh, at present holding the post of Deputy Director Education, attached in the office of Director of Public Instruction, Indrawati Bhawan, P.S. and Post Rakhi, New Raipur, District Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh Acting Officer-in-Charge, Anti Corruption Bureau, Bilaspur, District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri K.A. Ansari, Senior Advocate with Shri Devesh G. Kela, Advocate
For Respondent	:	Shri Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

25.7.2018

1. The instant revision has been preferred against the order dated 30.1.2018 passed by the Special Judge under the Prevention of Corruption Act (henceforth 'the Act'), Mungeli in Special Sessions Trial No.7 of 2017, whereby the application under Section 311 of the Cr.P.C. filed by the Applicant/accused has been rejected.
2. As per the prosecution story, the Anti Corruption Bureau registered an offence under Section 13(1)(d) and 13(2) of the Act read with Section 120B of the Indian Penal Code. Against the Applicant, it is alleged that out of the 24 persons in whose favour compassionate appointment orders were passed by him in the capacity of District Education Officer, Mungeli, 3 persons were not eligible for the said appointment. On completion of the investigation, a charge-sheet has been filed against the Applicant. Before filing of the charge-

sheet, a sanction order for prosecution of the Applicant dated 10.5.2016 has been issued by the Additional Secretary, Law and Legislative Affairs Department, Government of Chhattisgarh, Raipur. An amendment order dated 29.6.2016 has also been filed along with the charge-sheet. During the course of trial, the prosecution examined Vishwanath Swarnakar, A.G.-III of the Law and Legislative Affairs Department, Government of Chhattisgarh, Raipur as PW7. Thereafter, on 17.11.2017, an application under Section 311 of the Cr.P.C. was filed by the Applicant before the Trial Court for summoning the sanctioning authority, i.e., the Additional Secretary, Law and Legislative Affairs Department, which has been rejected by the Trial Court vide the impugned order dated 30.1.2018 on the ground that the sanction order clearly contains the contents on the basis of which it has been issued.

3. Learned Senior Counsel appearing on behalf of the Applicant submits that the sanction order is not tenable as per the settled law and, therefore, the Applicant has every right to cross-examine the sanctioning authority. He further submits that it is settled law that while granting sanction order, the sanctioning authority has to go through all the documents proposed to be filed with the charge-sheet and has to record reason for coming to the conclusion for filing of the charge-sheet. He further submits that while passing the sanction order, the sanctioning authority has not gone through the record of the case of the Applicant. The sanction order has been passed in a mechanical manner and without application of mind.

4. Learned Counsel appearing for the State/Respondent opposes the

arguments advanced on behalf of the Applicant and supports the impugned order.

5. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
6. A bare perusal of the sanction order dated 10.5.2016 (Annexure P1) reveals that it is a detailed order containing all the facts and grounds on the basis of which, it has been issued. It clearly appears to be a reasoned order. Therefore, the Trial Court has rightly rejected the application under Section 311 of the Cr.P.C.
7. Thus, I find no merit in the revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
JUDGE