

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Criminal) No.157 of 2013Order reserved on: 16-4-2019Order delivered on: 13-5-2019

Vindheshwari Prasad Khare, S/o Sh. Brij Bihari Khare, Aged about 48 years, R/o Kapil Nagar, Sarkanda, PS Sarkanda, Bilaspur, Tahsil & Distt. Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Ministry of Home, Mahanadi Bhawan, PS Mantralaya, Raipur (C.G.)
2. Secretary, Ministry of Co-operative, Mahanadi Bhawan, PS Mantralaya, Raipur (C.G.)
3. Shri Nanki Ram Kanwar, Then Minister for Home, Co-operative and Jail, Purani Basti, PS Korba, District Korba (C.G.)
4. Registrar, Co-Operative Societies Chhattisgarh, Vivekanand Complex, Pensionwada Chowk, PS City Kotwali, Raipur (C.G.)
5. Shri Devendra Kumar Pandey, Chairman, Jila Sahakari Kendriya Bank Maryadit, Bilaspur, Post Box No. 6, Sehkar Bhavan, Nehru Chowk, PS Civil Lines, Bilaspur (C.G.)
6. D.C. Thakre, Former Chief Executive Officer, Jila Sahakari Kendriya Bank Maryadit, Bilaspur, Presently posted at CG Rajya Sahakari Bank Maryadit (Apex Bank), Pandari, Near Cloth Market, PS Pandri, Raipur (C.G.)
7. Sahakari Kendriya Bank Maryadit Chief Executive Officer, Sahakari Kendriya Bank Maryadit, Post Box No. 6, Sahakar Bhavan, Nehru Chowk, PS Civil Lines, Bilaspur (C.G.)
8. National Bank for Agriculture & Rural Development (NABARD), Chhattisgarh Regional Office Pitholiya Complex, K.K. Road, PS Moudhapara, Raipur (C.G.)
9. Chhattisgarh Rajya Sahakari Bank Maryadit (Apex Bank), Through Managing Director, Chhattisgarh Rajya Sahakari Bank Maryadit (Apex Bank), Pandari, Near Kapda Market, PS Pandri, Raipur (C.G.)
10. Reserve Bank of India, Regional Office Raipur, Satya Prem Vihar, Sunder Nagar, PS Sunder Nagar, Raipur (C.G.)
11. Additional Director General of Police, State Economic Offence Wing

(EOW) and Anti Corruption Bureau, Opposite Jai Jawan Petrol Pump, G.E. Road, Azad Police Station, Raipur (C.G.)

---- Respondents

For Petitioner: Ms. Seema Singh, Advocate.

For Respondents No.1, 2, 4 and 11 / State: -

Mr. Chandresh Shrivastava, Deputy Advocate General.

For Respondent No.5: -

Mr. Ramakant Pandey, Advocate.

For Respondent No.7: -

Mr. Abhishek Chandrawanshi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. The petitioner is a former employee of Zila Sahakari Kendriya Bank Maryadit, Bilaspur – respondent No.7 herein, who stood terminated on account of proven misconduct from the said Bank with effect from 6-9-2011 and facing criminal trial for offence punishable under Sections 420, 467, 468, 471 and 472 read with Section 34 of the IPC pursuant to the FIR registered under Crime No.946/2011. The petitioner herein first filed W.P. (Crl.) No. 75/2013 (Vindeshwari Prasad Khare v. State of Chhattisgarh and others) before the Supreme Court of India seeking the reliefs claimed herein, but their Lordships declined to entertain the writ petition and permitted the petitioner to move this Court to vindicate his grievance in accordance with law.
2. Now, this writ petition has been preferred by the petitioner on 19-12-2013 stating inter alia that the petitioner was an officer of the bank and he has made several complaints to the Economic Offences Wing, Central Vigilance Commission, Income Tax Department and Reserve Bank of India against respondent No.5 who was the Chairman of respondent No.7 Bank at that particular time, but no action was taken against him and on account of his

illegal act, the petitioner is suffering at his hands for daring to disobey his illegal instructions and publishing and bringing his corrupt practices to the fore and to the knowledge of the higher authorities. It was further pleaded that respondent No.5 has committed corrupt practice in purchase of car, Sutli and furniture and also committed irregularities in transferring employees on account of which the State Economic Offences Wing (EOW), Raipur has registered a preliminary enquiry on 6-9-2011 under Preliminary Enquiry No.26/2011 against respondent No.5 and Shri D.C. Thakre, Chief Executive Officer of the Bank, who is also respondent No.6 herein and the said EOW has informed to the State Government on 6-9-2011 after registering preliminary enquiry against the said respondents. The petitioner has finally prayed after detailing the allegations of corruption that an appropriate writ or direction be issued either directing a Special Investigation Team (SIT) to be constituted to investigate the corruption and malpractices of respondent No.5 and his accomplices or in order to have reliable and trustworthy information, a direction be issued directing the Central Bureau of Investigation (CBI) to conduct a free and fair investigation and the respondent State be directed to handover all the complaints and investigation pending against respondent No.5 and his accomplices to the CBI.

3. The respondent State and the EOW (respondents No.1, 2, 4 & 11) have filed their reply (on 23-12-2014) stating inter alia that the main allegation of the petitioner relates to the alleged malpractice and alleged corruption on the part of respondent No.5 and other private respondents, therefore, the remedy of the petitioner is to file private

complaint under Section 200 of the Code of Criminal Procedure, 1973 and the writ petition as framed and filed directly approaching this Court without availing the aforesaid remedy, is not maintainable. It has also been stated clearly that because of the disciplinary action taken by respondent No.5 against the petitioner, the petitioner in a personal grudge has alleged against respondent No.5 regarding malpractice and corruption. All the purchases and works have been done after due sanction of the purchase committee of the Bank. It has finally been stated that the investigation has been conducted by the State and its agencies, but till date, no evidence was found about the cognizable offence allegedly committed by respondent No.5 and therefore the writ petition deserves to be dismissed.

4. The respondent Bank has also filed detailed reply before this Court controverting each and every allegation made in the writ petition clearly stating that each and every act has been done in accordance with law and the EOW has already registered a case against the petitioner considering the charges alleged against the petitioner and as such, the writ petition as framed and filed is not maintainable. The writ petition has been preferred by the petitioner as a counter blast to the offence registered against him for the offences punishable under Sections 467, 468, 471 and 472 read with Section 34 of the IPC pursuant to the FIR registered under Crime No.946/2011 and he has also been terminated from service on 6-9-2011 on account of his proven misconduct and therefore to rigour-out from the said deserving criminal prosecution, the petitioner has filed this writ petition. In the charge-sheet filed before

the jurisdictional criminal court, the petitioner is shown to be absconding, as he is neither participating in the trial nor co-operating in the investigation and has filed writ petition which is nothing but on account of persona vendetta which deserves to be dismissed with costs. No ground is either shown or established for directing constitution and investigation by a Special Investigation Team or investigation by Central Bureau of Investigation. Respondent No.5 has also filed his return supported by his affidavit.

5. No rejoinder has been filed on behalf of the petitioner to the return filed by the State and on behalf of the respondent No.7 Bank.
6. Ms. Seema Singh, learned counsel for the petitioner, would submit that though the State Economic Offences Wing, Raipur has registered Preliminary Enquiry No.26/2011 against respondents No.5 & 6, but till date no further action has been taken against him and the then Chief Executive Officer of the Bank i.e. respondent No.6 in spite of the information of cognizable offence having been committed by respondents No.5 & 6 and therefore it is a fit case that the matter should be transferred for further investigation by constituting a Special Investigating Team (SIT) of the officers of appropriate rank or the matter be transferred to the premier investigating agency of the country i.e. the Central Bureau of Investigation (CBI) and the offenders like respondents No.5 & 6 be brought to book by granting and issuance of appropriate writ or direction(s).
7. Mr. Chandresh Shrivastava, learned Deputy Advocate General appearing for the State/respondents No.1, 2, 4 and 11, would submit that on the complaint filed by the petitioner, Preliminary

Enquiry No.26/2011 was registered in the State Economic Offences Wing and the matter was investigated by the investigating officer and enquiry was conducted by respondents No.1, 2, 4 and 11, but till date no evidence was found about the cognizable offence having been committed by respondent No.5, therefore, the writ petition as framed and filed deserves to be dismissed. Even otherwise, the petitioner has personal grudge against respondents No.5 & 6, as he has been terminated from the service of the Bank on 6-9-2011 by them and he has also been charge-sheeted in abscondence and not appearing in criminal trial and this is nothing but a counter-blast to the legal action in the shape of termination from service on account of proven misconduct and criminal case having been registered against the petitioner at the instance of respondents No.5 & 6 and even the petitioner in the preliminary enquiry till date despite notice has failed to appear and did not make his statement in support of his complaint. Therefore, the writ petition deserves to be dismissed. Learned counsel for respondent No.5 Mr. Ramakant Pandey has also taken similar stand.

8. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.

[For the sake of convenience, it is made clear that Mr. Devendra Kumar Pandey was originally typed in writ petition as respondent No.6, but at the time of filing, it was corrected as respondent No.5.]

9. The question for consideration is, whether the petitioner has made out a case warranting transfer of alleged investigation to the

specialized agency by constituting a Special Investigation Team or to Central Bureau of Investigation?

10. On the complaint of the petitioner, Preliminary Enquiry No.26/2011 against respondents No.5 & 6 has been registered by the State Economic Offences Wing on 6-9-2011 and preliminary enquiry was held which is apparent from the document filed along with the writ petition / paper book at page 172.
11. Section 2(h) of the Code of Criminal Procedure, 1973 (for short, 'the Code') defines "investigation" which includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf.
12. Investigation usually starts on the information relating to the commission of the offence given to the officer in charge of the police station and duly recorded under Section 154 of the Code. For the purpose of investigation, the offences are divided into two categories—cognizable and non-cognizable. In cognizable offences, the police have statutory power to investigate without the permission of the Magistrate. Section 154 of the Code prescribes the mode of recording the information received orally or in writing by an officer in charge of the police station, in respect of a cognizable offence. Section 156 authorises such an officer to investigate.
13. There are authorities in favour of the view that a police officer can enter the investigation in respect of a cognizable offence even in the absence of the receipt of information. The receipt of information is not the condition precedent for entering the investigation.

14. In the matter of King Emperor v. Khwaja Nazir Ahmed¹, the Privy Council held that in the case of cognizable offences receipt and recording of first information report is not a condition precedent to the setting in motion of criminal investigation and observed as under: -

“In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the Court to intervene in an appropriate case when moved under [Section 491](#) of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions begin when a charge is preferred before it and not until then.”

15. In the matter of S.N. Sharma v. Bipen Kumar Tiwari and others², their Lordships have held as follows: -

“7. ... It appears to us that, though the Code of Criminal Procedure gives to the police unfettered power to investigate all cases where they suspect that a cognizable offence has been committed, in appropriate cases an aggrieved person can always seek a remedy by invoking the power of the High Court under Art. 226 of the Constitution under which, if the High Court could be convinced that the power of investigation has been exercised by a police officer mala fide, the High Court can always issue a writ of mandamus restraining the police officer from misusing his legal powers. ...”

16. Likewise, in the matter of State of Uttar Pradesh v. Bhaswant Kishore Joshi³, the Supreme Court referring to the definition of expression 'investigation' in Section 4(1) of the Code of Criminal Procedure, 1898 which is *pari materia* to Section 2(h) of the Code

1 AIR 1945 PC 18

2 AIR 1970 SC 786

3 AIR 1964 SC 221

of Criminal Procedure, 1973 and referring to the observations made by their Lordships of the Supreme Court in H.N. Rishbud (supra) describing the procedure prescribed for investigation under Chapter XIV of the Code of Criminal Procedure, 1898, by a majority decision of Two to one held, that though ordinarily investigation is undertaken on information received by the Police Officer, the receipt of information is not a condition precedent for investigation. It has further been held that Section 157 of the Code prescribes the procedure in the matter of such an investigation which can be initiated either on information or otherwise and that the provision would show that an officer in-charge of a police station can start investigation either on information or otherwise.

17. Likewise, in the matter of M. Narayandas v. State of Karnataka⁴, it has been that if any information disclosing a cognizable offence is laid before an officer-in-charge of a police station satisfying the requirements of Section 154(1) of the Code, the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information and the field of investigation of any cognizable offence is exclusively within the domain of the investigating agencies over which the Courts cannot have control and have no power to stifle or impinge upon the proceedings in the investigation so long as the investigation proceeds in compliance with the provisions relating to investigation.

18. Likewise, in the matter of Union of India v. Prakash P. Hinduja⁵, it was observed as under: -

⁴ 2004 Cri.L.J. 822

⁵ 2003 Cri.L.J. 3117

“There is a clear-cut and well demarcated sphere of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the executive through the police department the superintendence over which vests in the State Government. The executive which is charged with a duty to keep vigilance over law and order situation is obliged to prevent crime and if an offence is alleged to have been committed it is its bounden duty to investigate into the offence and bring the offender to book. Once it investigates and finds an offence having been committed it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the Court requesting the Court to take cognizance of the offence under Section 190 of the Code its duty comes to an end. On a cognizance of the offence being taken by the Court the police function of investigation comes to an end subject to the provision contained in Section 173(8), there commences the adjudicatory function of the judiciary to determine whether an offence has been committed and if so, whether by the person or persons charged with the crime by the police in its report to the Court, and to award adequate punishment according to law for the offence proved to the satisfaction of the Court. There is thus a well defined and well demarcated function in the field of crime detection and its subsequent adjudication between the police and the Magistrate.”

Their Lordships further observed that the power of the police to investigate into a cognizable offence is ordinarily not to be interfered with by the judiciary.

19. From the aforesaid analysis, it is quite vivid that for initiation and continuance of investigation, reporting of the commission of cognizable offence is a condition precedent and unless the cognizable offence is said to have been committed, investigation under Section 2(h) of the Code cannot commence.

20. Their Lordships of the Supreme Court (Constitution Bench) in the matter of Lalita Kumari v. Government of Uttar Pradesh and others⁶ emphasized the need for preliminary enquiry in corruption cases against public servant following the judgment of the Supreme

6 (2014) 2 SCC 1

Court in the matter of P. Sirajuddin, etc. v. State of Madras, etc.⁷.

21. In the instant case, it is quite vivid that on the complaint of the petitioner, Preliminary Enquiry No.26/2011 was initiated against respondents No.5 & 6 after registering preliminary enquiry on 27-8-2011 which has been intimated by the State Economic Offences Wing to the State Government. The State EOW is also arrayed as respondent No.11 in this writ petition. The State along with the EOW (respondent No.11) has filed its return before this Court jointly in which at the end of paragraph 7, following statement has been made by the State and its authorities which is as under: -

“It is respectfully submitted that the petitioner has alternative and efficacious remedy to produce evidence and raise objection before the learned Lower Court after filing private complaint case under section 200 of the Cr.P.C. against the respondent No. 6. But, so far as the inquiry conducted by the answering respondent till date no evidence was found about cognizable offence allegedly committed by the respondent No.6.”

22. The said return / reply is supported by the affidavit of Deputy Superintendent of Police, Economic Offence Wing, Raipur and the affidavit was filed on 23-12-2014 and for the last more than four years, no rejoinder has been filed controverting the said fact stated in the affidavit sworn by the State and respondent No.11 clearly stating that no cognizable offence appears to have been committed by respondent No.6, corrected as respondent No.5 while filing, as depicts from the original writ petition. It is also stated at the Bar that the petitioner has not appeared before the EOW for making his statement in support of the complaint till date and remain in abscondence.

⁷ 1970(1) SCC 595

23. Now, the next question would be, in view of the said finding recorded by the State Economic Offences Wing that no cognizable offence appears to have been committed by respondent No.5, whether the transfer of investigation to the specialised agency by constituting a Special Investigation Team or to CBI can be directed?
24. With regard to the claim of the petitioner for transfer of investigation to a specialised agency (SIT) or to CBI, it would be appropriate to refer to the pertinent pronouncements rendered by their Lordships of the Supreme Court in this regard.
25. In the matter of Common Cause v. Union of India⁸, Their Lordships of the Supreme Court while considering the scope and ambit of a criminal case being tried or to direct an investigation by CBI, it was held as under: -

“174. The other direction, namely, the direction to CBI to investigate 'any other offence' is wholly erroneous and cannot be sustained. Obviously, direction for investigation can be given only if an offence is, prima facie, found to have been committed or a person's involvement is prima facie established, but a direction to CBI to investigate whether any person has committed an offence or not cannot be legally given. Such a direction would be contrary to the concept and philosophy of 'LIFE' and 'LIBERTY' guaranteed to a person under Article 21 of the Constitution. This direction is in complete negation of various decisions of this Court in which the concept of 'LIFE' has been explained in a manner which has infused 'LIFE' into the letters of Article 21.”

26. Similarly, in the matter of Minor Irrigation & Rural Engg. Services v. Sahngoo Ram Arya⁹, delineating the scope and jurisdiction of the High Court under Article 226 of the Constitution of India for directing an inquiry by CBI, Their Lordships of the Supreme Court held as under: -

8 (1999) 6 SCC 667

9 (2002) 5 SCC 521

“5. While none can dispute the power of the High Court under [Article 226](#) to direct an inquiry by CBI, the said power can be exercised only in cases where there is sufficient material to come to a prima facie conclusion that there is a need for such inquiry. It is not sufficient to have such material in the pleadings. On the contrary, there is a need for the High Court on consideration of such pleadings to come to the conclusion that the material before it is sufficient to direct such an inquiry by the CBI. This is a requirement which is clearly deducible from the judgment of this Court in *Common Cause* (supra).”

27. A Constitution Bench of the Supreme Court in the matter of **State of W.B. v. Committee for Protection of Democratic Rights**¹⁰

again considering the question of jurisdiction of the High Court under Article 226 of the Constitution of India for directing CBI to investigate cognizable offence in a State without the consent of the State Government, pertinently observed the circumstances on which the investigation by CBI can be directed, as under: -

“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”

10 (2010) 3 SCC 571

28. In the matter of **Ram Jethmalani and others v. Union of India and others**¹¹, the Supreme Court in respect of unaccounted money and black money constituted Special Investigation Team by holding as under: -

“56. We note that in many instances, in the past, when issues referred to the Court have been very complex in nature, and yet required the intervention of the Court, Special Investigation Teams have been ordered and constituted in order to enable the Court, and the Union of India and/or other organs of the State, to fulfill their constitutional obligations. The following instances may be noted: *Vineet Narain v. Union of India*¹², *NHRC v. State of Gujarat*¹³, *Sanjiv Kumar v. State of Haryana*¹⁴ and *Centre for Public Interest Litigation v. Union of India*¹⁵.”

29. Their Lordships of the Supreme Court in the matter of **Mohd. Haroon and others v. Union of India and another**¹⁶, where the prayer was made for constituting SIT or directing CBI to inquire into the communal riots erupted in and around District Muzaffarnagar, Uttar Pradesh in 2013, declined to grant CBI inquiry or constitution of SIT with the following findings: -

“121. In the light of various steps taken by the State, facts and figures, statistics supported by materials coupled with the various principles enunciated in the decisions referred above, we are of the view that there is no need to either constitute SIT or entrust the investigation to CBI at this juncture. However, we are conscious of the fact that more effective and stringent measures are to be taken by the State administration for which we are issuing several directions hereunder.”

30. Reverting to the facts of the present case in light of the principles of law laid down by their Lordships of the Supreme Court in the aforesaid judgments qua the constitution of SIT or direction to CBI

11 (2011) 8 SCC 1

12 (1996) 2 SCC 199

13 (2004) 8 SCC 610

14 (2005) 5 SCC 517

15 (2011) 1 SCC 560

16 (2014) 5 SCC 252

for investigation, it is quite vivid that in the instant case, the petitioner is a former employee of the respondent No.7 Bank who was terminated by the Bank presided by respondent No.5 for the alleged misconduct on 6-9-2011 and thereafter, he was charge-sheeted on 17-9-2011 in his abscondence for commission of offence punishable under Sections 420, 467, 468, 471 and 472 read with Section 34 of the IPC along with two other accused persons and thereafter, firstly he had filed writ petition before the Supreme Court which he was permitted to withdraw with liberty to file writ petition before this Court, and which he ultimately filed on 19-12-2013 stating that various irregularities committed by respondent No.5 deserve to be investigated upon by constitution of SIT or a direction be given to CBI for investigation on which preliminary enquiry has been conducted by registering preliminary enquiry and thereafter, the State Economic Offences Wing has categorically come to the conclusion as on the date of filing return that no material demonstrating commission of cognizable offence has been found till date against respondent No.5 by filing affidavit before this Court in the instant case, which has not been controverted by filing rejoinder by the petitioner. As such, there is no prima facie case / material warranting direction for further investigation by constituting a Special Investigation Team or by CBI. Apart from the above-stated fact, it is apparent on the face of record that only preliminary enquiry was held in which no cognizable offence is found to have been committed by respondents No.5 & 6, but the fact remains that there is no investigation initiated and pending in terms of Section 2(h) of the

Code as on date which is *sine qua non* for directing transfer of investigation either to CBI or by constituting Special Investigation Team.

31. The Supreme Court in **Common Cause** (supra) has clearly held that direction to CBI to investigate whether any person has committed an offence or not cannot be legally given and further, in **Minor Irrigation & Rural Engg. Services** (supra) has clearly held that such a direction can be given only when there is a prima facie conclusion that there is a need for such an inquiry. In **Committee for Protection of Democratic Rights** (supra), the Constitution Bench of the Supreme Court has clearly cautioned the Courts by holding that extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.
32. Present is not the case here. The petitioner is seeking direction to find out whether the offences as reported by him have been committed by respondent No.5 / 6 or not and particularly when the State EOW has come to a definite conclusion that no cognizable offence has been found to have been committed by respondent No.5 and the petitioner has not appeared since 2011 before EOW to give his statement in support of his complaint. It is not the case that the instant case has any national and international ramifications or impact, repercussion. The prayer made in the

petition for transfer of investigation to CBI or constituting a Special Investigation Team cannot be directed particularly when the complaint has been filed after suffering the order of termination at the ends of Bank which is presided by respondent No.5 and the petitioner is also suffering criminal prosecution for his act at the instance of respondent No.5 in view of the fact that no investigation in terms of Section 2(h) of the Code is pending and even the petitioner is not appearing before EOW. Even otherwise, the petitioner cannot claim investigation by CBI or by constituting SIT as a matter of right which can only be directed in making out exceptional and extra-ordinary case having national or countrywide ramification. In sum and substance, my considered opinion is that the petitioner has failed to make out a case for transfer of investigation by a specialised agency by constituting SIT or by CBI in light of the decisions rendered by Their Lordships of the Supreme Court in the above-cited cases (supra). The writ petition deserves to be and is accordingly dismissed leaving liberty to the petitioner to proceed in accordance with law. However, it is made clear that this Court has not expressed any opinion about the merits of the matter / inquiry qua respondents No.5 & 6 in pending enquiry before EOW or any other agency, which will proceed in accordance with law. Observation made in this order is only for the purpose to find out whether the matter can be transferred to a specialised agency by constituting SIT or to CBI for investigation. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Criminal) No.157 of 2013

Vindheshwari Prasad Khare

Versus

State of Chhattisgarh and others

Head Note

Investigation by Central Bureau of Investigation or by constituting Special Investigating Team cannot be claimed by a person as a matter of right and it may be directed in making out exceptional and extraordinary case having national or countrywide ramification.

केन्द्रीय अन्वेषण ब्यूरो अथवा विशेष जाँच दल गठित करके, इनके द्वारा जाँच की मांग एक व्यक्ति अधिकार के रूप में नहीं कर सकता तथा ऐसे जाँच का निर्देश आपवादिक तथा असाधारण मामलों जिनका राष्ट्रीय अथवा देशव्यापी प्रभाव है, में दिया जा सकता है।