

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) CWP-PIL-3-2020(O&M)
Reserved on:08.08.2024
Date of Order:28.08.2024

Satinder Singh ..Petitioner
Versus

The State of Punjab and others ..Respondents

(2) CWP-5165-2024(O&M)

Savtej Singh Sandhu ..Petitioner
Versus

State of Punjab and others ..Respondents

(3) CWP-5210-2024(O&M)

Surinderpal Singh ..Petitioner
Versus

State of Punjab and others ..Respondents

(4) CWP-5211-2024(O&M)

Jaswinder Singh Randhawa ..Petitioner
Versus

State of Punjab and others ..Respondents

(5) CWP-5213-2024(O&M)

Amarjeet Singh ..Petitioner
Versus

State of Punjab and others ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Baltej Singh Sidhu, Senior Advocate, with
Mr. Divij Datt, Advocate
for the petitioner (in CWP-PIL-3-2020)

Mr. Munish Jolly, Advocate
for the applicant (in CM-73-CW-PIL in CW-PIL-3-2020)



**Mr. Randeep S. Rai, Senior Advocate, with
Ms. Rubina Virmani, Advocate
Ms. Radhika Mehta, Advocate and
Mr. Vipul Joshi, Advocate
for the petitioner (in CWP-5210, 5211 and 5213 of 2024)**

**Mr. Chantey Mittal, Senior Advocate with
Mr. Harneet Singh Oberoi, Advocate
Mr. Kunal Mulwani, Advocate
for the petitioner (in CWP-5165-2024)**

**Mr. Anurag Chopra, Addl. A.G., Punjab and
Mr. Salil Sabhlok, Sr. DAG, Punjab.**

ANIL KSHETARPAL, JUDGE

1. FACTUAL MATRIX

1.1 With the consent of the learned counsel representing the parties, this order shall dispose of CWP-PIL No.3 of 2020, CWP Nos.5165, 5210, 5211 and 5213 of 2024.

1.2. PIL has been filed by Sh. Satinder Singh for issuance of a writ in the nature of mandamus directing the respondents to consider and decide the legal notice sent on 01.11.2019, with a further direction to register an FIR against guilty persons on the basis of vigilance inquiry report no.03 of 04.04.2018 and conclude the investigation in a time bound manner. Four other writ petitions have been filed to seek issuance of a writ in the nature of certiorari to quash Managing Director's order dated 20.02.2024, approving investigation against the petitioners in the remaining four writ petitions in terms of Section 17A of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the PC Act').

1.3. The relevant facts, in brief, are that pursuant to 'Source Report' marked by Assistant Inspector General of Police, Vigilance Bureau (VB), for conducting the inquiry, an inquiry report was submitted by the Inspector on 30.01.2019. Some information and material was found to indicate that



the officers/officials of Punjab State Industries and Export Corporation (hereinafter referred to as 'PSIEC') misused their position to get the industrial plots allotted to their close relatives/friends/unknowns while causing financial loss to the tune of crores of rupees to the Government/PSIEC. As per investigation, Sh. Jaswinder Singh Randhawa, who was posted as General Manager (Personnel) got a plot allotted to his wife, son of his aunt's mother; Smt. Parminder Kaur wife of Sh. Shamsher Singh, family member, Sh. Kewal Singh son of Sh. Joginder Singh, relative and friend, Sh. Sukhraj Singh son of Sukhchain Singh, Sh. Jaswinder Singh's relative, Sh. Damanpreet Singh, Sh. Avtar Singh, Sh. Sukhpal Singh Sandhu, Sh. Ramanpreet Singh, Sh. Jasmeet Singh, Sh. Gurmail Singh, Sh. Gagandeep Kaur etc. Sh. SP.Singh, who was posted as Chief General Manager(Estate), PSIEC, misused his position by wrongly changing industrial plots allotment and he was assisted by Sh. Jaswinder Singh Randhawa in allotment of these plots. The files of Plot No.657, Industrial Focal Point, Phase-IX, Mohali, and Plot No.426, Industrial Focal Point, Amritsar, have been misplaced in order to disrupt the investigation as these plots belong to Sh. Jaswinder Singh Randhawa. Sh. Savtej Singh, Sub Divisional Officer, prepared forged documents of his relative Sh. Gurtej Singh and allotted him a plot. The payment of this plot was made from the account of his own son Sh. Manroop Singh and father. The involvement of Sh. S.P.Singh, Chief General Manager, was also established. The Estate officer Sh. Amarjit Singh Kahlon, Sh. Vijay Gupta, Senior Assistant. Sh. Dashan Singh, Consultant, were also found involved. These official have misused their position to allot plot No.E-261, C-210, C-211, E-260A, E-248,



Phase-XIII, Plot No.659, Phase-IX, F-209, Phase-XIII B, Industrial Area, Mohali, Plot No.426, Industrial Focal Point, Amritsar, Plot No.426, Industrial Focal Point, Amritsar, Plot No.294, Industrial focal Point, Amritsar. Though, there is no provision for charging 0% interest on delayed payment, but waiver of payment of interest has been given to various allottees causing financial loss of Rs.8,72,71, 669/- in various plots.

1.4. On 31.01.2019, VB requested MD-cum-Secretary to grant approval to investigate under Section 17A of the PC Act. The Chief General Manager, on 01.03.2019, recommended grant of approval. Ultimately, the file appears to have been put up before the Chief Minister, Punjab, who ordered constitution of three member committee consisting of the Managing Director, PSIEC, Chief Executive Officer, Punjab Bureau of Investment Promotion and Managing Director, PSIDC. This Committee also concluded that there were various irregularities committed by the officials, however, departmental action can be taken against the aforesaid officials while recommending strengthening/revising the allotment policy. It appears that the aforesaid recommendations were approved by the Chief Minister, Punjab, however, the copy of the aforesaid order has not been produced. Accordingly, the Chief Director, VB, conveyed to Secretary, Department of Vigilance, that the file has been closed, however, if administrative department wants the VB to take action, then steps will be taken.

1.5. In PIL No.3 of 2020, the State was called upon to file reply. During its pendency, the Court on 18.03.2021, passed the following order:-

“CM-73-CWPIL-2020

This is an application for impleading applicant



Dilbag Singh as party-respondent No.6.

For the reasons set out in the application, which are duly supported by an affidavit, and even the prayer made is not opposed either by learned counsel for the petitioner or by learned Senior Deputy Advocate General, Punjab, the same is allowed, subject to all just exceptions. Consequently, applicant-Dilbag Singh is impleaded as party-respondent No.6. Amended memo of parties is accordingly taken on record.

CWP-PIL-3-2020

Aggrieved by an apparent inaction on the part of the respondent authorities to initiate criminal prosecution and proceedings against those found guilty of embezzlement and involved in fraudulent allotment of plots, as per report submitted by the Vigilance Bureau in vigilance inquiry No. 3 dated 4.4.2018, the petitioner purports to have approached this Court in public interest.

Notices were issued to the respondent authorities as back as on 9.1.2020, and still time is being prayed for, to submit response. Upon being pointedly asked, if pursuant to the report (ibid), the matter has made any tangible progress, learned Deputy Advocate General, Punjab, informs that a Committee of officers of the Punjab State Industries and Export Corporation (PSIEC) has been constituted to examine the issue.



Once the Vigilance Bureau has already conducted an inquiry and submitted a report, the act of the authorities in still constituting a Committee consisting of the officers of the same institution (PSIEC), which is under scrutiny, defies logic. Rather, it appears to be an attempt to brush the entire issue under the carpet.

Thus, in the given circumstances, this Court is of the opinion that an affidavit of the Principal Secretary of the department concerned is required to be filed delineating the measures/steps that have been taken, post submission of the report (ibid), to ensure that faith of the general public in system is kept intact.

List on 08.04.2021.”

1.6. Pursuant thereto, the learned State counsel sent a communication to the concerned department. On the basis of the aforesaid communication, the file was sent to the Chief Minister, Punjab. Thereafter, the MD, PSIEC, passed a detailed order granting approval to VB to investigate U/s 17A of the PC Act against the petitioners in the aforesaid four writ petitions.

2. **ARGUMENTS PUT FORTH BY THE LEARNED COUNSELS REPRESENTING THE RIVAL PARTIES:-**

2.1. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper books.

2.2. The learned senior counsel representing the petitioners in PIL has submitted that though the approval as required under Section 17A of the

1988 Act has been granted, however, this court should direct VB to conclude



the investigation within a limited time frame. He submits that direction should also be issued to the respondents to recover the financial loss caused to the state exchequer from the guilty persons included in the scam.

2.3. On the other hand, various learned senior counsels representing the petitioners in the four writ petitions filed in the year 2024, have canvassed the following issues:-

- (1) The approval has been granted under the threat of adverse order of the High Court in PIL and hence, there is no independent application of mind. In the first round, the CM on 01.09.2019, refused to grant approval. Now the MD's order amounts to review without taking into consideration any further material particularly when the MD, PSIEC was a member of the three members committee which refused approval in the first round.
- (2) The order dated 20.02.2024, passed by MD is generic in nature and it is not permissible to grant joint approval without discussing the involvement of each official.
- (3) There is no independent application of mind by the MD as the order is result of coercion because of the Demi Official letter written by the State counsel. Moreover, at one stage, VB took decision to close the file on 10.12.2019, hence, there was no pending request on which the approval could be granted.
- (4) Additionally, the Department of Industries and Commerce, vide communication dated 24.06.2020, had



communicated to the VB that no action is required, hence, the order is totally illegal.

2.4. Per contra, the learned State counsel while defending the order has submitted that the Managing Director has correctly passed the order because the inquiry report shows that there was large scale bungling by the officials in the allotment of industrial plots and receipt of payment. While highlighting the fact that relatives of the officials/officers have not only been allotted plots but also their allotment dates have repeatedly been changed in order to give them unfair advantage.

3. **ANALYSIS & DISCUSSION:-**

3.1. In order to provide additional umbrella of protection to the officials, the Parliament while amending the PC Act in 2018, added Section 17A of the 1988 Act w.e.f from 26.07.2018, which reads as under:-

“17A. Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.—No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval—

(a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;

(b) in the case of a person who is or was employed, at the



time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.”

3.2. It may be noted here that this additional layers of protection to the officials is in addition to Section 19 of the 1988 Act, which provides that previous sanction is necessary for prosecution of public servants. However, there is a mark and apparent distinction between the approval U/s 17 A to *Enquire or Inquire or investigate* viz-a-viz Section 19 of the 1988 Act which provides for previous sanction for prosecution. Section 19 is extracted as under:-

“19. Previous sanction necessary for prosecution.—(1)

No court shall take cognizance of an offence punishable under Sections 7, 11, 13 and 15 alleged to have been



committed by a public servant, except with the previous sanction —

(a) in the case of a person who is employed, or as the case may be, was at the time of commission of the alleged offence employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person 4 [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office:

Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in this sub-section, unless—

(i) such person has filed a complaint in a competent court



about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 (2 of 1974) and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:

Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in writing, be extended by a further period of one month:

Provided also that the Central Government may,



for the purpose of sanction for prosecution of a public servant, prescribe such guidelines as it considers necessary.

Explanation.—For the purposes of sub-section (1), the expression “public servant” includes such person—
(a) who has ceased to hold the office during which the offence is alleged to have been committed; or
(b) who has ceased to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to have been committed.]

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction



required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.—For the purposes of this section,—

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a



similar nature.”

3.3. It is evident from plain reading of Section 17A and Section 19 of the PC Act that the purpose and intent behind both the provisions is different and thus both the provisions are governed by different parameters. On the one hand, Section 17A prohibits Police Officer from conducting any enquiry or inquiry or investigation into any offence committed by a public servant under the Act where the alleged offence is relatable to any recommendations made or decision taken by public servant in discharge of his official functions or duties without the previous approval of the appropriate authority. On the other hand, Section 19 of the 1988 Act provides that no court shall take cognizance of an offence punishable under Section 7, 11,13 and 15, alleged to have been committed by public servant except with the previous sanction of appropriate authority. On 04.10.2023, in **Smt. Shreeroopa vs. The State of Karnatana (Writ Petition No.20132 of 2023)**, the Karnataka High Court while explaining the difference has held as under:-

36. At this stage, the stark and striking difference between the granting of a “sanction to prosecute” and “according an approval to investigate” to an Investigating Officer would have to be elaborated. The grant of “sanction to prosecute” and the “grant of approval to investigate” are two very different concepts and would be governed by completely different parameters. At the stage of seeking sanction to prosecute, the Investigating Officer would have completed the



investigation and would also have collected material, which, in his opinion, would prove that the public servant is guilty of the offence(s) alleged against him. In other words, at that stage of seeking sanction to prosecute, the Investigating Officer is well armed and certain that there is material which would establish the guilt of the public servants.

37. It is also to be noticed that despite this firm opinion of the Investigating Officer, which is based on a comprehensive investigation, the law still mandates that the State Government should accord sanction to prosecute and only when such sanction is granted can a prosecution be launched against a public servant. At the stage of granting sanction to prosecute, the respective Government is required to examine all the materials collected during the course of investigation and then come to a conclusion as to whether the materials collected indicate if a case for prosecuting the public servant is made out.

38. The Government, even after a comprehensive investigation has been conducted and material has been collected, which, in the opinion of the Investigating Officer establishes the guilt of the public servant, has been conferred with the power to refuse sanction to prosecute. This indicates that there is a discretion vested



in the State Government to refuse sanction to prosecute, if it has reason to believe that a public servant should not be prosecuted. This is fundamentally a reflection of the right that an employer possesses to decide whether it would want its employee to be prosecuted. It is to be kept in mind that a crime is always considered as a Crime against the State and it is the State which has the absolute right to prosecute the offender. If, however, the law confers upon the State, a discretion to prosecute its servant, the same cannot be said to be arbitrary as the State is deemed to exercise its jurisdiction wisely and judiciously.

39. In respect of according an approval to investigate, obviously, the situation would be completely different, since at that juncture, the Investigating Officer would not normally have any incriminating material and would only possess credible information about the commission of an offence, and it is this credible information that is required to be considered and analysed by the Government. It is, thus, clear that the parameters that govern the according of approval to investigate would be completely different and the Government would have a much wider discretion while considering the request of the Investigating Officer.

3.4 Section 17A is designed to balance the interests of the



Government and the Public Servants by ensuring that any investigation into Public Servant's conduct is justified and not based merely on suspicion. At the stage of granting approval to investigate, the focus is on whether there is sufficient basis to warrant an investigation rather than evaluating the detailed merits of the case. This approach helps prevent frivolous and malicious investigations. In contrast, Section 19 attracts a more thorough scrutiny at the stage of granting sanction to prosecute based on evidence and material collected during investigation.

3.5 The statutory duty cast upon the competent disciplinary authority U/s 17-A of the PC Act is purely administrative in nature. The scope of inquiry conducted by the administrative authority is limited *inter-alia* to the following aspects:-

- (a) Whether the offence alleged arises from decision taken/recommendation made during discharge of official functions and is an offence punishable under the PC Act?
- (b) If answer to (a) is yes, then whether the allegations are serious enough to allow Police to register an offence and investigate;
- (c) Whether the competent administrative authority can deal with the alleged allegations by means of disciplinary proceedings?
- (d) Whether the allegations adversely reflect upon the character of the public servant?
- (e) The probe involved during the aforesaid inquiry, is only *prima-facie* and perfunctory based solely on the limited material available with the



police.

3.6. With regard to the first submission of the petitioners' counsel for the officials, it may be noted here that undoubtedly the approval to investigate has been granted during the pendency of PIL, however, the competent authority after considering various aspects of the matter has passed the order on 20.02.2024, which do make reference to the HC's order and DO written by the State counsel, however, it has not been passed solely on that basis. A careful reading of the order proves that the matter was re-examined by the MD in the following manner:-

“1. That as per DO dated 02.03.2023 written by the Chief Director, Vigilance Bureau addressed to the Chief Secretary, Punjab, the modus-operandi adopted by the officials of PSIEC, which is reproduced hereunder:-

- a) Allotment of costly plots in the name of relatives and friends, etc instead of genuine industrialists.*
- b) Allotment to bogus allottees*
- c) Sharing of data of genuine industrialists allottees who were not able to pay installments due to demonetization and COVID etc. with unscrupulous persons/gangsters by the PSIEC.*
- d) Changing dates of allotment and considering the intervening period as zero period for the purpose of calculation of extension fee applicable.*
- e) Regularization of plots at old rates instead of the prevailing market rates.*



f) Adding names of new allottees in partnership deeds through forged deeds and transferring 100% share to new allottees illegally.

g) Illegal bifurcation of plots.

The Inquiry report of Vigilance Bureau has been duly considered and it is observed that some pattern of irregularities as alleged by the Vigilance Bureau in its report emerges and to get to the bottom of the same, further investigation is required.”

3.7. After noticing that three IAS officer's Committee also observed procedural gaps and irregularities while recommending actionable points and disciplinary actions against two officers. The MD further observed that there was likelihood of some irregularity/misconduct pertaining to the decision taken by the public servants while discharging their duties. The competent authority also found that although departmental proceeding was initiated against two officers, however, the same does not bar simultaneous initiation of criminal proceedings. Ultimately, in the larger public interest the competent authority granted approval to investigate as required under Section 17A of the 1988 Act against the officers/officials named therein.

3.8. It is purely evident that the order of approval has not been passed solely on account of the order passed by the High Court. In fact, the High Court had not issued any direction to the concerned authority to grant sanction. The court only called upon the Principal Secretary to file an affidavit delineating the measures/steps that have been taken, post submission of the report. The court's intention, as is evident, was solely to



ascertain the progress, in the matter, and Court's order does not specify any particular steps to be taken, therefore, it cannot be said that the sanction was granted in influence of the High Court's order. Thereafter, independent decision has been taken by the competent authority. The reliance placed on judgment in *Mansukhlal Vithaldas Chauhan vs. state of Gujrat, (1997) 7 SCC 622*, is misplaced because the HC directed the competent authority to sanction prosecution under the Prevention of Corruption Act, 1947. The court found that there was no independent application of mind by the sanctioning authority and the accused is entitled to speedy trial. In that context, the Supreme Court held that the High Court cannot direct the authority to sanction prosecution.

3.9. With reference to second submission, it may be noticed that despite request of the court, the learned counsel representing the parties have failed to draw the attention of the court to any previous MD's order, who is the competent authority wherein the grant of approval was refused. The officials against whom the approval to investigate has been granted were employees of the Corporation. The MD is the competent authority to pass appropriate orders granting or refusing approval.

3.10 The learned counsel representing the private petitioners in the four subsequent writ petitions have contended that the Chief Minister vide order dated 01.09.2019 refused to grant approval, therefore, the subsequent order amounts to review without any fresh material. While relying upon the judgments passed in *State of Himachal Pradesh vs. Nishant Sareen, (2010) 14 SCC 527*, *State of Punjab and another vs. Mohammed Iqbal Bhatti, 2009 (3) RCR(CrL) 861* and *State of Kerala vs. Mohan Das, 2004(1) KLT*



402, the learned counsel submit that in absence of fresh material the Managing Director had no power to review.

3.11 It may be noted here that all the three judgments relied upon by the learned counsel are with regard to sanction that is covered by the Section 19 of the PC Act for prosecution. In this case, no sanction for prosecution of the officials has been granted. As already noticed, the MD has only granted approval to the VB to investigate under Section 17A of the PC Act. Pursuant to the approval, FIR has been registered and the investigation is in progress. Undoubtedly, the MD was a member of three members committee as constituted by the then Chief Minister, Punjab, however, the Committee's recommendation is not the decision of the competent authority. The Committee had only made its recommendations to the Chief Minister. However, the MD was required to take independent decision. Even if, the Corporation is a wholly owned Public Sector Undertaking, however, it has independent legal entity. The MD, who is required to take a decision under Section 17A, however, as noticed earlier, the attention of the court has not been drawn to any previous MD's order refusing approval.

3.12 There is no merit in submission no.3 because firstly, no sanction for prosecution has been granted. Only approval to investigate the offence has been granted by the MD keeping in view the inquiry report of the VB. From the bare reading of Section 17A, it is very clear that the State Government is not required to exhaustively and meticulously consider all the material available with the Investigating Officer at the time he seeks approval, rather it is only required to analyse and examine whether the opinion formed by the Investigating Officer that an investigation is justified



or not. In the present case, the approval to investigate has been granted after considering all the material facts. Thus, it can be concluded that the order in question is generic in nature rather specific. The petitioners did not challenge the aforesaid inquiry. In any case, the order is not generic because after taking note of the report, specific approval to investigate against six officials, who were found to be prima-facie involved in the alleged scam has been granted.

3.13 It may be noted that the impugned order does not appear to be passed without application of mind. A detailed order has been passed by the competent authority after taking into account the various aspects keeping in view the available material. The competent authority is not expected to pass a detailed judgment after evaluating the material. The MD is not necessarily possessing a legally/judicially trained mind. It is evident that the MD's order shows application of mind including study of VB's report as well as the recommendation of three IAS Officer's committee.

3.14 Similarly, the next submission of learned counsels to the effect that the MD being influenced by the DO of State counsel has passed the order does not have substance. This aspect has already been considered while examining the first submission, hence, needs no further deliberation.

3.15 There is also no substance in the fifth submission to the effect that the VB itself had taken decision to close the file. It may be noted here that the Vigilance Bureau vide letter dated 10.12.2019 closed the file on account of the fact that a communication was received to the effect that the approval has not been granted. However, it was noted by VB that if after examining all issues concerning subject matter the administrative



department wants it to take action, the same may be informed.

3.16 The last submission of the learned counsel is based upon letter dated 24.06.2020, written by the Superintendent, Department of Industries and Commerce to the Superintendent, Vigilance Department. This communication is to the effect that PSIEC has already initiated action on the proposals of three members committee, hence, there is no need to take any kind of other action in this matter. In the considered view of the Court, this communication is based upon the report of three IAS member committee, however, this is not a decision taken by the competent authority refusing to grant approval to investigate.

3.17 It may be noted here that protective shield under Section 17A of the 1988 Act is required to be applied in order to protect the public servants from frivolous and malicious prosecution, however, this protective shield should not be allowed to be used to throttle investigation in a case in which prima-facie there is some material which suggest illegalities and arbitrary action on the part of the officials while misusing their official position.

3.18 The learned counsel representing the petitioners have also relied upon the judgment passed in *Nara Chandrababu Naidu vs. The State of Andhra Pradesh and another, 2024 SCC Online SC 47.* In this case, the petitioner was remanded to judicial custody by the Special Court after having been arrested. He filed petition before the High Court U/s 482 Cr.P.C. to quash the FIR and the order remanding him to judicial custody. The court found that there is non compliance of Section 17A of the 1988 Act. However, there was difference of opinion between two Hon'ble Judges, who were members of the Division Bench. Thus, the matter was referred to



the Hon'ble Chief Justice which is pending.

3.19 The learned counsel representing the petitioners have also relied upon the judgment passed in **Lokesh Kumar Jain vs. State of Rajasthan, (2013) 11 SCC 130.** In this case, there was allegation of embezzlement against a public servant. The criminal case and the departmental proceedings were for identical charge. In the departmental proceedings, the official was exonerated. In the FIR, Chief Judicial Magistrate sent back the matter to the Police for further investigation. Neither final report nor the challan was filed. In the year 2006, petition U/s 482 Cr.P.C was filed which was dismissed. The Supreme Court taking into account that speedy investigation is one of the fundamental right of the accused quashed the proceedings in the peculiar facts of the case. Hence, the aforesaid judgment does not help the officials.

3.20 Similar reliance on the judgment in **P.S.Rajya vs. State of Bihar, 1996 (9) SCC 1,** is also distinguishable because in that case the allegations were that assets were disproportionate to the income. Against the said charge a petition was filed. The Central Vigilance Commission's report was also filed. In the special/peculiar facts of the case, the court quashed the proceedings. In that case, Section 17A of the 1988 Act was not subject matter of interpretation.

3.21. **Radheyshyam Kejriwal vs. State of West Bengal and another, (2011) 3 SCC 581's,** judgment relates to Foreign Exchange Regulation Act, 1973. Hence, not applicable to the present case.

4. **CONCLUSION & DECISION:-**

4.1. While concluding, it is observed that VB shall take all possible



steps to expeditiously conclude its investigation keeping in view the fact that the vigilance inquiry was initiated in April, 2018.

4.2. With these observations, the PIL is disposed of accordingly, whereas the remaining four writ petitions filed by the officials shall stand dismissed.

4.3. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

28th August, 2024
nt

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No