

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1.

CWP-5111-2024

MUSTAQ

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

....RESPONDENTS
2.

CWP-1801-2024

SUMIT KUMAR

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

....RESPONDENTS
3.

CMs-5332-5333-CWP-2024 in/and CWP-14310-2022 (O&M)

ANIL KUMAR

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

....RESPONDENTS
4.

CWP-228-2024

PAWAN KUMAR

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

....RESPONDENTS
5.

CWP-27404-2023

RAKESH

.....PETITIONER

V/S

STATE OF HARYANA AND ORS

....RESPONDENTS

6.

CWP-5898-2021
- VIKAS

.....PETITIONER
- V/S
- STATE OF HARYANA AND ORS

....RESPONDENTS
7.

CWP-11379-2021
- FATEH SINGH

.....PETITIONER
- V/S
- STATE OF HARYANA AND OTHERS

....RESPONDENTS
8.

CWP-1987-2021
- RAKESH KUMAR

.....PETITIONER
- V/S
- STATE OF HARYANA AND ORS

....RESPONDENTS
9.

CWP-2733-2024
- SUNDER SINGH

.....PETITIONER
- V/S
- THE STATE OF HARYANA AND OTHERS

....RESPONDENTS
10.

CWP-21555-2023
- RAM PARKASH KARDAM

.....PETITIONER
- V/S
- DAKSHIN HARYANA BIJLI VITRAN NIGAM AND OTHERS

....RESPONDENTS
11.

CWP-21362-2023
- JILE SINGH

.....PETITIONER
- V/S
- DAKSHIN HARYANA BIJLI VITRAN NIGAM AND OTHERS

....RESPONDENTS

12. CWP-11150-2021
RAJBIRPETITIONER
V/S
STATE OF HARYANA AND OTHERSRESPONDENTS

13. CWP-5296-2023
RAJENDER SINGHPETITIONER
V/S
STATE OF HARYANA AND OTHERSRESPONDENTS

14. CWP-10861-2023
DHARM PALPETITIONER
V/S
STATE OF HARYANA AND OTHERSRESPONDENTS

15. CWP-19392-2023
NARENDER KUMARPETITIONER
V/S
STATE OF HARYANA AND OTHERSRESPONDENTS

16. CWP-23025-2023
SANJAY KUMARPETITIONER
V/S
STATE OF HARYANA AND OTHERSRESPONDENTS

17. CWP-24857-2023
GURMEET SINGHPETITIONER
V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

18.

CWP-327-2024 (O&M)

SHRI BHAGWAN

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

19.

CWP-1805-2024

HANSRAJ

.....PETITIONER

V/S

STATE OF HARYANA AND ORS

...RESPONDENTS

20.

CWP-1879-2024

MAHESH KUMAR

.....PETITIONER

V/S

STATE OF HARYANA AND ORS

....RESPONDENTS

21.

CWP-5728-2023

AJAY SINGH

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

22.

CWP-7537-2021

PRAVEEN

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

23.

CWP-6939-2021

NAVEEN

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

2024:PHHC:050360

CWP-17247-2022

.....PETITIONER

V/S

....RESPONDENTS

CWP-1940-2024

.....PETITIONER

V/S

...RESPONDENTS

CWP-4914-2024

.....PETITIONER

V/S

....RESPONDENTS

CWP-5666-2024

.....PETITIONER

V/S

....RESPONDENTS

CWP-6829-2023

.....PETITIONER

V/S

....RESPONDENTS

CWP-14500-2023

.....PETITIONER

V/S

....RESPONDENTS

CWP-5709-2024

.....PETITIONER

V/S

....RESPONDENTS

CWP-21413-2022

.....PETITIONER

V/S

STATE OF HARYANA AND OTHERS **....RESPONDENTS**

32. **CWP-7783-2024**
HARI OM **.....PETITIONER**
V/S

STATE OF HARYANA AND OTHERS **....RESPONDENTS**

33. **CWP-10130-2023**
BHAL SINGH **.....PETITIONER**
V/S

STATE OF HARYANA AND OTHERS **....RESPONDENTS**

34. **CWP-9439-2023**
PRATIBHA **.....PETITIONER**
V/S

STATE OF HARYANA AND OTHERS **....RESPONDENTS**

35. **CWP-8095-2024**
SUDHIR KUMAR **.....PETITIONER**
V/S

STATE OF HARYANA AND OTHERS **....RESPONDENTS**

Date of Decision: - 10.04.2024

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashish Aggarwal, Senior Advocate, with
Mr. Vishal Pundir, Advocate, and
Ms. Pooja Sareen, Advocate;
Mr. Rakesh Nehra, Sr. Advocate with
Mr. Ankit Yadav, Advocate
Mr. Amit Bansal, Advocate
Mr. G.S. Sandhu, Advocate
Mr. Rahul Gautam, Advocate and
Mr. Pankaj Nanhera, Advocate and
Mr. Sanjeev Majra, Advocate and
Ms. Anjali Sheoran, Advocate
Mr. Rajat Mor, Advocate;
Mr. Aditya Yadav, Advocate;
Mr. Amandeep Rana, Advocate;
Mr. Ankur Lal, Advocate;
Mr. Satish Saini, Advocate;
Mr. Dinesh Saini, Advocate;

Ms. Sehaj Sandhawalia, Advocate;
Mr. Jivesh Malik, Advocate, for
Mr. Manvender Dalal, Advocate;
Ms. Shweta Bawa, Advocate;
Mr. Manoj Kumar Sood, Advocate,
Mr. P.S. Jammu, Advocate
Mr. Pragyat Bhardwaj, Advocate
for the petitioner(s).

Ms. Rajni Gupta, Additional Advocate General, Haryana,
Ms. Palika Monga, DAG, Haryana,
Mr. Naveen Singh Panwar, DAG, Haryana, and
Mr. Amandeep Joshi, DAG, Haryana.

Mr. Satyam Tandon, Advocate, and
Ms. Nisha Kanojia, Advocate, for the respondents
in CWP-21555-2023 and CWP-21362-2023.

VIKAS BAHL, J. (ORAL)

1. Present order shall dispose of a bunch of 35 writ petitions as
common issue(s) of facts and law arise in all the said cases.
2. This judgment has been divided into the following sections: -

1.	Issue to be determined and the common argument of all the learned counsel for the petitioners.	Para 3 Page 8
2.	Relevant judgments on the issue in question	Para 5 Page 9
2(i)	Para No. 22 of the judgment of the Hon’ble Supreme Court in case titled as “ <u>Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd.</u> ”, reported as 1999(3) SCC 679	Para 5 Page 10
2(ii)	Relevant portion of the judgment of the Hon’ble Supreme Court in “ <u>Indian Overseas Bank, Anna Salai and Anr. vs. P.Ganesan and others</u> ”, reported as 2008(1) SCC 650	Para 6 Page 12
2(iii)	Relevant portion of the judgment of the Hon’ble Supreme Court in “ <u>Kendriya Vidyalaya Sangathan & Ors. Vs. T.Srinivas</u> ”, reported as 2004(7) SCC 442	Para 7 Page 15
2(iv)	Relevant portion of the judgment of the Hon’ble Supreme Court in “ <u>State Bank of India and Ors. vs. Neelam Nag and Anr.</u> , reported as 2016(9) SCC 491	Para 8 Page 17

2(v)	Relevant portion of the judgment of the Division Bench of this Court in <i>LPA No.470-2024</i> titled as “ <u><i>Ravi Kumar Vs. State of Haryana and others</i></u> ” dismissing the appeal filed against the judgment dated 16.01.2024 passed by this Court in a case involving the same issue as in the present bunch of writ petitions.	Para 10 Page 19
2(vi)	Relevant portion of the judgment of the Division Bench of this Court in <i>LPA-252-2021</i> , decided on 23.07.2021 titled as “ <u><i>L/ASI Seema Vs. State of Haryana and others</i></u> ” dealing with the same issue as raised in the present bunch of writ petitions and SLP against which has been dismissed.	Para 12 Page 22
2(vii)	Relevant portion of the judgment of the Division Bench of this Court in “ <u><i>Dr.Balwinder Kumar Sharma vs. Hon’ble Punjab and Haryana High Court through Registrar General, CWP-7539-2021, decided on 28.05.2021</i></u> , SLP against which has been withdrawn.	Para 14 Page 26
2(viii)	Relevant portion of the judgment of the Division Bench of this Court in <i>LPA-239-2022</i> titled as “ <u><i>Paramjit Kaur Vs. Punjab and Sind Bank and others</i></u> ” decided on 24.03.2022	Para 16 Page 28
3.	Nine principles/conclusions which emerge from the above said judgments crystallized	Para 17 Page 30
4.	Decision in individual cases after applying the law laid down in the abovesaid judgments and the abovementioned principles/conclusions.	Paras 19 to 198 Page 33 to 163

3. The primary issue which arises for consideration in all the above-said writ petitions is as to “whether the regular departmental proceedings are required to be stayed or the examination of the common witnesses is required to be deferred till the culmination of the criminal proceedings or till the said common witnesses are examined in the criminal proceedings, which criminal proceedings as per the case of the petitioners, relate to the same incident, on account of which departmental proceedings have been initiated against the petitioners, in the facts and circumstances of the individual cases”. The only prayer pressed by counsel appearing in all the writ petitions is for staying the examination of the common witnesses in the departmental proceedings till the said witnesses are examined in the criminal proceedings. The common argument raised by all the counsel for

the petitioners is that there are common witnesses in the departmental proceedings and in the criminal proceedings and the said common witnesses should not be examined in the departmental proceedings till the time they are examined in the criminal proceedings as in case the said witnesses are examined in the departmental proceedings, then, the same would cause prejudice to the case of the petitioners in the criminal proceedings. In support of the said argument, learned counsel for the petitioners have relied upon the judgment of the Hon'ble Supreme Court in case titled as "**Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd.**", reported as **1999(3) SCC 679**.

Learned counsel appearing for the respondents have opposed the writ petitions and have prayed for the dismissal of the writ petitions.

4. This Court has heard learned counsel for the parties and has perused the paper-books and finds that all the present writ petitions are meritless and deserve to be dismissed for the reasons which have been detailed hereinafter.

5. Before considering the facts of each case, it would be relevant to refer to various judgments of the Hon'ble Supreme Court as also the judgments of the Division Bench of this Court, in which the same issue, as has been raised in the present bunch of writ petitions, has been considered and has been adjudicated upon. In the judgment of the Hon'ble Supreme Court in **Capt. M. Paul Anthony's case (supra)**, which has been relied upon by the learned counsel for the petitioners and also in various other judgments of the Hon'ble Supreme Court, it has been repeatedly held that one of the necessary ingredients for the Court to consider before staying departmental proceedings, with respect to the issue in hand, is whether the case involves

complicated questions of law and facts or not. Paragraph 22 of the judgment in **Capt. M. Paul Anthony's case (supra)** is reproduced hereinbelow:-

“22. The conclusions which are deducible from various decisions of this Court referred to above are :

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee

is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.”

A perusal of the above judgment would show that the Hon'ble Supreme Court after considering various judgments had drawn the conclusion which was given in the abovesaid paragraph. It was held that the departmental proceedings and the proceedings in the criminal case can proceed simultaneously as there was no bar in their being conducted simultaneously. It was further held that departmental proceedings and criminal proceedings if based on identical and similar set of facts and also in case the charge in the criminal case against the delinquent employee is of grave nature which involves complicated questions of law and fact, then in such circumstances, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. Thus, all the ingredients i.e., averments/ allegations being identical, based on similar set of facts and the charge being of grave nature involving complicated questions of law and fact are required to be met so as to consider the case of the employee for grant of stay. In sub clause (iii), reference has been made that the evidence and the material collected during investigation or as reflected in the charge sheet is to be taken into consideration for the purpose of considering as to whether the nature of charge in the criminal case is grave in nature and complicated questions of law and fact are involved in the case or not. Importantly, as per sub clause (iv) even in a particular case where it is found that ingredients of sub clause (ii) and (iii) do exist, even then the same cannot be considered in isolation, to stay the departmental proceedings, but

further regard has to be given to the fact that the departmental proceedings cannot be unduly delayed. Sub clause (v) specifically provides that if the criminal case does not proceed or its disposal is being unduly delayed, then even in case stay has been granted, with respect to the departmental proceedings, the same can be resumed and proceeded with.

6. Similarly, in the judgment of the Hon'ble Supreme Court of India in "**Indian Overseas Bank, Anna Salai and Anr. vs. P.Ganesan and others**", **reported as 2008(1) SCC 650**, it had been specifically observed that the High Court was apart from other considerations also required to consider as to whether the matter involves complicated questions of law. The relevant portion of the said judgment is reproduced hereinbelow:-

"11. Writ appeals preferred by the appellants against that order were disposed of by a Division Bench of the Court by reason of the impugned judgment opining :-

14. In the instant case, there is no dispute that the criminal action and the disciplinary proceedings are founded upon the same set of facts. In fact, the disciplinary proceedings are solely based upon the criminal complaint lodged by the president of a rival union, who is also facing prosecution with regard to the same incident. It has been conceded before us that the bank had not conducted any independent enquiry before initiating the impugned departmental proceedings.

15. In our opinion, in the peculiar facts and circumstances of the case on hand, fair play requires that postponing of the departmental proceedings till the criminal cases are decided. We are, therefore, of the view that the prayer made by the petitioners for deferring the departmental proceedings till the conclusion of the

criminal trial has to be accepted and it is ordered accordingly.

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18. Legal position operating in the field is no longer res integra. A departmental proceedings pending a criminal proceedings does not warrant an automatic stay. The superior courts before exercising its discretionary jurisdiction in this regard must take into consideration the fact as to whether the charges as also the evidence in both the proceedings are common and as to whether any complicated question of law is involved in the matter.

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22. The issue came up for consideration yet again in T. Srinivas (supra) where this Court while analyzing B.K. Meena (supra) and Capt. M. Paul Anthony (supra) held that :-

“10. From the above, it is clear that the advisability, desirability or propriety, as the case may be, in regard to a departmental enquiry has to be determined in each case taking into consideration all facts and circumstances of the case. This judgment also lays down that the stay of departmental proceedings cannot be and should not be a matter of course.”

23. The High Court, unfortunately, although it noticed some of the binding precedents of the Court failed to apply the law in its proper perspective. The High Court was not correct in its view in concluding that the stay of the departmental proceedings should be granted in the peculiar facts and circumstances of the case without analyzing and applying the principle of law evolved in the aforementioned decisions. It, therefore, misdirected itself in law. What was necessary to be noticed by the High Court was not only existence of identical facts and the evidence in the matter, it was also required to take into consideration the question as to whether the charges levelled

against the delinquent officers, both in the criminal case as also the disciplinary proceedings, were same. Furthermore it was obligatory on the part of the High Court to arrive at a finding that the non stay of the disciplinary proceedings shall not only prejudice the delinquent officers **but the matter also involves a complicated question of law.**

In the above-said case, the Hon'ble Division Bench of the High Court had disposed of the appeals on the ground that there was no dispute of the fact that the criminal action and the disciplinary proceedings were founded on the same set of facts and that disciplinary proceedings were solely based upon the criminal complaint lodged by the President of a rival union and that the Bank had not conducted any independent enquiry before initiating the impugned departmental proceedings and thus, the departmental proceedings were postponed till the time the criminal cases were decided. The said order was set aside by the Hon'ble Supreme Court by making the observations which have been reproduced hereinabove.

7. The Hon'ble Supreme Court of India in “**Kendriya Vidyalaya Sangathan & Ors. Vs. T.Srinivas**”, **reported as 2004(7) SCC 442**, had observed that there should be special facts in a case so as to persuade the Court to stay departmental proceedings and every case where departmental proceedings and criminal trial with regard to the same misconduct is pending, is not to be stayed. It was also observed in the said judgment that the approach and the objective of the criminal proceedings and the disciplinary proceedings is altogether distinct and different inasmuch as in the disciplinary proceedings, the question is whether the employee is guilty of such conduct as would merit his removal from service or a lesser

punishment as the case may be, whereas in the criminal proceedings, the question is whether the offences which the employee is alleged to have committed, are established or not, and if so established the sentence to be imposed. It was further observed that the standard of proof, the mode of enquiry and the rules governing the enquiry and the trial in both the cases are distinct and different. In the said case, the Tribunal had come to the conclusion that two articles of charge in the criminal proceedings and the departmental proceedings were identical and the third charge was interconnected and accordingly, the Tribunal had stayed the departmental proceedings till the time the applicant therein disclosed his defence in the criminal trial. The writ petition against the said order was also dismissed and the Hon'ble Supreme Court after considering the law on the point, set aside the said orders and observed that the Tribunal and the High Court had proceeded on an erroneous principle to the effect that grant of stay of disciplinary proceedings is a must in every case where there is a criminal trial on the same charges. The relevant portion of the said judgment is reproduced hereinbelow:-

4. *The respondent herein challenged the said decision of the appellants to hold a departmental enquiry while a criminal trial on identical facts was pending against him before a competent court. This challenge was made before the Central Administrative Tribunal, Hyderabad Bench at Hyderabad. The tribunal by its order dated 2.7.2003 came to the conclusion that the first two Articles of charges are identical to the charge levelled against the petitioner before the special court under the provisions of the Prevention of Corruption Act and the third Article of charge though not a subject matter of the trial is an*

inter-connected charge with charges 1 and 2, hence it allowed the application of the respondent and directed the appellant that proceedings pursuant to the charge memo be stayed till the applicant discloses his defence in the pending criminal trial. It, however gave permission to the appellant to proceed with the disciplinary proceedings after the disclosure of the defence by the respondent which in effect would mean that the disciplinary proceedings will stand stayed almost till the disposal of the trial before the criminal court.

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11. In the instant case, from the order of the tribunal as also from the impugned order of the High Court, **we do not find that the two forums below have considered the special facts of this case which persuaded them to stay the departmental proceedings.** On the contrary, reading of the two impugned orders indicates that both the tribunal and the High Court proceeded as if a departmental enquiry had to be stayed in every case where a criminal trial in regard to the same misconduct is pending. Neither the tribunal nor the High Court did take into consideration the seriousness of the charge which pertains to acceptance of illegal gratification and the desirability of continuing the appellant in service inspite of such serious charges levelled against him. This Court in the said case of State of Rajasthan (*supra*) has further observed that the approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. It held that in the disciplinary proceedings the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings the question is whether the offences registered against him are established and, if established, what sentence should be imposed upon him. **The**

court in the above case further noted that the standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are distinct and different.
On that basis, in the case of State of Rajasthan the facts which seems to be almost similar to the facts of this case held that the tribunal fell in error in staying the disciplinary proceedings.

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14. *We are of the opinion that both the tribunal and the High Court proceeded on an erroneous legal principle without taking into consideration the facts and circumstances of this case and proceeded as if the stay of disciplinary proceedings is a must in every case where there is a criminal trial on the very same charges.....”*

8. The Hon’ble Supreme Court in “*State Bank of India and Ors. vs. Neelam Nag and Anr., reported as 2016(9) SCC 491*”, had observed as under:-

“13. We have heard the learned counsel for the parties at some length. The only question that arises for consideration, is no more res-integra. It is well-settled that there is no legal bar to the conduct of the disciplinary proceedings and criminal trial simultaneously. However, no straight jacket formula can be spelt out and the Court has to keep in mind the broad approach to be adopted in such matters on case to case basis. The contour of the approach to be adopted by the Court has been delineated in a series of decisions.

14. This Court in Karnataka SRTC vs. M.G.Vittal Rao (2012) 1 SCC 442 has summed up the same in the following words:

“(i) There is no legal bar for both the proceedings to go on simultaneously.

(ii) The only valid ground for claiming that the disciplinary proceedings may be stayed would be

*to ensure that the defence of the employee in the criminal case may not be prejudiced. **But even such grounds would be available only in cases involving complex questions of facts or law.***

(iii) Such defence ought not to be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.

(iv) Departmental proceedings can go on simultaneously to the criminal trial, except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common.

(emphasis supplied)”

In the above judgment, apart from reiterating the fact that it is a matter of settled law that there is no legal bar on conducting the disciplinary proceedings and criminal trial simultaneously, reliance was also placed upon the judgment of Hon’ble Supreme Court in ***Karnataka SRTC vs. M.G. Vittal Rao***, in which it was observed that the ground for seeking stay would be available only in cases involving complex questions of law and facts and where the departmental proceedings were not being unnecessarily delayed.

Thus, a perusal of the above said judgments would show that apart from other factors, one of the primary factors which the Court is to consider before even considering as to whether the stay of departmental proceedings is to be granted in a particular case or not or as to whether the evidence of the witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not.

9. By relying upon the law laid down in the above-said judgments, this Court had dismissed ***CWP-975-2024, decided on 16.01.2024***, titled as

“Ravi Kumar Vs. State of Haryana and others” and also a bunch of two writ petitions i.e. **CWP-11203-2020** titled as **“Rajbir Singh and others Vs. State of Haryana and others”** and **CWP-17535-2020** titled as **“Satish Chander Vs. State of Haryana and others”**, *vide judgment dated 04.12.2023*. Primary prayer in the above-said writ petitions was also for staying the departmental proceedings during the pendency of the criminal case registered against the petitioners therein, on the ground that the allegations in the criminal case as well as in the departmental proceedings relate to the same incident and in case the common witnesses are examined in the departmental proceedings prior to their being examined in the criminal case, then, the same would cause prejudice to their defence in the criminal proceedings.

10. Against the judgment dated 16.01.2024 passed in the case of **Ravi Kumar (supra)** by this Court, **LPA No.470-2024** was filed by Ravi Kumar, which was dismissed by a Division Bench of this Court, *vide judgment dated 15.03.2024*. The relevant portion of the said judgment is reproduced herein below: -

“1. Challenge in the present letters patent appeal is to the order dated 16.01.2024 passed by the learned Single Judge in CWP-975-2024, Ravi Kumar vs. State of Haryana and others. The learned Single Judge dismissed the writ petition wherein, the order dated 21.08.2023 (Annexure P-3) was subject matter of challenge wherein the departmental proceedings had been initiated against the employee who is a police official and the employee had been placed under suspension and summary of allegations (Annexure P-4) and charge sheet had been served upon him on account of the fact

that he was involved in criminal case in FIR No. 20 dated 20.08.2023 under Section 7 of the Prevention of Corruption Act, 1988 lodge at Police Station ACB, Ambala in which he was arrested by the team of Anti Corruption Bureau.

2. The prayer made in the writ petition was to keep the departmental proceedings in abeyance till the final decision of the criminal case.

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*4. In **LPA-565-2020, State of Haryana and others vs. Satish Kumar** decided by Division Bench of this Court on 30.05.2022, authored by one of us G.S. Sandhawalia, J., we allowed the appeal of the State and dismissed the writ petition by keeping in mind the scope of both set of proceedings and the SLP filed against the same i.e. **Special Leave to Appeal (C) No. 15243 of 2022** was also dismissed on 10.11.2022. Similar view was also taken in **LPA-2096-2017, State of Haryana and others vs. Suresh Punia**, decided on 09.09.2022 by Division Bench of this Court in which one of us i.e. G.S. Sandhawalia, J. was Member. **SLP (Civil) bearing Diary No.22 of 2023** filed against the same also stands dismissed on 16.01.2023.*

*5. In **State of Karnataka and others vs. Umesh, 2022 SCC Online SC 345**, the employee had been proceeded against under the provisions of Prevention of Corruption Act, 1988 and had been acquitted after giving him the benefit of doubt. Resultantly, the Apex Court had gone on to hold that the principles which govern a disciplinary inquiry are distinct from those which apply to a criminal trial and in the former, the charge has to be established beyond reasonable doubt whereas in the later, the charge of misconduct has to be established on the principle of 'preponderance of probabilities'. It is also held that the rules of evidence which apply to both the procedures are distinct.*

*6. A three-Judge Bench of the Apex Court in **Shashi***

Bhusan Prasad vs. Inspector General, Central Industrial Security Force and others, (2019) 7 SCC 797 held that the two proceedings i.e. criminal and departmental operate in different fields and have different objectives. The objective of criminal trial is to inflict appropriate punishment on an offender whereas the purpose of inquiry proceedings is to deal with the employee departmentally and to impose penalty in accordance with the Service Rules.

7. In such circumstances, we do not find any reason to interfere in the judgment passed by the learned Single Judge. Accordingly, finding no merit in the present appeal, the same stands dismissed. All pending applications also stand disposed of accordingly.”

11. Similarly, the judgment of this Court in **Rajbir Singh and others case (supra)** was also challenged by filing **LPA No.2217-2023; LPA-324 and 327 of 2024** and a Division Bench of this Court, vide judgment dated 15.03.2024 dismissed the said LPAs and upheld the judgment of this Court in **Rajbir Singh and others case (supra)** and other connected matters. It would be relevant to note that this Court had also granted interim orders in some of the writ petitions even after the judgment of this Court in **Ravi Kumar's case (Supra)** and **Rajbir Singh and others case (supra)**, as certain interim orders were passed by the LPA Bench. After the passing of the judgment of the Division Bench in LPA No.470 of 2024, **Ravi Kumar's case (Supra)** upholding the order passed by this Court in CWP No.975 of 2024, **Ravi Kumar's case (Supra)**, the issue in question stands crystallized and the present bunch of writ petitions are being finally adjudicated upon.

12. Division Bench of this Court in **LPA-252-2021, decided on 23.07.2021** titled as **L/ASI Seema Vs. State of Haryana and others**, had

in a case, where similar grievance was raised, as has been raised in the present bunch of writ petitions observed that it was a settled position of law that proceedings in a criminal case and departmental proceedings can go on simultaneously and that the purpose of a departmental inquiry and of prosecution in a criminal case are distinct and different. It was further observed that the departmental enquiry is conducted in order to maintain discipline in the service and efficiency of public service and thus, the disciplinary proceedings should be conducted and completed expeditiously and that there is no legal bar to the conduct of the disciplinary proceedings and criminal trial simultaneously and accordingly, the Division Bench opined that no direction could be given to the effect that common witnesses in departmental proceedings and the criminal trial would first be examined in the criminal trial and only thereafter in the departmental proceedings. The relevant portion of the said judgment is reproduced herein below: -

“We have heard the counsel for the appellant as well as State counsel who was having advance copy of the appeal.

The only grievance of the counsel for the appellant is that the criminal case and the departmental proceedings against the appellant cannot proceed simultaneously as both the said proceedings are based on same set of facts and evidence. He further elaborated that if the departmental proceedings and criminal case against the appellant are allowed to proceed simultaneously, then the defence of the appellant will be prejudiced as the appellant will have to disclose her defence in advance in the departmental proceedings which are going to be conducted at a much fast pace then the proceedings in the criminal trial.

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*The plea of the appellant is that the aforesaid criminal case and the departmental inquiry cannot proceed simultaneously as both of them are based on same facts and evidence. This question has been dealt by the Hon'ble Apex Court in **Capt. M. Paul Anthony's** case (supra) as well as in **State Bank of India & Others'** case (supra) which have been relied upon by the appellant. The Hon'ble Apex Court while dealing with the matter came to the following conclusions:-*

“(i) There is no legal bar for both the proceedings to go on simultaneously.

(ii) The only valid ground for claiming that the disciplinary proceedings may be stayed would be to ensure that the defence of the employee in the criminal case may not be prejudiced. But even such grounds would be available only in cases involving complex questions of facts or law.

(iii) Such defence ought not to be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.

(iv) Departmental proceedings can go on simultaneously to the criminal trial, except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common.”

*So, it is well settled position in law that proceedings in criminal case and departmental proceedings can go on simultaneously except where departmental proceedings and criminal case are based on same set of facts and evidence. At the same time, the Court cannot ignore the fact that the purpose of departmental inquiry and of prosecution in criminal case are two different aspects. In **State Bank of India and Others vs. R.B. Sharma, 2004(7) SCC 27**, it was observed as under:-*

“The criminal prosecution is launched for an offence for violation of a duty the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances.”

*The standard of proof in the criminal case is altogether different from that in departmental inquiry. In case of disciplinary enquiry the technical rules of evidence have no application. Also in such a situation the action of the department cannot be termed as double jeopardy as has been held in **The Divisional Controller, KSRTC vs. M.G. Vittal Rao, 2012(1) SCC 442** .*

*It is generally seen that the criminal cases do not proceed quickly, whereas the departmental proceedings are concluded within a short span of time. Admittedly, the appellant is member of the police force. The departmental inquiry is being conducted against her to maintain discipline in the department and efficiency of public service. It would therefore be expedient that the departmental proceedings against the appellant are conducted and completed expeditiously. The disciplinary inquiry cannot be delayed unduly. The learned Single Judge referred to **CWP-9999-2006** titled as **Prem Singh vs. State of Haryana and Others** decided on **28.10.2006**, wherein the Division Bench of this Court while referring to judgment in*

*Capt. M. Paul Anthony's case (supra) held that departmental proceedings cannot be permitted to wait endlessly till the conclusion of criminal trial, which may take its own time and it would not be in the interest of the Department that a person like the petitioner who is charged with serious misconduct continued to be in service and accordingly the writ petition was dismissed. The learned Single Judge also referred to **Ved Parkash vs. State of Haryana and Others, 2007(4) SCT 423**, wherein also the similar view was taken by the Division Bench of this Court in a case relating to bribe accepted by Head Constable working in Haryana Police.*

*The Hon'ble Supreme Court in the **The Divisional Controller, KSRTC's case (supra)** considered the judgement of **Capt. M. Paul Anthony's case (supra)** and opined that this judgment is not of universal application. Even in **State Bank of India and Others' case (supra)** the Hon'ble Supreme Court clearly observed that it is well settled that there is no legal bar to the conduct of the disciplinary proceedings and criminal trial simultaneously.*

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We are also of the opinion that even no direction could be given to the effect that common witnesses in departmental proceedings and the criminal trial would first be examined in the criminal trial and only thereafter in the departmental proceedings, as it would also prejudice the interest of the department.

In view of the above, we do not find any illegality or perversity in the impugned order passed by the learned Single Judge. Consequently, the appeal is hereby dismissed being devoid of merits."

13. It would be relevant to note that in the above-said judgment, counsel for the appellant therein had brought to the notice of the Court

different interim orders passed by the Courts whereby stay of departmental proceedings was ordered and it was directed that common witnesses in the departmental inquiry and the criminal trial would first be examined in the criminal trial and thereafter in the departmental proceedings and it was after considering the said interim orders that the above said judgment was passed by the Division Bench of this Court, rejecting the pleas of the appellant therein and upholding the judgment of the learned Single Bench, vide which the writ petition was dismissed. It would be further relevant to note that the SLP against the said judgment i.e. *Petition for Special Leave to Appeal (Civil) No.13573-2021* titled as “L/ASI Seema Vs. State of Haryana and others”, was dismissed by the Hon’ble Supreme Court, *vide order dated 29.11.2021* and thus, the said judgment has attained finality.

14. The Hon’ble Division Bench of this Court in “Dr.Balwinder Kumar Sharma vs. Hon’ble Punjab and Haryana High Court through Registrar General, CWP-7539-2021, decided on 28.05.2021” has held as under:-

“The reason for initiation and early conclusion of departmental proceedings in such cases seems to be three-fold:

(i) To weed out an employee whose integrity / character has been put to doubt, prima facie, on account of some criminal proceedings having been initiated against him/her.

(ii) At the same time, when an employee is suspended, he/she is entitled to atleast half of the pay that it was drawing before being suspended and thus, any inordinate delay in conclusion of departmental proceedings, where charges are of very serious nature, would unnecessarily entail

burden on exchequer and thus will be against public interest.

(iii) The departmental proceedings is to maintain discipline in the service and efficiency of public service and thus, its initiation and conclusion as expeditiously as possible is in public interest.

In the present case, it is not disputed that challan was presented in the year 2019 and charges were framed on 31.01.2020 (P-11), however till date no progress has been made in the criminal trial on account of one reason or the other. Although, the delay in criminal trial cannot be attributed to the petitioner, at the same time, the department cannot be expected to wait endlessly for the trial to conclude as held in Capt. M. Paul Anthony's case (supra).

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Further, it is to be noted that charges under [Sections 409, 420, 120-B and 201 IPC](#) have been framed on the basis of documentary and other evidence collected by the SIT during the course of investigation. How the paper was leaked and the manner it was further supplied for prosecution / Department to prove, which otherwise is within the special knowledge of the accused. Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

In the abovesaid judgment, the reasons for early conclusion of

departmental proceedings have been highlighted and it has been further observed that the department cannot wait endlessly for the criminal trial to conclude irrespective of the fact that the delay in the criminal trial is attributed to the employee or not. It is further observed in the said case that an early conclusion of the departmental proceedings was necessary in order to weed out an employee whose integrity / character has been put to doubt on account of initiation of criminal proceedings and since the purpose of the said proceedings is to maintain discipline in the service and efficiency of public service. It was also observed that during the pendency of the said proceedings, since the employee is suspended, thus, the said employee would get some part of pay without doing work which would amount to unnecessarily entailing burden on the exchequer and would be against public interest.

15. Against the said judgment, an SLP was filed i.e. ***Petition for Special Leave to Appeal (Civil) No.8279-2021*** titled as “***Dr.Balwinder Kumar Sharma vs. Hon’ble Punjab and Haryana High Court and other*** and the learned senior counsel for the appellant therein sought permission to withdraw the special leave petition and accordingly, vide order dated 17.10.2022, the special leave petition was dismissed as withdrawn.

16. The Hon’ble Division Bench of this Court in ***LPA-239-2022*** titled as “***Paramjit Kaur Vs. Punjab and Sind Bank and others***” decided on ***24.03.2022*** had held as under:-

“2. The learned Single Judge, after taking into consideration the facts of the case as well as the decision of the Supreme Court, relied upon by the appellant, in *Captain M. Paul Anthony Vs. Bharat Gold Mines, 1999(3) SCC 679*,

dismissed her petition, upon reaching a conclusion that decision in Captain M. Paul Anthony (supra) does not lay down any absolute principle of law that in all those cases where a criminal trial is pending, the departmental proceedings must be kept in abeyance. Rather, the question, whether, in the given situation, the departmental proceedings are required to be stayed, would be determined taking into account multiple factors: if the departmental proceedings and criminal trial are based on similar set of facts; the charge in the criminal trial against the delinquent employee is of a grave nature and involved complicated questions of law and fact. Whereas, upon due consideration of the matter in issue, the learned Single Judge recorded that it was not the case in the matter at hands. It was observed that the charges against the appellant in the departmental proceedings were that she had been siphoning off the funds/amount from the accounts of the bank's customers in the name of her own relatives since 2005. Further, upon being confronted with this fact, she has made three deposits refunding certain amount. And, significantly, the learned Single Judge also recorded that the entire material that was to be relied upon and produced against the appellant was documentary in nature and was either prepared by her or under her supervision, being Manager of the branch.

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5. Upon being pointedly asked, if the charges have been framed in the criminal trial against the appellant and, if yes, whether the charge sheet was produced/placed before the learned Single Judge? Learned counsel fairly concedes that though charges have already been framed but the charge sheet was not placed before the learned Single Judge. In such circumstances, it is evident that the contention of the appellant that basis of the departmental proceedings and criminal trial is the same, is neither substantiated nor established. Even

otherwise, as indicated above, the charges against the appellant are based on record and do not involve any complicated questions of law and facts, least a charge that could be termed as grave.”

A perusal of the above judgment would show that the charges/charge sheet in the criminal case was not placed before the learned Single Judge and that thus, the contention of the appellant therein that the basis of the departmental proceedings and criminal trial were the same, was neither substantiated nor established. It was also observed that in the said circumstances, no complicated questions of law and facts were involved.

17. From the above said judgments, the following principles/conclusions emerge:-

1. Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously though separately. (Specific reference in this regard can be made to the judgment in case of **Capt. M. Paul Anthony (supra)** (relevant portion of which is reproduced in Para 5 of the present order) and **State Bank of India and Ors. (supra)** (relevant portion of which is reproduced in Para 8 of the present order)
2. The approach and objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different inasmuch as in the disciplinary proceedings, the question is as to whether the employee is guilty of such conduct as would merit his removal from service or imposition of lesser punishment whereas in the criminal proceedings, the question is as to whether the offences registered against him are established and if established, what sentence is to be imposed upon him. (Specific reference in this regard can be made to the judgment in **Kendriya Vidyalaya Sangathan & Ors (supra)** (relevant portion of which is

reproduced in Para 7 of the present order) and to **Shashi Bhusan Prasad vs. Inspector General, Central Industrial Security Force and others, reported as 2019(7) SCC 797** and also **LPA-470-2024** (relevant portion of which is reproduced in Para 10 of the present order).

3. The mode of the enquiry, the rules governing the enquiry and trial as well as the standard of proof in criminal proceedings and in departmental proceedings are distinct and different and in a criminal case, charge has to be established beyond reasonable doubt whereas in the departmental proceedings, the charge of misconduct has to be established on the principle of “preponderance of probabilities”. (Specific reference in this regard can be made to the judgment of the Hon'ble Supreme Court of India in **“State of Karnataka and others vs. Umesh”, reported as 2022 SCC Online SC 345** and **LPA-470-2024** (relevant portion of which is reproduced in Para 10 of the present order).
4. There should be early conclusion of departmental proceedings so as to weed out any employee whose integrity/character has been put in doubt and to maintain discipline in service and efficiency of public service and also in case the employee is not guilty of any wrong doing, then his honour is required to be vindicated at the earliest. [Specific reference in this regard can be made to the judgment in the case **Dr. Balwinder Kumar Sharma’s (supra)** (relevant portion of which is reproduced in Para 14 of the present order) **and Capt. M. Paul Anthony (supra)** (relevant portion of which is reproduced in Para 5 of the present order).
5. All the ingredients i.e., the departmental proceedings and the criminal case being based on identical and similar set of facts, charge in the criminal case being of grave nature involving complicated questions of law and facts are required to be met before the Court could consider the case of the employee for grant of stay of departmental proceedings during the pendency of the criminal case. (Specific reference in this regard can be made to the

case of **Capt. M. Paul Anthony** (supra); **Indian Overseas Bank, Anna Salai and Anr** (supra) (relevant portion of which is reproduced in Para 6 of the present order); **State Bank of India and Ors.** (supra) (relevant portion of which is reproduced in Para 8 of the present order).

6. Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet. [Specific reference can be made to the judgment of **Capt. M. Paul Anthony** (supra)]. Even the question as to whether the case involves identical and similar set of facts would also have to be considered after taking into consideration the FIR, the report under Section 173 Cr.P.C. and the charges framed. [Reference in this regard can be made to the judgment of **Paramjit Kaur's** (supra)] (relevant portion of which is reproduced in Para 16 of the present order)
7. The fact that the departmental proceedings and the criminal case are based on identical and similar set of facts and the charges in the criminal case against the delinquent employee are of grave nature which involve complicated questions of law and facts also cannot be considered in isolation to stay the departmental proceedings and due regard must be given to the fact that the departmental proceedings cannot be unduly delayed. [Specific reference in this regard can be made to the case of **Capt. M. Paul Anthony** (supra) (relevant portion of which is reproduced in para 5 of the present order) and **State Bank of India and Ors.** (supra).] (relevant portion of which is reproduced in Para 8 of the present order)
8. Before granting stay of the departmental proceedings, special facts of the case are required to be mentioned, warranting stay of departmental proceedings. (Specific reference in this regard can be

made to the judgment of **Kendriya Vidyalaya Sangathan & Ors** (*supra*) (relevant portion of which is reproduced in Para 7 of the present order).

9. In case all the above parameters are met and the stay of the departmental proceedings has been granted, then also in case, the criminal case is being unduly delayed, the departmental proceedings can be resumed and proceeded with so as to conclude them at an early date. (Specific reference in this regard can be made to the judgment of **Capt. M. Paul Anthony's case** (*supra*) (relevant portion of which is reproduced in Para 5 of the present order).

18. This Court would now proceed to decide the individual writ petitions after considering the facts of each case in the light of law laid down in the above-said judgments and the above-mentioned principles/conclusions.

CWP-5111-2024

19. Brief facts of the present case are that the petitioner Mustaq was holding the post of Head Constable in Haryana Police when the petitioner was made an accused in FIR no.26 dated 18.11.2023 registered under Section 7 of the Prevention of Corruption Act, 1988 at Anti Corruption Bureau, Faridabad on the complaint of one Naresh Bhadana on the allegation that the complainant was made an accused in FIR no.559 dated 17.11.2023 registered under Sections 323, 341, 34, 506 IPC at Police Station Dabua, Faridabad and the said FIR was investigated by the petitioner and the petitioner demanded a bribe of Rs.50,000/- for removing certain sections from the FIR and after negotiation, the amount demanded by the petitioner was reduced to Rs.25,000/-, regarding which the complainant had a

recording. A perusal of Annexure P-3 would show that on a raid conducted by the Anti Corruption Bureau, Faridabad, the petitioner was caught red handed accepting Rs.20,000/- from the complainant. In the criminal proceedings, the report under Section 173 Cr.P.C. has been presented and the same is not on record and the case is now fixed for framing of charges on 04.05.2024. The departmental proceedings were also initiated against the petitioner and summary of charges (Annexure P-3) was issued to the petitioner.

20. From the above-said facts, it is apparent that the primary issue for consideration in the criminal case is as to whether the petitioner had demanded the bribe from the complainant and thereafter was caught red handed with the bribe money of Rs.20,000/- or not.

21. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the

judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-470-2024**, in which the judgment of this Court in **CWP-975-2024**, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in **LPA-252-2021**, ***decided on 23.07.2021***, relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

22. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of

which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute certainty as to who are the common witnesses in the criminal case and in the departmental proceedings and as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in the case of **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are

concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles as enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the arguments of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

23. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-1801-2024

24. Brief facts of the present case are that the petitioner-Sumit Kumar was posted as Ahlmad in the Court of Sh. Tarun Chaudhary, Judicial Magistrate 1st Class, Faridabad when FIR No.10 dated 17.04.2023 registered under Sections 7, 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, at Police Station Anti Corruption Bureau, Faridabad, Haryana against the petitioner on the complaint of Yash, son of Pankaj Sharma on the allegations that when he had come to get two challans

processed, he came in contact with the petitioner who demanded Rs.3,000/- from the complainant for processing the challan and the said matter was reported by the complainant to his senior who advised him not to pay the same, and thereafter, the petitioner again demanded Rs.3000/- from the senior of the complainant although challan was for Rs.2000/- and the petitioner indicated that bribe would have to be paid, which the complainant and senior did not wish to pay and had thus, made a complaint. It was alleged in the FIR that the complainant had telephonic recording of the conversation. A perusal of Annexure P-4 would show that the petitioner was caught red handed while accepting the illegal gratification of Rs.3000/- for getting two traffic challans compounded/disposed of by a team of Anti Corruption Bureau led by Sh. Shoranlal in the presence of Naveen Hooda, Assistant Director (IS&H), Labour Department, Circle-3, Faridabad and other witnesses. Challan, in the present case, has been presented and the case is now fixed for framing of charges. In spite of specific orders passed by this Court on 29.01.2024 and 12.02.2024, the petitioner has not placed on record report under Section 173 Cr.P.C.. The departmental proceedings were already initiated against the petitioner and as per the statement of charges (Annexure P-4), the petitioner is alleged to have demanded the illegal gratification of Rs.3000/- from the complainant-Yash for getting two traffic challans compounded/disposed of and was caught red handed with bribe money of Rs.3000/-.

25. Learned State Counsel has informed the Court that in the present case, out of 14 witnesses, 5 witnesses including the complainant have been examined in the departmental proceedings.

26. From the above-said facts, it is apparent that the primary issue in the present case is as to whether the petitioner had demanded the bribe of Rs.3000/- for getting two traffic challans compounded/disposed of and as to whether he was caught red handed with the said bribe money of Rs.3000/- by the Anti Corruption Bureau.

27. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-470-2024**, in which the judgment of this Court in **CWP-975-2024**, **decided on 16.01.2024** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in **LPA-252-2021**,

decided on 23.07.2021, relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)***, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

28. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute

certainty as to who are the common witnesses in the criminal case and in the departmental proceedings and as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument

of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

29. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

**CMs-5332-5333-CWP-2024 in/and
CWP-14310-2022 (O&M)**

CM-5332-CWP-2024

30. This is an application filed under Section 5 of the Limitation Act for condonation of delay of 10 days in filing the application for restoration of the main writ petition.

31. For the reasons stated in the application, which is duly supported by an affidavit, the same is allowed and the delay of 10 days in filing the application for restoration of the main writ petition is condoned.

CM-5333-CWP-2024

32. This is an application under Order 9 Rule 9 read with Section 151 CPC for recalling the order dated 21.02.2024 whereby the main writ petition has been dismissed for non-prosecution.

33. For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The order dated 21.02.2024 is recalled and the main writ petition is restored to its original number.

CWP-14310-2022

34. Brief facts of the case are that the petitioner Anil Kumar was serving as HC/EASI in Haryana Police and was made an accused in FIR No.2 dated 07.03.2022 under Section 7 of the Prevention of Corruption Act, 1988, registered at Police Station Vigilance Bureau, Panchkula on the allegation that the petitioner had demanded Rs.20,000/- as bribe for recognizing the compromise which has been effected between the complainant and his wife with respect to the complaint submitted by the in-laws of the complainant and on account of the same, the complainant had given an amount of Rs.10,000/- to the petitioner and the petitioner was insisting on being paid the balance amount, regarding which the complainant had a recording with him.

35. Learned counsel for the petitioner has submitted that in the present case, report under Section 173 Cr.P.c. has been filed in the present case and even the charges have also been framed, but neither a copy of the challan nor the copy of order framing charge has been annexed along with the present petition. Departmental proceedings were also initiated against the petitioner and the summary of charge in the departmental proceeding has been annexed as Annexure P-2.

36. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded Rs.20,000/- as bribe from the complainant in order to accepting the compromise effected between the complainant and his wife and had received Rs.10,000/-, out of Rs.20,000/- and was insisting upon the payment of remaining Rs.10,000/- regarding which as per the case of the complainant there is a recording in his

mobile phone.

37. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise

to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

38. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. has already been filed and the charges have also been framed but the same have not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute certainty as to who are the common witnesses in the criminal case and that in the departmental proceedings and as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set

of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning “known sources of income”, which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being

meritless, deserves to be dismissed and is accordingly, dismissed.

39. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-228-2024

40. Brief facts of the present case are that FIR No.19 dated 28.09.2013 under Sections 7 and 7-A of the Prevention of Corruption Act, 1988 was registered against the petitioner Pawan Kumar, who was at the relevant time serving as an Assistant Sub-Inspector and against one Mahbub Ali on a complaint made by one Bilal, on the allegation that the petitioner along with Mahbub Ali had come to the house of Bilal in his absence and had informed his mother that they had arrested one person named Sabir in an NDPS Act and the name of Bilal had surfaced in the disclosure statement of Sabir. It was further alleged in the FIR that Sajid uncle of Bilal visited police station along with 1/2 respectable persons and met Mahbub Ali, who had told them that the case is being looked after by the petitioner and the matter would be settled for Rs.2,50,000/- and thereafter, the matter was settled for Rs.1,50,000/- and the complainant had a recording of the said conversation. It has been stated by the learned counsel for the petitioner that the report under Section 173 Cr.P.C. has been filed in the criminal case, although a copy of the same has not been annexed along with the present petition and the case is now fixed for framing of charge on 19.04.2023. Departmental inquiry was also initiated against the petitioner and the summary of charge

dated 26.10.2023 (Annexure P-2) was issued to the petitioner, in which, it was alleged that the petitioner along with other persons were guilty of demanding bribe regarding which a complaint had been filed by Bilal and that the petitioner had also not joined the investigation in FIR No.19 dated 28.09.2013 and the same were acts of grave indiscipline. From the above-said facts, it is apparent that the primary issue for consideration in the criminal case is as to whether the petitioner along with other persons had demanded bribe from the complainant in order to enable the complainant to save himself from being falsely implicated in a case under the NDPS Act.

41. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of the Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, (the relevant portion of which had been reproduced in para 5 of the present order); the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, (the relevant portion of which had been reproduced in para 6 of the present order); the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, (the relevant portion of which had been reproduced in para 8 of the present order); the judgment of Division Bench

of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024, decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021, decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)*** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

42. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since

the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute certainty as to who are the common witnesses in the criminal case and in the departmental proceedings and as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr.Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special

knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

43. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate upon the same independently, in accordance with law.

CWP-27404-2023

44. Brief facts of the case are that the petitioner Rakesh was serving as a Constable in the State of Haryana when he was made an accused in FIR No.307 dated 01.09.2023, under Sections 7 and 13 of the Prevention of Corruption Act, 1988, registered at Police Station Urban Estate Rohtak, District Rohtak on the complaint of ASI Pankaj on the allegation that a video had gone viral on social media that one police official after stopping an unknown motorcyclist demanded money from him under the threat of the Motor Vehicles Act and was receiving Rs.500/- as a bribe and the said police official is the present petitioner, who was posted at Rider No.13,

whose duty was near the bus stand where the said incident had taken place. The report under Section 173 Cr.PC has been submitted in the said case, but a complete copy of the challan has not been annexed along with the present petition. The criminal proceeding is now fixed for framing of charge. The departmental proceedings have also been initiated against the petitioner for gross negligence and dereliction of his duty, vide order dated 05.09.2023 (Annexure P-2).

45. Learned State counsel has informed that out of total 8 witnesses, 3 witnesses have been examined in the departmental proceedings.

46. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had received a bribe of Rs.500/- regarding which there was a video gone viral in the social media.

47. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the

judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-470-2024**, in which the judgment of this Court in **CWP-975-2024**, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in **LPA-252-2021**, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

48. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**,

the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr.Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of Prevention of Corruption Act, 1988 are

concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

49. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-5898-2021

50. Brief facts of the case are that the petitioner Vikas was serving as Constable in Haryana Police when he along with his family members were made accused in FIR No.480 dated 26.10.2020, under Sections 323, 34 and 498-A IPC, registered at Police Station Narnaund, District Hansi on the complaint made by wife of the petitioner on the allegation that the petitioner along with some members of his family had demanded dowry. The report under Section 173 Cr.P.c. has been submitted in the said case and charges

have also been framed. Neither a complete copy of the challan nor the copy of order framing charge has been annexed along with the present petition. Departmental proceedings have also been initiated against the petitioner, in which, as per the learned State counsel, out of total 8 witnesses, 2 witnesses have been examined.

51. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner along with other members of his family has treated his wife with cruelty and has committed offence under Section 323, 34 and 498-A IPC.

52. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, (the relevant portion of which had been reproduced in para 5 of the present order); the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, (the relevant portion of which had been reproduced in para 6 of the present order); the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, (the relevant portion of which had been reproduced in para 8 of the present order); the judgment of Division Bench

of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024, decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021, decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)*** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

53. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. has already been filed but a complete copy of the same has not been annexed and the charges have also been framed, but the order framing charges has also not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in

the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since the complete copy of the report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that the charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

54. It is made clear that this Court has not opined on the merits of

the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-11379-2021

55. Brief facts of the case are that the petitioner Fateh Singh, who was serving as an ASI in the Haryana Police was made an accused in FIR No.215 dated 29.05.2021 (Annexure P-1), registered at Police Station Industrial Sector 29, District Panipat, under Section 409 IPC (offence punishable under Section 409 IPC dropped and offence under Section 379 IPC has been added) on the complaint filed by ESI Phool Kumar on the allegation that the petitioner had stolen the tyres of Bullet Motorcycle, which was case property in FIR No.22 dated 14.01.2016 under Sections 302 and 201 IPC, registered at Police Station Model Town, Panipat and the said fact was admitted by the petitioner while talking on the mobile phone regarding which, there was a recording. The report under Section 173 Cr.P.c. has been submitted in the present case and the charges have also been framed, but neither a complete copy of the challan nor the copy of order framing charge has been annexed along with the present petition. Departmental proceedings have also been initiated against the petitioner, in which, as per the learned State counsel, out of total 12 witnesses, 5 witnesses have been examined.

56. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had stolen the tyres of the Bullet Motorcycle, which was case property in above-said FIR No.22 dated 14.01.2016 from the Malkhana.

57. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that

no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

58. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. has already been filed and the charges have already been framed but the same have not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the complete copy of the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute certainty as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings.

It would be further relevant to note that in the present case the report under

Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

59. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-1987-2021

60. Brief facts of the case are that the petitioner Rakesh Kumar was serving as an EHC and was posted as Malkhana Guard at Nuh when an FIR No.577 dated 26.11.2020 (Annexure P-1), registered under Sections 380 and 409 IPC, at Police Station Nuh, District Nuh was registered on the complaint of HC Rati Bhan MM against the petitioner and other persons on the

allegation that they had removed the tyres of vehicles which were in the District Malkhana in collusion with other persons. The report under Section 173 Cr.P.c. has been submitted, although, no copy of the same has been annexed along with the present petition. The departmental proceedings have also been initiated against the petitioner and no witness has been examined in the departmental proceeding in view of interim order dated 29.01.2021 passed by a Co-ordinate Bench of this Court.

61. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner along with other accused while being posted at Malkhana Guard at Nuh had stolen the tyres of the vehicles, which were lying in the said Malkhana.

62. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India**

and Ors. (supra), the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)*** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

63. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in

the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

64. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-2733-2024

65. Brief facts of the case are that the petitioner Surinder Singh, who was serving as Assistant Sub-Inspector in the Haryana Police, was made an accused in FIR No.22 dated 22.09.2023, under Section 7 of the Prevention of Corruption Act, 1988, registered at Police Station Anti-Corruption Bureau (ACB), Faridabad on the complaint made by one Kundan on the allegation that his friend Vinod was kept in custody by the petitioner with respect to a case under Section 379-B IPC and other sections and had demanded a bribe of Rs.50,000/- for deleting the main sections, regarding which the complainant had a recording between him and the petitioner, with him, and as is apparent from Annexure P-3, the petitioner was thereafter caught red handed while accepting the bribe of Rs.50,000/- by the Anti-Corruption Bureau.

66. Learned counsel for the petitioner has informed the Court that in the present case the report under Section 173 CrPC has not been presented. The departmental proceedings were also initiated against the petitioner and summary of allegations in the departmental proceedings have been annexed as Annexure P-3 along with the present petition.

67. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner demanded bribe of

Rs.50,000/- for deleting the main sections regarding which there was a recording between the complainant and the petitioner and as to whether the petitioner was caught red handed while accepting the money of Rs.50,000/- by the Anti-Corruption Bureau.

68. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, relevant portion of which has been reproduced in

para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

69. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has not been filed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been filed, therefore, it cannot be said with absolute certainty as to who are the common witnesses in the criminal case and that in the departmental proceedings and as to whether the charge in the

criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

70. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-21555-2023 and CWP-21362-2023

71. Petition bearing CWP-21555-2023 has been filed with respect to disciplinary proceedings which have been initiated against the petitioner Ram Parkash Kardam during the pendency of the trial in FIR No.28 dated 21.08.2022, under Sections 7, 13(1)B, 13(2) of the Prevention of Corruption Act, 1988 and Section 120-B IPC, at Police Station Anti Corruption Bureau, District Faridabad.

72. Petition bearing CWP-21362-2023 has been filed with respect to disciplinary proceedings which have been initiated against the petitioner Jile Singh during the pendency of the trial in FIR No.28 dated 21.08.2022, under Sections 7, 13(1)B, 13(2) of the Prevention of Corruption Act, 1988

and Section 120-B IPC, at Police Station Anti Corruption Bureau, District Faridabad.

73. Brief facts of the case are that the petitioner Ram Parkash Kardam was working as a Junior Engineer and was posted at Faridabad and the petitioner Jile Singh was working as Lower Division Clerk and was posted in the office of SDO, Mathura Road, Faridabad when both the petitioners were made accused in FIR No.28 dated 21.08.2022, under Sections 7, 13(1)B, 13(2) of the Prevention of Corruption Act, 1988 and Section 120-B IPC on the complaint made by one Sachin Chandile to the effect that the petitioners had demanded a bribe and in case the same was not paid, then, they would plant a case of illegally extracting electricity by theft against the complainant. It was alleged in the FIR that the complainant had a recording regarding his conversation with Jile Singh with regard to the demand of bribe money. The report under Section 173 Cr.P.c. has been submitted, although, no copy of the same has been annexed along with the present petition. A perusal of Annexure P-5, which is an order of framing of charge dated 01.09.2023, would show that the petitioner Jile Singh was caught red handed while accepting bribe of Rs.40,000/- and had prima facie established the involvement of the petitioner Ram Parkash Kardam in his disclosure statement. The departmental proceedings have also been initiated against the petitioners and no witness has been examined in the departmental proceeding in view of interim orders dated 19.10.2023 passed in CWP-21555-2023 and dated 25.09.2023 passed in CWP-21362-2023, by a Co-ordinate Bench of this Court.

74. From the above-said facts, it is apparent that the primary issue

in the criminal case is as to whether the petitioners had sought bribe from the complainant and the petitioner Jile Singh was caught red handed while accepting bribe money of Rs.40,000/-.

75. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been

brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

76. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of Prevention of Corruption Act, 1988 are

concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

77. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-11150-2021

78. Brief facts of the case are that the petitioner-Devender Kumar, who was serving as a Head Constable in the Haryana Police and was posted at District Sirsa, was made an accused in FIR No.3 dated 27.04.2021, registered under Section 7 of the Prevention of Corruption Act, 1988, at Police Station SVB Hisar on the complaint made by Shamsher Singh on the allegation that a complaint had been made by Suresh Kumar against Shamsher Singh and with respect to the said complaint, the petitioner had

been repeatedly making calls for demanding an amount of Rs.10,000/- to help the complainant (Shamsher Singh). On the basis of the said allegations, a complaint was made by the complainant and the above-said FIR was registered and thereafter, a raiding party was constituted and the petitioner was caught red handed while accepting the illegal gratification of Rs.10,000/- and the said fact is apparent from Annexure P-2, which is the order granting bail to the petitioner. The report under Section 173 Cr.P.C. has been submitted in the present case and the charges have also been framed, but neither a complete copy of the challan nor the copy of order framing charge has been annexed along with the present petition. The departmental proceedings have also been initiated against the petitioner and the summary of charges against the petitioner are contained in Annexure P-3.

79. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded illegal gratification of Rs.10,000/- from the complainant and as to whether he was caught red handed while accepting the bribe money of Rs.10,000/- from the complainant for helping in a complaint case made by Suresh Kumar against complainant Shamsher Singh.

80. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in

the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are

such that the departmental proceedings are required to be culminated expeditiously.

81. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. has already been filed and the charges have been framed but the same have not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute certainty as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of

prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

82. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-5296-2023

83. Brief facts of the case are that the petitioner-Rajender Singh was serving as a Head Constable in District Jhajjar when he was made an

accused in FIR No.319 dated 16.12.2021, under Sections 409, 420 and 120-B IPC and Section 379, 411, 381, 34 IPC (Sections 7, 12, 13(1)(b) of the PC Act, 1988 has been added later on and Section 120-B IPC has been deleted in the challan) on the complaint made by Raj Kumar on the allegation that one Geeta Choudhary had informed the complainant that Umesh, who had come to the house of the complainant, had committed theft in her house and consequently, the complainant locked the premises where Umesh and his friend were staying and thereafter, a police team came, which also included the present petitioner and the present petitioner while counting the bag, which was carried by Umesh and his friend, segregated an amount of around Rs.50,00,000/- and put the same in a separate bag and misappropriated the same. The report under Section 173 Cr.P.C. has been submitted in the present case, but a complete copy of the same has not been annexed along with the present petition. The departmental proceedings were also initiated against the petitioner, vide order dated 27.12.2021 (Annexure P-3). As per learned State counsel, out of total 9 witnesses, 3 witnesses have been examined in the departmental proceedings.

84. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had segregated a substantial amount of money from the stolen money carried in the bag by Umesh and his friends and had misappropriated the same.

85. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before

considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme

Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

86. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but a complete copy of the same has not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the

evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

87. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-10861-2023

88. Brief facts of the case are that the petitioner-Dharampal was serving as E/ASI and was posted at District Hisar when he was made an accused in FIR No.19 dated 23.08.2022 (Annexure P-1), registered under Section 384 IPC and Section 7 of the Prevention of Corruption Act, 1988, at Police Station SVB Hisar on the complaint made by one Dinesh Kumar on the allegation that he was working as a security guard and one Vasu had taken a photograph with the complainant's weapon after having taking the weapon from the complainant and thereafter, the present petitioner and other persons had blackmailed the complainant by interrogating as to why he had given his weapon to Vasu and that for not proceeding against the complainant, the petitioner had demanded Rs.20,000/-, which was ultimately settled at Rs.15,000/-. The FIR was registered on the said allegations. Thereafter, it is apparent from Annexure P-3 that a raid was conducted and the petitioner was caught red handed while accepting the bribe of Rs.15,000/- from the complainant by the Vigilance Bureau. The report under Section 173 Cr.P.c. has been submitted and the charges have also been framed as per learned counsel for the petitioner, but neither complete copy of the challan nor the copy of order framing charges has been annexed along with the present petition. In the criminal case, out of total 22 prosecution witnesses, 10 witnesses have been examined. The departmental proceedings were also initiated against the petitioner, vide order dated 24.08.2022 (Annexure P-2). As per learned State counsel, out of total 6 witnesses, 3 witnesses have been examined in the departmental proceedings.

89. From the above-said facts, it is apparent that the primary issue

in the criminal case is as to whether the petitioner had demanded illegal gratification for not proceeding against the complainant Dinesh Kumar and was caught red handed by the Vigilance Team while accepting the illegal gratification of Rs.15,000/-.

90. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in

para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

91. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. has already been filed but a complete copy of the same has not been annexed and the charges have also been framed and even a copy of the order framing charges has not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete

copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument

of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

92. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-19392-2023

93. Brief facts of the case are that when the petitioner-Narender Kumar was working as an ASI in the Haryana Police and had been posted at Police Post Pundri, District Kaithal, he was made an accused in FIR No.18 dated 12.07.2023 (Annexure P-1), registered under Section 384 IPC and Section 7 of the Prevention of Corruption Act, 1988, at Police Station ACB Ambala on the complaint made by one Chamel Singh on the allegation that the petitioner had demanded illegal gratification of Rs.1,00,000/- for taking action on the complaint given by the complainant against one Neelam and regarding which he had a recording of the petitioner with the complainant. The report under Section 173 Cr.P.C. has been submitted in the criminal case, but a copy of the same has not been annexed along with the present petition and the case before the trial Court is stated to be fixed for framing of charge. The departmental proceedings have also been initiated against the petitioner, vide order dated 13.07.2023 (Annexure P-2) and as per the learned State counsel, out of 9 witnesses, 5 witnesses have been examined in

the departmental proceedings.

94. From the above-said facts, it is apparent that the primary issue in the present writ petition is as to whether the petitioner had demanded illegal gratification of Rs.1,00,000/- for taking action on the complaint made by the complainant Chamel Singh against Neelam Rani regarding which as per the case of the complainant, he has a recording of the petitioner with the complainant.

95. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the

judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021, decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)***, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

96. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as has noticed hereinabove, already been filed but the complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the

basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus,

keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

97. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-23025-2023

98. Brief facts of the case are that when the petitioner-Sanjay Kumar was serving as an ASI in Haryana Police, he was made an accused in FIR No.17 dated 03.08.2023 registered under Sections 120-B IPC and Sections 7 and 7(a), 13(1)(b) read with 13(2) of the Prevention of Corruption Act, 1988, at Police Station ACB, District Karnal on the complaint made by Jagjit Singh on the allegation that the petitioner had demanded illegal gratification of Rs.1,00,000/- and thereafter, had settled the same through one Manoj Munshi for a sum of Rs.80,000/- for not arresting the sister of the complainant in FIR No.21 dated 19.01.2023 regarding which as per the FIR the complainant had a recording with respect to the demand of bribe, with him. The report under Section 173 Cr.P.C. has been submitted in the criminal case, but a complete copy of the same has not been annexed along with the present petition and the charges are yet to be framed. The

departmental proceedings have also been initiated against the petitioner, vide order dated 04.08.2023 (Annexure P-4) and as per the learned State counsel, out of 10 witnesses, 3 witnesses have been examined in the departmental proceedings.

99. From the above-said facts, it is apparent that the primary issue in the present writ petition is as to whether the petitioner had demanded illegal gratification of Rs.1,00,000/- from Jagjit Singh for not arresting his sister in FIR No.21 dated 19.01.2023 regarding which the complainant, as per his allegation, had a recording.

100. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-**

470-2024, in which the judgment of this Court in **CWP-975-2024**, **decided on 16.01.2024** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in **LPA-252-2021**, **decided on 23.07.2021**, relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case which are required to be specifically mentioned as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

101. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as has noticed hereinabove, already been filed but a complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet was not placed before the learned Single Judge, thus,

in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning “known sources of income”, which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

102. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-24857-2023

103. Brief facts of the case are that when the petitioner-Gurmeet Singh was serving as an Assistant Sub-Inspector, Detective Staff, Karnal Civil Line, District Karnal, he was made an accused in FIR No.932 dated 04.06.2023 (Annexure P-6), registered under Sections 120-B, 180, 201, 218, 409, 420, 467, 468 and 471 IPC and Sections 8 and 13 of the Prevention of Corruption Act, 1988 on the complaint made by one Yogesh @ Gollu on the allegation that Yogesh @ Gollu was paid Rs.50,000/- in order to get himself falsely implicated in FIR No.286 dated 08.04.2022, registered under Sections 420, 467, 468, 471 and 120-B IPC, at Police Station Sadar Karnal in order to help Nitesh and that the present petitioner was a part of the said conspiracy. The report under Section 173 Cr.P.C. has been prepared and presented in the present case and the charges are yet to be framed.

104. Learned Senior counsel for the petitioner has submitted that in the criminal case, re-investigation has been ordered, although, learned State counsel has submitted that he has no instruction on the said aspect. The departmental proceedings were also initiated against the petitioner, vide order dated 08.06.2023 (Annexure P-10) and summary of charges has been framed against the petitioner on 20.06.2023 (Annexure P-11). As per learned State counsel, out of total 13 witnesses, 9 witnesses have been examined in the departmental examined.

105. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner along with other persons had hatched a conspiracy to dilute the role of Nitesh in above-said FIR No.286 dated 08.04.2022 by falsely implicating Yogesh @ Gollu.

106. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the

judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-470-2024**, in which the judgment of this Court in **CWP-975-2024**, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in **LPA-252-2021**, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

107. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as has noticed hereinabove, already been filed and the charges have not been framed as yet. It would be further relevant to note that the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the

petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr.Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

108. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate /

decide the same independently, in accordance with law.

CWP-327-2024

109. Brief facts of the present case are that while the petitioner-Bhagwan who was working as a Head Constable in the Haryana Police and was posted at Police Post Kund, Police Station Khol, District Rewari, he was made an accused in FIR No.34 dated 24.08.2023 registered under Section 7 of the Prevention of Corruption Act, 1988 at Police Station ACB, Gurugram on the complaint made by one Neeraj Kumar on the allegations that the said Neeraj Kumar had got FIR No.253 dated 12.08.2023 registered under Sections 323, 342, 506, 34 of IPC at Police Station Khol, District Rewari and the Inquiry Officer in the said case was the present petitioner, who called him to the Police Station and demanded an amount of Rs.5 lacs from the complainant for arresting the accused in the said case and ultimately, the amount was settled at Rs.2 lacs. It was further alleged in the FIR by the complainant that he managed only an amount of Rs.17,000/- and regarding the remaining amount, dummy notes of 500 denomination were there and that the complainant had recorded the conversation between the petitioner and the complainant demanding the bribe of Rs.2 lacs. A perusal of order dated 14.11.2023 (Annexure P-2) vide which the petitioner was granted bail would show that the petitioner was caught red handed by the Anti Corruption Bureau headed by Inspector Jaipal while accepting bribe and an amount of Rs.17,000/- was recovered from the petitioner. In the present case, the report under Section 173 Cr.P.C. has already been filed and the case is fixed for framing of charges. The departmental proceedings were also initiated against the petitioner and as per gist of allegations (Annexure P-4),

allegations against the petitioner were that the petitioner had been apprehended red handed while receiving the bribe money and had demanded bribe of Rs.2 lacs from Neeraj Kumar while investigating FIR No.253 dated 12.08.2023 got registered by Neeraj Kumar. In the departmental proceedings, three witnesses have already been examined.

110. From the above-said facts, it is apparent that the primary issue in the criminal case to be determined is as to whether the petitioner had demanded bribe from Neeraj Kumar regarding which it is the case of Neeraj Kumar that he had a recording of the same and as to whether the petitioner was caught red handed with the bribe amount and a recovery of Rs.17,000/- was made from the petitioner.

111. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India**

and Ors. (supra), the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)***, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

112. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed. It would be further relevant to note that in the present case, the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the

evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

113. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP Nos.1805 and 1879 of 2024

114. Brief facts of the present two cases are that the petitioner-Hansraj, who is the petitioner in CWP-1805-2024, was posted as Reader in the Court of Sh. Vishesh Garg, Judicial Magistrate Ist Class, Faridabad and the petitioner-ASI/ESI Mahesh Kumar who is the petitioner in CWP-1879-2024, was posted as Naib Court in the said Court, when FIR No.9 dated 17.04.2023 was got registered under Sections 7, 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988 at Police Station Anti Corruption Bureau, Faridabad against both the petitioners on the complaint of Vikrant Gaud who has stated that he was a practicing Advocate and had filed an application for paying challan of motorcycle. When the case had been adjourned by Hansraj, Reader to 29.05.2023, then the complainant had informed Reader that the said date was a very long date, then the petitioner-Hansraj had asked the complainant to visit him and then had demanded Rs.2000/- from the complainant as bribe money and even the petitioner-Mahesh Kumar who was there as Naib Court has also demanded Rs.2000/- and after negotiation, he had agreed to Rs.1500/- for disposing of the challan. It was alleged in the FIR that regarding the said conversation, the complainant had a recording. Thereafter, raid was conducted on the complaint made by the complainant and the petitioner-Hansraj was caught red handed with bribe money of Rs.2000/- which he had received from complainant-Vikrant Gaud by Inspector Raj Kumar, Police Station Anti Corruption Bureau in the presence of Sh. Sushil Kumar, Assistant Labour Commissioner Circle-2, Faridabad and other witnesses. Challan in the present case has already been presented although copy of the entire challan

has not been placed on record. Charges are yet to be framed in the present case. The departmental proceedings were initiated against both the petitioners on the allegations of having demanded money and received money from the complainant.

115. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioners had demanded money from the complainant-Vikrant Gaud regarding which the complainant has stated that he has recording with him and as to whether any recovery in pursuance of the said demand, was effected from the petitioner-Hansraj or not.

116. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para

8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)***, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

117. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that

since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no

justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

118. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-5728-2023

119. Brief facts of the present case are that the petitioner-Ajay who was holding the post of Head Constable and was posted at Yamuna Nagar was made an accused in FIR No.19 dated 16.12.2022 registered under Section 7 of the Prevention of Corruption Act, 1988 (Section 13(1)(B) read with Section 13(2) of the Prevention of Corruption Act, 1988 have been added later on) at Police Station State Vigilance Bureau, Panchkula, on the complaint made by one Jai Kumar on the allegations that his grandfather died in an accident and he got FIR No.244 registered, of which the present petitioner was the Investigating Officer and the present petitioner was forcing the complainant to pay the bribe for submitting challan in the Court

and regarding which the complainant had a recording. A perusal of Annexure P-2 would show that thereafter, raid was conducted and the petitioner was caught red handed by the State Vigilance Bureau, Panchkula for taking bribe of Rs.5000/-. The report under Section 173 Cr.P.C. has been presented in the present case and also charges have been framed as has been fairly stated by learned counsel for the petitioner. Neither the complete copy of the challan nor order framing charges have been annexed along with the present writ petition. Departmental proceedings have also been initiated against the petitioner and as per the instructions from the learned State Counsel, out of 13 witnesses, 11 witnesses have already been examined.

120. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded money from the complainant to present challan in FIR No.244 and as to whether he was caught red handed of accepting bribe of Rs.5000/- by the State Vigilance Bureau, Panchkula in the said case.

121. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in

para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

122. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as has noticed hereinabove, already been filed but

complete copy of the same has not been annexed and the charges have been framed but the order framing charges has also not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the common witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para

14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning “known sources of income”, which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

123. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-7537-2021

124. Brief facts of the present case are that the petitioner-Praveen was working as P/Sub Inspector in the Haryana Police when FIR No.616 dated 23.08.2020 under Sections 420, 467, 468, 471 of the Indian Penal Code, 1860 (Section 120-B of IPC has been added subsequently) at Police

Station HTM, District Hisar was registered on the complaint of one Babli who was a Drawing Teacher in Government High School Jahajpul, Hisar, on the allegations that one boy named Mandeep had come into room No.4 where the examination was taking place and had supplied an extra paper to Sunita who was giving the examination and the said paper had a print of the answer key and the teacher caught the said Mandeep and handed over him to the Police. A perusal of chargesheet (Annexure P-2) would show that during investigation, the involvement of the petitioner was also found in the said case and the petitioner was arrested and DDR No.10 was registered by the SHO Police Station Sector-58, Faridabad and Section 120-B of IPC was added.

125. Challan has been presented in the present case as fairly stated by learned counsel for the petitioner and even charges have been framed. However, neither the said DDR No.10 nor the challan/report under Section 173 Cr.P.C. nor the order framing charges have been annexed along with the present petition. The departmental proceedings have also been initiated against the petitioner and chargesheet in the departmental proceedings has been annexed as Annexure P-2 and in the said departmental proceedings, as per the learned State Counsel, out of 9 witnesses, four witnesses have been examined.

126. From the above-said facts, it is apparent that the primary issue in the criminal proceedings is as to whether the petitioner was also involved in the cheating case of PTI examination regarding which FIR No.616 dated 23.08.2020 had been registered.

127. In the earlier part of the judgment, this Court after considering

the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to

fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

128. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have been framed but the order framing charges has also not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC

has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

129. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-6939-2021

130. Brief facts of the present case are that the petitioner-Naveen who was holding the post of Inspector in Haryana Police while having been posted in Sector 14 Police Station Panchkula was involved in a criminal case in FIR No.594 dated 08.12.2020 registered under Sections 384, 420, 120-B of IPC at Police Station Sector 5, Panchkula, on the complaint made by one Kunal Chopra on the allegations that Kushvinder Sharma along with two

police constables and five unknown persons had snatched the bag of the complainant containing Rs.55.50 lacs while the complainant was staying in Hotel Shiraj Sector 5 Panchkula and had taken the said bag filled with money by stating that the complainant was playing gambling/betting and in case he was to make a complaint then he would be put in jail and the complainant saw the said persons going in one bolero No.0182 which belongs to SHO Sector 14, Panchkula and thereafter, the complainant went to Sector 14 Panchkula Police Station and on the basis of the said allegations, FIR was registered.

131. A perusal of the order (Annexure P-5) granting regular bail to the petitioner would show that as per the case of the prosecution, the petitioner-Inspector Naveen who was the SHO, Police Station Sector 14 Panchkula had misused the official vehicle and was also part of the conspiracy in snatching the money. In the present case, report under Section 173 Cr.P.C. has been filed and the charges have been framed but neither the complete report nor order framing charges have been annexed along with the present petition. The departmental proceedings have also been initiated against the petitioner and chargesheet dated 28.12.2020 against the petitioner has been annexed as Annexure P-4 in which apart from other aspects, it has been specifically stated that the petitioner had lodged D.D. No.16 dated 26.11.2020 at Police Station, Sector 14 Panchkula regarding his return in the concerned Police Station which was wrong and contrary to the facts. None of the witnesses have been examined in the said departmental proceedings in view of the interim order dated 14.07.2021 passed by the Coordinate Bench of this Court.

132. Learned counsel for the petitioner has submitted that there are other issues which have been raised in the writ petition including there being several procedural defects in the departmental proceedings and with respect to the same, the petitioner may be permitted to raise the pleas during the course of departmental proceedings and the present order should not estop the petitioner from raising the said pleas.

133. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner and all other accused persons have conspired to forcibly take a bag containing Rs.55.50 lacs from the complainant on the pretext of involving him in a case of gambling/betting.

134. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India**

and Ors. (supra), the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)***, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

135. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but complete copy of the same has not been annexed and the charges have been framed and the copy of order framing charges has also not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been

reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is

accordingly, dismissed.

136. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

137. It would be open to the petitioner to raise the pleas with respect to the alleged illegalities in the departmental proceedings during the course of departmental proceedings and the present order would not be construed as an estoppel against the petitioner on raising the said pleas.

CWP-17247-2022

138. Brief facts of the present case are that the petitioner-Punam while working as Assistant Sub Inspector posted at Police Station Women District Jhajjar, Haryana was made an accused in FIR No.9 dated 03.06.2022 registered under Section 7 of the Prevention of Corruption Act, 1988 at Police Station State Vigilance Bureau, Rohtak, on the complaint made by one Rajbir to the effect that one Asha had given complaint against him and the complainant got a call from Women Police Station, Jhajjar where the complainant met the present petitioner and the present petitioner demanded an amount of Rs.50,000/- from the complainant for getting the matter compromised and the complainant paid Rs.30,000/- to the petitioner and thereafter agreed to pay further sum of Rs.20,000/- and regarding the same, the complainant had recorded the conversation between the petitioner and himself. A perusal of order (Annexure P-3) would show that thereafter, a raid was conducted and the petitioner was caught red handed while

accepting illegal gratification of Rs.10,000/- and apart from other persons, Tehsildar, Jhajjar was also member with the said raiding party.

139. In the present case, report under Section 173 Cr.P.C. has already been filed and the charges have also been framed as per learned Senior Counsel for the petitioner but neither the report nor order framing charges have been annexed along with the present petition. The departmental proceedings have also been initiated against the petitioner vide order dated 04.06.2022 (Annexure P-3) and no witness has been examined as per learned State Counsel in view of the interim order granted on 06.08.2022 by the Coordinate Bench of this Court.

140. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded bribe from Rajbir in order to get the complaint filed against him compromised and as to whether the petitioner was caught red handed while accepting the bribe money of Rs.10,000/- by the raiding party.

141. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in

para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

142. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as has noticed hereinabove, already been filed but

the same has not been annexed and the charges have been framed but the order framing charges has not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been annexed, therefore, it cannot be said with absolute certainty as to who are the common witnesses in the criminal case and in the departmental proceedings and as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr.Balwinder Kumar Sharma's (supra)**, the relevant portion of

which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of Prevention of Corruption Act, 1988 are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

143. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-1940-2024

144. Brief facts of the present case are that the petitioner-Lal Chand was working as Assistant Sub Inspector in Haryana Police and was posted at Police Station Rampura in District Rewari, and was named as an accused in

FIR no.37 dated 29.09.2023 (Annexure P-1) registered under Section 7 of the Prevention of Corruption Act, 1988 at Police Station ACB, Gurugram, on the complaint made by one Kartar Singh on the allegations that the petitioner had kept the son of the complainant at Police Station Rampura and had demanded an amount of Rs.50,000/- from the complainant and on the payment of said money had assured the complainant that he would keep the son of the complainant in comfort and in case the amount was not paid, he would implicate the son of the complainant in some serious offences. It was alleged that after negotiation, the amount was reduced and regarding the demand there was an audio recording. A perusal of Annexure P-4 would show that the petitioner was caught red handed on 29.09.2023 while receiving the bribe amount of Rs.20,000/- from Kartar Singh by the Anti Corruption Bureau headed by Inspector Yudhbir Singh. The challan in the present case has not been presented. The departmental proceedings have also been initiated against the petitioner and gist of allegations regarding the same has been annexed as Annexure P-4.

145. Learned State counsel has pointed out that in the departmental proceedings, out of 11 witnesses, 3 witnesses have been examined.

146. From the above-said facts, it is apparent that the primary issue for consideration in the criminal case is as to whether the petitioner had demanded illegal gratification from the complainant of an amount of Rs.50,000/- and was caught red handed while receiving bribe of Rs.20,000/- from the complainant Kartar Singh by the Anti Corruption Bureau.

147. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division

Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental

proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)**, warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

148. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has not been filed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, since the report under Section 173 CrPC has not been filed, therefore, it cannot be said with absolute certainty as to who are the common witnesses in the criminal case and in the departmental proceedings and as to whether the charge in the criminal case and the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in

the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

149. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-4914-2024 & CWP-5666-2024

150. CWP-4914-2024 has been filed by Harpal Singh and CWP-5666-2024 has been filed by Balwinder Singh.

151. Petitioner Harpal Singh was working on the post of ESI and petitioner Balwinder Singh was working as ASI and both were posted at Cheeka Police Station, District Kaithal, when they were made accused in FIR no.30 dated 12.12.2023 registered under Section 7/13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988 and Section 384 IPC at Police Station ACB Ambala on the complaint made by one Sandeep Kumar on the allegations that the said complainant was made an accused in FIR no.284/2023 along with his mother and neighbourer and their sons. When petitioner Balwinder Singh called the complainant and when the complainant along with his relative went to the Police Station, then petitioner Harpal Singh, who was the Investigating Officer of the case, was sitting with petitioner Balwinder Singh and both the petitioners intimidated the complainant with fear of arrest of his mother and demanded a bribe of Rs.60,000/- for dropping the case against the mother of the complainant and

thereafter, the complainant brought an amount of Rs.60,000/- from his house and petitioner Balwinder Singh got Rs.50,000/- and petitioner Harpal Singh got Rs.10,000/- out of the same. It was further alleged that on 07.12.2023, petitioner Balwinder Singh demanded Rs.50,000/- each from the complainant, Aman and Shekhar, sons of the neighbourer of the complainant for dropping the names from the case and thereafter on 09.12.2023, petitioner Balwinder Singh and petitioner Harpal Singh met the complainant and petitioner Balwinder Singh agreed to accept an amount of Rs.10,000/- as bribe for dropping the case against Aman and Shekhar and regarding the same the complainant had recorded the conversation of both the petitioners whereby bribe was demanded. The report under Section 173 Cr.P.C. has been filed, although a complete copy of the same has not been annexed with the present petitions. A perusal of Annexures P-3 and P-4 in CWP-5666-2024 would show that the raid was conducted and the petitioners were caught red handed with the bribe money of Rs.10,000/- from the complainant in addition to Rs.60,000/- of bribe earlier taken from the complainant. The charges in the said criminal case are yet to be framed. Departmental proceedings have been initiated against both the petitioners and in the said departmental proceedings, out of 10 witnesses, 3 witnesses have been examined as has been informed by learned State counsel.

152. From the above-said facts, it is apparent that the primary issue for consideration in the criminal case is as to whether the petitioners had demanded the bribe from the complainant and had accepted illegal gratification of Rs.60,000/- and thereafter were caught red handed with the bribe money of Rs.10,000/- or not.

153. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that

no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

154. It would be relevant to note that admittedly in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but a complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. In the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted

and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning “known sources of income”, which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioners to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petitions being meritless, deserve to be dismissed and are accordingly, dismissed.

155. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental

proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-6829-2023

156. Brief facts of the present case are that the petitioner Darshan Singh, who was holding the post of ESI in Haryana Police, was implicated as an accused in FIR no.12 dated 08.10.2022 registered under Section 7A of the Prevention of Corruption Act, 1988 (Sections 7, 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988 and Sections 120-B, 201 IPC added later on) at Police Station State Vigilance Bureau, Panchkula, Haryana, on the complaint made by one Akhtar on the allegations that Subhash RTA Yamuna Nagar along with his touts have been demanding bribe from the complainant and even after taking bribe money from the complainant, had further threatened of challaning the vehicles of the complainant in case he did not give bribe and regarding the same, there were recordings made by the complainant. Although the petitioner was not named in the FIR but subsequently during the investigation, the involvement of the petitioner, who was posted on deputation in the department of District Transport Office, Panchkula was also found and the petitioner was arrested on 15.11.2022 in the said FIR. The report under Section 173 Cr.P.C. has been presented and even charges have been framed vide order dated 18.08.2023 which is annexed as Annexure R-2 along with reply filed by the State. A perusal of the said order would show that the petitioner has also been charged under Section 7 of the Prevention of Corruption Act read with Section 120-B IPC. The departmental proceedings have also been initiated

against the petitioner and in the said departmental proceedings as per the learned State counsel, out of 4 witnesses, 2 witnesses have been examined. A complete copy of the challan has not been annexed.

157. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner along with other persons have been demanding bribe from the complainant by extending threats of challaning the vehicles of the complainant or not.

158. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the

judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021, decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)*** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

159. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but a comply copy of the same has not been annexed and the charges have been framed. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report

under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of Prevention of Corruption Act, 1988 are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

160. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-14500-2023

161. Brief facts of the present case are that the petitioner Subhash

Chand, who is an Inspector in the Haryana Police and was posted as SHO at Police Station Gandhi Nagar, District Yamuna Nagar, was made as an accused in FIR no. 238 dated 28.03.2023 registered under Section 7 of the Prevention of Corruption Act, 1988 and Section 166-A IPC (Section 180 IPC added later on) at Police Station Yamuna Nagar City, District Yamuna Nagar on the complaint filed by one Aashiq son of Arif on the allegations that the petitioner along with Investigating Officer Sanjeev Kumar had demanded an amount of Rs.2 lacs from the complainant, which was paid by the complainant to the petitioner and said Sanjeev Kumar on 02.12.2022 for getting the complainant's father name removed and also for replacing Sections 379-B IPC with Section 379 IPC in FIR no.360 dated 30.08.2022 registered under Sections 323, 379-B, 506 IPC against the complainant, his brother, his father and another person. The complaint submitted by the complainant was enquired into by Ms.Jasleen Kaur, Assistant Superintendent of Police, District Yamuna Nagar and after enquiry/investigation, report under Section 173 Cr.P.C. has already been submitted although a complete copy of the same has not been annexed with the present petition and the criminal case is now fixed for framing of charges on 16.04.2024 before the trial Court. The departmental proceedings have also been initiated against the petitioner. Summary of charges have been framed against the petitioner vide order dated 05.04.2023 (Annexure P-2) and in the said departmental proceedings, out of 7 witnesses, 3 witnesses have been examined.

162. From the above-said facts, it is apparent that the primary issue in the criminal case is whether the petitioner along with other co-accused

Sanjeev Kumar had sought bribe of Rs.2 lacs and had accepted the said amount from the complainant Aashiq for deleting the name of the father of the complainant and also for replacing Section 379-B IPC with Section 379 IPC in FIR no.360 dated 30.08.2022 registered under Sections 323, 379-B, 506 IPC which was registered against the complainant, his brother, his father and another person.

163. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-470-2024**, in which the judgment of this Court in **CWP-975-2024, decided on 16.01.2024** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order

and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)*** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

164. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but a complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet in the criminal case was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in

the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr.Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument

of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

165. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-5709-2024

166. Brief facts of the present case are that the petitioner Surender was working as Head Constable in Haryana Police when FIR no.789 dated 08.10.2023 under Sections 195-A, 323, 34, 506 IPC at Police Station Sector 8, Faridabad, was registered on the complaint made by "X" (name not disclosed) on the allegations that the said lady had got FIR no.119 dated 11.09.2023 under Sections 313, 376(2)(n) IPC registered against the petitioner and the petitioner had pressurized and intimidated the complainant to withdraw the same and had also threatened to kill the complainant and had scuffled with her. Challan in the criminal case has already been presented and the same is now fixed for framing of charges on 31.07.2024. The disciplinary proceedings have also been initiated against the petitioner vide order dated 23.10.2023 (Annexure P-4).

167. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had intimidated the complainant to pressurize her to withdraw the earlier FIR registered by the

complainant against the petitioner.

168. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in **LPA-470-2024**, in which the judgment of this Court in **CWP-975-2024**, **decided on 16.01.2024** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in **LPA-252-2021**, **decided on 23.07.2021**, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise

to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

169. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

170. It is made clear that this Court has not opined on the merits of

the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-21413-2022

171. Brief facts of the present case are that the petitioner Sunita was working as an Assistant Sub Inspector in Haryana Police and when the petitioner was posted in Women Police Station Rewari, an FIR no.28 dated 09.08.2022 (Annexure P-1) under Section 7 of the Prevention of Corruption Act, 1988 at Police Station SVB Gurugram was registered against the petitioner on the complaint made by Abhay Singh on the allegations that the wife of the complainant had made a complaint against the complainant on account of marital discord and the petitioner, who was posted at Women Police Station, Rewari had called the complainant and demanded a bribe of Rs.20,000/- and had made several calls to the complainant to pay the same and ultimately, the bribe amount was settled at Rs.10,000/- regarding which the complainant had a recording of the petitioner asking for bribe money. A perusal of the order granting bail dated 03.09.2022 (Annexure P-2) as well as reply filed by the State (at page 53 of the paper book) would show that thereafter, the raid was conducted and the petitioner was caught red handed while demanding and accepting illegal gratification of Rs.10,000/- from the complainant. The report under Section 173 Cr.P.C. has been filed and the charges have been framed as per learned counsel for the petitioner which has not been annexed with the present petition.

172. Learned State counsel has submitted that out of 26 witnesses, none have been examined till date and the case is now fixed for 27.05.2024 for examination of the witnesses. The departmental proceedings were also initiated against the petitioner vide order dated 10.08.2022 (Annexure P-3) and in the said proceedings as per learned State counsel, out of 10 witnesses, 3 witnesses have been examined.

173. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded bribe from the complainant for diluting the case filed by the wife of the complainant against the complainant and was caught red handed while accepting the bribe of Rs.10,000/- by the raiding party.

174. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India**

and Ors. (supra), the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in ***Kendriya Vidyalaya Sangathan & Ors (supra)*** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

175. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have been framed and the order framing charges has not been annexed and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of ***Paramjit Kaur (supra)***, the relevant portion of which has been reproduced in para 16 of the

present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are

concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

176. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-7783-2024

177. Brief facts of the case are that the petitioner Hari Om while holding the post of Inspector was made an accused in the FIR No.324 dated 05.09.2021 registered under Sections 218, 34, 306 and 342 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Bhawani Khera, District Bhiwai (Annexure P-1) on the complaint of complainant Kashmiri on the allegation that petitioner along with other police officials had beaten up Raj Kumar,

brother of the complainant, who had suffered serious injuries and there were burns and electric current marks on the body of the said Raj Kumar and Raj Kumar died in custody. On the basis of the said allegations, the abovesaid FIR was registered.

178. Learned counsel for the petitioner has fairly submitted that the report under Section 173 Cr.P.C. has been submitted in the present case and the case is now fixed for framing of charge on 18.04.2024. Copy of the report under Section 173 Cr.P.C. is however not annexed. Departmental proceedings have also been initiated against the petitioner, vide letter dated 08.11.2023 (Annexure P-2) and the charge-sheet has already been issued in the said case, vide order dated 01.02.2024 (Annexure P-3). It has been stated on behalf of the petitioner that in the departmental proceedings, no witness has been examined.

179. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner along with other police officials had tortured the deceased Raj Kumar while in custody.

180. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M.**

Paul Anthony (supra), the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

181. It would be relevant to note that in the criminal case, the report

under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that since the charge-sheet in the criminal case was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived.

182. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to

accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

183. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-10130-2023

184. Brief facts of the case are that the petitioner Bhal Singh was serving as Sub-Inspector in Haryana Police when he was made an accused in FIR No.09 dated 07.04.2023 registered under Section 384 and Section 7 of the Prevention of Corruption Act, 1988, at Police Station ACB, Hisar, on the complaint made by Gurvinder Singh on the allegation that the petitioner had demanded a bribe of Rs.15,000/- to dilute the case against Amarjeet Singh, registered under the NDPS Act and had accepted an amount of Rs.8,000/- regarding which the complainant had a recording. On the basis of the said allegations, the present FIR was registered against the petitioner. A perusal of order dated 10.04.2023 (Annexure P-2) would show that a raid was conducted and the petitioner was caught red handed with the tainted amount of Rs.7,000/-, which has been recovered from him by the raiding party. The report under Section 173 Cr.P.c. has been submitted in the present case and the charges have also been framed, but neither a complete copy of

the challan nor the copy of order framing charge has been annexed along with the present petition. Learned State counsel submitted that out of total 19 prosecution witnesses, 2 witnesses have been examined in the criminal case. Departmental proceedings were also initiated against the petitioner and as per learned State counsel, out of total 13 witnesses, 4 witnesses have been examined in the departmental examined.

185. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded a bribe of Rs.15,000/- from the complainant Gurvinder Singh in order to dilute the case against Amarjeet Singh, which has been registered under the NDPS Act and had accepted Rs.8,000/- as illegal gratification and was further caught red handed while accepting Rs.7,000/- from the said complainant during a raid conducted by the raiding party.

186. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant

portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

187. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but a complete copy of the same has not been annexed and the charges have been framed but the order framing charges has also not been annexed and

thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur (supra)**, the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that although, the charges have been framed in the criminal trial in the said case, but since the charge-sheet was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr. Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

“Therefore, there is no question of any disclosure of

defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

188. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-9439-2023

189. Brief facts of the present case are that the petitioner Prathibha while working as Head Constable in Haryana Police was made an accused in FIR no.04 dated 07.02.2023 registered under Sections 7, 7A, 13, 13(1)(B) of the Prevention of Corruption Act and Section 120-B IPC at Police Station State Vigilance Bureau, District Karnal along with other accused on the

complaint made by one Dalbir on the allegations that the petitioner along with other persons had demanded illegal gratification of an amount of Rs.1,50,000/- for diluting the case against the accused Amir Singh in FIR no.946/2022 registered at Police Station Industrial Area, Panipat and regarding the same, the complainant had a recording. The report under Section 173 Cr.P.C. has been submitted in the said case, although entire copy of the report under Section 173 Cr.P.C. has not been annexed and case has been fixed for framing of charges for 07.05.2024. Departmental proceedings were also initiated against the petitioner vide order dated 10.04.2023 and the charge sheet has also been issued to the petitioner vide order dated 13.04.2023 (Annexure P-4) and as per the learned State counsel, out of 5 witnesses, 2 witnesses have been examined in the departmental proceedings.

190. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner along with other accused persons had demanded illegal gratification to dilute the case against Amir Singh, who was an accused in FIR no.946/2022 registered at Police Station Industrial Area, Panipat.

191. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and

facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated

expeditiously.

192. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed but a complete copy of the same has not been annexed and the charges have not been framed as yet and thus, the law laid down by the Hon'ble Division Bench of this Court in the case of **Paramjit Kaur** (*supra*), the relevant portion of which has been reproduced in para 16 of the present order would apply in the present case, inasmuch as, in the said case it was observed that the charge-sheet of the criminal case was not placed before the learned Single Judge, thus, in the said circumstances, the argument of the appellant therein that the basis of the departmental proceedings and criminal trial was the same was held to be neither substantiated nor established. Moreover, in the present case, since complete copy of report under Section 173 CrPC has not been annexed, thus, it cannot be said with absolute certainty that charge in the criminal case and that in the departmental proceedings is based on identical and similar set of facts and that there is no additional/extra charge in the departmental proceedings. It would be further relevant to note that in the present case the report under Section 173 CrPC has already been submitted and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in

Dr. Balwinder Kumar Sharma's (supra), the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings."

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

193. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

CWP-8095-2024

194. Brief facts of the present case are that the petitioner Sudhir Kumar was working as an Assistant Sub Inspector in the Haryana Police and the petitioner was made an accused in FIR No.2 dated 23.01.2024 registered

under Section 7 of the Prevention of Corruption Act and Section 384 of IPC (Sections 13(1)(b), 13(2) of PC Act have been added later on), at Police Station ACB Karnal, District Anti Corruption Bureau, Haryana, on the complaint made by one Nanak Singh on the allegations that the petitioner had demanded bribe to dilute the case against the brother of the complainant namely Sher Singh who was stated to be involved in an offence under the NDPS Act and regarding the same, an amount of Rs.20,000/- was paid by the complainant to the petitioner, regarding which there was recording of the demand with the complainant and another amount of Rs.30,000/- was being demanded by the petitioner from the complainant regarding which a raid was conducted and the petitioner was caught red handed while accepting the said amount of Rs.30,000/- as bribe money by the raiding party. Report under Section 173 Cr.P.C. has been filed and a copy of the same has been annexed as Annexure P-6. It has been fairly stated by learned counsel for the petitioner that the charges in the criminal case have not been framed as yet. The departmental proceedings have also been initiated against the petitioner and in the said departmental proceedings, the details of the allegations have been mentioned in Annexure P-3. No witness has been examined in the departmental proceedings as stated by the learned State Counsel.

195. From the above-said facts, it is apparent that the primary issue in the criminal case is as to whether the petitioner had demanded illegal gratification from the complainant-Nanak Singh in order to dilute the case against the brother of Nanak Singh i.e. Sher Singh and for the same, he has accepted Rs.20,000/- for which, there was a recording and further an amount of Rs.30,000/- was recovered from him in a raid conducted by the raiding

party.

196. In the earlier part of the judgment, this Court after considering the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court in various judgments had observed that apart from other factors one of the primary factors which the Court is to consider before considering as to whether the evidence of the common witnesses in the departmental proceedings is to be kept in abeyance till their examination in the criminal case, is to see as to whether complicated questions of law and facts are involved in the case or not. The judgments which were relied upon by this Court were those of Hon'ble Supreme Court in the case of **Capt. M. Paul Anthony (supra)**, the relevant portion of which had been reproduced in para 5 of the present order; the judgment of Hon'ble Supreme Court in the case of **Indian Overseas Bank, Anna Salai and Anr (supra)**, the relevant portion of which had been reproduced in para 6 of the present order; the judgment of the Hon'ble Supreme Court in the case of **State Bank of India and Ors. (supra)**, the relevant portion of which had been reproduced in para 8 of the present order; the judgment of Division Bench of this Court in ***LPA-470-2024***, in which the judgment of this Court in ***CWP-975-2024***, ***decided on 16.01.2024*** on the same issue was upheld and the relevant portion of the judgment of the Division Bench is reproduced in para 10 of the present order and also the judgment of the Division Bench of this Court in ***LPA-252-2021***, ***decided on 23.07.2021***, the relevant portion of which has been reproduced in para 12 of the present order. No complicated question of law or fact has been brought to the notice of this Court nor any judgment has been cited by the counsel for the petitioner to show that the facts of the present case give rise

to complicated question(s) of law or facts. This Court is of the opinion that no complicated question(s) of law or facts arise in the present case so as to fulfill one of the essential ingredients for considering stay of departmental proceedings. Further, no special facts arise in the present case, which are required to be mentioned, as per the law laid down by the Hon'ble Supreme Court in **Kendriya Vidyalaya Sangathan & Ors (supra)** warranting stay of departmental proceedings, rather the allegations against the petitioner are such that the departmental proceedings are required to be culminated expeditiously.

197. It would be relevant to note that in the criminal case, the report under Section 173 Cr.P.C. as noticed hereinabove, has already been filed and the statements of all the witnesses under Section 161 CrPC have already been recorded and a copy of the same has been given to the petitioner/accused and it is for the prosecution to prove the case against the petitioner by relying upon the evidence of the witnesses whose statements have already been recorded under Section 161 CrPC and the documents which form a part of the report under Section 173 CrPC and thus, the plea of prejudice raised is misconceived. The Division Bench of this Court in **Dr.Balwinder Kumar Sharma's (supra)**, the relevant portion of which has been reproduced in para 14 of the present order, had observed as under: -

"Therefore, there is no question of any disclosure of defence in the departmental proceedings. As far as the various provisions of [Prevention of Corruption Act, 1988](#) are concerned, most of the provisions are to be proved by the prosecution during the course of trial except the one concerning "known sources of income", which again is within the special

knowledge of accused-petitioner. Hence, there seems to be no justification in the prayer made by petitioner for staying of disciplinary proceedings.”

The SLP against the said judgment has been withdrawn. Thus, keeping in view the principles enumerated in paragraph 17 of the present judgment and the abovesaid facts, there is no ground to accept the argument of learned counsel for the petitioner to the effect that till the time common witnesses are examined in the criminal case, the said witnesses should not be examined in the departmental proceedings and thus, the writ petition being meritless, deserves to be dismissed and is accordingly, dismissed.

198. It is made clear that this Court has not opined on the merits of the allegations either in the criminal proceedings or in the departmental proceedings and the trial Court in the criminal case as well the competent authority in the departmental proceedings would consider and adjudicate / decide the same independently, in accordance with law.

April 10, 2024
naresh.k/pawan/davinder

(VIKAS BAHL)
JUDGE

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