



2025:DHC:10574-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 12.11.2025***
Judgment pronounced on: 28.11.2025

+ **W.P.(C) 1264/2025, CM APPL. 6272/2025, CM APPL. 6274/2025 and CM APPL. 16438/2025**

RAJESH KUMAR SINGH & ORS.Petitioners

Through: **Mr. Vikas Singh, Senior Advocate along with Mr. Varun Singh, Ms. Deepeika Kalia, Ms. Kajal Gupta and Ms. Somesa Gupta, Advocates.**

versus

LOKPAL OF INDIARespondent

Through: **Mr. Nishant R. Katneshwarkar & Mr. Vijay Singh, Advocates.**

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Writ Petition has been filed under Article 226 of the **Constitution of India**¹ challenging the **Order dated 06.01.2025**² passed by the learned **Lokpal of India**³ in Complaint No. 162/2024, as well as the consequential Notices dated 07.01.2025 issued to the Petitioners under Section 20(3) of the **Lokpal and Lokayuktas Act**,

¹ Constitution

² Impugned Order

³ Lokpal/Respondent



2013⁴.

2. At the outset, it is noted that after the filing of this Petition, this Court passed an interim Order dated 31.01.2025 directing that any further orders passed by the Respondent would remain subject to the outcome of the present Petition. Subsequently, on an application moved by the Petitioners, this Court, *vide* Order dated 20.03.2025, directed that the Order dated 06.01.2025, the Notices dated 07.01.2025, the Order dated 04.03.2025, and all proceedings in Complaint No. 162/2024 pending before the learned Lokpal shall remain in abeyance until further orders.

BRIEF FACTS:

3. The conspectus of facts, to the extent material and germane to the present proceedings, is encapsulated in the following manner:

- I. Pursuant to a Complaint dated 04.07.2024, the Full Bench of the Lokpal, by Order dated 19.07.2024, purportedly in exercise of its powers under Section 20(1)(a) of the Lokpal Act, directed the **Central Bureau of Investigation**⁵ to conduct a **Preliminary Inquiry**⁶ into the allegations set out therein. The said complaint levelled wide-ranging charges of irregularities in recruitment and promotions within the **National Productivity Council**⁷, an autonomous body under the administrative control of the **Department for Promotion of Industry and Internal Trade**⁸.

⁴ The Lokpal Act

⁵ CBI

⁶ PI

⁷ NPC

⁸ DPIIT



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II. The allegations as reproduced and relied upon in the Impugned Order are broadly the following:

- a) Serious irregularities had been committed in the recruitment and promotion of officers and staff in NPC over several preceding years, in violation of the NPC Service Rules (in force since 01.04.1994) and the governing Administrative Instructions.
- b) The promotions carried out on 28.03.2023, following **Departmental Promotion Committee**⁹ were in breach of DoPT guidelines and undertaken in undue haste, and disregarded mandatory procedural requirements.
- c) Such promotions resulted in the supersession of officers by juniors who were allegedly 10-15 years below them in service, enabled through an interview process which allocated 50% weightage to interviews.
- d) Two staff members were irregularly promoted from Pay Level-2 to Pay Level-6 in one step, and certain recruitments to the staff cadre were contrary to Administrative Instruction Nos. 303/81 and 431/87.
- e) Acting on a complaint, the DPIIT constituted a **High Power Committee**¹⁰ comprising senior officers of the Ministry, which examined the March 2023 promotions and recommended that the promotions to the posts of Deputy Director, Director Grade-I and Director Grade-II be set aside. The HPC made various other

⁹ DPC
¹⁰ HPC



recommendations.

- f) Petitioner No. 1, who was then Secretary, DPIIT, instead of implementing the HPC recommendations, forwarded the HPC Report for consideration before the Governing Body of NPC. During the 114th Governing Body Meeting held on 26.02.2024, a contrary proposal was put forth by the then Director General, NPC, recommending that the 2023 promotions not be set aside on the stated ground that such action might demotivate NPC officials.

- III. The CBI submitted its **Preliminary Inquiry Report**¹¹ on 20.09.2024, along with documents, statements of witnesses, and comments submitted by the concerned **Respondent Public Servants**¹² being RPS-1 (Rajesh Kumar Singh), RPS-2 (S. Gopalakrishnan) and RPS-4 (Sundeep Kumar Nayak), who are the Petitioner Nos. 1-3 herein (hereinafter referred to as “Petitioners”).
- IV. Thereafter, comments of the Competent Authority in DPIIT, duly approved, were forwarded to the learned Lokpal by letter dated 09.12.2024. As the Inquiry Officer did not furnish his observations on the comments of the Petitioners and the Competent Authority, the learned Lokpal, by Order dated 12.12.2024, directed the Inquiry Officer to do so.
- V. *Vide* the Order dated 06.01.2025, impugned herein, the learned Lokpal, after having perused the PI Report, the comments of the concerned RPSs, the comments of the Competent Authority and

¹¹ PI Report

¹² RPS



the material accompanying the PI Report, recorded that while certain allegations were recorded as not substantiated by the Inquiry Officer, the existence of procedural breaches and other material recorded in the PI Report and associated files *prima facie* justified a deeper probe into specified aspects of the complaint. Thereafter, in exercise of the provisions of Section 20(3) of the Lokpal Act, the learned Lokpal directed that notice be issued to the concerned RPSs/ Petitioners herein, to the Inquiry Officer and to the Complainant, and listed the matter for further proceedings.

- VI. In pursuance of the said Order, the Impugned Notice dated 07.01.2025 were issued to the Petitioners.
- VII. The Petitioners have sought to challenge the foundational Order dated 06.01.2025, passed by the learned Lokpal and the consequential notices dated 07.01.2025.

CONTENTIONS OF THE PETITIONERS:

4. Learned Senior Counsel appearing for the Petitioners would contend that the Impugned Order is vitiated for breach of the Principles of Natural Justice, as the Respondent formed a *prima facie* opinion against Petitioner Nos. 1 to 3 without granting them any opportunity of being heard, contrary to the mandate of Section 20(3) of the Lokpal Act. It would be further submitted that the Impugned Order itself contains definitive *prima facie* findings, recorded even before issuing the Notice dated 07.01.2025, rendering those notices a mere empty formality and evidencing a pre-determined exercise of jurisdiction.



5. Learned Senior Counsel appearing for the Petitioners would contend that the complaint itself was not maintainable under the Lokpal Act, as it does not disclose the commission of any offence under the **Prevention of Corruption Act, 1988**¹³, which is a statutory precondition for invoking the learned Lokpal's jurisdiction. Learned Senior Counsel for the Petitioners, in support of the above submission, would rely on the scheme of the Lokpal Act as well as the Judgment of this Court in *Vinod Kumar Kataria v. CVO, MOC & Ors.*, to contend that disclosure of an offence under the PC Act is mandatory.

6. Learned Senior Counsel for the Petitioners would further submit that the complaint form filed before the learned Lokpal itself demonstrates the absence of any allegation of corruption, inasmuch as, the column requiring the complainant to specify the provision of the PC Act said to have been violated, has been left entirely blank, and therefore, it reinforces the Petitioners' contention that no offence under the PC Act has been alleged.

7. Learned Senior Counsel for the Petitioners would contend that a bare perusal of the allegations in the complaint would evidence that they were omnibus in nature and not in respect of any particular person, delineating any specific offences committed by a particular person.

8. It would be submitted by the learned Senior Counsel that at best, the complaint discloses allegations of procedural or administrative irregularities in recruitment and promotion within NPC, which, even if assumed to be correct, do not amount to corruption as defined in the PC Act.

¹³ PC Act



9. Learned Senior Counsel for the Petitioners would further submit that the proceedings before the Lokpal, therefore, amount to a roving and fishing inquiry, and given the penal nature of the PC Act, strict construction of its provisions is warranted, and in the absence of any specific allegation of corruption, the complaint cannot sustain the impugned proceedings.

CONTENTIONS OF THE RESPONDENT:

10. **Per contra**, learned counsel for the learned Lokpal would contend that the Impugned Notices is merely in the nature of a show-cause notice and does not determine any rights of the parties. Reliance would be placed upon the decisions of the Hon'ble Supreme Court in ***Kavi Arora v. SEBI***¹⁴ and ***CCE v. Krishna Wax (P) Ltd.***¹⁵, to urge that a writ petition challenging interlocutory or show-cause order is not maintainable.

11. He would further contend that, in any event, by virtue of the Order dated 04.03.2025, the Petitioners herein would now be able to advance their contentions and the learned Lokpal could very well decide to close the proceedings in exercise of its power under Section 20(3) of the Lokpal Act.

12. He would thus submit that, in sum, the present Writ Petition is premature and, on that ground, would need to be dismissed.

ANALYSIS:

13. We have heard the learned counsel for the parties and, with their able assistance, perused the record and the relevant provisions of

¹⁴ 2022 SCC OnLine SC 1217

¹⁵ (2020) 12 SCC 572



the Lokpal Act.

14. The primary question that arises for consideration is whether, in the facts and circumstances of the present case, the learned Lokpal was justified in invoking Section 20 of the Lokpal Act and, further, whether the Impugned Notices issued to the Petitioners were in compliance with the mandate of Section 20(3) of the Lokpal Act.

15. At the outset, it becomes apposite to advert to the decision of this Court in *Vinod Kumar Kataria v. CVO, MOC & Ors.*¹⁶, wherein the legislative background, purpose, and structural design of the Lokpal Act, as also the breadth and limitations of judicial review under Article 226 of the Constitution, have been comprehensively examined. The judgment delineates the parameters within which the learned Lokpal is to exercise its statutorily conferred inquisitorial jurisdiction, and concomitantly, circumscribes the scope of interference by this Court in the exercise of its writ jurisdiction. The relevant excerpts from the said decision are extracted herein below for ready reference:

“18. It is pertinent to observe that the Lokpal Act establishes a self-contained and comprehensive statutory mechanism exclusively for the inquiry and investigation into allegations of corruption against public servants. The scheme ensures that the jurisdiction of the learned Lokpal is invoked in matters pertaining to alleged corrupt conduct.

19. A conjoint reading of the *Statement of Objects and Reasons* of the Lokpal Act, and the principles embodied in the **United Nations Convention Against Corruption**, to which India is a party, makes the legislative intent abundantly clear. The UNCAC, and in particular Article 36, obliges signatory States to establish autonomous bodies for the investigation of corrupt practices, including bribery and misuse of authority.

20. In furtherance of these international obligations, and by virtue of the enabling power under **Article 253** of the Constitution of

¹⁶ 2025:DHC:9646-DB



India, the Parliament enacted the Lokpal Act to give domestic effect to the commitments arising under the UNCAC. The Lokpal Act thus constitutes a legislative measure directed solely at offences involving dishonest gain and corrupt practices by persons occupying public office(s). The enactment was conceived to create an independent and credible institution to combat serious acts of corruption and abuse of public office and not to examine matters of mere procedural deviation or administrative lapse.

21. A learned Single Judge of this Court, in *Shibu Soren v. Lokpal of India*, undertook an examination of the background, object, and scheme of the Lokpal Act, as well as the scope of the High Court's jurisdiction while scrutinizing the mechanisms and procedures established under the said Act. The findings and reasoning in that judgment were subsequently affirmed by a Co-ordinate Bench of this Court. We consider it appropriate to reproduce the relevant portion of the said judgment, which reads as under:

“9. The Apex Court in *State of Madhya Pradesh. v. Ram Singh*, (2000) 5 SCC 88 has defined that corruption in a civilised society is a disease like cancer, which if not detected in time, is sure to malignise the polity of the country leading to disastrous consequences. It is termed as a plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. The socio-political system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence — shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society.

30. It has also been held by the Apex Court that the efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. [Refer to:— *Swatantar Singh v. State of Haryana*, (1997) 4 SCC 14; *K.C. Sareen v. CBI*, (2001) 6 SCC 584; *Subramanian Swamy v. Manmohan Singh*, (2012) 3 SCC 64; *State of Gujarat v. Justice R.A. Mehta(Retd.)*, (2013) 3 SCC 1].



31. The Lokpal and Lokayuktas Act, 2013 has been brought for establishment of a body of Lokpal for the Union and Lokayukta for the States to inquire into allegations of corruption against public functionaries. A perusal of the Statement of Objects and Reasons of the Lokpal and Lokayuktas Act indicates that the Administrative Reforms Commission way back in the year 1966 gave a report “Terms of Redressal of Citizens Grievances” recommending setting up of an institution of Lokpal at the Centre. The introduction to the Act reveals that the Lokpal and Lokayuktas Act is an anti-corruption law in India which has been established and the office of the Lokpal and Lokayukta has been established to inquire into corruption against public functionaries and for matters connecting them. The Act creates a mechanism for receiving and initiating complaints against public functionaries including the Prime Minister, Ministers etc. and prosecute them in a time bound manner.

33. A perusal of the above Section indicates the establishment of a Lokpal consisting of a Chairperson who is or has been a Chief Justice of India or is or has been a Judge of the Supreme Court or an eminent person who fulfills the eligibility specified in Section 3(3)(b) and the Members have to be judicial members, i.e., the Person must be either a sitting or a retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court. The Chairperson of the Lokpal has to be a sitting or retired Chief Justice of India or a sitting or a retired Judge of the Supreme Court or a person of impeccable integrity and outstanding ability having special knowledge and expertise of not less than 25 years in the matters of anti-corruption policy, public administration, vigilance, finance including insurance, banking, law and management.

34. The Act also provides that the Chairperson or a Member of the Lokpal shall not be Member of Parliament or a Member of the Legislature of any State or Union Territory and shall not be a person convicted of any offence involving moral turpitude and any person who is appointed as a Member of the Panchayat or Municipality or a person who has been removed or dismissed from service of the Union or the State or any person who is affiliated with the political party or carries on business or practice any profession is ineligible to be appointed as Lokpal unless the person resigns from the said practice or profession.



35. A perusal of the above Section shows that the institution of Lokpal is insulated from any outside pressure and it is a completely independent body and acts uninfluenced by any kind of pressure. A reading of the Act shows that the Act has been primarily brought in to instill confidence in the public regarding the integrity of persons holding high offices in the country including the Prime Minister. The Act provides for checks and balances also to ensure that persons holding high offices are not unnecessarily harassed by making stale complaints. Chapter VII of the Act deals with the procedure in respect of the preliminary inquiry and investigation.

37. A perusal of Section 20 of the Act shows that the Lokpal on the receipt of the complaint does not immediately order for investigation by an agency including CBI unless there exists a *prima facie* case. A perusal of Section 20 of the Act also indicates that instead of ordering the investigation, the Lokpal first orders for a preliminary inquiry to ascertain whether there exists a *prima facie* case or not.

38. On receipt of the direction to conduct a preliminary inquiry, the agency appointed conducts preliminary inquiry on the basis of the material information and documents which it can collect. The agency also can seek comments on the allegations made against the public servant. The agency has to give a report within a period of 90 days and can seek for further time of 90 days. Section 20(1)(a) and Section 20 (3)(a) of the Act both mandates that before directing investigation to be done by any agency or the Delhi Special Police Establishment, the Lokpal has to call for explanation from the public servants so as to determine whether there exists a *prima facie* case for investigation. After hearing the public servant it is always open for the Lokpal to direct closure of the proceedings against the public servant and proceed against the complainant under Section 46(1) of the Act against the complainant for filing a false complaint. The facts of the present case reveal that a notice has been given to the Petitioner under Section 20(3) of the Act when the Petitioner chose to approach this Court by filing the instant writ petition. The contention of the Petitioner primarily is that the complaint on the face of it does not disclose any offence which can be prosecuted under the Act.



43. The whole purpose of the Act is to ensure purity in public service. In the process of statutory construction, the court must construe the Act before it and the attempt should always be to further the approach of the Act and to make it workable. It is trite law that if the choice is between two interpretations, the narrower of which will fail to achieve the purpose of Legislation then such construction or interpretation of the Act must be avoided as it will reduce the Legislation to futility. The Statute is designed to be workable and the interpretation thereof of a Court should be to secure that object unless crucial omission or clear direction makes that end untenable. [Refer to:— *Whitney v. Inland Revenue Commissioner*, [1926] A.C. 37].

47. It is well settled that writ courts while exercising jurisdiction under Article 226 of the Constitution of India do not interfere if the matter is pending adjudication before an authority unless it is a case of patent lack of jurisdiction or where the nature of inquiry is for allegations which are so absurd and inherently improbable on the basis of which no prudent person can reach a just conclusion or where the proceedings have been initiated are so manifestly attended with malice or the proceedings are initiated with the intention of wrecking vengeance on a person with a view to spite him due to any political or oblique motives.

48. It is also well settled that the writ courts while exercising jurisdiction under Article 226 of the Constitution of India should not impinge on the mechanism provided under the Act unless as stated earlier when there is a patent lack of jurisdiction or that the complaint is vexatious which requires interference. Writ Courts cannot substitute themselves as an authority which has been vested with a duty under the Statute to consider as to whether there is material in it or not for ordering investigation. The writ petition, therefore, is premature in nature."

(emphasis supplied)

22. The Lokpal Act provides a complete and self-contained mechanism for inquiry into allegations of corruption against public servants. The scheme of the Act contemplates a Preliminary Inquiry under Section 20(1), to be followed by an Investigation only if the learned Lokpal, upon examination of the preliminary material, is satisfied that sufficient grounds exist to proceed



further. The subsequent provisions of Section 20 of the Lokpal Act deal with the contingencies that may arise during such inquiries and investigations and prescribe the manner in which the proceedings are to be conducted both during and after the investigation by the competent authority.

24. It must be borne in mind that the scope of judicial review under Article 226 of the Constitution is fundamentally distinct from that of an appellate jurisdiction. The power conferred upon the High Courts under Article 226 is primarily supervisory in nature, intended to ensure that statutory or quasi-judicial authorities act within the bounds of their jurisdiction, adhere to the principles of natural justice, and exercise their powers in a fair, reasonable, and lawful manner. It is not designed to enable the Court to reappreciate evidence, reassess factual findings, or substitute its own view for that of a competent authority merely because another view is possible.

25. The Court, while exercising its writ jurisdiction, does not sit as a court of appeal over the decision of an expert or specialized body. The judicial function in such cases is confined to examining whether the decision-making process was fair, rational, and in accordance with law, and not whether the conclusion reached by the authority is factually or technically correct. Where a decision has been rendered by a statutory expert body, such as in the present case, by the learned Lokpal after due consideration of the CVC's Preliminary Inquiry Report, this restraint assumes even greater significance. Judicial interference is warranted only in cases where the authority has acted without jurisdiction, committed a grave procedural irregularity, ignored the basic tenets of natural justice, or arrived at a conclusion that is manifestly arbitrary, perverse, or unsupported by any material on record.

26. Consequently, while exercising the power of judicial review under Article 226 of the Constitution, it would be neither prudent nor appropriate for this Court to delve into the merits of the allegations or undertake a fresh assessment of the factual matrix. Unless the matter before the Court raises issues of grave illegality, jurisdictional error, or palpable *mala fides* warranting judicial intervention, the Court must defer to the findings of the competent statutory and expert authorities entrusted by law to inquire into such allegations of corruption and administrative misconduct.

27. A three-Judge Bench of the Hon'ble Supreme Court, in ***Vishal Tiwari (Adani Group Investigation) v. Union of India***, has comprehensively summarized the parameters governing the exercise of writ jurisdiction, particularly in cases where expert and technically equipped bodies are entrusted with specific statutory duties. Although the observations in that case were made in the



context of the Securities and Exchange Board of India, the principles laid down are of general application and provide valuable guidance on the limits of judicial intervention in matters involving specialized authorities. The relevant portion of the said Judgment is reproduced below:

“17. From the above exposition of law, the following principles emerge:

(a) Courts do not and cannot act as appellate authorities examining the correctness, suitability, and appropriateness of a policy, nor are courts advisors to expert regulatory agencies on matters of policy which they are entitled to formulate;

(b) The scope of judicial review, when examining a policy framed by a specialised regulator, is to scrutinise whether it : (i) violates the fundamental rights of the citizens; (ii) is contrary to the provisions of the Constitution; (iii) is opposed to a statutory provision; or (iv) is manifestly arbitrary. The legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review;

(c) When technical questions arise — particularly in the domain of economic or financial matters — and experts in the field have expressed their views and such views are duly considered by the statutory regulator, the resultant policies or subordinate legislative framework ought not to be interfered with;

(d) SEBI's wide powers, coupled with its expertise and robust information-gathering mechanism, lend a high level of credibility to its decisions as a regulatory, adjudicatory and prosecuting agency; and

(e) This Court must be mindful of the public interest that guides the functioning of SEBI and refrains from substituting its own wisdom in place of the actions of SEBI.

We have made a conscious effort to keep the above principles in mind while adjudicating the petitions, which contain several prayers that require the Court to enter SEBI's domain.”

28. Recently, the Hon'ble Supreme Court once again reiterated the settled scope and ambit of the High Court's writ jurisdiction under Article 226 of the Constitution in *Ajay Singh v. Khacheru*. The Court, while emphasizing judicial restraint in matters involving factual determinations by competent authorities, clearly delineated the limited grounds on which interference under Article 226 may be justified. The relevant portion of the judgment reads as follows:

“16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence



and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.

17. On the said settled proposition of law, we must make reference to the judgment of this Court in **Chandavarkar Sita Ratna Rao v. Ashalata S. Guram** [**Chandavarkar Sita Ratna Rao v. Ashalata S. Guram**, (1986) 4 SCC 447]. The relevant portion thereof reads as under: (SCC p. 458, para 16)

“16. ... It is well settled that the High Court can set aside or ignore the findings of fact of an appropriate court if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion which the courts below have come or in other words a finding which was perverse in law. This principle is well settled. In D.N. Banerji v. P.R. Mukherjee [D.N. Banerji v. P.R. Mukherjee, (1952) 2 SCC 619] it was laid down by this Court that unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Articles 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the court has not misdirected itself either on law or on fact, then in exercise of the power under Article 226 or Article 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities.”

18. The abovesaid proposition of law was reiterated in **Shamshad Ahmad v. Tilak Raj Bajaj** [**Shamshad Ahmad v. Tilak Raj Bajaj**, (2008) 9 SCC 1], wherein it was observed that: (SCC pp. 10-11, para 38)

“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to



correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law.”

19. Observations similar in nature were made in ***Krishnanand v. State of U.P.*** [***Krishnanand v. State of U.P.***, (2015) 1 SCC 553: (2015) 1 SCC (Civ) 584], wherein it was held that: (SCC p. 557, para 12)

“12. The High Court has committed an error in reversing the findings of fact arrived at by the authorities below in coming to the conclusion that there was a partition. No doubt, the High Court did so in exercise of its jurisdiction under Article 226 of the Constitution. *It is a settled law that such a jurisdiction cannot be exercised for reappreciating the evidence and arrival of findings of facts unless the authority which passed the impugned order does not have jurisdiction to render the finding or has acted in excess of its jurisdiction or the finding is patently perverse.*”

(emphasis supplied)

20. In our considered view, the High Court has committed an error of law and facts in setting aside the concurrent findings in both the impugned judgment and order [***Khacheru v. State of U.P.***, 2013 SCC OnLine All 16168]’ [***Khacheru v. State of U.P.***, 2013 SCC OnLine All 16169] . There was no basis for the High Court to ignore the findings of the authorities and come to its own conclusion by appreciating the evidence on record. The same was outside the purview of Article 226 of the Constitution of India in the absence of any perversity or illegality afflicting the findings of the authorities.”

(emphasis added)

16. For a proper and complete adjudication of the issues arising in the present matter, it is considered necessary to reproduce Section 20 of the Lokpal Act, as the scope and application of this provision lie at the heart of the controversy before us. The provision reads as follows:

“20. Provisions relating to complaints and preliminary inquiry



and investigation.- (1) The Lokpal on receipt of a complaint, if it decides to proceed further, may order—

- (a) preliminary inquiry against any public servant by its Inquiry Wing or any agency (including the Delhi Special Police Establishment) to ascertain whether there exists a prima facie case for proceeding in the matter; or
- (b) investigation by any agency (including the Delhi Special Police Establishment) when there exists a prima facie case:

Provided that the Lokpal shall if it has decided to proceed with the preliminary inquiry, by a general or special order, refer the complaints or a category of complaints or a complaint received by it in respect of public servants belonging to Group A or Group B or Group C or Group D to the Central Vigilance Commission constituted under sub-section (1) of section 3 of the Central Vigilance Commission Act, 2003 (45 of 2003):

Provided further that the Central Vigilance Commission in respect of complaints referred to it under the first proviso, after making preliminary inquiry in respect of public servants belonging to Group A and Group B, shall submit its report to the Lokpal in accordance with the provisions contained in sub-sections (2) and (4) and in case of public servants belonging to Group C and Group D, the Commission shall proceed in accordance with the provisions of the Central Vigilance Commission Act, 2003 (45 of 2003):

Provided also that before ordering an investigation under clause (b), the Lokpal shall call for the explanation of the public servant so as to determine whether there exists a *prima facie* case for investigation:

Provided also that the seeking of explanation from the public servant before an investigation shall not interfere with the search and seizure, if any, required to be undertaken by any agency (including the Delhi Special Police Establishment) under this Act.

(2) During the preliminary inquiry referred to in sub-section (1), the Inquiry Wing or any agency (including the Delhi Special Police Establishment) shall conduct a preliminary inquiry and on the basis of material, information and documents collected seek the comments on the allegations made in the complaint from the public servant and the competent authority and after obtaining the comments of the concerned public servant and the competent authority, submit, within sixty days from the date of receipt of the reference, a report to the Lokpal.

(3) A bench consisting of not less than three Members of the Lokpal shall consider every report received under sub-section (2) from the Inquiry Wing or any agency (including the Delhi Special Police Establishment), and after giving an opportunity of being heard to the public servant, decide whether there exists a *prima facie* case, and proceed with one or more of the following actions,



namely:—

- (a) investigation by any agency or the Delhi Special Police Establishment, as the case may be;
- (b) initiation of the departmental proceedings or any other appropriate action against the concerned public servants by the competent authority;
- (c) closure of the proceedings against the public servant and to proceed against the complainant under section 46.

(4) Every preliminary inquiry referred to in sub-section (1) shall ordinarily be completed within a period of ninety days and for reasons to be recorded in writing, within a further period of ninety days from the date of receipt of the complaint.

(5) In case the Lokpal decides to proceed to investigate into the complaint, it shall direct any agency (including the Delhi Special Police Establishment) to carry out the investigation as expeditiously as possible and complete the investigation within a period of six months from the date of its order:

Provided that the Lokpal may extend the said period by a further period not exceeding of six months at a time for the reasons to be recorded in writing.

(6) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), any agency (including the Delhi Special Police Establishment) shall, in respect of cases referred to it by the Lokpal, submit the investigation report under that section to the court having jurisdiction and forward a copy thereof to the Lokpal.

(7) A bench consisting of not less than three Members of the Lokpal shall consider every report received by it under sub-section (6) from any agency (including the Delhi Special Police Establishment) and after obtaining the comments of the competent authority and the public servant may—

- (a) grant sanction to its Prosecution Wing or investigating agency to file charge-sheet or direct the closure of report before the Special Court against the public servant;
- (b) direct the competent authority to initiate the departmental proceedings or any other appropriate action against the concerned public servant.

(8) The Lokpal may, after taking a decision under sub-section (7) on the filing of the charge-sheet, direct its Prosecution Wing or any investigating agency (including the Delhi Special Police Establishment) to initiate prosecution in the Special Court in respect of the cases investigated by the agency.

(9) The Lokpal may, during the preliminary inquiry or the investigation, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or, as the case may be, investigation as it deems fit.

(10) The website of the Lokpal shall, from time to time and in such



manner as may be specified by regulations, display to the public, the status of number of complaints pending before it or disposed of by it.

(11) The Lokpal may retain the original records and evidences which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it or by the Special Court.

(12) Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or investigation (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified by regulations.”

(emphasis supplied)

17. The statutory architecture embodied in Chapter VII of the Lokpal Act delineates a calibrated and sequential procedure for the receipt, scrutiny, and progression of complaints brought before the learned Lokpal. In the present case, upon receipt of the complaint dated 04.07.2024, the learned Lokpal invoked Section 20(1)(a) and directed the CBI to undertake a Preliminary Inquiry, an exercise that is inquisitorial in character yet circumscribed by defined procedural safeguards. The objective of such a preliminary inquiry is singular and limited to ascertaining whether the allegations disclose the existence of a *prima facie* case warranting further action. The formation of such *prima facie* satisfaction is a jurisdictional *sine qua non*, without which the learned Lokpal is precluded from traversing beyond the preliminary stage.

18. This procedural framework attains particular significance when viewed in light of the far-reaching inquisitorial and investigative powers vested in the learned Lokpal under Section 20. The exercise of these powers carries immediate and serious civil, reputational, and potentially criminal consequences for the public servant concerned. It is for this reason that the statute embeds, at multiple stages, mandatory



safeguards ensuring fairness, transparency, and adherence to the Principles of Natural Justice.

19. The Record in the present matter indicates that the CBI, during the course of the inquiry, received comments from the concerned competent authority and the public servants, examined the documentary material produced, and thereafter tendered its PI Report. Until this stage, in the present case, the process remained within the statutory framework.

20. It is the subsequent stage, *namely*, the purported invocation of Section 20(3), that renders the Impugned Order legally vulnerable. A perusal of the Impugned Order demonstrates that the learned Lokpal, after setting out the factual matrix and making substantive observations on the merits of the allegations, proceeded to express categorical views that the matter warrants a “*deeper probe*” to “*unearth*” alleged illegalities “*bordering on corruption*”. Such language is neither tentative nor exploratory; it unmistakably conveys the crystallisation of a *prima facie* opinion. The relevant portions of the Impugned Order are reproduced below for reference:

“34. The conclusion drawn by Inquiry Officer that allegation 7 is not substantiated thus cannot be countenanced. In view whereof, *prima facie*, these allegations need further probe.

35. The inquiry officer in its final conclusion though admits shortcomings (which he states to be procedural) in the DPCs held for promotion to Group A and promotion and appointment of staff members, yet holds that the allegations are not substantiated. It is a settled principle of law that where the statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner - as expounded by the Supreme Court in *Chandra Kishore Jha Vs. Mahavir Prasad (1999) 8 SCC 266* (pr.17). In the case at hand, there are Rules and Administrative Instructions having force of law laying down the procedure for promotions and appointments. And the digression therefrom by the Respondent Public Servants including the General Body cannot be



said to be just and proper in law. It would not be a case of mere irregularity, to be excused and overlooked. On the contrary, *prima facie*, it suggests that a deeper probe is required to unearth the real cause for such hushing up the illegality bordering on corruption.

35. Before we proceed further, it is necessary to give an opportunity of being heard to the concerned Respondent Public Servant (RPS), in terms of Section 20(3) of the Lokpal and Lokayuktas Act, 2013 (Act). Resultantly, we direct issue of notice to the concerned RPS (named in the Preliminary Inquiry Report) as well as the Inquiry Officer and the complainant to remain present for the proposed hearing scheduled on 06.02.2025 at 11.30 a.m.

36. The complainant, if so chooses, may engage an authorized representative to espouse his cause so as not to reveal his identity.

37. The Registry is directed to issue notice to all concerned and ensure that complete relevant records along with the Preliminary Inquiry Report are served on the complainant forthwith with notice to appear personally or through his authorized representative/advocate for the scheduled date and if so desires, can file written submissions one week in advance. The notice issued to concerned party in terms of this order, shall clearly state that the record/documents accompanying the notice served upon him/her is to be kept confidential by all concerned pending inquiry, as per the mandate of the Act of 2013 and Rules framed thereunder.

38. The IO is directed to remain personally present along with relevant records on returnable date, to assist the Bench during hearing.

39. List the matter on 06.02.2025 at 11:30 a.m.”

21. Section 20(3) of the Lokpal Act mandates that, before the learned Lokpal forms any *prima facie* opinion, the concerned public servant must be afforded an opportunity of being heard. The statutory sequence is unequivocal that the hearing must precede the formation of the *prima facie* view. This is reinforced by the language of the provision, which expressly requires the Lokpal to “after giving an opportunity of being heard to the public servant, decide whether there exists a prima facie case”.



22. In the present case, however, the learned Lokpal has adopted a contrary course. The Notices dated 07.01.2025, purportedly issued for hearing the grievance of the RPSs, were served only after the learned Lokpal had already recorded definitive findings in the Impugned Order holding that a “*prima facie*” case existed against the Petitioners.

23. We are of the considered view that the protections embedded in the Lokpal Act occupy a central and indispensable position, and the statute must be implemented strictly in the manner mandated by Parliament. This principle stands unequivocally affirmed not only by binding judicial precedents but also by the very framework and legislative scheme of the Lokpal Act. The importance of these statutory safeguards, which have a direct bearing on the issues arising in the present case, is clearly examined in the judgment of this Court in *Mujahat Ali Khan v. Lokpal of India*¹⁷. The relevant excerpts of the said Judgement are reproduced herein below for ready reference:

“37. The statutory framework of Section 20 leaves no room for doubt that the requirement of affording an opportunity of hearing at the pre-investigation stage as well as at the post-investigation stage is mandatory. Section 20(3) explicitly provides that the learned Lokpal “shall”, after giving an opportunity of being heard to the concerned public servant, decide whether a *prima facie* case exists and thereafter proceed to direct an investigation.

38. The legislative intent in this regard is further evident from the structure of Section 20 itself. Even at the stage of Section 20(1), where the Lokpal decides to direct an investigation, as distinguished from ordering a preliminary inquiry under Section 20(1)(a), the third proviso thereof mandates that before such investigation is ordered, the Lokpal “shall” call for the explanation of the public servant so as to determine whether a *prima facie* case for investigation exists.

40. It is a well-settled principle of law that when a statute prescribes that a particular act must be done in a particular manner,

¹⁷ 2025:DHC:9986-DB



it must be done in that manner or not at all. This principle was first enunciated in *Taylor v. Taylor*. The said principle was subsequently affirmed by the Privy Council in *Nazir Ahmad v. Emperor*, and has since been consistently reiterated by the Hon'ble Supreme Court in numerous decisions, including *Deewan Singh v. Rajendra Pd. Ardevi* and *M.P. Wakf Board v. Subhan Shah*, thereby making it a well-established doctrine in Indian legal jurisprudence. The Hon'ble Supreme Court, in *Dhanajaya Reddy v. State of Karnataka*, observed on this doctrine in the following terms:

“26. Relying upon *Nazir Ahmad case* [AIR 1936 PC 253 (2)] and applying the principles laid down in *Taylor v. Taylor* [(1876) 1 Ch D 426] this Court in *Singhara Singh case* [AIR 1964 SC 358] held: (AIR p. 361, para 8)

“8. The rule adopted in *Taylor v. Taylor* [(1876) 1 Ch D 426] is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him.””

(emphasis supplied)

41. Further, a Constitution Bench of the Hon'ble Supreme Court in



*Public Interest Foundation v. Union of India*¹⁸, reaffirmed this principle while referring to its earlier precedents. The Court observed as under:

“99. In *D.R. Venkatachalam v. Transport Commr.*, (1977) 2 SCC 273, it was observed: (SCC p. 282, para 17)

“17. In ultimate analysis, the rule of construction relied upon by Mr Chitale to make the last mentioned submission is: ‘*Expressio unius est exclusio alterius.*’ This maxim, which has been described as ‘a valuable servant but a dangerous master’ (per Lopes, J., in Court of Appeal in *Colquhoun v. Brooks*, (1888) LR 21 QBD 52 (CA)) finds expression also in a rule, formulated in *Taylor v. Taylor*, (1875) LR 1 Ch D 426, (Ch D p. 430) applied by the Privy Council in *Nazir Ahmad v. King Emperor*, 1936 SCC OnLine PC 41, which has been repeatedly adopted by this Court. That rule says that an expressly laid down mode of doing something necessarily implies a prohibition of doing it in any other way.”

100. Similarly, in *State v. Sanjeev Nanda*, (2012) 8 SCC 450, this Court observed thus: (SCC p. 468, para 28)

“28. It is a settled principle of law that if something is required to be done in a particular manner, then that has to be done only in that way or not, at all. In *Nazir Ahmad v. King Emperor*, 1936 SCC OnLine PC 41, it has been held as follows: (SCC OnLine PC)

“... The rule which applies is a different and not less well recognised rule—namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all.”

101. Another judgment where this principle has been reiterated is *Rashmi Rekha Thatoi v. State of Orissa*, (2012) 5 SCC 690 wherein it was observed thus: (SCC p. 703, para 37)

“37. In this regard it is to be borne in mind that a court of law has to act within the statutory command and not deviate from it. It is a well-

¹⁸ (2019) 3 SCC 224



settled proposition of law what cannot be done directly, cannot be done indirectly. While exercising a statutory power a court is bound to act within the four corners thereof. The statutory exercise of power stands on a different footing than exercise of power of judicial review.””

42. The language employed in Section 20(3) of the Lokpal Act is peremptory and admits of no discretion. The legislative intent is that the *prima facie* satisfaction necessary for directing an investigation under the Act must be reached only after considering the explanation of the concerned public servant. Omission of this step, especially when it results in the registration of an FIR and the initiation of a criminal investigation, constitutes a violation of the statutory mandate and of the Principles of Natural Justice.

46. The Lokpal, being a quasi-judicial authority vested with powers that carry penal and stigmatic consequences, is duty-bound to act in strict conformity with the procedure prescribed by law. It must ensure that its process remains fair, transparent, and consistent with the principles of natural justice. Failure to adhere to these safeguards, particularly when the outcome entails serious civil and criminal consequences, strikes at the very root of administrative fairness and justice.”

(emphasis added)

24. At this stage, we further deem it appropriate to note that a close reading of the Impugned Order, wherein the justification for a deeper probe is articulated, reveals that the learned Lokpal did not record the statutorily mandated *prima facie* satisfaction in the manner required; instead, the reasoning is premised upon allegations “*bordering on corruption*”, a formulation that falls materially short of the statutory threshold. Section 20(3) cannot be actuated by suspicion, however grave, or by rhetorical apprehension; it must rest upon a crystallised *prima facie* conclusion formed after hearing the concerned public servants. Such a *prima facie* case must necessarily be in relation to the actual existence of an offence of corruption. The expression



“bordering on corruption” is neither here nor there. Once it is admitted that the allegations do not, in fact, cross the threshold of corruption, the mere assertion that they come close cannot satisfy the statutory requirement of establishing a *prima facie* case as mandated by law.

25. The edifice of Section 20(3) of the Lokpal Act thus rests upon a singular and indispensable fulcrum, *namely*, the existence of a duly recorded *prima facie* satisfaction, procedurally preceded by an opportunity of hearing to the concerned public servant. In the absence of these foundational requirements, which are conspicuously absent in the present case, the Impugned Order dated 06.01.2025, cannot be sustained in law.

26. It requires no reiteration that the learned Lokpal may, after granting a fair opportunity of hearing, disagree with the PI Report and proceed further. Yet such discretion is not unbounded. It is tethered to the statutory compass of Section 20(3) of the Lokpal Act. Unless the learned Lokpal first records a legally tenable *prima facie* satisfaction in accordance with law and only after hearing the concerned public servants, the power to proceed cannot be validly exercised. The failure to adhere to this statutory precondition vitiates the very substratum of the impugned action.

27. With respect to the first prayer of the Petitioners, which challenges the jurisdiction of the learned Lokpal to entertain Complaint No. 162/2024, it is noted that pursuant to the liberty granted by this Court *vide* Order dated 31.01.2025, the learned Lokpal heard the Petitioners and, thereafter, rejected the said objection *vide* its Order dated 04.03.2025. We clarify that we do not propose to examine



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the validity of the said Order in the present proceedings.

CONCLUSION:

28. In view of the foregoing discussion, we are of the considered opinion, the Impugned Order dated 06.01.2025, as well as the consequential Notices dated 07.01.2025 issued by the learned Lokpal, are in violation of the statutory requirement of affording a fair hearing to the concerned RPSs under Section 20(3) of the Lokpal Act. Accordingly, the present Writ Petition is allowed, and the Impugned Order dated 06.01.2025, along with the consequential Notices dated 07.01.2025, insofar as they concern the Petitioners, are quashed and set aside.

29. It is, however, made clear that the learned Lokpal shall be at liberty, if it so chooses, to proceed against the Petitioners, in accordance with law, strictly adhering to the procedure prescribed under Section 20 of the Lokpal Act.

30. The present Petition, along with pending application(s), if any, is disposed of in the above terms.

31. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 28, 2025/tk/sm/kr