



2026:DHC:2436



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

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Reserved on: 19th January, 2026
Pronounced on: 24th March, 2026

+ **W.P.(CRL) 1845/2025**

LALU PRASAD YADAV

.....Petitioner

Through: Mr. Kapil Sibal, Mr. Maninder Singh, Senior Advocates with Mr. Varun Jain, Mr. Navin Kumar, Mr. Sumit Singh, Ms. Aekta Vats, Ms. Aparajita Jamwal, Ms. Janvi Narang and Mr. Satish Kumar, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent

Through: Mr. S.V. Raju, ASG with Mr. D.P. Singh, ASG and SPP with Mr. Manu Mishra, Ms. Garima Saxena, Mr. Imaan Khera, Ms. Shreya Dutt, Mr. Samrat Goswami, Mr. Hitarth Raja, Ms. Aditi Andley, Advocates with Insp. Ramendra Diiman.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. This is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 [**“Cr. PC”**] for quashing of FIR No. RC2202022E0007 under sections 120-B of the Indian Penal Code, 1860 [**“IPC”**] read with Sections 11, 12, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 [**“PC**



Act” or “the Act”] (pre-2018 amendment) dated 18.05.2022 and charge sheets dated 07.10.2022, 01.07.2023 and 07.06.2024, filed in FIR/RC and also the quashing of the cognizance orders dated 27.02.2023, 22.09.2023 and 25.02.2025 along with consequential orders passed by learned Special Judge (PC Act).

Brief facts of the case:

2. A preliminary enquiry (PE No. 220/2021/E0002) was registered by CBI, EOU-IV, New Delhi on 23.09.2021 concerning alleged irregular appointments of Substitutes in Group-D posts in various Zonal Railways during the period 2004-2009. It was alleged that unknown public servants of the Indian Railways appointed and later regularized substitutes without adhering to the prescribed guidelines, without issuing any advertisement or public notice, and by showing undue haste in processing applications. Several appointees, though residents of Patna, Bihar, were appointed in distant Railway Zones such as Mumbai, Jabalpur, Kolkata, Jaipur and Hajipur, with applications that were improperly addressed yet processed and approved within a few days.

3. The enquiry revealed seven specific instances where land situated in Patna was transferred by the appointees or their family members to the family members of the petitioner, then Union Minister for Railways, or to M/s AK Infosystems Pvt. Ltd., a company later controlled by his family. These transactions included five sale deeds and two subsequent gift deeds in favour of Smt. Rabri Devi, Smt. Misha Bharti and Smt. Hema Yadav, daughters and wife of the



petitioner. In consideration of these transfers, twelve individuals or their relatives were allegedly appointed as substitutes in six different Railway Zones. The enquiry noted that the lands were purchased at prices significantly below prevailing circle rates, often shown as paid in cash, and later gifted at substantially higher values.

4. In total, about 1,05,292 sq. ft. of land, presently valued at approximately Rs. 4.39 crore as per current circle rates, was allegedly acquired by the family members of the petitioner through these transactions. The enquiry *prima facie* indicated abuse of official position by the petitioner to obtain pecuniary advantage for his family in exchange for railway appointments, with the beneficiaries of appointments also acting as participants in the alleged offence. Accordingly, FIR No. RC2202022E0007 was filed at Police Station EO-II Delhi. Subsequently, chargesheet was filed under Sections 120-B of IPC read with Sections 11, 12, 13(1)(d) and 13(2) of the PC Act, 1988 (pre-2018 amendment), against the petitioner, his family members, the appointees, railway officials and other private individuals.

Submissions on Behalf of the Petitioner:

5. Mr. Kapil Sibal learned Senior Counsel for the Petitioner, submitted that the Petitioner has been subjected to grave persecution and prolonged harassment on account of a wholly mala fide and vexatious investigation. The alleged offences pertain to the period between 2004 and 2009, whereas the impugned RC/FIR dated 18.05.2022 came to be registered after an unexplained delay of nearly



fourteen years. It was urged that for the very same allegations, the CBI through its various zones had earlier conducted investigations between 2009 and 2014 by registering PEs and RCs, which culminated in closure reports that were accepted by the competent courts by separate judicial orders.

6. It was further submitted that despite the aforesaid earlier investigations, the Respondent-CBI initiated a fresh preliminary enquiry on 23.09.2021 by concealing the existence of its previous enquiries. After conducting the said preliminary enquiry for nearly eight months, the CBI registered the present regular case bearing RC No. RC2202022E0007 on 18.05.2022. According to learned senior counsel, the very initiation of the preliminary enquiry and the subsequent registration of the FIR are vitiated on account of suppression of material facts and constitute a clear abuse of the investigative process.

7. Mr. Sibal, learned Senior Counsel submitted that the instant RC/FIR was registered under Sections 120B IPC read with Sections 11, 12 and 13(2) read with Section 13(1)(d) of the PC Act, 1988 (as it stood prior to the 2018 amendment), without obtaining prior sanction as mandatorily required under Section 17A of the PC Act, 1988, as amended on 26.07.2018. It was contended that in the absence of such sanction, the initiation of the preliminary enquiry, investigation, and all consequential proceedings are *non est* in the eyes of law.

8. It was pointed out that the CBI itself admits that sanction under Section 17A is necessary for enquiry or investigation in respect of acts



performed by public servants in discharge of official functions. It was further submitted that during the course of investigation, the CBI obtained sanction under Section 17A against other accused persons, yet no such sanction was either sought or granted qua the Petitioner. On the contrary, the CBI has taken a plea that Section 17A was not attracted as the alleged acts were not in discharge of official duty, while simultaneously obtaining sanction under Section 197 Cr.P.C. against the Petitioner on 01.09.2023, thereby acknowledging that the alleged acts were performed in official capacity.

9. Learned Senior Counsel submitted that the entire case of the prosecution proceeds on the allegation that the Petitioner, by virtue of his position as the then Minister of Railways, had issued oral instructions to the General Managers of various Railway Zones for appointment of substitutes in Group-D posts. The preliminary enquiry report, FIR, charge-sheets and even the cognizance orders record that such instructions were allegedly issued by the Petitioner in his official position. It was emphasized that it is not the prosecution case that the Petitioner lacked authority or acted *dehors* his office. Even assuming the allegations to be correct on their face, the acts complained of were integrally connected with the official functions of the Petitioner as a public servant and therefore squarely attract the protection of Section 17A of the PC Act and prior approvals should have been taken before enquiry/inquiry.

10. Reliance was placed upon the judgments of coordinate Benches of this Court in ***Naresh Kumar Mittal & Ors. v. CBI*** W.P.(Crl.)



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2365/2023, affirmed by the Hon'ble Supreme Court vide order dated 01.03.2024, and **Lambodar Prasad Padhy v. CBI** W.P.(Crl.) 3270/2023, wherein it has been categorically held that prior sanction under Section 17A of the PC Act is mandatory for registration of FIR. It was further submitted that the reliance placed by the CBI on **Fertico Marketing & Investment Pvt. Ltd. v. CBI**(2021) 2 SCC 525 is misconceived, as the concept of "consent" under Section 6 of the DSPE Act cannot be equated with "sanction" under Section 17A of the PC Act. Reliance was placed upon **Shashi Kumar Shivanna v. Governement of Karnataka rep by Home Secretary and ors.** (2020) SCC OnLine Kar 5018. In view thereof, it was urged that the entire enquiry and investigation initiated against the Petitioner being without mandatory prior sanction are *non est* and liable to be quashed.

Submissions on Behalf of the Respondent/CBI:

11. Mr. S.V. Raju, learned ASG appearing for the Respondent/CBI submitted that the present petition suffers from gross delay and laches. It was submitted that the Petitioner was fully aware of the proceedings since inception, including the registration of the PE 220 2021 E0002 on 23.09.2021, FIR dated 18.05.2022, issuance of notices, filing of multiple charge-sheets, grant of sanctions, and successive orders of cognizance passed by the learned Special Judge. The Petitioner actively participated in the investigation, joined proceedings pursuant to notice dated 07.03.2023, received relied upon documents, sought inspection of unrelayed records, and availed remedies under Section 207 CrPC. Despite such participation, the present petition was filed only



after more than two years of proceedings, and at the stage when the matter had proceeded to framing of charge, rendering the petition liable to dismissal on the ground of delay and laches. Reliance was placed upon *Pradeep S. Wodeyar v. State of Karnataka*, (2021) 19 SCC 62, *Ashwini Kumar Upadhyay v. Union of India* W.P. (Civil) 699/2016 and *Court on its Own Motion v. Union of India* W.P. (Crl) 1542 of 2020 in support of such submission.

12. It was further submitted that cognizance of offences has already been taken by the learned Special Judge in respect of the first, second, supplementary and final charge-sheets, and process has been duly issued. The statutory remedy available to the Petitioner against such orders was by way of revision within the prescribed period of limitation of ninety days. Having failed to avail the said remedy, the Petitioner cannot invoke the extraordinary jurisdiction of this Court to overcome statutory limitation or to stall the progress of trial. It was contended that once cognizance stands taken, interference under Article 226 or Section 482 CrPC ought not to be exercised, particularly when no jurisdictional error is demonstrated. Reliance was placed upon this Court's decision in *Sanyam Bhushan v. State* Crl M.C. 1675 of 2022.

13. The learned ASG further submitted that Section 17A of the Prevention of Corruption Act, 1988 does not apply retrospectively to offences alleged to have been committed prior to the amendment of 2018. It was argued that Section 17A creates substantive rights and liabilities and was consciously made prospective by the Legislature



with effect from 26.07.2018. Since the alleged offences pertain to a period prior to the amendment, the investigation cannot be rendered invalid on the ground of absence of approval under Section 17A. It was contended that extending the protection retrospectively would frustrate the very object of the PC Act and result in shielding corrupt public servants, particularly where the prosecution also involves serious offences under the Indian Penal Code.

14. It was further argued that Section 17A does not have blanket applicability and is attracted only when the alleged offence relates to any recommendation made or decision taken by a public servant in discharge of official functions. According to the Respondent, the Petitioner was neither the recommending authority nor the decision-making authority in the process of recruitment of Group-D substitutes in the Railways. The appointments were made by the concerned Railway officials, namely the General Managers and Chief Personnel Officers, against whom permissions under Section 17A of the Act were duly obtained. No recruitment file was ever placed before the Petitioner for approval, and therefore the alleged acts attributed to him cannot be construed as recommendations or decisions contemplated under Section 17A of the Act. Reliance was placed upon the decision Supreme Court in the case of *State of Rajasthan v. Tejmal Chaudhary* CrI. A. 1647 of 2021.

15. Learned ASG lastly submitted that even assuming any procedural irregularity in investigation, the same would not vitiate cognizance or subsequent proceedings unless failure of justice or



prejudice is demonstrated. It was contended that illegality in investigation does not *ipso facto* nullify prosecution. It was also emphasized that sanctions for prosecution under Section 197 CrPC and Section 19 of the PC Act were duly obtained against the Petitioner after application of mind, thereby eliminating any allegation of prejudice. The reliance placed by the Petitioner on earlier verifications or closure reports was stated to be misleading, as no prior investigation had ever been conducted against him. Further reliance was placed upon Hon'ble Supreme Court's decisions in ***H.N. Rishbud v. State*** (1954) 2 SCC 934, ***Fertico Marketing v. CBI*** (2021) 2 SCC 525 and ***CBI v. Narayan Niryat India Pvt. Ltd.*** CrI. Appeal. 4390 of 2025 It was therefore submitted that the petition is devoid of merit and deserves dismissal.

Analysis and Conclusion:

16. The Court has given careful consideration to the rival submissions and have perused the documents placed on record.

17. The principal and, indeed, the sole ground urged by the Petitioner for quashing of the impugned FIR, charge-sheets and cognizance orders is the alleged non-compliance with Section 17A of the PC Act, 1988. According to the Petitioner, absence of prior approval before initiation of the preliminary enquiry and registration of the FIR renders the entire investigation *non est* in law. No independent challenge is laid to the factual foundation of the allegations or the existence of material collected during investigation.



18. At the outset, this Court finds that Section 17A, introduced by Act 16 of 2018 with effect from 26.07.2018, does not evince either expressly or by necessary implication any legislative intent to operate retrospectively. The provision places a fetter on the initiation of enquiry or investigation against a public servant in respect of recommendations made or decisions taken in discharge of official functions. Such a restriction, which directly impacts the power of investigation, cannot be retrospectively applied unless the statute so mandates in clear terms.

19. In *Tejmal Choudhary* (supra), the Supreme Court unequivocally held that Section 17A of the Prevention of Corruption Act, inserted with effect from 26.07.2018, is prospective in operation, being a provision that creates substantive rights and liabilities, and in the absence of any express or implied legislative intent of retrospectivity, cannot invalidate or nullify investigations or FIRs registered prior to its enforcement, as any such interpretation would defeat the object of anti-corruption law and render pending investigations infructuous. The relevant paragraphs read as under;

“4. The said FIR has been quashed mainly on the ground that the Investigating Authorities had failed to obtain previous approval of the State Government under Section 17(A) of the PC Act before registering the said FIR against the accused persons.

5. Section 17(A) of the PC Act, which is set out hereinafter for convenience, has been incorporated by amendment of the Prevention of Corruption Act, 1988, with effect from 26th July, 2018. It reads as under:



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

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

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

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

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

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

6. *In this case, the FIR was filed on 01.01.2018 before the said provision came into force. The main question involved in these appeals is whether Section 17A of the PC Act would apply to an investigation which had commenced before Section 17A was enacted/enforced.*

7. *It is a cardinal principle of construction that every statute is prospective, unless it is expressly or by necessary implication made to have retrospective operation. There is a presumption*



against retrospectivity. An express provision should ordinarily be made to make a statute retrospective. The presumption against retrospectivity may also be rebutted by necessary implication as held by this Court in Akram Ansari v. Chief Election Officer reported in (2008) 2 SCC 95, which has been referred to and relied upon by the Kerala High Court in its judgment in K.R. Ramesh v. Central Bureau of Investigation reported in 2020 SCC OnLine Ker 2529. The device of a legal fiction can also be used to introduce retrospective operation. Generally, it is considered that every statute dealing with substantive rights is *prima facie* prospective unless it is expressly or by necessary implication made retrospective.

8. In T.N. Bettaswamaiah v. State of Karnataka being W.P. No. 29176/2019 (GM-RES), decided on 20.12.2019, which is reported in 2019 SCC OnLine Kar 3564, the Karnataka High Court referred to the judgment of this Court in Hitendra Vishnu Thakur v. State of Maharashtra reported in (1994) 4 SCC 602, and rightly held:

“21. ... But in Hitendra Vishnu Thakur v. State of Maharashtra, (1994) 4 SCC 602 it is held that a statute which not only changes the procedure but also creates new rights and liabilities shall be construed to be prospective in operation unless otherwise provided either expressly or by necessary implication. A careful reading of both Section 17A as also Section 19 do not contain any express provision to show that they are retrospective in nature nor it is so discernable by implication.

22. In Dr. Subramanian Swamy v. Dr. Manmohan Singh, (2012) 3 SCC 64 it is held that any anti-corruption law has to be interpreted in such a fashion as to strengthen fight against corruption and where two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption than the one which seeks to perpetuate it.”

9. Reference may also be made to the judgment of this Court in GJ Raja v. Tejraj Surana” reported



in (2019) 19 SCC 469, cited by Mr. Saurav Roy, learned counsel appearing on behalf of the appellant, where this Court followed the judgment of this Court in *Hitendra Vishnu Thakur* (supra) and held that a statute which affect substantive rights is presumed to be prospective in operation unless made retrospective and unless textually impossible a statute which merely affects procedure is presumed to be retrospective. However, a statute which not only changes the procedure but also creates new rights or liabilities is to be construed to be prospective in operation, unless otherwise provided either expressly or by necessary implication.

10. In *State of Telangana v. Managipet alias Mangipet Sarveshwar Reddy* reported (2019) 19 SCC 87, this Court rejected the arguments that amended provisions of the PC Act would be applicable to an FIR, registered before the said amendment came into force and found that the High Court had rightly held that no grounds had made out for quashing the proceedings.

11. It is a well settled principle of interpretation that the legislative intent in the enactment of a statute is to be gathered from the express words used in the statute unless the plain words literally construed give rise to absurd results. This Court has to go by the plain words of the statute to construe the legislative intent, as very rightly argued by Mr. Roy. **It could not possibly have been the intent of the legislature that all pending investigations upto July, 2018 should be rendered infructuous. Such an interpretation could not possibly have been intended.**

12. In his usual fairness, learned Senior Counsel appearing on behalf of the respondent does not seriously dispute the proposition of law that Section 17A does not have retrospective operation. Learned Senior Counsel, however, argues that the Court might have looked into the merits and, in particular, the fact that investigation had ultimately been closed. We need not go into that aspect since the High Court has quashed the proceedings only on the



ground of permission not having been obtained under Section 17A of the PC Act.

13. The appeals are, accordingly, allowed and the impugned judgment and order is accordingly set aside.”

20. The Kerala High Court in ***K.R. Ramesh v. CBI***, 2020 SCC OnLine Ker 2529 authoritatively held that Section 17A of the Prevention of Corruption Act, inserted by the 2018 Amendment, is purely prospective in operation, as it neither expressly nor impliedly provides for retrospectivity, is intended only to protect honest officers from vexatious harassment without diluting investigative powers, and any contrary interpretation would unjustly invalidate investigations and trials commenced prior to 26.07.2018, thereby defeating the very object of the Act. The relevant paragraphs read as under;

“43. Yet another contention set up by the petitioners was that in the light of section 17A of the amended Act, the investigation followed by prosecution without prior approval was non est and liable to be quashed. As indicated above, there is nothing in the statute to indicate that it was retrospective. Section 17A prohibits any enquiry or inquiry or investigation into any offence, without the approval of the authorities mentioned in section 17A alleged to have been committed by a public servant under the Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties. The approval as contemplated under the Act, is basically to protect honest and upright officers and to insulate them against unnecessary victimization or harassment consequent to taking of administrative decisions. It is also intended to



embolden upright and honest officers in taking independent decision in public interest. Essentially, the purpose of the Prevention of Corruption Act is to eradicate corruption in administration and to punish corrupt officers. It also has to strengthen the vigilance wing of the Government empowered to investigate corruption in administrative set up. Hence no provision of the Statute, can be interpreted to dilute the object of the Act, and which may have the effect of weakening the powers of investigation agencies entrusted with such task. If the Amendment is held to be retrospective, several cases pending trial in which investigation commenced prior to amendment which are in the various stages of trial or investigation will be prejudicially affected. All those cases will be bad for absence of prior approval under section 17A of the Amended Act. Such an interpretation cannot be given in the absence of any provision explicitly or impliedly indicating retrospectivity.

44. Hence, the Prevention of Corruption (Amendment) Act 2018 has to be held to be prospective and has no application to cases registered prior to amendment and pending under various stages of investigation and to cases in which investigation has been completed and are pending trial. This seems to be in consonance with the decisions in Syam Sunder's Case (supra) and other similar cases and the view expressed by this Court in M.C. Chandrasekaran Nair v. State of Kerala (2015 (4) KLJ 603), wherein the retrospective operation of Prevention of Corruption Act, 1988 came up for consideration. Similar view was expressed by a learned Single Judge of Madras High Court, in Crl. Appeal. No. 488 of 2018 wherein scope of application of Amendment Act 2018 came up for consideration. It was held to be not retrospective. Delhi High Court in Madhu Koda's



case (Supra) also, shared the same view. I agree with those views.”

21. The argument that Section 17A is merely procedural and hence retrospective cannot be accepted. The provision confers a substantive immunity upon a class of public servants by putting the condition of the very initiation of enquiry or investigation upon prior executive approval. Such a safeguard materially alters the legal regime governing investigation and cannot be characterized as a mere matter of procedure. The Legislature, being conscious of this consequence, deliberately made the provision prospective.

22. It is significant that the alleged offences pertain to the period between 2004 and 2009, whereas Section 17A was introduced only in 2018, therefore, the alleged acts cannot be construed as recommendations or decisions taken by the petitioner in discharge of official functions so as to attract the requirement of prior approval under Section 17A of the Act.

23. The reliance placed by the Petitioner on decisions emphasising the mandatory nature of Section 17A is misplaced, as those judgments operate in a distinct temporal context where the alleged offences were post-2018 or where the protection was otherwise attracted. None of the cited authorities lay down that Section 17A applies retrospectively to offences committed prior to its enforcement. On the contrary, judicial discipline requires this Court to give effect to the settled principle that statutes creating new protections or disabilities operate prospectively unless expressly stated otherwise.



24. Even otherwise, the scope of Section 17A is confined to acts involving recommendations made or decisions taken by a public servant in discharge of official functions. But in this case the petitioner was not in the position to make decisions about the appointment, but could only influence. The prosecution case, as placed before the Court, attributes the formal acts of appointment to the competent Railway authorities, against whom approvals under Section 17A were admittedly obtained. Whether the Petitioner exercised de facto influence or issued oral directions is a matter of evidence and cannot, at this stage, be determinative of the applicability of Section 17A.

25. In this context, it is essential to refer to exact words applied by the statute, which reads as follows:-

“[17A. Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.—No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval— (a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government; (b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government; (c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed: Provided that no



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such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person: Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.]”

26. The crucial question that arises for consideration in these proceedings is whether the previous approval from the competent authority needs to be obtained for every enquiry, inquiry or investigation, into every offences committed by the public servant. The crux of the issue is thus as to whether provisions under Section 17-A of the PC Act is an *omnibus*, all pervasive pre-requisite for every enquiry, inquiry or investigation into every act done by the public servant in the discharge of its official duty. The object of PC Act is to protect the honest and upright public officers and to ensure that they are not unnecessarily dragged into litigation. The purpose is to ensure that officers are protected against the motivated and mischievous litigation. Such a protection enables the officers to take prompt and bold decisions so that administrative work should not suffer. Otherwise, public officials may become reluctant to take decisions, apprehending false accusations of corruption. A close scrutiny of the provisions contained in Section 17-A of the PC Act would reveal that bar under Section 17-A of the Act operates against a police officer. It prohibits a police officer from conducting any enquiry or inquiry or investigation into any investigation, alleged to have been committed



by a public servant under the Act without the previous approval of the prescribed authority. Such bar operates or applies only when the offence allegedly committed by a public servant under the Act relates to any recommendation made or decision taken by such public servant in discharge of his official functions or duties. The requirement of Section 17-A for prior approval thus pre-supposes that the offence under the Act, allegedly committed by the public servant is relatable to any recommendation made or decision taken by him in discharge of the official functions or duties. The bar under Section 17-A of the Act does not apply to the investigation conducted into all or every offence under the Act, allegedly committed by the public servant. When any recommendation or decision is made by a public servant which is not directly or reasonably connected with his official functions or duties, he is not entitled to get protection under Section 17-A of the Act. The protection envisaged in Section 17-A of the PC Act is not a blanket protection and when the act of any public official is *ex-facie* criminal or constitutes an offence, prior approval of the competent authority would not be required.

27. The CBI charge sheet lists the following procedure in practice for engaging substitutes in Railways (including Central Railway) during the relevant period:-

- “1. Applications addressed to General Manager were received in GM's office from various sources.*
- 2. These applications were scrutinized by Secy./ GM and segregated in terms of eligibility / ineligibility.*
- 3. The eligible applications along with the requirement of substitutes received from DRMs /*



Heads of Units, through the Chief Personnel Officer, was to be put up to General Manager.

4. Since the discretion lied personally with the General Manager, he/she would decide which of these applications would be processed. He/she would endorse on the applications accordingly.

5. The selected applications would be forwarded to the Personnel Department for verification of certificates etc.

6. After due verification, Personnel Department will put up the cases for General Manager's approval for engagement as substitutes.

7. Keeping in view the exigencies of service and suitability of the candidate, GM/CPO would decide the Department and Division/ Unit where the candidate was to be engaged.

8. Formal letter of engagement would be sent to the Division/Unit by the Personnel Department.

9. To avoid any fraud / impersonation etc., the Division/Unit would get the letter verified/ authenticated from CPO's office and then issue engagement letter to the candidate, after completion of required formalities."

28. The above-said procedure was reiterated vide Circular No. 24th June 2009, issued by the Ministry of Railways, directing for strict adherence to the same.

29. Also, the Ministry of Railways (Railway Board) in its subsequent Circulars on engagement of Substitutes repeatedly directed to exercise strict control to the number of Substitutes engaged and to make serious attempts to bring down their numbers drastically. It was also reiterated that the General Managers do not have unfettered discretion to engage Substitutes and that the discretion to engage Substitutes may be exercised with due caution.



30. Para 2.1 of Suppl. Circular no. 01 dated 04th November, 1992 to the Master Circular No. 20/91, stipulates that any new face substitute should be appointed only with the prior personal approval of the General Manager.

31. In the present case, petitioner though serving as the Railway Minister, was not the statutory or administrative authority empowered to make or approve appointments of Group-D Substitutes in Railways, as the process of such recruitment was handled by the competent Railway functionaries with prior personal approval of the General Manager. The prosecution case itself attributes the formal acts of appointment to those competent functionaries and not to any decision taken by the petitioner in the exercise of official power. The petitioner was not in a position to make decisions about the appointment. The prosecution case attributes formal acts of appointment to the railway officials against whom provisions of Section 17-A were admittedly obtained. Consequently, the alleged acts cannot be construed as recommendations or decisions taken by the petitioner in discharge of official functions so as to attract the requirement of prior approval under Section 17-A of the Act.

32. The subsequent grant of sanction under Section 197 Cr. PC and Section 19 of the Prevention of Corruption Act further undermines the Petitioner's plea of prejudice. It is well settled that any alleged irregularity in investigation does not *ipso facto* vitiate the proceedings unless it results in a failure of justice. No such prejudice has been



demonstrated, particularly when cognizance has been validly taken and the matter has progressed to an advanced stage.

33. The Supreme Court in *Subramanian Swamy v. Manmohan Singh* (2012) 3 SCC 64 emphasized that corruption poses a grave threat not only to constitutional governance but also to the foundational values of Indian democracy and the Rule of Law. The Court observed that corruption undermines the core constitutional ideals of justice, liberty, equality and fraternity and, if unchecked, erodes public confidence in democratic institutions. It was therefore held that anti-corruption laws must be interpreted in a manner that strengthens the fight against corruption, and where two reasonable interpretations are possible, the one that advances the eradication of corruption must be preferred over the one that perpetuates it.

34. The Court is also persuaded by the submission of the Respondent that permitting a belated challenge at this stage, solely on a technical plea relating to prior approval, would defeat the orderly administration of criminal justice. The Petitioner participated in the investigation, availed statutory remedies, and allowed multiple cognizance orders to attain finality. The extraordinary jurisdiction under Article 226 or the inherent powers under Section 482 Cr.P.C cannot be invoked to bypass statutory limitations or to derail a prosecution at the threshold of trial.

35. It is well settled that the jurisdiction under Section 482 CrPC is to be exercised by the High Court in cases of apparent perversity and illegality. In *R.K. Vijayasathay v. Sudha Seetharam*, (2019) 16 SCC



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739, the Supreme Court held that the inherent powers under Section 482 Cr. PC must be exercised with great caution to prevent misuse of criminal proceedings.

36. In view of the foregoing discussion, this Court holds that Section 17A of the Prevention of Corruption Act, 1988 is prospective in operation and has no application to offences alleged to have been committed between 2004 and 2009. The absence of prior approval under the said provision does not vitiate the preliminary enquiry, registration of the FIR, investigation, or the cognizance orders passed by the learned Special Judge. Moreover, the bar under Section 17A of the Act, shall not apply in the present case as the alleged act is not relatable to any recommendations or decisions taken by the petitioner in discharge of his official functions or duties. The petition, being devoid of merit, is accordingly dismissed.

RAVINDER DUDEJA, J.

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