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

\+ W.P.(C) 11213/2025 & CM APPLs. 46132/2025, 46957/2025

DHARAM RAJ SARIN .....Petitioner

Through: Mr. Rahul Shukla, Advocate with Petitioner in person.

versus

NATIONAL SEEDS CORPORATION LTD .....Respondent

Through: Ms. Arunima Dwivedi, Ms. Himanshi Singh and Ms. Monalisha Pradhan, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 21.04.2026

1. The petition was initially filed to assail the communication dated 10th July, 2025 issued by National Seeds Corporation Ltd. ["*NSC*"] to NBCC (India) Ltd. ["*NBCC*"], in response to its request for vigilance clearance in relation to the Petitioner's proposed engagement as Senior Expert (HRM/Administration). During the pendency of the petition, this Court, by order dated 4th November, 2025, issued certain directions pursuant to which the Petitioner furnished a surety in the sum of INR 7,00,000/-, and NSC issued what has been described as a "*conditional vigilance clearance*". The Petitioner now disputes the adequacy of the said communication, stating that NBCC has not treated it as a vigilance clearance in terms of the Central Vigilance Commission ["*CVC*"] Circular No. 07/05/21 dated 3rd June, 2021. The controversy in the present petition, thus, arises in that context.

Factual Background

2. The essential facts, in their broad outline, are not in dispute. By order dated 1st July, 2014, the Petitioner, then serving as General Manager ["*GM*"]

in NSC, was appointed as Chairman and Managing Director ["*CMD*"] of Artificial Limbs Manufacturing Corporation of India ["*ALIMCO*"]. He was thereafter relieved by NSC on 30th September, 2014 by an office order, which recorded that NSC would consult the CVC before initiating any disciplinary action and that further action would be taken in accordance with the advice so received. The said office order is extracted as under:

> *"No. 4(3165)/09-Pers./NSC*   *Dated: 30th Sep. 2014*
>
> *<u>OFFICE ORDER NO. (2731</u>*
>
> *Shri D.R. Sarin, Sr. General Manager (Production) may kindly refer to his application dated 01.07.2014 requesting to relieve him from duties from 30.09.2014 (afternoon) to take assignment of CMD in ALIMCO. His request for relieving and the matter relating to allegation regarding irregularities in upgradation of General Manager from E-6 to E-7 was placed before the Board in their 258th Meeting held on 29.09.2014. The Board, after detailed deliberation decided as under:*
>
> > *1. As per Ministry's advice vide letter dated 25.09.2014, NSC needs to consult CVC (with all necessary documents as required under CVC guidelines) before initiating any disciplinary action against Mr. D.R. Sarin.*
> >
> > *2. The Ministry has desired to complete the process of consultation with CVC before 30.09.2014 even if the decision of the Company is not to relieve Mr. Sarin. As the process practically may not be completed by 30.09.2014, Mr. Sarin may be relieved from the Corporation by 30.09.2014.*
>
> *Shri Sarin is therefore informed that further action will be taken as per advice of CVC in point No.l above.*
>
> *Accordingly, he is hereby relieved from the services of the Corporation with effect from 30.09.2014 (afternoon).*
>
> *Shri D.R. Sarin is further requested to handover the charge of Production Department to Shri Kuldeep Singh, General Manager (Materials Management), NSC, New Delhi.*
>
> *He is further requested to deposit Identity Cards (NSC & Ministry) and other items issued to him by the Corporation to the respective Departments and also to submit No Dues Certificate from all concerned Departments. A report of handing over and taking over of the charge may be forwarded to the undersigned for records.*
>
> *Accordingly, his name will be struck off from the rolls of the Corporation with effect from the aforesaid date.*
>
> *Sd/-*
> *(Binod Bihari Saw)*
> *General Manager (HR)*

To

Shri D.R. Sarin,
Sr. General Manager (Production)
NSC Limited, New Delhi."

3. On 22nd April, 2025, NBCC issued an advertisement for engagement of a Senior Expert (HRM/Administration) on a contract basis. The Petitioner was declared selected by the result notification dated 23rd June, 2025. The advertisement provided that post-retirement engagement would be subject to receipt of "*vigilance clearance/vigilance inputs*".

4. The CVC Circular dated 3rd June, 2021 provides that, where a retired officer has served in more than one organisation, vigilance clearance is to be obtained from "*all organisations where the retired officer had served during a period of 10 years prior to his retirement*". The Circular further provides that, if no reply is received within the stipulated period, the matter may be treated as "*deemed vigilance clearance*", while any subsequent discovery of vigilance-related involvement would remain the responsibility of the erstwhile employer.

5. Pursuant to the aforesaid requirement, NBCC, on 24th June, 2025, sought vigilance status/clearance from the Petitioner's previous employers. On 10th July, 2025, the Department of Empowerment of Persons with Disabilities communicated that, as per the records available with its Vigilance Section, no vigilance case was pending or contemplated against the Petitioner in relation to his tenure as CMD of ALIMCO.

6. NSC, by communication dated 10th July, 2025 addressed to NBCC, responded to the request by furnishing details relating to the Petitioner's service record. The communication, *inter alia*, referred to the Petitioner's reliving in 2014, the allegations relating to upgradation of five General

Managers from E-6 to E-7, the disciplinary proceedings initiated in that regard, the penalty order dated 14th October, 2019, and the position that recovery of alleged excess payment may be undertaken, the matter being described therein as "*administrative in nature*". For the sake of reference, the extracts of the said communication is set out below:

> *"To,* *Dated: 10.07.25*
> *Sh. Sanjeev Kumar,*
> *Chief General Manager(HRM),*
> *NBCC (India) Limited, NBCC Bhawan,*
> *Lodhi Road, New Delhi – 110003*
> *Subject: Vigilance Clearance for the purpose of engagement of Sh D R Sarin [{Ex GM (Admin) in NSC] as senior Expoert {HRM/Administration} on contract basis in NBCC (India) Limited.*
> *Sir,*
>
> *In reference to the letter dated 25.6.25 seeking vigilance clearance for the purpose of engagement Sh D R Sarin [{Ex GM (Admin)], the following details are being provided:*
>
> *a) Shri D R Sarin appointed to the post of GM(Admin) in the IDA scale of Rs 36600-62000 vide Memo dated 30th April 2009 and Sh. D R Sarin joined the services of National Seeds Corporation Ltd.(NSC) on 1st June 2009 F/N.*
>
> *b) Shri D R Sarin was relieved conditionally from the services of the Corporation vide Office Order dated 30th September, 2014 to take the assignment of CMD , ALIMCO. The conditions are reproduced below:*
>
> *"His request for relieving and the matter relating to allegations regarding irregularities in up gradation of General Manager from E-6 to E-7 was placed before the Board in their 258" Meeting held on 29.09.2014. The board after detailed deliberations decided as under:*
>
> *i. As per Ministry's advice vide letter dated 25.09.2014, NSC needs to consult CVC (before initiating any disciplinary action against Shri D R Sarin).*
>
> *ii. The Ministry has desired to complete the process of consultation with CVC before 30.09.2014 even if decision of the Company is not relieve Shri Sarin. As the process practically may not be completed by 30.09.2014 Shri Sarin may be relieved from the Corporation by 30.09.2014. Shri Sarin is therefore informed that further action will be taken as per advise of CVC in point no.1 above.*
>
> ***The brief facts of the above conditions are:***
>
> *Shri D R Sarin misguided the Board as well as the MoA&FW without proper Board Approval in up-grading 5 GM's to Sr. GM's position (E6 to E7) when approval was taken from the Board for up-grading the Company from Schedule 'C' to 'B'. He had again misguided the Board subsequently and got approval for implementation of the same without any RR and no proper*

procedures were followed. Disciplinary action was initiated against him and the following penalty was awarded to him. Vide Order dated 14.10.2019 the penalty of reduction to the minimum of the scale of E-6 with cumulative effect was imposed upon Shri D R Sarin. The office order regarding the pay fixation was issued vide order dated 30.10.2019 and has been entered in his service book at NSC.

DA & FW (MoA) vide letter dated 12th Novemeber 2020 cleared CMD, NSC on the issue of the Disciplinary proceedings against Sh D R Sarin and also informed that NSC may take steps against Sh D R Sarin for recovery of the excess payment asked by the CAG , AVU has nothing to add as the matter is Administrative in nature.

The above details (Clarification) in the matter of Shri D R Sarin is being sent as per the Vigilance Clearance sought by NBCC.

Thanking You,

Yours Faithfully
S K Sinha,
CVO" [SIC]

7. NBCC, by its subsequent communication dated 16th July, 2025, stated that NSC had furnished a "*clarification*" and requested that vigilance clearance be provided in accordance with the CVC Circular dated 3rd June, 2021 so as to enable processing of the Petitioner's case.

Petitioner's Contentions

8. Mr. Rahul Shukla, counsel for the Petitioner, submits as follows:

8.1. NSC was not entitled to convert a request for vigilance clearance into a historical indictment, much less into a conditional clearance tied to an alleged recovery.

8.2. The contemporaneous record demonstrates that the allegations relied upon by NSC had, in fact, attained finality in favour of the Petitioner. The Ministry of Agriculture, by letter dated 1st October, 2015, found no merit in pursuing the complaint and directed that the matter be "*allowed to rest*". When NSC nevertheless issued the charge memorandum dated 11th May, 2018, the Ministry of Agriculture, by letter dated 1st June, 2018, directed that the proposed Regular Disciplinary Action be kept "*on hold till further* *orders*". The CVC, by communication dated 20th June, 2019, stated that the charge-sheet merited no cognizance, noting, *inter alia*, that the Petitioner had already been relieved from NSC on 30th September, 2014, held no lien therein, NSC was not the disciplinary authority, and withdrawal of the proceedings had already been advised. The Administrative Vigilance Unit, by office memorandum dated 22nd January, 2020, recorded that the Regular Departmental Action ["*RDA*"] "*stands closed*". The CVC, by letter dated 12th February, 2020, further recorded *prima facie* mala fides and lack of jurisdiction in the issuance of the charge-sheet, and advised immediate release of terminal dues. The vigilance status communications dated 20th June, 2019 and 15th July, 2021 also record that there is "*nothing adverse*" on the CVC's records in respect of the Petitioner.

8.3. Despite the above, NSC, while responding to NBCC, chose to place only a narrative of allegations and proceedings, without disclosing the subsequent decisions of the Administrative Ministry and the CVC which had either closed the matter or found no substance therein. The impugned communication is, thus, vitiated by suppression of material facts and selective disclosure.

8.4. The action of NSC is further contrary to the scheme of the CVC Circular dated 3rd June, 2021, which contemplates the furnishing of vigilance clearance or vigilance inputs, and, in the absence of a response within the stipulated period, even permits "*deemed vigilance clearance*". The Circular does not contemplate a conditional clearance, nor does it permit an erstwhile employer to attach extraneous conditions relating to recovery disputes while responding to such a request.

8.5. Further, although the Petitioner has furnished surety pursuant to the interim directions of this Court and would be entitled to contest any recovery proceedings in accordance with law, such recovery cannot form the basis for withholding or qualifying vigilance clearance.

Respondent's Contentions

9. Ms. Arunima Dwivedi, counsel for NSC, opposes the petition both on maintainability and on merits, and submits as follows:

9.1. NBCC has not been impleaded as a party to the present proceedings, despite being the recipient of the impugned communication. The correspondence in question was confidential in nature, exchanged between NSC and NBCC, and the Petitioner cannot rely upon or challenge the same in the absence of NBCC. The correspondence also reflects rejection of the Petitioner's candidature by NBCC, which cannot be indirectly assailed in these proceedings.

9.2. The Petitioner is precluded from assailing the charge-sheet and consequent disciplinary proceedings in this petition. A statutory appellate remedy was available, which was not availed. The petition is, thus, not maintainable in view of the availability of an efficacious alternate remedy.

9.3. The issue of recovery arising out of the penalty imposed upon the Petitioner is pending before the appropriate forum. The present proceedings are, therefore, premature and misconceived.

9.4. The Petitioner has not approached the Court with candour. The Petitioner had earlier filed W.P.(C) No. 15113/2024 on a related issue (seeking release of his pending dues withheld by NSC) and had failed to disclose the same in this petition, thereby rendering the petition liable to dismissal on this ground alone.

9.5. The Petitioner has misled both the Board of Directors and the

Ministry in the matter of upgradation of five General Managers from E-6 to E-7, by placing incorrect and misleading material before the Board and misrepresenting the position regarding approval. In view of the said misconduct, a charge memorandum dated 11th May, 2018 was validly issued in accordance with the applicable rules, and disciplinary proceedings were conducted. The Petitioner did not participate in the inquiry proceedings despite opportunities being granted.

9.6. The disciplinary proceedings culminated in the penalty order dated 14th October, 2019, whereby the upgradation was annulled, the Petitioner was reduced to the minimum of the E-6 scale with cumulative effect, and recovery of excess payments was directed. The said penalty has attained finality.

9.7. Further reliance is placed upon audit observations, including those of the Comptroller and Auditor General ["*CAG*"], to submit that the upgradation was irregular and resulted in excess financial benefit, which is liable to be recovered.

9.8. On instructions, it is submitted that the vigilance clearance was issued in a conditional form, having regard to the penalty imposed and the consequent recovery determined by NSC.

9.9. Although the Petitioner has furnished surety pursuant to the interim order passed by this Court, the underlying recovery claim survives and may be pursued in accordance with law.

Issues for Consideration

10. In light of the above, the following issues arise for consideration:

10.1. Whether this petition is maintainable in view of the preliminary objections raised by NSC, including non-joinder of NBCC, availability of an alternate remedy, pendency of recovery proceedings, and the allegation of suppression of material facts;

10.2. Whether, in the facts of the present case, NSC was justified in declining to furnish vigilance clearance in terms of the CVC Circular dated 3rd June, 2021 and instead furnishing a communication containing allegations and a conditional vigilance clearance;

10.3. Whether NSC could, for the purposes of vigilance clearance, rely upon disciplinary proceedings and allegations which are stated by the Petitioner to have been closed or otherwise found unsustainable by the competent authorities; and

10.4. Whether NSC is entitled to link the grant of vigilance clearance to an asserted claim of recovery arising out of the disciplinary proceedings.

Analysis

11. On maintainability, the objection founded on non-joinder of NBCC does not persuade the Court. The challenge in this petition is directed against NSC's own communication and the stand adopted by it. No relief is sought against NBCC, nor is any direction required to be issued to it for deciding the legality of NSC's action. The *lis* here concerns the legality of NSC's conduct, and that question can be examined in the absence of NBCC.

12. The objection founded on the availability of an alternative remedy against the charge-sheet or the penalty order is equally unpersuasive in the circumstances of the case. The petition, as it now stands, is not being examined as a threshold challenge to the charge-sheet. The Petitioner's grievance is narrower and more immediate. It concerns the legality of NSC's vigilance communication addressed to NBCC, and the subsequent conditional vigilance clearance, in the context of a current post-retirement

contractual engagement governed by the CVC circular dated 3rd June, 2021. The Petitioner is not inviting, in these proceedings, a complete adjudication of every dispute arising out of the charge-sheet dated 11th May, 2018 or the penalty order dated 14th October, 2019. The Court is concerned with a narrower question, namely, whether these materials, read with the CVC record, could be relied upon to deny vigilance clearance or to render it conditional.

13. The answer must begin with a reading of the CVC circular dated 3rd June, 2021. The Circular does not require a former employer to prepare a historical brief against the officer concerned. It requires vigilance clearance/inputs so that the engaging organisation may know whether there exists any real vigilance impediment to post-retirement engagement. The object of the Circular is clear. It is meant to prevent the engagement of persons against whom a genuine vigilance taint subsists, whether by reason of a pending vigilance case or otherwise adverse vigilance status. At the same time, the Circular recognises the need for a workable administrative process. That is why it contemplates "*deemed vigilance clearance*" in the event of non-response, while leaving the erstwhile employer answerable for the consequences if relevant facts were withheld or ignored. Read as a whole, the Circular does not support the proposition that every historical allegation, every disputed service matter, or every asserted recovery can be converted into a continuing or perpetual vigilance bar.

14. NSC's own record does not disclose any sustainable vigilance impediment against the Petitioner. The Ministry of Agriculture's letter dated 1st October, 2015 had already recorded that no merit was found in pursuing the matter and that it was, accordingly, "*allowed to rest*". When NSC later

issued the charge memorandum dated 11th May, 2018, the Ministry of Agriculture's communication dated 1st June, 2018 directed that the proposed RDA be kept "*on hold until further orders*". The CVC communication dated 20th June, 2019 went further and stated, in clear terms, that the charge-sheet merited no cognizance, since the Petitioner had already been relieved from NSC, held no lien therein, NSC was not the disciplinary authority, and the Department had already instructed withdrawal of the RDA. That position was followed by the office memorandum dated 22nd January, 2020, which recorded that the RDA "*stands closed*". The CVC's communication dated 12th February, 2020 also recorded *prima facie* mala fides and lack of jurisdiction in the issuance of the charge-sheet, and observed that withholding terminal dues was not in order when no disciplinary action was contemplated against the Petitioner. The later vigilance status communications dated 20th June, 2019 and 15th July, 2021 stated that there was nothing adverse on the Commission's record in respect of the Petitioner. Read together, these documents do not support the conclusion that, in July 2025, there existed any pending or contemplated vigilance proceeding that could justify withholding a proper vigilance clearance.

15. NSC's communication to NBCC dated 10th July, 2025 does not state that any vigilance case was then pending or contemplated against the Petitioner. It does something else. It recounts the historical allegations, refers to the charge-sheet and the penalty order, refers to the asserted financial loss, and presents all of this as a response to a request for vigilance clearance. NBCC's own reply brings the difficulty into clear focus. It records that NSC had furnished only a "*clarification*" and calls upon it to provide vigilance clearance details in terms of the CVC circular. That

response from NBCC is consistent with the language and scheme of the Circular.

16. NSC's subsequent attempt to cure the matter by issuing a "*conditional vigilance clearance*" upon the Petitioner furnishing surety does not improve its position. A vigilance clearance that is conditioned in a manner that causes the engaging body to treat it as no clearance at all does not answer the requirement of the CVC circular. More importantly, the condition imposed by NSC is not founded on any shown vigilance impediment. It is founded on an asserted monetary recovery.

17. An alleged recovery claim and vigilance status are not the same thing. A public employer may, in law, have a grievance that money is recoverable from a former employee. Whether such a claim exists, whether it survives the later departmental and CVC record, whether it is barred, whether it is otherwise sustainable, and by what forum and procedure it may be enforced, are all separate questions. None of those questions automatically becomes a vigilance impediment. To permit an employer to transform a disputed recovery into a continuing vigilance disability would allow the vigilance process to be used as leverage in aid of a collateral claim. On the record, that is precisely what has happened.

18. This conclusion becomes stronger, not weaker, because NSC seeks to reserve liberty to pursue recovery "*in accordance with law*". That reservation itself acknowledges that the recovery issue requires its own legal path. Once that is so, there is no legal basis to keep the Petitioner's vigilance status in abeyance for the purposes of the CVC circular. NSC is free to pursue any remedy available to it in law in relation to the alleged excess payment. They cannot however use the vigilance clearance as a tool to

prevent the Petitioner's present engagement when the competent governmental and vigilance authorities have, on the record, already indicated otherwise.

19. NSC's reliance on the penalty order dated 14th October, 2019 does not alter this result. That order may exist, and the Court cannot ignore it. But it does not stand alone. It must be read with what followed. The later record includes the Ministry of Agriculture's direction to keep the RDA on hold, the CVC's view that the charge-sheet merited no cognizance, the office memorandum dated 22nd January, 2020, which indicates that the RDA stands closed, the CVC's finding of *prima facie* mala fides and want of jurisdiction, and the subsequent vigilance status communications showing nothing adverse on CVC's record. NSC cannot isolate one strand from the record and ignore the rest, particularly in a communication meant to answer a vigilance query.

20. For the same reason, NSC cannot justify its position by stating that the communication dated 10th July, 2025 was merely a "*clarification*". What was sought was vigilance clearance or vigilance inputs in terms of the CVC circular. A historical narrative may, in a given case, accompany a vigilance angle. It cannot, however, be framed so as to obscure the actual vigilance status.

21. The petition, therefore, deserves to be allowed to the limited but real extent necessary to remove the legal obstruction created by NSC's communications. It must, however, be made equally clear that no adjudication is being rendered on the ultimate merits of any independent recovery proceedings that NSC may lawfully choose to institute or continue.

22. Accordingly, NSC's communication dated 10th July, 2025, insofar as

it was treated as a response to NBCC's request for vigilance clearance in respect of the Petitioner, is set aside. The subsequent conditional vigilance clearance issued pursuant to the interim arrangement recorded on 4th November, 2025 is also set aside to the extent it makes vigilance clearance dependent on the Petitioner furnishing surety or on NSC's asserted recovery claim.

23. NSC is directed to issue, within 7 working days from today, a fresh vigilance clearance/vigilance communication for the purposes of the Petitioner's engagement with NBCC, strictly confined to the Petitioner's vigilance status and without attaching to it any adverse qualification or condition founded on NSC's alleged recovery claim.

24. It is made clear that NSC shall remain at liberty to pursue, in accordance with law, any independent claim for recovery that it may be advised to press. All rights and contentions of both sides on that question are kept open.

25. Since NBCC is not before the Court, no direction is being issued to it. It will be open to the Petitioner to place the fresh vigilance clearance and a copy of the present order before NBCC for such consequential action as may be permissible in its own process.

26. The present writ petition is allowed in the above terms. Pending applications shall also stand disposed of.

SANJEEV NARULA, J

APRIL 21, 2026/ab/as