



2026:DHC:6624



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: July 23, 2026

Pronounced on: August 13, 2026

+ CRL.REV.P. 283/2012, CRL.M.A. 21759/2024

CBI

.....Petitioner

Through: Mr. Amit Kumar Rana and Mr.
Anmol Ghai, Advs. for Mr.
Ripudaman Bhardwaj, SPP

Versus

KISHAN SINGH VERMA

.....Respondent

Through: Ms. Richa Kapoor, Mr. Kunal Anand
and Mr. Kapil Kumar Sharma,
Advocates

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By this petition under *Sections 397/401* read with *Section 482* of the Code of Criminal Procedure, 1973¹, the petitioner/ CBI² seeks setting aside of the order dated 18.01.2011 passed by the learned Special Judge-IV (PC Act), Tis Hazari Courts, Delhi³ whereby the proceedings against the respondent in CC No.23/2008 arising out of FIR No.RC23(A)93-DLI/CBI/ACB/New Delhi under *Section 13(2)* read with *Section 13(1)(e)* of the Prevention of Corruption Act, 1988⁴ were dropped on the ground of invalid sanction.

¹ Hereinafter referred to as "*CrPC*"

² Hereinafter referred to as "*petitioner*"

³ Hereinafter referred to as "*Trial Court*"

⁴ Hereinafter referred to as "*PC Act*"



2. *Briefly put*, the facts leading to the present petition are that the respondent was appointed as a Junior Engineer (*Class III post*) in Delhi Development Authority⁵ on 15.02.1979 by the Vice-Chairman, DDA. At that relevant time, his appointment and service conditions were governed by the Delhi Development Authority (Salaries, Allowances and Conditions of Service) Regulations, 1961⁶.

3. Subsequently, on 01.03.1993, based on source information, an FIR was registered by the petitioner CBI against the respondent alleging that the respondent, during the period from 1979 to 1993, while working as a Junior Engineer (Civil), DDA had acquired assets disproportionate to his income by abusing his position as a public servant. Upon investigation, it was found that the respondent was in possession of assets, either in his own name or in the names of his family members, amounting to Rs.18,18,875/-, which were disproportionate to his known sources of income.

4. Thereafter, after obtaining sanction for prosecution dated 30.12.1994 from Shri K.N. Khandelwal, Finance Member, DDA⁷, the chargesheet under *Section 13(2)* read with *Section 13(1)(e)* of the PC Act was filed on 10.05.1995. The cognizance thereon was taken by the learned Trial Court on 18.05.1995. Subsequently, charges were framed against the respondent on 31.10.2003. However, during the pendency of the trial, the respondent moved an application dated 31.05.2010 seeking dropping of the proceedings on the ground that the sanction for prosecution had not been accorded by the competent authority.

⁵ Hereinafter referred to as "*DDA*"

⁶ Hereinafter referred to as "*DDA Regulations*"

⁷ Hereinafter referred to as "*Finance Member, DDA*"



5. Accepting the said contention, the learned Trial Court by way of the impugned order dated 18.01.2011 held that the sanction granted by the Finance Member, DDA was invalid in law and consequently dropped the proceedings against the respondent.

6. Aggrieved thereby, the petitioner has preferred the present petition wherein learned counsel for petitioner submitted that though the service conditions of the respondent was initially governed by the DDA Regulations, the said Regulations stood amended by a subsequent Notification published in the Official Gazette of India with effect from 01.03.1994, whereby the post of Junior Engineer came to be categorised as 'Group C' post, for which the Commissioner (Pers.), DDA became the Appointing Authority as well as the authority competent to impose 'All' penalties. Since any full time member of the DDA, including the Finance Member, DDA, being superior to the Commissioner (Pers.), DDA was equally competent to accord sanction for prosecution, the said sanction dated 30.12.1994 cannot be said to suffer from any illegality/ infirmity.

7. Learned counsel for petitioner further relying upon the departmental noting dated 29.12.1994 submitted that even otherwise, before according the said sanction dated 30.12.1994, the Vice-Chairman, DDA, had discussions with the Finance Member, DDA and thus, the sanction was granted under the directions of the Vice-Chairman, DDA.

8. Learned counsel for petitioner then submitted that as per *Section 19⁸* of the PC Act (*prior to amendment of 2018*) also, the competent authority

⁸ **19. Previous sanction necessary for prosecution.**— (1) No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction save as otherwise provided in the Lokpal and Lokayukta Act, 2013 –



to grant sanction for prosecution is not authority competent to remove a public servant from his office at the time when the offence was alleged to have been committed, but one who is competent to remove the public servant holding the office on the date when the Court is asked to take the cognizance of the offence. To buttress the same, reliance is placed upon *Prathapachandran & Anr. vs. C.B.I. & Ors.*⁹.

9. In response, learned counsel for respondent supporting the impugned order dated 18.01.2011 submitted that the respondent was governed by the DDA Regulations, as per which, the Vice Chairman, DDA was the Appointing Authority as also the authority competent to impose 'All' penalties. Thus, the sanction dated 30.12.1994 for prosecuting the respondent could not have been granted by the Finance Member, DDA, as

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

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

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

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

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

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

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

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

Explanation.—For the purposes of this section, -

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

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

⁹ 1999 SCC OnLine Ker 1



he was subordinate to the Vice Chairman, DDA and had no authority under the DDA Regulations.

10. Learned counsel for respondent then submitted that amendment to the DDA Regulations *vide* Gazette Notification dated 01.03.1994 is not valid, *firstly* as the said amendment was *non-est* since beginning inasmuch as the said Gazette Notification was never laid before the Parliament as mandated by *Section 58* of the DDA Act and, *secondly* the said Notification was prospective in nature, and could not alter the service conditions of the respondent who was appointed much prior in the year 1979.

11. Relying upon *State of Haryana v. N.C. Tandon*¹⁰, learned counsel for respondent further submitted that as per *Section 19(2)* of the PC Act, the sanction was required from the authority competent to grant sanction “... ..at the time when the offence was alleged to have been committed... ..”, i.e. the competency of the sanctioning authority is to be assessed at the time of commission of the alleged offence. As the case herein pertains to the period from 15.02.1979 to 02.03.1993, the only competent authority to grant sanction was the Vice Chairman, DDA and not the Finance Member, DDA.

12. In view of the aforesaid, learned counsel for respondent submitted that the impugned order dated 18.01.2011 being detailed and reasoned needs no interference by this Court, much less in its revisional jurisdiction.

13. This Court has heard learned counsel for the parties as also gone through the documents on record and the judgments cited at bar.

14. The only issue in the present case is as to who, the Vice-Chairman or the Finance Member, DDA was the competent authority to grant the

¹⁰ (1977) 3 SCC 56



sanction against the respondent *qua* disproportionate assets acquired by him during the period from 15.02.1979 to 02.03.1993, while he was working as a Junior Engineer (Civil), DDA.

15. A plain reading of *Section 19(1)* of the PC Act reflects that a previous sanction for taking any action(s) against a public servant under *Sections 7, 10, 11, 13 and 15* of the PC Act is a must, i.e. in absence thereof, no cognizance can be taken against the said public servant. Going further, as per *Section 19(2)* of the PC Act, the competent authority would be the one which would have been competent to remove the public servant from his office at the time *when the offence was alleged to have been committed*. In fact, the Hon'ble Supreme Court in case of ***N.C. Tandon (Supra)***, though while dealing with *Section 6* of the PC Act, 1947, which is a *pari materia* provision for *Section 19* under the current PC Act, held as under:

“6. Sub-section (1) of Section 6 of the Prevention of Corruption Act says:

“No court shall take cognizance of an offence punishable under Section 161 (or Section 164) or Section 165 of the Penal Code, 1860, or under sub-section (2) or sub-section (3-A) of Section 5 of this Act, alleged to have been committed by a public servant, except with the previous sanction of the authorities enumerated in clauses (a), (b) and (c) of that section.”

Sub-section (2) of the section provides:

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



the offence was alleged to have been committed.” (emphasis added)”

7. Thus the test as indicated in this sub-section, for judging the competency of the authority giving the sanction is, whether at the time of the alleged. commission of the offence, it had the power to remove the public servant from his office.

[Emphasis Supplied]

16. Facts herein reveal that, *admittedly*, the respondent was appointed as a Junior Engineer (*Class III post*) in DDA on 15.02.1979 by the Vice-Chairman, DDA, and he was then governed by the DDA Regulations. In fact, during the period from 15.02.1979 to 02.03.1993, when the respondent is alleged to have acquired disproportionate assets, he continued to be governed by the very same DDA Regulations as well.

17. Therefore, there can be no qualm that as per the DDA Regulations, the Vice-Chairman, DDA was the competent authority empowered to impose ‘All’ penalties, including removal from service. As per *Section 19(2)* of the PC Act, the Vice-Chairman, DDA could only accord the sanction for prosecution. Under such circumstances, considering that the proceedings are dealing with the period from 15.02.1979 to 02.03.1993, when the respondent is alleged to have acquired disproportionate assets, the Gazette Notification dated 01.03.1994 whereby the DDA Regulations were sought to be amended is of no meaning, as the same was indeed issued on a subsequent date. Therefore, the validity of the said (disputed) Gazette Notification dated 01.03.1994 need not be gone into. Under these circumstances, the alleged departmental noting dated 29.12.1994 and/ or the discussions *inter se* the Vice-Chairman, DDA, the Director (Vigilance) and the Finance Member, DDA and/ or the sanction granted by the said



Finance Member, DDA under the directions of the Vice-Chairman, DDA, can also be of no assistance to the petitioner herein.

18. As such, as rightly held by the learned Trial Court, there was no valid sanction under *Section 19* of the PC Act to prosecute the respondent.

19. Moreover, considering that even though the learned Trial Court granted the concession to the petitioner to have obtained a fresh sanction from the competent authority against the respondent, which, has not been resorted to by them to-date, and taking into account the pendency of the present revision petition from the year 2012, it is too late in the day to turn the clock back after a prolonged lapse of *fourteen years*.

20. Lastly, finding no infirmity, illegality or perversity in the impugned order dated 18.01.2011 passed by the learned Special Judge-IV (PC Act), Tis Hazari Courts, Delhi, there is no reason for any interference from this Court in the present revision petition.

21. Accordingly, the present petition along with the pending application is dismissed.

SAURABH BANERJEE, J.

AUGUST 13, 2026/bh/GA