

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (PIL) No. 4486 of 2022**

1. Coal Employees Welfare Association, Registration Number-296/2018 (Under Society Registration Act, 1860) with Head Office at Karkendra Bazar, P.O. Kusunda, District Dhanbad (Jharkhand)-828116 through its Central Secretary Shri Sanjeev Kumar Srivastava, Age.45 Years, S/o Late Gopal Srivastava, Permanent resident of Near S.B.I. ATM, Karkend Bazar, Kusunda, Kusunda, Dhanbad, Jharkhand-828116 & Presently posted as Foreman, NCL, Khadia, Colony, P.O. Shakti Nagar, District Sonbhadra (UP)-231222.

Email I.D.: cewadhn2018@gmail.com

2. Shri Sanjeev Kumar Srivastava, Age.45 Years, S/o Late Gopal Srivastava, Permanent Resident of Near S.B.I. ATM, Karkend Bazar, Kusunda, Kusunda, Dhanbad, P.O. Kusunda, P.S. Putki, District Dhanbad, (Jharkhand)-828116 & presently posted as Foreman, NCL, Khadia, Colony, P.O. + P.S. Shakti Nagar, District Sonbhadra (UP)-231222.

Email I.D.: ss97476@gmail.com **Petitioners**

Versus

1. The Union of India, through the Cabinet Secretary, Government of India, Rashtrapati Bhawan, P.O. Rashtrapati Bhawan, P.S. South Avenue, District New Delhi, New Delhi, India-110004.

Email Id.: cabinet@nic.in

2. The Secretary, Ministry of Coal, Government of India, Shastri Bhawan, Dr. Rajendra Prasad Road, P.O. Shastri Bhawan, P.S. Parliament Street Police Station, District Central Delhi, New Delhi, India-110001.

Email I.D. secy.moc@nic.in

3. The Commissioner, Coal Mines Provident Fund Organisation, Police Lines, P.O. + P.S. + District- Dhanbad (Jharkhand)-826014.

Email I.D.: commissioner@cmpfo.gov.in

4. Board of Trusty of the Coal Mines Provident Fund Organisation, Police Lines, P.O. + P.S. + District- Dhanbad (Jharkhand)-826014, through its Chairman-cum-Secretary, Ministry of Coal, Government of India, Shastri Bhawan, Dr. Rajendra Prasad Road, P.O. Shastri Bhawan, P.S. Parliament Street Police Station, District Central Delhi, New Delhi, India-110001.
5. Joint Secretary, & Financial Advisor, Ministry of Coal, Government of India, Shastri Bhawan, Dr. Rajendra Prasad Road, P.O. Shastri Bhawan, P.S. Parliament Street Police Station, District Central Delhi, New Delhi, India-110001.
6. Director, Finance, Coal India Ltd. Coal Bhawan, Premise No.04 MAR, Plot No.AF-III, Action Area-1A, P.O. New Town, P.S. New Town, Kolkata, District North 24 Paragna (W.B.), New Town, Rajarhat, Kolkata-700156, Phone: 033-23245555, 033-7110-4108, 4109, PBX: 033-71104107, 033-23246545.
7. Director General, Central Bureau of Investigation, 6th Floor, Lodhi Road, Plot No.5-B, Jawaharlal Nehru Stadium Marg, CGO Complex, P.O. Pragati Vihar, S.O., P.S. CGO Complex, District South Delhi, New Delhi-110003.
Email ID: speou8del@cbi.gov.in
8. Enforcement Directorate through the Joint Director (Intelligence), Headquarters office, Directorate of Enforcement, Pravartan Bhawan, APJ Abdul Kalam Road, P.O. Rail Bhawan, S.O., P.S. + District Central Delhi, New Delhi-110011.
Email ID: ed-del-rev@nic.in
9. The State Bank of India through its Chairman, State Bank Bhawan, Cama Marg, P.O. Mumbai GPO, P.S. Mumbai, Mumbai-400021 (Maharashtra). Phone Number 91222274 0841, Fax Number-91 22 2285 5348,
Email I.D.: customercare@sbi.co.in.
10. The Managing Director-cum-Chief Executive Office, UTI Assets Management Company Ltd. UTI Tower, GN Block, Bandra Kurla

Complex, P.O. & P.S. Bandra Kurla, Mumbai, Bandra (E),
Mumbai, Maharashtra-400051

... .. Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Petitioners	: Mr Anil Kumar Singh, Advocate
For the CMFO	: Mr Prashant Kumar, Singh, DSGI Mr Karbir, AC to DSGI
For the CBI	: Mr Deepak Kumar Bharti, Advocate
For the ED	: Mr Amit Kumar Das, Sr. Advocate Mr Shivam Utkarsh Sahay, Advocate
For the SBI	: Mr Rajesh Kumar, Advocate
For the Respondent No.10	: Mr Ranjeet Kushwaha, Advocate

19/ Dated: 08.10.2026

Per M.S. Sonak, C.J.

1. Heard learned counsel for the parties. With their consent, the Court took up the case for final disposal.
2. By our detailed order dated 10.09.2026, we directed respondent Nos. 2, 5, 7 and 8 to file their affidavits in this matter on or before 30th September 2026, and to serve an advance copy on the learned counsel for the petitioners.
3. We note that only the 7th respondent, i.e., the Central Bureau of Investigation (CBI), has filed its affidavit. The remaining respondents have not filed any affidavits, and the reasons given across the Bar for not filing them inspire no confidence and cannot be accepted.

4. As noted earlier, this is a case where admittedly loss to the extent of Rs. 727.67 crores has been caused to the Coal Mines Provident Fund Organisation (CMPFO).
5. The loss resulted from the failure to withdraw about Rs. 1,300 crores of CMPFO funds invested in Dewan Housing Finance Corporation Limited (DHFL), despite financial experts' advice to do so. In fact, it is on record that the financial experts had warned the CMPFO that, if no timely withdrawals were made, the CMPFO would face considerable losses. Predictably, the CMPFO incurred a loss of approximately Rs. 727.67 crores.
6. The petitioners have explained that most respondents have not even seriously investigated this matter and have expressed apprehensions that most respondents are interested only in covering up the matter or shielding the officials involved.
7. Based on such pleadings and the prima facie materials supporting them, the petitioners have prayed for an appropriate writ directing the CBI/Enforcement Directorate to register a case against the persons responsible for causing loss to the CMPFO to the tune of Rs. 727.67 crores, to investigate the matter, and to prosecute the persons responsible. The petitioners have also sought other consequential reliefs, including compensation.
8. The Regional Commissioner-II, CMPFO, Mr Pankaj Kumar, has filed an affidavit in this matter. The affidavit states that since the role of DHFL is being investigated, the CMPFO does not propose to take any action in the matter. The affidavit also states that a major

penalty chargesheet/memorandum was issued to Sri Animesh Bharti, the Ex-Commissioner, CMPFO, on 17.05.2024, and that the same case is pending.

9. Surprisingly, Mr Pankaj Kumar's affidavit, even before the conclusion of the enquiry proceedings pending against Sri Animesh Bharti, proceeds to give a certificate to Sri Animesh Bharti that the *"matter is a purely commercial loss arising out of a resolution process under the Insolvency and Bankruptcy Code (IBC) and does not disclose criminal conspiracy or criminal breach of trust on the part of CMPFO officials warranting the registration of a separate FIR by the CBI"*.
10. In our order dated 10.09.2026, we expressed our surprise at the statement made in the affidavit of Mr Pankaj Kumar, as we were unable to comprehend how, even before the conclusion of the departmental proceedings against Sri Animesh Bharti, Mr Pankaj Kumar could have concluded that the matter related only to a commercial loss and did not disclose criminal conspiracy or criminal breach of trust warranting registration of a separate FIR by the CBI.
11. Since we were not sure whether Mr Pankaj Kumar's affidavit was under express instructions from respondent Nos. 2 and 5, we had directed respondent Nos. 2 and 5 to file an affidavit, inter alia, responding to the Court's query whether there was any proposal to initiate any criminal action, including the filing of an FIR, in this matter. This is evident from various paragraphs of our order dated 10.09.2026, including paragraphs 17 and 19.

12. Unfortunately, respondent Nos. 2 and 5 have not filed any affidavit before this Court, and the only attempt is to seek an adjournment, which we cannot appreciate because this is a matter where a loss to the extent of Rs. 727.67 crores is virtually admitted, and the same is now sought to be passed off as a mere commercial loss without any element of criminal conspiracy or breach of trust, even without any inquiry or investigation worth the name.
13. The above circumstances lend support to the petitioners' allegations that the CMPFO is interested in either hushing up this matter or giving a clean chit to its officials, even without any meaningful inquiry or investigation.
14. Mr Pankaj Kumar, assuming he has acted in his individual capacity or under the instructions of respondent Nos. 2 and 5, could not have given such a clean chit to all the CMPFO officials when the material on record virtually admits a loss of Rs. 727.67 crores, coupled with the fact that, despite the prima facie warnings of financial experts, the considerable investment of Rs. 1,300 crores was not withdrawn to mitigate the losses.
15. The record suggests that DHFL is now being wound up; therefore, the possibility of recouping the losses is remote. The record, including Mr Pankaj Kumar's affidavit, suggests that the role of DHFL or the DHFL scam is being investigated. Therefore, we are indeed surprised and pained that this matter should be taken so lightly by the CMPFO officials by refusing to seriously enquire therein and proceed to give a clean chit to the officials involved.

16. The record also shows that the CMPFO officials did not heed expert advice and behaved as if they were investing their personal funds. At least prima facie, it appears that the CMPFO officials forgot that the CMPFO funds are public funds held in trust by them and that, therefore, it was their duty to take all necessary precautions when dealing with such funds. In any event, based on departmental proceedings initiated after the institution of this petition, and even without concluding them, there was no question of giving a clean chit to the CMPFO officials, as has been done in the present case.

17. The CBI, i.e. the 7th respondent, has filed an affidavit in this matter on 30.09.2026. Paragraphs 6, 7, 8 and 9 of the affidavits are relevant, and therefore, the same are being transcribed hereinbelow for the convenience of reference:

“6. That it is respectfully submitted that the C.B.I. is already investigating various aspects of the DHFL scam registered by C.B.I. branches at New Delhi and Lucknow.

7. That the specific allegations raised in the present writ application are as under: -

a) investment of approximately Rs.1300 crore of CMPFO funds in DHFL;

b) alleged failure to withdraw such investment despite expert warnings; and

c) resultant loss of approximately Rs.727.67 crore to CMPFO.

The same have been noted and examined by the CBI.

That no separate, independent FIR has so far been registered by the C.B.I. exclusively in relation to the CMPFO-DHFL investment transaction.

8. That the CBI respectfully submits that it is ready and willing to take up a detailed investigation into the entire gamut of the CMPFO investment in DHFL.

9. That the CBI further submits that in the even this Hon’ble Court, after considering the material on record, deems it fit in

the interest of justice to direct the C.B.I. to undertake investigation into the CMPFO-DHFL investment matter, the C.B.I. shall abide by such direction.”

18. Mr Deepak Kumar Bharti, learned counsel for the CBI, has stated that the CBI is already investigating various aspects of the “DHFL Scam” registered by the CBI branches at New Delhi and Lucknow. He stated that if this Court, after considering the material on record, deems it fit, in the interest of justice, to direct the CBI to investigate the CMPFO/DHFL investment matter, the CBI shall abide by such directions.

19. Upon considering the material on record, it is evident that a loss of Rs. 727.67 crores has been caused to the CMPFO on account of the investment in DHFL. Additionally, material on record also suggests DHFL’s complicity, which is why the CBI, in its affidavit, refers to investigations into various aspects of the “DHFL Scam”. Furthermore, the materials placed before us also show that financial experts advised and subsequently warned the CMPFO officials to withdraw this investment of almost Rs. 1,300 crores, but this advice was not heeded.

20. Further, the material on record suggests that respondent Nos. 2 and 4 have undertaken no meaningful inquiry or investigation, either departmentally or through investigative agencies. Further, the affidavit filed by Mr Pankaj Kumar on behalf of respondent Nos. 2 and 5 supports the petitioners’ apprehension that the CMPFO seeks to hush up the matter and resist registering an FIR or entrusting the investigation to an independent agency like the CBI.

21. Otherwise, it is inconceivable that the belated inquiry initiated against Mr Animesh Bharti after the institution of this petition has not been concluded, and that, even before its conclusion, a statement on affidavit was made that this was only a case of commercial loss, disclosing no criminal conspiracy or criminal breach of trust.
22. Additionally, a rather strange defence was raised in the affidavit, alleging that ministry officials had discretion to initiate criminal proceedings. We observed that even if such discretion exists, it can never be unfettered, unguided, or untrammelled. When the material on record, at least prima facie, speaks loudly and clearly, discretion does not permit the decision-maker to shut their ears or look the other way. The discretion vested in public officials cannot be exercised on whims and caprices.
23. It is well settled that all discretionary powers must be exercised reasonably and after considering all relevant facts and circumstances. The Secretary, Ministry of Coal, was also directed to file an affidavit in this matter before the 30th of September 2026. Quite predictably, no affidavit has been filed to date.
24. In such a situation, a case is made out for this Court to intervene by exercising its extraordinary jurisdiction under Article 226 of the Constitution. Though this Court has plenary powers under Article 226 of the Constitution, the very plenitude of such power requires great caution in its exercise. As to issuing a direction to the CBI to investigate, such an order should not be passed as a matter of routine or merely because a party has levelled allegations.

25. In **State of West Bengal & Ors. v. Committee for Protection of Democratic Rights, West Bengal & Ors., (2010) 3 SCC 571**, and **Secretary, Minor Irrigation & Rural Engineering Services, U.P. v. Sahngoo Ram Arya & Anr., (2002) 5 SCC 521**, the Hon'ble Supreme Court held that this extraordinary power to hand over investigations to the CBI must be exercised sparingly and cautiously, in exceptional situations where it is necessary to lend credibility to the investigation and instil confidence, or where such an order may be necessary to do complete justice. At the same time, such a direction may be issued where sufficient material supports a prima facie conclusion that an inquiry is necessary. The Court is required to consider the material on record and conclude that it discloses a prima facie case calling for an investigation by the CBI or any other similar agency.
26. We are also conscious of the principle laid down in **Dr. Manik Bhattacharya v. Ramesh Malik & Ors., (2022) 17 SCC 781**, that under normal circumstances, it would not be appropriate to straightaway direct a CBI investigation unless the material on record discloses a prima facie case warranting such investigation. The existence of a prima facie case is thus the sine qua non for exercising this power. Unless the material on record prima facie discloses the commission of offences, no direction for a CBI investigation can be issued, irrespective of the gravity of the allegations or the conduct of the respondents.

27. In Legislative Council, U.P., Lucknow v. Sushil Kumar, 2025

INSC 1241, the **Hon'ble Supreme Court** held that a direction for a CBI investigation is justified where the material, prima facie, discloses the commission of offences and a CBI investigation is necessary to ensure a fair and impartial inquiry, or where the complexity, scale or wider ramifications of the allegations require the expertise of a central agency. It cannot be directed merely because a party has levelled allegations or lacks confidence in the authorities. In our view, both requirements are satisfied in the present case.

28. Applying the aforesaid principles to the facts of the present case, we are of the considered view that the material on record makes out a prima facie case warranting investigation into the possible commission of offences, including criminal breach of trust and criminal conspiracy. We are conscious that every investment loss is not an offence, and that negligence or an error of commercial judgment, by itself, does not attract criminal liability, which requires dishonest intention. However, this is not an isolated loss.

29. According to the materials on record, the matter at hand involves the investment of approximately Rs. 1,300 crores of public trust funds in an entity that is itself under investigation by the CBI, the continuation of that exposure despite specific and repeated warnings from financial experts, and a resultant loss of Rs. 727.67 crores.

30. Taken together, these circumstances raise serious questions about how public funds were handled, including why the expert advice

was not acted upon, who took or influenced that decision, and whether any extraneous consideration or collusion was involved. These questions can be answered only through a proper investigation. Whether these circumstances disclose the commission of the aforesaid or any other offence is a matter to be determined during investigation.

31. Moreover, the absence of any meaningful inquiry or investigation, coupled with the premature characterisation of the transaction as a mere commercial loss even before the conclusion of the departmental proceedings, reinforces the need for an independent investigation. This lends credence to the petitioner's allegations that there is a conscious attempt to hush up the matter and resist enquiry or investigation.

32. In our judgment, this is an exceptional case where handing over the investigation to the CBI is necessary to lend credibility to the investigation and instil public confidence that a matter involving public funds to the tune of Rs 727.67 Crores was not hushed up without even a fair investigation.

33. The matter cannot be left to the authority responsible for prudent investment of the funds, especially when its officials have prejudged the issue and, at least prima facie, appear to act in their own interests. Besides, departmental proceedings are no substitute for a proper investigation, as they are confined to service or civil liability. The standards of proof and procedures differ. Even if fairly

conducted, departmental proceedings have their own limitations and cannot reach persons outside the organisation.

34.Our conclusion, therefore, does not rest merely on the non-filing of affidavits, but on the material discussed above. Accordingly, given the magnitude of the public funds involved and the matter's connection with the CBI's ongoing investigation into DHFL, we are satisfied that the present case warrants exercising the extraordinary power to direct the CBI to conduct an investigation.

35.Considering the material on record and the circumstances noted above, we direct the CBI to register an FIR in respect of the investment of CMPFO funds in DHFL and the resulting loss, and to take over the investigation, which shall extend to the role of all persons concerned, whether officials or otherwise. Needless to add, the investigation shall be conducted expeditiously and in accordance with law. The respondents shall extend full cooperation and make available all relevant records to the CBI.

36.The departmental proceedings against Sri Animesh Bharti shall continue independently and be concluded expeditiously. Mr Pankaj Kumar's premature clean chit must be disregarded, and the enquiry must proceed without being influenced by it.

37.Since the main prayer in this petition was to direct the CBI to register a case against the persons responsible, investigate the same, and proceed in accordance with law, the directions issued above address the main relief sought by the petitioners.

38.As to compensation, it is premature to decide the issue at this stage, as it will ultimately depend on the outcome of the investigation. We, therefore, do not consider it appropriate to pass any order for compensation, as prayed for by the petitioners. They shall, however, be at liberty to renew such prayer at the appropriate stage, by filing appropriate proceedings, if the situation so warrants.

39.Before we conclude, we clarify that our observations in this judgment and order are prima facie and confined to whether a case has been made out for directing a CBI investigation. Such observations, therefore, shall not be construed as findings against any person who has not been heard, as expressing any concluded opinion on the merits of the matter, or as influencing the course of the investigation, which shall now be undertaken by the CBI in accordance with law.

40.With the above directions, we dispose of this petition without any order as to costs. All concerned must act on an authenticated copy of this order.

(M. S. Sonak, C.J.)

(Manoj Prasad, J.)

October 8th, 2026
BS/Madhav/-