2026:AHC-LKO:83046

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL REVISION No. - 188 of 2025

Parmatma Rai

.....Revisionist(s)

Versus

Central Bureau Of Investigation Acb Lucknow

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Santosh Kumar Shukla
Counsel for Opposite Party(s)	:	Aakash Prasad

[A.F.R.]
Court No. - 13

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Santosh Kumar Shukla, the learned counsel for the revisionist and Sri Aakash Prasad assisted by Sri Yash Joshi and Sri Shreshtha Srivastava, the learned counsel for the respondent-CBI.

2. By means of the instant revision, the revisionist has challenged the validity of a judgment and order dated 06.01.2025 passed by the learned Special Judge, Prevention of Corruption Act, CBI, Court No.4, Lucknow in Criminal Case No.16000002 of 2006 arising out of RC No.0062005A0014 under Section 13(2) read with Section 13(1)(e) of Prevention of Corruption Act, 1988 (which will hereinafter be referred to as 'the PC Act') and Section 109 of IPC registered at Police Station- CBI/ACB, District- Lucknow, whereby an application (B-259) filed by the revisionist-accused challenging the validity of the prosecution sanction order, has been rejected.

3. A copy of the application which has been rejected by the impugned order has not been brought on record and, therefore, this Court has to rely on the narration made in the impugned order regarding contents of that application. The sanction for petitioner's prosecution was granted by Shri Sarvesh Singh, Director, Telecommunication Department on behalf of the Hon'ble President of India and the sanction order was proved by the testimony of PW-1.

4. The trial Court rejected the application holding that the Director, (Vigilance-I), Telecommunication Department, has granted sanction on behalf of the Hon'ble President of India for prosecution of the revisionist. The prosecution sanction order mentions that prima facie it appears that the revisionist had acquired properties, the value whereof exceeded his known sources of income by an amount of Rs.62,00,843.70.

5. The prosecution sanction order (Exhibit A-1) has been proved by Shri Sarvesh Singh, Director, Telecommunication Department the Director, who has been examined as PW-1 and who stated that he had sent the relevant documents for grant of the prosecution sanction to the Hon'ble Minister, who granted sanction for the petitioner's prosecution on the file. After the grant of sanction by the Hon'ble Minister, the file was received in his office and after seeing the relevant documents, PW-1 had passed the order granting sanction for the petitioner's prosecution.

6. The trial court held that the sanctioning authority has granted prosecution sanction after due application of mind and after perusal of the entire relevant facts and materials.

7. The petitioner has paced reliance on an Office Order dated 31.05.2004 issued by the Government of India, Ministry of Tele-Communication and Information Technology, a copy whereof has been filed before the trial Court alongwith the objections filed by the CBI. Clause 2 of the Office Order dated 31.05.2004 mentions *"all policy matters, including disciplinary action and vigilance matters regarding any of the above subjects will be submitted to MOC&IT through MOS(C&IT)"* and the learned Counsel for the revisionist has submitted that the sanction for prosecution will be covered by this clause and the Minister of State should have submitted the matter to the Minister of Communication and Information Technology as he does not have the power to grant sanction for prosecution of the revisionist.

8. *Per contra,* the learned Counsel for the CBI has invited attention of the Court to Section 19 (1) of the PC Act, which provides as follows: -

> "***19. Previous sanction necessary for prosecution.—****(1) No court shall take cognizance of an offence punishable under Sections 7, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction-*
>
> *(a) in the case of a person who is employed, or as the case may be, was at the time of commission of the alleged offence 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;*
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> *(b) in the case of a person who is employed, or as the case may be, was at the time of commission of the alleged offence 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."***

9. The learned Counsel for the CBI has submitted that as per Section 19 (1) of the PC Act, the prosecution sanction has to be granted grant by the authority competent to remove the person from his office. Removal of the person will fall within service and disciplinary matters, which is covered by Clause 1.ii of the Office Order dated 31.05.2004, which provides that: -

> "***1.*** *Matters on the following subjects will be decided at MOS level subject to overall superintendence and guidance of the Minister of Comununications & Information Technology(MOC&IT):-*
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> * * *
>
> ***ii.*** *All service and disciplinary matters and also appointments of officers below and including the level of JAG."*

10. The learned counsel for the respondent CBI has placed reliance upon a judgment of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh and Ors. v. Shardul Singh**; (1970) 1 SCC 108, wherein it was held that: -

> "***8.*** *... The expression "conditions of service" is an expression of wide import. As pointed by this Court in Pradyat Kumar Bose v. Hon'ble Chief Justice of Calcutta High Court [(1955) 2 SCR 1331] the dismissal of an official is a matter which falls within "conditions of service" of public servants. The Judicial Committee of the Privy Council in North West Frontier Province v. Suraj Narain Anand [(1948) LR 75 IA 343] took the view that a right of dismissal is a condition of service within the meaning of the words under Section 243 of the Government of India Act, 1935. ..."*

11. Sri Akash Prasad, the learned counsel for the respondent-CBI has submitted that Section 19(1)(c) of the PC Act provides that "*no court shall take cognizance of an offence punishable under Section 7, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction of the authority competent to remove him from service."* Removal from service would fall within the scope of the phrase "*All service and disciplinary matters"* occurring in clause 1 (ii) of the Office Order dated 31.05.2004.

12. Sri. Prasad has also placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Dashrath v. State of Maharashtra;** 2025 INSC 654, wherein the Hon'ble Supreme Court held that grant of sanction is an administrative function based on the subjective satisfaction of the sanctioning authority after due application of mind to the material placed before him.

13. The learned Counsel for the petitioner has placed reliance on a judgment

in the case of **Mohammd Yunus Khan v. State of UP**: **(**2010) 10 SCC 539, wherein the Hon'ble Supreme Court has held that: -

> "*15. We have to proceed, keeping in mind the trite law that holding disciplinary proceedings against a Government employee and imposing a punishment on his being found guilty of misconduct under the statutory rules is in the nature of quasi-judicial imposing a punishment on his being found guilty of misconduct under the statutory rules is in the nature of quasi-judicial proceedings. Though, the technical rules of procedure contained in the Code of Civil Procedure, 1908 and the provisions of the Indian Evidence Act, 1872 do not apply in a domestic enquiry, however, the principles of natural justice require to be observed strictly. Therefore, the enquiry is to be conducted fairly and reasonably and the enquiry report must contain reasons for reaching the conclusion that the charge framed against the delinquent stood proved against him. It cannot be an ipse dixit of the inquiry officer. Punishment for misconduct can be imposed in consonance with the statutory rules and principles of natural justice."*

14. I have considered the facts and circumstances of the case, the law laid down by the Hon'ble Supreme Court in the aforementioned cases and the submissions of the learned counsel for the parties.

15. Section 19(1) of the PC Act categorically provides that a public servant cannot be prosecuted for having committed the offences under Sections 7, 11, 13 and 15 without a valid sanction order. Section 19(1)(c) of the PC Act provides that such sanction order may be granted by the authority competent to remove such a public servant from his office. Removal of a public servant from service falls within the ambit of the expression "all service and disciplinary matters" occurring in Clause 1(ii) of the Office Order dated 31.05.2004, which allocates such matters to be dealt with by the Minister of State for Communication and Information Technology.

16. The phrase "*All policy matters including disciplinary action and vigilance matters"* falling in clause 2 of the Office Order dated 31.05.2004, contains provisions for policy matters regarding disciplinary action and vigilance matters, regarding subjects mentioned in clause 1 of the Office Order dated 31.05.2004. Therefore, a combined reading of clause (1)i and clause 2 of the Office Order dated 31.05.2004 makes it clear that the service and disciplinary matters of officers up to the level of JAG, will be dealt with by the Minister of State whereas policy matters relating to service matters will be dealt with by the Minister of Communication and Information Technology. Grant of sanction for prosecution of an individual officer or refusal thereof, cannot be said to be a policy matter regarding disciplinary action and vigilance matters rather it is a matter relating to service and

disciplinary action of an officer which clearly falls within the purview of clause 1 (ii) of the Office Order dated 31.05.2004.

17. Therefore, I am of the considered view that as per the provisions contained in the Office Order dated 31.05.2004, all service and disciplinary matters relating to officers up to the level of JAG, fall within the purview of powers of the Minister of State and it would, obviously, include the power to remove the petitioner from service. When the Minister of State has the power to remove the petitioner from service, he would certainly have the power to grant or refuse sanction for the prosecution of the petitioner.

18. Therefore, I find no force in the submission of the learned Counsel for the petitioner that the Minister of State did not have the power to grant sanction for prosecution of the petitioner. The judgment in the case of **Mohammd Yunus Khan v. State of UP** (supra) cited by the learned Counsel for the revisionist has no bearing on the points involved in the case,

19. The trial court has not committed any error or illegality in rejecting the petitioner's application raising objections against the validity of the sanction order on the ground of lack of power.

20. The revision lacks merit and the same is **dismissed**.

November 16, 2026
-Amit K-

(Subhash Vidyarthi,J.)

Whether the judgment is speaking :- Yes
Whether the judgment is reportable :- Yes

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(Subhash Vidyarthi,J.)

Digitally signed by :-
AMIT KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench