

**Court No. - 10**

**Case :-** APPLICATION U/S 482 No. - 8292 of 2018

**Applicant :-** Dr. Syed Fareed Haider Rizvi @ Dr. S.F.H. Rizvi

**Opposite Party :-** C.B.I. Thru. S.P./A.C.B. Lko

**Counsel for Applicant :-** Nandit Kumar Srivastava

**Counsel for Opposite Party :-** Bireswar Nath

**Hon'ble Dinesh Kumar Singh,J.**

1. In the present case, the CBI registered regular case in compliance of the order passed by this Court on 31.01.2014 in Writ Petition No.12802 (M/B) of 2011 in respect of gross irregularities, large-scale bungling and misappropriation of government funds relating to Mahatma Gandhi National Rural Employment Guarantee Scheme during the years 2007-2008 and 2008-2009.

2. The present accused-applicant was working as District Development Officer, Balrampur and allegation against him, which has been substantiated by the CBI in its investigation, is of causing loss to government to the tune of Rs. 9,24,159/- and corresponding gain to himself. The CBI filed its charge-sheet on 15.11.2018. In the meantime, the accused-applicant retired from service on attaining the age of superannuation. On filing of the charge-sheet the learned trial Court took cognizance on 23.11.2018.

3. Mr. Nandit Srivastava, learned Senior Advocate assisted by Mr. Anil Kr. Tripathi, Advocate, appearing for the accused-applicant, has taken only one ground in respect of the present application that in view of amendment in Section 19 of the Prevention of Corruption Act, 1988 on 26.07.2018, even if the government/public servant has retired, sanction is a must for prosecuting him under Sections 7, 11, 13 and 15 of the Act, 1988. He has further submitted that no sanction has been taken for prosecution of the accused-applicant and, therefore, the impugned proceedings are nullity.

4. The CBI undertook the investigation in compliance of the order passed by this Court, mentioned above. The moot question involved in the present application is that once the CBI had taken investigation in compliance of the order passed by the Constitutional Bench (High Court or Supreme Court) and filed charge-sheet against the government/public servant even then the sanction would be required from the competent authority for prosecuting such a government/public servant (serving or retired). Mr. Nandit Srivastava, learned Senior Counsel, submits that he will address the Court on the said point on the next date of listing of the matter.

5. Mr. Shiv P. Shukla, learned counsel for the CBI, is also directed to render effective assistance to decide the issue which is of most importance.

**6. *Let the matter be listed on 29.11.2022, peremptorily.***

7. Till then interim order, if any, shall remain in operation.

**Order Date :-** 22.11.2022

MVS/-