

SYNOPSIS

The present writ petition is being filed under Article 32 of the Constitution of India challenging the extension of tenure of Mr. Sanjay Kumar Mishra, current Director of Directorate of Enforcement (hereinafter referred to as “ED”), by way of Office Order No. 238/2021 dated 17.11.2021 bearing F. No. A12026/10/2018-Ad.1 issued by the Government of India, Ministry of Finance, Department of Revenue on grounds of being invalid under the provisions of Sec 25 of The Central Vigilance Commission Act, 2003. This extension of tenure is also in gross violation of the judgement of this Hon’ble Court in *Common Cause vs. Union of India, W.P. (C) No. 1374 of 2020*, wherein it was directed that no further extension of tenure shall be granted to the incumbent Director, ED.

The said office order extended the tenure of Sh Sanjay Kumar Mishra, IRS (IT:84006) as Director of Enforcement in Enforcement Directorate for a period of one year beyond 18/11/2021 up to 18/11/2022 or until further orders, whichever is earlier.

Office Memorandum OM No. 11012/11/2007-Estt. A dated 27/09/2011 issued by Govt of India, Dept of Personnel & Training

states that “*vigilance clearance shall be denied to an officer if he fails to submit his annual immovable property return of the previous year by 31st January of the following year, as required under Government of India decisions under Rule 18 of the Central Civil Services (Conduct) Rules, 1964.*”

The petitioner contends that Sh Sanjay Kumar Mishra, on the day of his appointment i.e. 17.11.2021 vide Office Order No. 238/2021 vide F.No. A 12026/10/2018-Ad.1 notified by Respondent no. _____ had not uploaded his annual immovable property returns (IPR) for the years 2018, 2019, and 2020.

Extension has now been granted but one of the factors for ‘vigilance clearance’ of officers is the requirement of submission of Annual Property Returns and the uploading of the same. The responsibility of the same is, as per the CBDT, is on the respective IRS officer. The incumbent Director, ED, was an IRS officer. The incumbent Director, ED failed to upload his annual immovable property returns (hereinafter referred to as “IPR”) for the previous three annual years, as well as for the annual years 2013 and 2014, within the deadline prescribed by the Central Vigilance Commission for doing so vide its Office Order No. 020/VGL/023/466958 dated 23.11.2020. This

Office Order required all civil servants to file their IPRs and to initiate disciplinary proceedings against officers in case of non-filing of IPRs on time. In such circumstances, it is all the more surprising that the officer in question has been granted extension of tenure for a second time, when on the contrary he is liable to be proceeded against by way of departmental enquiry for his failure to comply with the said Office Order.

Rule 18(1)(ii) of the Central Civil Services (Conduct) Rules, 1964 states that *“Every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.”* The manner in which the IPRs are to be submitted by the officers at present is uploading the same on the Cadre Management System (CMS) portal of the CBDT website using their CMS user ID and password. Considering that the deadline for filing IPRs each year is 31st January, Mr. S.K. Mishra is well in violation of the

prescribed time as the IPRs for previous years 2013, 2014, 2018, 2019 and 2020 were uploaded on 3rd December 2021.

According to notification no. HRD/PMD/13/444/6/IPR-20/2019-20, dt. 31.12.2019 issued by Directorate of Income Tax, all IRS officers are required to upload their immovable property returns on the website www.irsofficersonline.gov.in.

The annual property returns of Enforcement Director Sh Sanjay Kumar Mishra for the years 2018, 2019, & 2020 were not uploaded on the aforementioned website on 02.09.2021 when the Petitioner checked the website.

Subsequently, on 06/09/2021, the Petitioner filed a complaint with the Central Vigilance Commission with complaint no. 184018/2021/vigilance-5 pointing out the same. The complaint was duly registered by the Central Vigilance Commission.

As on the date of extension of tenure of Enforcement Director Sh. Sanjay Kumar Mishra by 1 year i.e. 17.11.2021, his IPR returns for the years 2018, 2019, & 2020 were still not uploaded on the aforementioned website as required by the rules of the Directorate of Income Tax.

The IPR returns of Enforcement Director Sh Sanjay Kumar Mishra suddenly appeared in the month of December 2021 on the website www.irsofficersonline.gov.in

Forensic analysis conducted by the Petitioner of the immovable property returns files of Enforcement Director Sh Sanjay Kumar Mishra filed on the website www.irsofficersonline.gov.in in December 2021 show that the IPRs for the years 2018, 2019, & 2020 were uploaded to the website on 03.12.2021.

It is surprising that the said Officer has been granted extension of tenure after his superannuation, that too for the second time, to such an important post despite his act of delinquency. Such a decision by the Government undermines public confidence in the post as well as the integrity of the entire organisation that is headed by the person occupying the post. This decision of the Government is bound to create a perception that such an important and sensitive position is open to political influences and pressures and that selection of officers is not guided by consideration of relevant factors.

It has been held by this Hon'ble Court in the case of *Centre for Public Interest Litigation & Anr. v. Union of India & Anr.*, (2011) 4

SCC 1, that institutional integrity is the keystone of such decisions of appointment. The Hon'ble Court held as under:

“Thus, the institutional integrity is the primary consideration which the HPC is required to consider while making recommendation under Section 4 for appointment of Central Vigilance Commissioner. In the present case, this vital aspect has not been taken into account by the HPC while recommending the name of Shri P.J. Thomas for appointment as Central Vigilance Commissioner. We do not wish to discount personal integrity of the candidate. What we are emphasizing is that institutional integrity of an institution like CVC has got to be kept in mind while recommending the name of the candidate.”

Therefore, repeated extensions such as in the present case open the Officers to political influences and leave the institution vulnerable, especially considering that the Officer granted extension has been in gross violation of a number of OM and circulars of the DoPT, CVC and the CBDT. Hence, it is imperative that this Hon'ble Court intervenes and strikes down the order of Respondent No. 1 extending the tenure of Mr. SK Mishra as Director of ED.

LIST OF DATES AND EVENTS

- 27.09.2011 Office Memorandum of the Department of Personnel and Training bearing No. 11012/11/2007-Estt. (A) was published whereby it was directed that officers who do not submit that annual IPRs within time would be denied vigilance clearance and will not be considered for empanelment for senior level posts in Government of India.
- 31.12.2019 Circulars of CBDT bearing Nos. HRD/PMD/13/444/6/IPR-20/2019-20/6554 and HRD/PMD/13/444/6/IPR-20/2019-20/6555 were published whereby IRS officers and other Group 'A' and Group 'B' officers were directed to file their IPRs on the web portal created for the same, i.e., <http://www.irsofficersonline.gov.in/>.
- 23.11.2020 Office Order No. 020/VGL/023/466958 was published by the CVC whereby filing of immovable property returns (IPR)/ movable property returns (MPR) by all civil service

officers was made mandatory. A deadline of 30.11.2021 was fixed for filing all returns till 2019.

- 30.11.2020 The date by which annual IPRs till the previous year 2019 were to be uploaded. Annual IPRs of Mr. S.K. Mishra, current ED Director and earlier in an IRS post, were not uploaded on the website within the stipulated deadline for annual years 2013, 2014, 2018 and 2019.
- 31.01.2021 The deadline prescribed for uploading the annual IPRs for the previous year 2020. Respondent No. 4 failed to file his returns within this time period.
- 02.09.2021 Petitioner No. 2 posted a tweet on Twitter pointing out that the immovable property returns of Mr. S.K. Mishra have not been uploaded on the website of CBDT since 2017.
- 06.09.2021 Petitioner No. 2 lodged a complaint with the Chief Vigilance Commissioner asking for initiation of disciplinary proceedings against Mr. S.K. Mishra for non-filing of immovable/

movable property returns by him. CVC registered the complaint with complaint no. 184018/2021/vigilance-5 but has neither responded to the complaint of the Petitioner till date nor has it taken action in that regard against the Officer for his delinquency till date.

08.09.2021

This Hon'ble Court held in the matter of *Common Cause vs. Union of India & Ors., W.P. (C) No. 1374 of 2020*, that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. Further, that any extension of tenure to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period. This Hon'ble Court specifically stated that no further extension shall be granted to the incumbent Director of Enforcement.

14.11.2021

Promulgation of The Central Vigilance Commission (Amendment) Ordinance, 2021,

bearing No. CG-DL-E-14112021-231129, enabling the extension of tenure of Director of Enforcement Directorate (ED) up to 5 years.

15.11.2021 The Personnel Ministry issued an order to amend the Fundamental Rules, 1922 adding the two posts of the Director, CBI and the Director, ED to the list whose services can be extended up to two years beyond the two years fixed tenure in “public interest”.

17.11.2021 Mr. Sanjay Kumar Mishra, Respondent No. 4, was due for superannuation as per statutory rules and regulations.

17.11.2021 Office Order No. 238/2021 vide F.No. A12026/10/2018-Ad.1 issued by the Government of India, Ministry of Finance, Department of Revenue extending the tenure of Director of Enforcement in the Enforcement Directorate for a period of one year beyond 18.11.2021 i.e. upto 18.11.2022 or until further orders whichever is earlier.

03.12.2021 The IPRs for the missing years, that is, 2013,
2014, 2018, 2019 and 2020 were uploaded by
Mr. S.K. Mishra, current Director of ED.

05.12.2021 Hence the present Writ Petition.

IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION (CIVIL)
PUBLIC INTEREST LITIGATION
WRIT PETITION (CIVIL) NO. ____ OF 2021
(A petition under Article 32 of the Constitution of India.)

IN THE MATTER OF:

1. Saket Gokhale

... Petitioner No.1

Versus

1. Union of India
Ministry of Home Affairs
Through Chief Secretary
North Block
New Delhi-110001

... Respondent No. 1

2. Ministry of Law & Justice
Through Secretary
4th Floor, A-Wing,
Shastri Bhawan
New Delhi 110001

... Respondent No.2

3. Department of Personnel and Training
Principal Secretary,
North Block, Central Secretariat
New Delhi-110001 ... Respondent No.3

4. Directorate of Enforcement
Through Director
6th Floor, Lok Nayak Bhawan,
Khan Market
New Delhi- 110003 ... Respondent No. 4

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION
OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE
OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT
TO QUASH THE EXTENSION OF TENURE OF THE
RESPONDENT NO. 4 BY WAY OF INTRODUCTION OF
ORDINANCE NO. CG-DL-E-14112021-231129
PROMULGATED ON 14.11.2021 AND OFFICE ORDER NO.
238/2021 DATED 17.11.2021 BEARING F. NO.
A12026/10/2018-AD.1

To,

HON'BLE THE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES

OF THE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE

PETITIONERS ABOVE NAMED:

MOST RESPECTFULLY SHEWETH:

1. The present petition under Article 32 of the Constitution of India is being filed by the Petitioners, who are public spirited individuals, seeking quashing of the wrong, malafide and illegal extension of tenure of the Director, ED, vide Office Order No. 238/2021 dated 17.11.2021 bearing F. No. A12026/10/2018-Ad.1 issued by the Government of India, Ministry of Finance, Department of Revenue.
2. That the petition is not guided by self-gain or for gain of any other individual person, institution or body. There is no motive other than the larger public interest in filing this petition. Petitioners have no personal interests or individual gain, private motive or oblique reasons in filing this petition. The petition is bona fide and with the sole purpose of larger

public interest and in the interest of justice as enshrined in Article 32 of the Constitution of India.

3. That Petitioner No. 1 is a former journalist and social activist and is a public spirited individual. The petitioner has been involved in several issues concerning public interest in his personal capacity and has espoused various causes for better administration of justice. The petitioner has raised his voice and worked on numerous issues relating to voter rights, human rights, & transparency. Since 2017 he has been an independent RTI activist and transparency investigator. He is currently a member and national spokesperson of All India Trinamool Congress. He represents a political party and therefore has a duty to hold public servants to account.

4. That the Petitioner has not made any representation or approached any of the Respondents herein for the reliefs

claimed in the present petition as this Hon'ble Court is the only appropriate forum for seeking the reliefs as prayed in the present petition.

5. That the Petitioner has no criminal, civil or revenue litigation involving them and pending against them which could have a legal nexus with the issues involved in the present public interest litigation.
6. That the source of averments made in this writ petition is based on judgments passed by the Hon'ble Supreme Court of India, personal knowledge of the Petitioners, various media reports, office orders/ memoranda and circulars of various Ministries/ Departments/ Organisations, and Ordinances published in the Gazette of India. The Petitioner is filing this petition under Article 32 of the Constitution of India.

FACTS OF THE CASE

1. Office Memorandum (OM) dated 27.09.2011 of the Department of Personnel and Training bearing No. 11012/11/2007-Estt. (A) was published whereby it was directed that officers who do not submit that annual IPRs within time would be denied vigilance clearance and will not

be considered for empanelment for senior level posts in Government of India. A copy of the said Office Memorandum is annexed herewith as **ANNEXURE P-2**

2. CBDT published Circular dated 31.12.2019 bearing No. HRD/PMD/13/444/6/IPR-20/2019-20/6554 whereby IRS officers and other Group 'A' and Group 'B' officers were directed to file their IPRs on the web portal created for the same, i.e., <http://www.irsofficersonline.gov.in/>. Another Circular of the same date bearing No. HRD/PMD/13/444/6/IPR-20/2019-20/6555 was published wherein instructions provided for uploading of IPRs by IRS officers. Copies of both aforementioned circulars are annexed herewith as **ANNEXURE P-3**.
3. Office Order No. 020/VGL/023/466958 dated 23.11.2020 was published by the CVC whereby filing of immovable property returns (IPR)/ movable property returns (MPR) by all civil service officers was made mandatory. A deadline of 30.11.2021 was fixed for filing all returns till 2019. Further, the OM of 2011 of DoPT mentioned above prescribed a deadline of 31st January each year for filing of IPRs by all officers of central civil services/ posts. A copy of the Office

Order mentioned above is annexed herewith as **ANNEXURE P-4.**

4. That Mr. Sanjay Kumar Mishra, Respondent No. 4 and current Director, ED and earlier in an IRS post, failed to meet the abovementioned deadlines as he did not file his annual IPRs for previous years 2013, 2014, 2018, 2019 and 2020 until 3rd December 2021, more than ten months after the deadline for filing the IPRs for previous year 2020 and more than a year after the deadline set by the CVC through its Office Order of 2020 mentioned above, giving last opportunity to officers for filing their annual IPRs up to the previous year 2019. A copy of the screenshot from the website www.irsofficersonline.gov.in taken by the petitioner on 02.09.2021 is annexed herewith as **ANNEXURE P-5.**
5. That Petitioner No. 2 brought this act of delinquency to the notice of CVC by filing a complaint before it and asking for initiation of department enquiry against Respondent No.4 for same. The complaint was registered by the CVC with complaint no. 184018/2021/vigilance-5. However, the CVC has not responded to the representation of the Petitioner till date, nor has any action been taken against the delinquent

officer. A copy of the complaint by the Petitioner to the CVC is annexed herewith as **ANNEXURE P-6**

6. That to the surprise of the Petitioners herein, Respondent No. 4, who was due for superannuation on 17.11.2020 was granted extension of his tenure by one more year by way of Ordinance No. CG-DL-E-14112021-231129 promulgated on 14.11.2021 by the President of India (hereinafter referred to as the “said Ordinance”) and Office Order No. 238/2021 dated 17.11.2021, bearing F. No. A12026/10/2018-Ad.1, issued by the Government of India, Ministry of Finance, Department of Revenue. This decision of Respondent No. 1 is in complete contradiction of basic principles of administrative law and service jurisprudence as also the various OM issued by it.
7. That this decision of extension of tenure of Respondent No. 4 is in direct violation of OM of DoPT of 2011 mentioned above, i.e., OM No. 11012/11/2007-Estt. (A) dated 27.09.2011. In the said OM it was directed that the act of late filing of IPRs would lead to denial of vigilance clearance to the delinquent officers and they would not be considered for empanelment for senior level posts in the Government of India. Apart from the said OM of 2011, it also violates the

Office Order of CVC dated 23.11.2020 bearing No. 020/VGL/023/466958 wherein it was held that non-filing of IPRs would constitute good and sufficient reasons for instituting disciplinary proceedings against the delinquent officials.

8. That on 03.12.2021, the petitioner found that the immovable property returns of Sh Sanjay Kumar Mishra for the years 2018, 2019, and 2020 had suddenly appeared and been uploaded on the www.irsofficersonline.gov.in website. The immovable property returns for these 3 years had been scanned and filed in PDF format. The Petitioner, on the same day, downloaded and opened the 3 PDF files containing the immovable property returns for 2018, 2019, and 2020 of Sh Sanjay Kumar Mishra filed on the website using the software Adobe Acrobat Reader. In this software, there is a button called “properties” which gives details about a PDF file including the date on which it was created. By conducting a forensic analysis by examining the “properties” of the immovable property returns files for 2018, 2019, and 2020 of Sh Sanjay Kumar Mishra using Adobe Acrobat Reader, the petitioner found that the 3 files for the years 2018, 2019, and

2020 had been scanned in the early morning hours of 03.12.2021 using an HP Scanner. The corresponding time stamps for the PDF files showed that the immovable property returns for 2018, 2019, and 2020 were scanned on 03.12.2021 at 01:43am, 01:47am, and 01:49am respectively. A copy of the said forensic analysis for the 3 files with immovable property returns of Sh Sanjay Kumar Mishra uploaded on 03.12.2021 is annexed herewith as **ANNEXURE P-7**

9. That the post of Director, ED is a very important position and the officer occupying the post is tasked with heading a specialised financial investigation agency under the Department of Revenue, Ministry of Finance, Government of India, which is responsible for investigating matters pertaining to money laundering and tax evasion. Therefore, it is all the more important that the information relating to the assets of the person holding such an important post is uploaded by him within the prescribed time period so that the same is readily available in the public domain. Failure on the part of the person occupying the position to do so leads to the loss of faith of the general public in the post and consequently

the organisation as a whole and the investigations undertaken by it.

10. That the extension of tenure of Respondent No. 4 is all the more surprising given the fact that the said Ordinance was promulgated merely two weeks before the Parliament was to reconvene for its winter session. Furthermore, in the case of the Director, CBI, the final appointment ought to be made by a committee consisting of the Prime Minister, the Leader of Opposition in the Lok Sabha and the Hon'ble Chief Justice of India or his nominee. The Enforcement Directorate is a powerful investigative agency with a nation-wide jurisdiction just like the CBI and, as such, the same protection ought to be afforded to the ED as it exists for the CBI.
11. That this Hon'ble Court in the matter of *Common Cause vs. Union of India & Ors., W.P. (C) No. 1374 of 2020*, held that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. Further, that any extension of tenure to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period. It was specifically stated that no further extension

shall be granted to the current Director of Enforcement, Mr. S.K. Mishra.

12. That considering the abovementioned facts - i) the Officer in question is heading such an important and specialised investigation agency but failed to submit his IPRs on time; ii) the said Ordinance was introduced merely two weeks before the Parliament was scheduled to be in session; iii) this Hon'ble Court had specifically held that no further extension should be given to the incumbent Director of ED – it is clear that the extension of tenure of Respondent No. 4 was granted without application of mind and irrelevant/ extraneous considerations were taken into account while taking the decision.

13. **GROUND:**

A. Because the current Director of ED failed to upload his IPRs within the deadline prescribed in the Office Order of CVC dated 23.11.2020 bearing No. 020/VGL/023/466958 whereby filing of immovable property returns (IPR)/ movable property returns (MPR) by all civil service officers was made mandatory and a deadline of 30.11.2021 was fixed for filing of all returns till 2019. Therefore, Respondent No. 1 should

have taken such an important factor into account while granting extension of tenure to Respondent No. 4.

- B. Because the said Office Order of CVC clearly states that filing of IPRs by all officers is a mandatory requirement under its conduct rules and non-filing of the same constitutes good and sufficient reasons for initiating departmental inquiry against delinquent officials.
- C. Because the annual property returns of Respondent No. 4 were not filed for five years, including the last three years, until 03.12.2021 despite the said Office Order of CVC clearly stating that the returns up to year 2019 should be uploaded latest by 30.11.2020 and that the last date for filing annual returns is 31st January each year.
- D. Because the Officer also failed to comply with the Circular of CBDT bearing No. HRD/PMD/13/444/6/IPR-20/2019-20/6554 dated 31.12.2019 whereby IRS officers and other Group 'A' and Group 'B' officers were directed to file their IPRs on the web portal created for the same.
- E. Because the extension of tenure of Respondent No. 4 is also in violation of OM of the Department of Personnel and Training dated 27.09.2011 bearing No. 11012/11/2007-Estt.

(A) wherein it was directed that officers who do not submit their annual IPRs within time would be denied vigilance clearance and will not be considered for empanelment for senior level posts in Government of India.

- F. Because the object behind the said Office Order of CVC and the two Circulars of CBDT as well as the OM of DoPT aforementioned is that the assets of public servants should be in the public domain to ensure accountability in governance.
- G. Because the Circulars of CBDT require IRS officers to upload their annual IPRs on the CBDT website with intent of making them available in the public domain. Therefore, it is necessary that in such circumstances, when the said Officer failed to comply with the requirement of uploading his IPRs on time, the decision to grant him extension of tenure be quashed so as to keep the faith of citizens in the investigative agency intact.
- H. Because this Hon'ble Court held in the matter of *Common Cause vs. Union of India & Ors. , W.P. (C) No. 1374 of 2020*, that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases, that any extension of tenure to persons holding the post of Director of Enforcement after attaining the

age of superannuation should be for a short period and further this Hon'ble Court specifically stated that no further extension shall be granted to the current Director of Enforcement, Mr. S.K. Mishra.

- I. Because this Hon'ble Court has, in directing no further extension to Respondent No. 4 issued a writ of mandamus which cannot be legislatively overridden.
- J. Because the Officer in question is the incumbent Director, ED and is tasked with heading the premier financial investigation agency of the country. Therefore, it is all the more important that the details of the financial assets owned by him, which have to be declared by way of filing of IPRs and MPRs, are submitted/ uploaded by him within the prescribed time. Granting him extension despite his failure to do so, when in fact he is liable to be proceeded against by way of department enquiry, violates the basic principles of rule of law.
- K. Because the citizens have a fundamental to right to information and uploading/ submitting the IPRs by officials on the website ensures that the source of their funding remains accessible to the public, which upholds the citizens' fundamental right to information. Therefore, non-filing of the

IPRs infringes upon this fundamental right and considered in this light as well, the order of extension of tenure in favour of the current Director, ED is bad in law and liable to be quashed.

L. Because there are several competent officers who are eligible for consideration for appointment to the post of Director, ED, and such persons should not be unjustly deprived of the opportunity to be appointed to such posts, especially by the extension of tenure of an officer who failed to comply with deadlines prescribed in various circulars and office orders meant for ensuring transparency in the functioning of the agency and integrity of the post of Director.

M. Because granting extension of tenure to a delinquent officer is tantamount to rewarding the officer for the same and the extension granted in the present case sets a bad precedent for all other officers of the Central Civil Services.

N. Because it has been held by this Hon'ble Court in *Centre for Public Interest Litigation & Anr. v. Union of India & Anr.*, (2011) 4 SCC 1, that institutional integrity is the keystone of such decisions of appointment. The Hon'ble Court held as under:

“36. ... Thus, the institutional integrity is the primary consideration which the HPC is required to consider while making recommendation under Section 4 for appointment of Central Vigilance Commissioner.

37. In the present case, this vital aspect has not been taken into account by the HPC while recommending the name of Shri P.J. Thomas for appointment as Central Vigilance Commissioner. We do not wish to discount personal integrity of the candidate. What we are emphasizing is that institutional integrity of an institution like CVC has got to be kept in mind while recommending the name of the candidate. Whether the incumbent would or would not be able to function? Whether the working of the Institution would suffer? If so, would it not be the duty of the HPC not to recommend the person.”

- O. Because the manner and haste with which the tenure of the said Officer has been extended suggests that the extension has been made for extraneous reasons and has not been made keeping public interest as the paramount consideration. Granting extension of tenure to the Officer in question by way

of promulgation of said Ordinance, despite his act of delinquency, merely two weeks before the next session of Parliament and when this Hon'ble Court had specifically directed that no further extension should be granted to him is not only arbitrary but is also contrary to statutory provisions and judicial directions.

P. Because it is in national interest that the extension of tenure of officers appointed to critical posts such as Director, ED, is conducted in a transparent manner and in accordance with rule of law and that such appointments are made keeping in mind overall perform and conduct of the officers. Any act of delinquency should be considered seriously and such officers should be ineligible for consideration.

Q. Any other ground, as may be permitted by this Hon'ble Court.

14. The Petitioners has not filed any other petition nor made any application in respect of the subject matter of the present petition either in this Hon'ble Court or before any High Court.

15. The Petitioners has no other alternate or equally efficacious remedy but to approach this Hon'ble Court under Article 32 of the Constitution of India.

PRAYER

In light of the above facts and circumstances the Petitioner most humbly prays that this Hon'ble Court may be pleased to issue an appropriate writ(s) / order(s) / direction(s) for the following reliefs:

- a. For a writ, direction or order quashing Office Order No. 238/2021 issued by the Government of India, Ministry of Finance, Department of Revenue, dated 17.11.2021 granting an extension of tenure of one year to Mr. S.K. Mishra as Director, Directorate of Enforcement;
- b. Pass any such other orders as may be deemed fit in the facts and circumstances of this case.