



W.P. (MD) No.17716 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.17716 of 2020

and

W.M.P.(MD)No.14803 of 2020

“Ramanathapuram District
Pathikkapattor Sangam”
(Registration No.274/2020)
Rep. by its Secretary,
Sanjeevkumar M/27/2020,
S/o.Elangovan,
Door No.3/3029, Pattinamkaathan,
Ramanathapuram – 623 503.
Ramanathapuram District. ... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by the Principal Secretary to
Govt. of Tamil Nadu,
Home Department,
Secretariat, St. George Fort,
Chennai – 600 009.

2. The Director General of Police,
(Law and Order),
4, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

3. The Director,
Central Bureau of Investigation,
New Delhi.

4. The Additional Director General of Police,

WEB COPY



Economical Offences Wing,
1st Floor, SIDCO Complex,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.

5.The Inspector General of Police,
Economical Offences Wing,
1st Floor, SIDCO Complex,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.

6.The Superintendent of Police,
Economical Offences Wing-II,
1st Floor, SIDCO Complex,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.

7.The Deputy Superintendent of Police,
Economical Offences Wing-II,
No.39, Viswanathapuram,
Madurai – 625 014.

8.The Inspector of Police,
Economical Offences Wing-II,
No.39, Viswanathapuram,
Madurai – 625 014.
Cr.No.02/2020

9.The Inspector of Police,
Bazaar Police Station,
Ramanathapuram District,
Crime No.347 of 2020.

10.The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
Crime No.41 of 2020.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India for



issuance of Writ of Mandamus, directing the Respondents 1 to 2 to transfer the case in Crime No.2/2020 on the file of the 8th Respondent to the file of the 3rd Respondent Special Investigation Team of CBI headed by the committee of the Hon'ble retired Judges of the Madras High Court to have a fair and thorough investigation under the direct monitoring of this Court and to complete the investigation within a time limit that may be specified by this Court by considering the petitioner's representation dated 22.10.2020.

For Petitioner : Mr.A.Kannan.

For Respondents : Mr.Sricharan Rengarajan
Additional Advocate General
Assisted by Mr.M.Muthugeethaiyan
Special Government Pleader
(for R1, R2 & R4)

Mrs.Victoria Gowri,
Additional Solicitor General
(for R3)

ORDER

(Order of the Court was delivered by **N.KIRUBAKARAN, J**)

"An aura of reverence is attached to the name of Central Bureau of Investigation (CBI).

There is always a clamour for CBI investigation."

Whenever any sensitive, heinous crimes are committed and there is no proper investigation by the local police, there is a demand for CBI investigation and



the said demand for CBI investigation is increasing day by day due to the credibility of the Central Bureau of Investigation. People revere CBI as a premier trust worthy agency, which could investigate the cases impartially and fairly and prosecute the case before the Court efficiently and properly. When such is the trust and faith of the people, very sadly CBI is dragging its feet, whenever there is a demand for CBI enquiry on the ground that resources and man power available with CBI are very restricted and therefore, it cannot conduct investigations. This is the usual stereotype version/defence of the CBI before the Courts.

2.The aforesaid version has been parroted before this Court that CBI has no resources and man power to investigate the case, which is sought to be referred to CBI by the Petitioner in this case. When the matter came up on 08.12.2020, this Court passed the following order:

"This Writ Petition has been filed as a Public Interest Litigation seeking for issuance of a Writ of Mandamus to direct respondents 1 and 2 to transfer the case in Cr.No.2 of 2020, on the file of the eighth respondent to the file of the third respondent - Special Investigation Team of CBI headed by the Committee of the Hon'ble Retired Judges of the Madras High Court to have a fair and thorough investigation under the direct monitoring of this Court and to complete the investigation



within a time limit that may be fixed by this Court by considering the petitioner's representation dated 22.10.2020.

2. The contention of the petitioner is that one Company called BULLION FINTECH LLP, having its office at Ramanathapuram Sathak Centre, collected deposits to the tune of Rupees Three Hundred Crores from 750 victims with an attractive advertisement stating that the money will be doubled in one year. It is stated that most of the depositors are teachers.

3. Since the amounts, after maturity, had not been returned, a case has been registered in Cr.No.347 of 2020 for the offences under Sections 406, 420 and 506(ii) I.P.C., on 09.06.2020, by the Inspector of Police, Bazar Police Station, Ramanathapuram, on the basis of the complaint given by one Thulasimanikandan. Yet another case in Cr.No.41 of 2020 for the offences under Sections 406, 420 I.P.C., has been registered on 27.06.2020 against the very same BULLION FINTECH LLP Company, on the basis of the complaint given by one Karpagalilly, to the Superintendent of Police, Ramanathapuram. The Superintendent of Police, Ramanathapuram in turn forwarded the same to the District Crime Branch.

4. When things stand so, one Pradeep Chakravarthi filed a Criminal Original Petition in Crl.O.P.(MD)No.8830 of 2020 before this Court to transfer the case from the second respondent police to the Economic Offences Wing, Madurai. During the pendency of the Criminal Original Petition, the second respondent viz., the Director General of Police transferred the case to Economic Offences Wing, Madurai, on 01.09.2020 and the same is investigated by the Economic Offences Wing. A status report is also said to have been filed before this Court in



that Criminal Original Petition on 14.10.2020.

5. When that is the position, now the petitioner has come before this Court by filing this Writ Petition making so many allegations against the Deputy Collector and the Superintendent of Police, Ramanathapuram, not convinced with the investigation done by the Economic Offences Wing and therefore, he seeks investigation by the Central Bureau of Investigation-third respondent herein.

6. The learned Counsel appearing for the petitioner would submit that believing the attractive advertisement, more than 750 people deposited about Rupees Three Hundred Crores. The investigation is not properly done by the Economic Offences Wing and only movables worth about Rupees Five Crores alone have been attached when the deposit is to the tune of Rupees Three Hundred Crores. Hence, he seeks the transfer of the case to the CBI.

7. Mr.Sricharan Rangarajan, learned Additional Advocate General assisted by Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for the respondents 1, 2 and 4 would submit that the case is properly investigated by the respondent police, especially the Economic Offences Wing and according to the investigation done by the Economic Offences Wing, movable properties worth about Rupees Five Crores have already been seized and four persons have been arrested and they have come out on bail. Based on the confession statements given by the accused, about 19 immovable properties have been identified and the same will be attached by moving the TANPID Court. The statements of the depositors are being recorded under Section 161(3) Cr.P.C., and the investigation is under process.

8. Heard the parties and perused the records. It is relevant to extract



hereunder the paragraph Nos.4 to 10 of the status report filed by the respondent police in Crl.O.P.(MD)No.17716 of 2020, dated 04.12.2020:

“4.In this case accused Anand (A2) and Neethimani (A3) were arrested on 09.06.2020 by Ramanathapuram Police and based on the basis of their confessions statements, the movable properties of A3 Neethimani viz. gold jewels of 99.5 sovereign (791.950 gms) Silver articles of 244.650 gms, cash Rs.2,49,050/-, wrist watch, documents, 6363 Singapore dollars and 3162 Malaysian ringits were seized under a cover of athachi on the same day. Both the accused were remanded to judicial custody. Accused Menaka (A4) was arrested on 10.06.2020 and released on station bail by the Ramanathapuram police. Accused Neethimani was taken into police custody from 19.06.2020 to 23.06.2020 and Anand from 23.06.2020 to 27.06.2020. Based on the confession of A3, 2 Cellphones, Laptop, foreign Passport, Pan Card, debit card and documents were further seized. Similarly on the confession of A2-Anand 5 Cellphones, 2 Foreign Passports, Debit cards, Visa Card, document, Cash Rs.40 Lakhs and 3 vehicles bearing Registration No.1.TN-65 X2985 waganor Car, 2. TN-65AW 0006 Innovacar, 3.TN-65 AV 0006 Hyundai Elantra car were also seized. They were re-remanded to judicial custody. So far 452 petition have submitted their petitions to the district crime branch, Ramanathapuram on 15.09.2020 to the tune of Rs.100 Crores approximately. Based on the confession statement of A3 Neethimani, Cinema producers 7G Siva (A4), Gnannavelraja (A5) and Muruganantham (A6) have been added as accused for having received money from the A3 Neethimani. And, based on the confession statement given by the A2 Anand, at the time of police custody taken by the Ramanathapuram Police, the accused Raju (A7), Mahash (A8) and Boopesh (A9) were added as accused in Bazaar P.S. Crime No.347/2020 for extortion of Rs.30 Lakhs from the accused Anand for the purpose of suppressing matters and not publishing the same in their channels. Hence the sections of Law of the case has been altered into 406, 420, 294(b), 506(ii), 109 I.P.C. by the Ramanathapuram Police.

5) I most respectfully submit that the respected Director General of Police vide proceedings in Rc.No.613743/Crime 3(2)/2020, dated: 01.09.2020 passed order transferring the above said 3 cases to Economic Offences Wing-II, Madurai for further investigation. The same has been further ordered to root down to the actual Deputy Superintendent of Police EOW-II, Madurai, through the proceedings of the Superintendent of Police, EOW-II, Chennai, in RC.No.C2/EOW/ 5640/2020, Dated 15.09.2020, RC.No.C2/EOW/5643/ 2020, Dated 29.09.2020, for continuing the investigation.

6) It is humbly submitted that according to the orders of the superior police officials, the case in Crime No.2/2020 under Sections 406, 420, 120-B of



IPC and Section 5 of TANPID Act was registered by me on 12.10.2020, and received the case diaries of crime No.41/2020 and 347/2020 from the hands of Ramanathapuram police. Subsequently, the case diaries of crime No.6/2020 was also received from Sivagangai police. The movable properties which were recovered by the Ramanathapuram police were taken over by us on 22.10.2020.

7)It is further submitted that so far 56 petitions have been received for the cheated amount at about 4.5 crores and all the petitioners were enquired. During the course of the investigation, the following immovable properties belong to the accused person were identified and requisition letter has been sent to Inspector General of Registration for confirmation and to get the details of more property details which are belonged to accused persons and in the name of their benomy. And, the concerned banks wherein the accused persons are having accounts are requested to stop transaction for the purpose of investigation. On 23.10.2020, we have published advertisements in daily newspapers about the transfer of the investigation of the cases and requesting the depositors to lodge their complaints with EOW, Madurai.

10)During the course of investigation, it was revealed that there are 20 team leaders and nearly 200 against are in the above said defaulted company. Who re the main reason became the public as victims, the list of team leaders and against is submitted here with and they are being enquired.”

This Court is convinced with the submissions made by the learned Additional Advocate General appearing for the respondents 1, 2 and 4 regarding the investigation made by the Economic Offences Wing. A reading of the status report would reveal that the Economic Offences Wing seized movables, identified about 19 immovable properties based on the confession statements of the arrested accused. Hence, investigation is progressing well and no transfer is required.

9. Mrs. Victoria Gowri, learned Assistant Solicitor General of India appearing for the third respondent relying upon the Full Bench Judgment of the Honourable Supreme Court of India, in **STATE OF WEST BENGAL & ORS. Vs. THE COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS, WEST BENGAL &**



ORS., reported in 2010(3) SCC 571 FB, would submit that the power under Article 226 of the Constitution of India, in extraordinary circumstances, is to be used to refer the matter to the Central Bureau of Investigation. Only serious offences should be investigated by the Special Investigation Agency, like, Central Bureau of Investigation, otherwise it will lose its credibility. She opposed the petition contending that CBI is not having enough resources and personnel to investigate the cases.

10. If the investigation done by the Economic Offences Wing, which was previously done by the District Crime Branch, is transferred, definitely the investigation will be affected. Further investigation would be prolonged and it will not be in the interest of the depositors. Therefore, the prayer sought for by the petitioner cannot be granted. This Court hopes that the Economic Offences Wing will swiftly investigate and attach the immovable properties and file a charge sheet at the earliest possible.

11. However, if the petitioner has got concrete evidence for the allegations against the Deputy Collector and the Superintendent of Police, Ramanathapuram, this order will not prevent the petitioner to take appropriate proceedings seeking investigation.

12. Since the plea of referring the matter to Central Bureau of Investigation is opposed by the learned Assistant Solicitor General of India appearing for the third respondent by submitting that the Central Bureau of Investigation does not have the required strength, this matter is taken up as a Public Interest Litigation to decide about the necessity to have more resources and more personnel including modern infrastructures for CBI. This Court suo motu impleads the following



officials as eleventh and twelfth respondents in this writ petition:

“(i) The Union of India, represented by its Secretary to Government, Ministry of Home and Affairs, North Block, New Delhi-110001”

and

“(ii) “The Union of India, represented by its Secretary to Government, Ministry of Personnel and Training, Public grievances, New Delhi-110001”

Mrs. Victoria Gowri, learned Assistant Solicitor General of India takes notice for the newly impleaded eleventh and twelfth respondents.

*13. Mrs. Victoria Gowri, learned Assistant Solicitor General of India, who takes notice for the third respondent, would oppose the writ petition for transferring the case by stating that the Central Bureau of Investigation does not have the required man power and resources to investigate all the cases, which are sought to be referred to the Central Bureau of Investigation. In support of her contention, she would rely upon the Full Bench Judgment of the Honourable Supreme Court of India, in **STATE OF WEST BENGAL & ORS. Vs. THE COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS, WEST BENGAL & ORS.**, reported in **2010(3) SCC 571 FB**. It is relevant to extract hereunder paragraph No.46 of the said judgment:*

"46. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a



large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

14. However, when serious cases are coming up before Courts, there is always a glamour to seek for transferring the cases to the Central Bureau of Investigation, as the Central Bureau of Investigation has got a reputation as a premier investigation agency. It is known for investigating economic offences, corruption cases and sensitive cases. However, many cases which are investigated by the Central Bureau of Investigation, even serious cases, have ended in acquittal. It badly reflects upon the investigation of CBI. Hence, time has come to look into problems faced by CBI. Investigation of CBI needs to be improved by adding experts and modern gadgets.

15. It is not known as to whether the Central Bureau of Investigation is doing recruitment of their own Officers independently or it is depending upon the Officers deputed from other sources.

16. The white collar crimes, like, Bank offences are mainly investigated by the Central Bureau of Investigation. When such serious investigations are being undertaken by the Central Bureau of Investigation, it is stated that CBI depends upon the police officials deputed from various other sources, like State Police, CISF and CRPF and there is a likelihood of investigating officers going back to their parent force during investigation. If it is true, the Officials from CISF and CRPF may not have experience in investigation. To investigate white collar crimes, especially, Bank offences, financial offences, larger magnitude, the officials with qualifications of CA, ICWA, ACS, are essential for investigation. otherwise the very purpose of investigation



will be frustrated, because of lack of expertise in that particular field.

17. When there is always a glamour for investigation by Central Bureau of Investigation, the Central Bureau of Investigation cannot oppose by stating that it does not have the required man power and resources and it has to increase the number of officials, as more number of cases are being referred to the Central Bureau of Investigation. More over, CBI should have expert officials with special knowledge in various fields, as various types of cases involving different fields are referred viz., Bhopal Gas Tragedy, Bofors scam, 2G Spectrum Scam, Coal Scam, Hawala Scandle, Phurlia Army dropping case, Sathyam Scandle, Sarada Chit Scandle, Nithari Killings, Sushant Singh Rajput suicide case, Taj Corridor case, Vyapam case...."

While declining to refer the subject case to CBI, this Court raised 15 queries, regarding the resources, man power, investigating skills, infrastructural facilities available with CBI in the interest of the public. The queries raised in the interim order dated 08.12.2020 is extracted as follows:

- (a) Whether the Central Bureau of Investigation recruits their own officials independently or through some other agencies, especially for investigation?;*
- (b) Why not CBI recruit their officials and train them independently?*
- (c) Whether the Central Bureau of Investigation is depending upon only the police officials drawn from various agencies like State Police, CISF and CRPF for investigation ?;*



- (d) What is the strength of the CBI in 2000, 2010, 2015 and as on date? (cadre wise strength viz., Constable to higher levels to be given)
- (e) Why not increase the man power in CBI to handle more case?
- (f) Why not CBI recruit more officials with degrees in CA, ACS, ICWA, Cyber Science Law, as more economic offences are investigated by CBI?
- (g) Whether allotment of fund made by the Central Government is sufficient?
- (h) Why not Central Government allot more funds to CBI for modern investigation and to increase man power?
- (i) Whether the CBI has got all modern infrastructures including modern gadgets, machines available in its Central Forensic Sciences Laboratory at New Delhi as available in CFSL Hyderabad and CFSL Gujarat?
- (j) How many cases have been referred to the Central Bureau of Investigation for the past 20 years? (year wise details to be given);
- (k) What is the status of those cases? (year wise details to be given);
- (l) How many cases ended in acquittal? (year wise details to be given);
- (m) How many cases ended in conviction? (year wise details to be given);
- (n) What is the rate of conviction? (year wise details to be given);
- (o) What are all the reasons for enormous delay in concluding investigations by CBI?"



3.The above queries have been answered by the CBI. It is evident from the said response that CBI has very limited man power available with them viz., 5796 officials in the year 2000 and 7273 as on 14.12.2020. The details given are usefully extracted as follows:

Cadre	31.12.2000	31.12.2010	31.12.2015	As on 14.12.2020
Executive Ranks	4032	4484	5000	5000
Legal Ranks	230	298	370	370
Technical Ranks	90	155	162	162
Ministerial & Canteen Ranks	1444	1589	1742	1741
Grand Total	5796	6526	7274	7273

4.The number of police officials in the cadre of Inspector of Police is highest in CBI, as per the response given for query No (c) raised by this Court. The mode of recruitment would also denote that 50% of the Inspectors of Police (1024) is by way of deputation from the State Police. The relevant table of the response is usefully extracted as follows:

Post	Mode of recruitment
Additional Superintendent of Police (91)	Filled 100% by promotion



Post	Mode of recruitment
Dy. SP(301)	Filled by 80:10:10 Promotion:Deputation:Limited Departmental competitive examination all through UPSC
Inspector of Police (1024)	Filled by 50:50 deputation/absorption:Promotion
Sub-Inspector (480)	Filled by 70:15:15 Direct recruitment through SSC : Promotion : LDCE

5. Though it has been stated that sufficient fund has been allotted, it has not specifically stated about the year wise allotment of the funds. The total number of cases registered from the year 2001 to 2020 and the number of cases which ended in acquittal, conviction and the rate of conviction have been given as follows:

Year	Total number of cases registered	Total number of cases acquitted	Total number of cases convicted	Conviction rate in percentage (%)
2001	1105	123	292	70
2002	1159	196	430	68.7
2003	1068	181	391	68.36
2004	1193	132	329	66.33
2005	1267	149	341	65.6
2006	1156	137	436	72.9
2007	940	161	426	67.7
2008	991	166	382	66.2
2009	1119	212	435	64.4



<i>Year</i>	<i>Total number of cases registered</i>	<i>Total number of cases acquitted</i>	<i>Total number of cases convicted</i>	<i>Conviction rate in percentage (%)</i>
2010	1009	178	468	70.8
2011	1003	209	497	67
2012	1048	345	743	67
2013	1131	301	763	68.62
2014	1174	258	635	69.02
2015	1135	262	556	65.1
2016	1047	274	621	66.8
2017	1076	254	557	66.9
2018	899	233	544	68
2019	710	186	467	69.14
2020 (till 30.11.2020)	574	55	151	70.89

6.It is stated in the response to query No (e) raised by this Court that a proposal dated 09.09.2020 for comprehensive cadre review and restructuring of CBI and for creation of 734 additional posts in different ranks is pending with the Central Government. Therefore, **The Central Government is directed to take a decision on the comprehensive proposal for cadre review and restructuring of CBI within a period of one month.**

7.With regard to the reasons for enormous delay in concluding the investigation by CBI, in response, it is stated as follows:

“There is huge pendency in CFSL which invariably results in



long delay in receiving the opinion of the experts upon the forensic examination of the exhibits”

When there is a huge pendency in CFSL, either the infrastructure of CFSL has to be augmented or another CFSL should be established. Therefore **there shall be a direction to the Central Government to enhance the infrastructural facilities available with CFSL in Ghaziabad, Uttarpradesh or to establish CFSL, zone wise, so that there would not be any delay in getting the opinion of the experts. The Central Government should establish atleast one CFSL in each zone viz., South, East, West within one year.**

8. Officials and staff should be independently recruited and they should be given proper training in the academy of CBI as well as in the foreign countries if necessary. Experts in cyber laws, Chartered Accountants and other experts in various fields should also be recruited, instead of getting them on deputation. It is also stated that the officers inducted in CBI **(are by way of)** on deputation from State police and CPOs with fixed tenure and it is also one of the constraints of the CBI. Hence, there is a necessity for inducting and recruiting their own officials, instead of depending upon deputation from Police force and other forces. Therefore, in this regard the CBI shall send a comprehensive proposal to the Central Government for approval.



9. India is a thickly populated country with more than 130 crore people, the second largest in the World, next only to China. More offences are being committed including serious offences, corruption cases, act of terrorism having international ramifications. In view of that the facilities in the premier agency have to be enhanced, so that it could be equated, with the Federal Bureau of Investigation (FBI) of United States of America and Scotland Yard of United Kingdom.

10. No doubt, the conviction rate of the cases conducted by CBI is more than 60%, CBI needs to be enhanced and more resources should be made available to it. Especially, the independence of CBI is necessary for an impartial, neutral, credible investigation of the cases investigated by it. The Hon'ble Supreme Court in Hawala case viz., Vineet Narayanan Vs. Union of India, observed that "CBI" is a caged parrot speaking in its master's voice. The said observation of the Hon'ble Supreme Court is fortified by the statement made by the CBI Director before the Hon'ble Supreme Court in Coal allocation case that a former Law Minister meddled with the statement of CBI filed before the Hon'ble Supreme Court.

11. In an effort to free the CBI from political interference, the Director



is being selected by High Profile Appointment Committee consisting of the Hon'ble Prime Minister, Chairperson, leader of opposition in Lok Sabha and Chief Justice of India or nominated Judges, as per the amendment through Lokpal and Lokayukta Act 2013.

12.CBI has its origin in the British era, originally set up in the year 1941 as Special Police Establishment to investigate bribery and corruption in transaction with the War and Supply Department of India. Thereafter, the Delhi Special Police Establishment Act was brought into force in 1946. This Act transferred the superintendence of the SPE to the Home Department and its functions were enlarged to cover all the departments of Government of India. Its jurisdiction was restricted to investigate economic, special crimes, cases of corruption and other cases in the Central Government departments and Union territories. On request from any State, the CBI could take over the investigation of any special case. CBI has got its nomenclature through Home Ministry resolution dated 01.04.1963. CBI has three wings viz., Anti corruption, economic crimes and special crimes

13.Numerous sensitive cases of larger ramifications like Jain Hawala Scandal, Bofors Scam, Sohrabuddin case, Sant Singh Chatwal case, Foder case,



Bhopal gas tragedy, 2G Spectrum case, Coal allocation scam, Noida double murder case, Nithari multiple murders, Rajiv Gandhi Assassination case. However, the premier investigating agency's work is restricted only to a few cases, due to lack of man power and resources as admitted by the Central Government before this Court as well as before various other Courts. Therefore, there is a need to increase the resources and man power to investigate more cases. For that there is a necessity to have a special Act by which the CBI could be granted a statutory status. Though, very sensitive and complicated cases are being investigated or handled, the number of cases handled by CBI is just equivalent or less than the case handled by a single police station in the country. Therefore, CBI has to take up more cases by increasing its man power and other resources.

14.The Assam High Court by judgment dated 06.11.2013 held that the constitution of CBI itself is unconstitutional and does not hold legal status and the said judgment has been stayed by the Hon'ble Supreme Court and the Appeal is still pending before the Hon'ble Supreme Court. The above said judgment of the Assam High Court has only echoed the necessity of having a special Act for CBI, with more power and special budgetary allocation for its resources.



15. The CBI Director is being chosen by a high power committee with fixed tenure of two years as per the judgment of the Hon'ble Supreme Court in the case of Vineet Naryanan Vs. Union of India, in which some directions have been given to insulate the CBI. The said directions are usefully extracted as follows:

“I. CENTRAL BUREAU OF INVESTIGATION (CBI) AND CENTRAL VIGILANCE COMMISSION (CVC)

- 1. The Central Vigilance Commission (CVC) shall be given statutory status.*
- 2. Selection for the post of Central Vigilance Commissioner shall be made by a Committee comprising the Prime Minister, Home Minister and the Leader of the Opposition from a panel of outstanding civil servants and others with impeccable integrity to be furnished by the Cabinet Secretary. The appointment shall be made by the President on the basis of the recommendations made by the Committee. This shall be done immediately.*
- 3. The CVC shall be responsible for the efficient functioning of the CBI. While Government shall remain answerable for the CBI's functioning, to introduce visible objectivity in the mechanism to be established for over viewing the CBI's working, the CVC shall be entrusted with the responsibility of superintendence over the CBI's functioning. The CBI shall report to the CVC about cases taken up by it for investigation; progress of investigations; cases in which chargesheets are filed and their progress. The CVC shall review the progress of all cases moved by the CBI for sanction of prosecution of public servants which are pending with competent authorities, specially those in which sanction has been delayed or refused.*



4. *The Central Government shall take all measures necessary to ensure that the CBI functions effectively and efficiently and is viewed as a non-partisan agency.*
5. *The CVC shall have a separate section in its Annual Report on the CBI's functioning after the supervisory function is transferred to it.*
6. *Recommendations for appointment of the Director, CBI shall be made by a Committee headed by the Central Vigilance Commissioner with the Home Secretary and Secretary (Personnel) as members. The views of the incumbent Director shall be considered by the Committee for making the best choice. The Committee shall draw up a panel of IPS officers on the basis of their seniority, integrity, experience in investigation and anti - corruption work. The final selection shall be made by Appointments Committee of the Cabinet (ACC) from the panel recommended by the Selection Committee. If none among the panel is found suitable, the reasons thereof shall be recorded and the Committee asked to draw up a fresh panel.*
7. *The Director, CBI shall have a minimum tenure of two years, regardless of the date of his superannuation. This would ensure that an officer suitable in all respects is not ignored merely because he has less than two years to superannuate from the date of his appointment.*
8. *The transfer of an incumbent Director, CBI in an extraordinary situation, including the need for him to take up a more important assignment, should have the approval of the Selection Committee.*
9. *The Director, CBI shall have full freedom for allocation of work within the agency as also for constituting teams for investigations. Any change made by the Director, CBI in the Head of an investigative team should be for cogent reasons and for improvement in investigation, the reasons being recorded.*
10. *Selection/extension of tenure of officers upto the level of Joint Director (JD) shall be decided by a Board comprising the central Vigilance Commissioner, Home Secretary and Secretary (Personnel)*



with the Director, CBI providing the necessary inputs. The extension of tenure or premature repatriation of officers upto the level of Joint Director shall be with final approval of the Board. Only cases pertaining to the appointment or extension of tenure of officers of the rank of Joint Director or above shall be referred to the Appointments Committee of the Cabinet (ACC) for decision.

11. Proposals for improvement of infrastructure, methods of investigation, etc. should be decided urgently. In order to strengthen CBI's in-house expertise, professionals from the revenue, banking and security sectors should be inducted into the CBI.

12. The CBI Manual based on statutory provisions of the Cr. P.C. provides essential guidelines for the CBI's functioning. It is imperative that the CBI adheres scrupulously to the provisions in the Manual in relation to its investigative functions, like raids, scizure and arrests. Any deviation from the established procedure should be viewed seriously and severe disciplinary action taken against the concerned officials.

13. The Director, CBI shall be responsible for ensuring the filing of chargesheets in courts within the stipulated time limits, and the matter should be kept under constant review by the Director, CBI

14. A document on CBI's functioning should be published within three months to provide the general public with a feedback on investigations and information for redress of genuine grievances in a manner which does not compromise with the operational requirements of the CBI.

15. Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office.

16. The Director, CBI should conduct regular appraisal of personnel to prevent corruption and/or inefficiency in the agency.

III. ENFORCEMENT DIRECTORATE



1. A Selection Committee headed by the Central Vigilance Commissioner and including the Home Secretary, Secretary (Personnel) and Revenue Secretary, shall prepare a panel for appointment of the Director, Enforcement Directorate. The appointment to the post of Director shall be made by the Appointments Committee of the Cabinet (ACC) from the panel recommended by the Selection Committee.
2. The Director, Enforcement Directorate like Director, CBI shall have a minimum tenure of two years. In his case also, premature transfer for any extraordinary reason should be approved by the aforesaid Selection Committee headed by the Central Vigilance Commissioner.
3. In view of the importance of the post of Director, Enforcement Directorate, it shall be upgraded to that of a Additional Secretary/Special Secretary to the Government.
4. Officers of the Enforcement Directorate handling sensitive assignments shall be provided adequate security to enable them to discharge their functions fearlessly.
5. Extensions of tenure upto the level of Joint Director in the Enforcement Directorate should be decided by the said Committee headed by the Central Vigilance Commissioner.
6. There shall be no premature media publicity by the CBI/Enforcement Directorate.
7. Adjudication/commencement of prosecution shall be made by the enforcement Directorate within a period of one year.
8. The Director, Enforcement Directorate shall monitor and ensure speedy completion of investigations/adjudications and launching of prosecutions. Revenue Secretary must review their progress regularly.
9. For speedy conduct of investigations abroad, the procedure to approve filing of applications for Letters Rogatory shall be streamlined and, if necessary, Revenue Secretary authorised to grant the approval



10. A comprehensive circular shall be published by the Directorate to inform the public about the procedures/systems of its functioning for the sake of transparency.

11. In-house legal advice mechanism shall be strengthened by appointment of competent legal advisers in the CBI/Directorate of Enforcement.

12. The Annual Report of the Department of Revenue shall contain a detailed account on the working of the Enforcement Directorate.

III. NODAL AGENCY

1. A Nodal Agency headed by the Home Secretary with Member (Investigation), Central Board of Direct Taxes, Director General, Revenue Intelligence, Director, Enforcement and Director, CBI as members, shall be constituted for coordinated action in cases having politico-bureaucrat- criminal nexus.

2. The Nodal Agency shall meet at least once every month.

3. Working and efficacy of the Nodal Agency should be watched for about one year so as to improve it upon the basis of the experience gained within this period.

IV PROSECUTION AGENCY

1. A panel of competent lawyers of experience and impeccable reputation shall be prepared with the advice of the Attorney General Their services shall be utilised as Prosecuting Counsel in cases of significance. Even during the course of investigation of an offence, the advice of a lawyer chosen from the panel should be taken by the CBI/Enforcement Directorate.

2. Every prosecution which results in the discharge or acquittal of the accused must be reviewed by a lawyer on the panel and, on the basis of the opinion given, responsibility should be fixed for dereliction of duty, if any, of the concerned officer. In such cases, strict action should be taken against the officer found guilty of dereliction of duty.

3. The preparation of the panel of lawyers with approval of the



Attorney General shall be completed within three months.

4. Steps shall be taken immediately for the constitution of an able and impartial agency comprising persons of unimpeachable integrity to perform functions akin to those of the Director of Prosecutions in U.K. On the constitution of such a body, the task of supervising prosecutions launched by the CBI/Enforcement Directorate shall be entrusted to it.

5. Till the constitution of the aforesaid body, Special Counsel shall be appointed for the conduct of important trials on the recommendation of the Attorney General or any other law officer designated by him.”

Only when CBI is given a statutory status, the autonomy of CBI would be ensured. Secondly it should have a dedicated cadre of officers on its own without getting the officials on deputation. The CBI should have an autonomy as that of Comptroller and Auditor General of India, who is only accountable to Parliament.

16.It is also stated that the CBI lacks sufficient financial administrative powers and CBI should be vested with ex-officio powers of the Secretary to the Government of India, who is reporting directly to the Ministry without having to go through the DoPT.

17.Having faith in the CBI, the constitutional Courts like the



Supreme Court and High Courts started entrusting the investigation of cases with CBI, without a State's consent also. Otherwise, State's consent is necessary for CBI investigation.

18. In view of the above, the following directions are given in the interest of the Institution/CBI as well as public who have got enormous faith and trust in the Premier Institution:

(1) Government of India is directed to consider and take a decision for enactment of a separate Act giving statutory status with more powers and jurisdiction to CBI at the earliest.

(2) CBI shall be made more independent like Election Commission of India and Comptroller and Auditor General of India.

(3) Separate budgetary allocation shall be made for CBI.

(4) Director of CBI shall be given powers as that of the Secretary to the Government and shall directly report to the Minister/Prime Minister without going through DoPT.

(5) Central Government shall make CBI independent with functional autonomy without administrative control of the Government.



(6)CFSL shall have more modern facilities and should be augmented on par with the facilities available to Federal Bureau of Investigation in United States of America and Scotland Yard in United Kingdom.

(7)DoPT is directed to pass orders on the CBI restructuring letter dated 09.09.2020 after consulting with other departments if necessary, within a period of six weeks from the date of receipt of a copy of this order.

(8)CBI should file a well thought out Policy within a period of six weeks from the date of receipt of a copy of this order, for permanently recruiting (i) Cyber Forensic experts and (ii) Financial Audit experts, so that all the branches/wings of CBI should have these experts available with them and not on case to case basis.

(9)DoPT should clear all the pending proposals pertaining to CBI's infrastructure development e.g. land construction, residential accommodation, upgradation of available technical gadgets etc., within a period of six weeks.

(10)CFSL attached to CBI should clear all the pending cases as on 31.12.2020. Similarly, other FSLs should also offer their



Forensic opinion pending as on 31.12.2020 within a period of six weeks from the date of receipt of a copy of this order.

(11) The details of cases wherein charges have not been framed by the Trial Courts despite the charge sheets having been filed by CBI for more than one year, should be shared by Director, CBI with the respective Registrar Generals of the High Courts.

(12) Since CBI itself has stated in reply to Para 'O' that CBI has to work within the constraints of shortage of manpower, Director, CBI should send another detailed proposal seeking further increase in the divisions/wings as well as strength of Officers in CBI to the Government of India within a period of six weeks from the date of receipt of a copy of this order and Government of India should pass orders on the same within a period of three months of its receipt.

19. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

This order is an attempt to release the "Caged Parrot" (CBI).



20.Call the matter after six weeks for filing compliance report or for appearance of the Director, Central Bureau of Investigation, New Delhi.

(NKKJ) (BPJ)
17.08.2021

sai

To

1.The Principal Secretary to Govt. of Tamil Nadu,
Home Department, Secretariat,
St.George Fort, Chennai – 600 009.

2.The Director General of Police,
(Law and Order),
4, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

3.The Director,
Central Bureau of Investigation,
New Delhi.

4.The Additional Director General of Police,
Economical Offences Wing,
1st Floor, SIDCO Complex,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.

5.The Inspector General of Police,
Economical Offences Wing,
1st Floor, SIDCO Complex,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.

6.The Superintendent of Police,
Economical Offences Wing-II,
1st Floor, SIDCO Complex,
Thiru.Vi.Ka. Industrial Estate,



Guindy, Chennai – 600 032.

7.The Deputy Superintendent of Police,
Economical Offences Wing-II,
No.39, Viswanathapuram, Madurai – 625 014.

8.The Inspector of Police,
Economical Offences Wing-II,
No.39, Viswanathapuram, Madurai – 625 014.

9.The Inspector of Police,
Bazaar Police Station,
Ramanathapuram District,
Crime No.347 of 2020.

10.The Inspector of Police,
District Crime Branch,
Ramanathapuram District.



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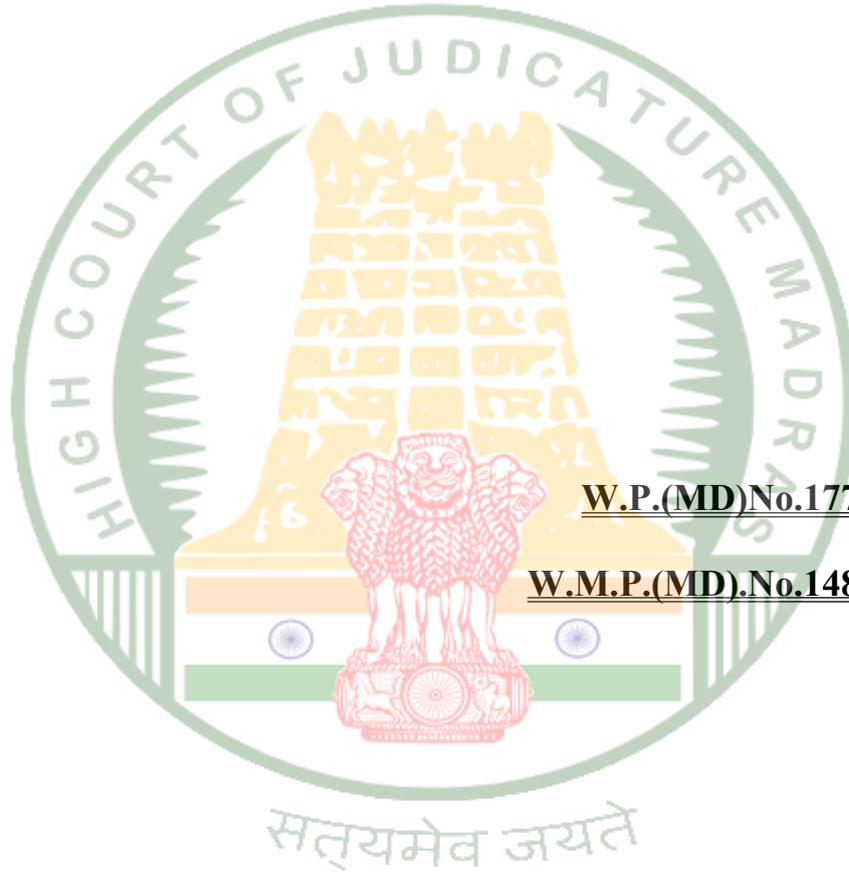
W.P. (MD) No.17716 of 2020

N.KIRUBAKARAN, J.

and

B.PUGALENDHI, J.

sai



W.P.(MD)No.17716 of 2020

and

W.M.P.(MD).No.14803 of 2020

WEB COPY

Dated : 17.08.2021