



2026:AHC:202086

(AFR)

Reserved on 25.08.2026

Delivered on 25.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD**APPLICATION U/S 528 BNSS No. - 27010 of 2026**

Dina Nath Jauhar

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Arvind Kumar Tiwari, Vineet Kumar SinghCounsel for Opposite Party(s) : G.A.

Court No. - 80**HON'BLE NAND PRABHA SHUKLA, J.**

1. Heard Mr. Vineet Kumar Singh, learned counsel for the applicant, Mr. Ratan Singh, learned Additional Government Advocate-I for the State and perused the record.

2. The present application under Section 528 BNSS has been filed with a prayer to set aside the impugned orders dated 28.08.2025 and 17.10.2025 passed by the Additional District and Sessions Judge/Special Judge (Anti Corruption), Meerut in Criminal Case No. 64/1369 of 2025 (State v. Dina Nath Jauhar) under Section 7 of the Prevention of Corruption Act, 1988 as amended vide Act No. 16 of 2018 and Sections 166, 120-B IPC arising out of Case Crime No. 592 of 2018, Police Station-Vigilance Establishment, Agra Sector, Agra.

3. The facts giving rise to the present petition are that, the applicant Dina Nath Jauhar assumed the charge as the Vice-Chancellor of Dr. Bhim Rao Ambedkar University, Agra on 11.01.2011 and subsequently tendered his resignation on 18.05.2013.

4. In the year 2014, the Vigilance Department, Uttar Pradesh initiated an

open inquiry vide its confidential Demi Official Letter No. 159(1)/39-4-2014-51(9)/2013 dated 20.05.2014 against the Deputy Registrar and others. After the inquiry, the draft final report was forwarded to the State Government wherein the Government of U.P., vide its Demi Official Letter No. 126/39-4-2018-51(9)/2013 dated 18.06.2018, recommended to register an FIR and investigate the matter. On the basis of which, the FIR No. 0592 of 2018 was lodged on 04.09.2018 under Sections 409, 406, 420, 120B IPC and 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 at PS-Hari Parvat, District-Agra against the applicant and several others pertaining to the allegations of various financial irregularities as detailed in the First Informant Report.

5. After the completion of investigation, the Investigating Officer submitted the charge-sheet No. 13 of 2024 dated 05.06.2024 against rest of the co-accused while the investigation against the applicant remained pending.

6. Further, a supplementary charge-sheet No. 13A of 2025 dated 23.07.2025 was submitted against the applicant under Sections 166, 120B of IPC and Section 7 of the Prevention of Corruption Act, 1988 (As amended vide Act No. 16 of 2018). In consequence thereof, the Additional District and Sessions Judge/Special Judge (Anti Corruption), Meerut took cognizance on 28.08.2025 and summoned the applicant to face trial under Section 166, 120-B and Section 7 of the Prevention of Corruption Act, 1988 (As amended vide Act No. 16 of 2018).

7. It has been submitted by learned counsel for the applicant that the applicant has been falsely implicated for ulterior motives. The main submission of learned counsel for the applicant is that the applicant rendered his services as a Vice-Chancellor of Dr. Bhim Rao Ambedkar University, Agra and tendered his resignation in 2013 and the applicant, being a retired public servant, therefore, the previous sanction in terms of Section 19 of the Prevention of Corruption Act, 1988 (As amended vide Act No. 16 of 2018) was mandatory as the cognizance was taken subsequent to the Amendment Act No. 16 of 2018 which came into effect on 26.07.2018. As no previous sanction in view of Section 19 of the Prevention of Corruption Act, 1988 (As amended vide Act No. 16 of

2018) was obtained by the prosecution, therefore, the criminal proceedings launched against the applicant stood vitiated. Further, it has been argued that while taking cognizance against the applicant, the learned Additional District and Sessions Judge/Special Judge (Anti Corruption), Meerut, recorded the reason for denial of prosecution sanction stating that as the Additional Chief Secretary to the Hon'ble Governor/Chancellor, UP, had rejected the application dated 10.04.2024 stating that as the applicant has already resigned/retired from service on 18.05.2013, therefore, no prosecution sanction was required. It has further been submitted that the prosecution sanction sought, was never rejected but was denied as the applicant was a retired public servant and as such the reason assigned by the Special Court is patently erroneous in law and is wholly arbitrary and cryptic and without application of judicial mind and runs contrary to the mandate of law, as engrafted in Section 19 of the Act, 1988 especially after the incorporation of the Amendment Act No. 16 of 2018, which came into effect on 27.06.2018 and resulted in failure of justice as the cognizance order was passed subsequent to the said amendment.

8. Per contra, learned Additional Government Advocate-I appearing on behalf of State vehemently opposed the prayer made by learned counsel for the appellant stating that the proceedings drawn against the applicants are in accordance with law.

9. Upon hearing learned counsel for the parties and from the perusal of the records, it transpires that the applicant, assumed the charge as a Vice Chancellor of Dr. Bhim Rao Ambedkar University, Agra in the year 2011 and subsequently, the applicant tendered his resignation on 18.05.2013. In the year 2014, an open inquiry was initiated by the Vigilance Department, U.P., vide its Demi Official Letter dated 20.05.2014 and the draft final report was submitted before the State Government. The Government of U.P., vide its demi official letter dated 18.06.2018 recommended for registration of an FIR against the applicant and several others. Thus, the instant criminal proceeding emerges out of a vigilance inquiry which culminated in lodging of an FIR No. 0592 of 2018 dated 04.09.2018 under Sections 409, 406, 420, 120B IPC and 13(1)(d), 13(2) PC Act, 1988 at PS-Hari Parvat, District-Agra against the applicant and several others.

10. From the perusal of the records, it also transpires that the prosecution sanction was sought by the prosecution vide its application dated 08.05.2024 and the Hon'ble Governor/Chancellor vide its order dated 09.10.2024 disposed of the application stating that since, Dr. Jauhar, the accused/applicant, is no more a public servant and has already tendered his resignation from the post, therefore, denied the same stating that there is no requirement of prosecution sanction.

11. However, the order dated 09.10.2024 has not been challenged till date.

12. The sole question for consideration is whether prosecution sanction is necessary to prosecute the accused-applicant, who was a public servant and resigned from his services on 18.05.2013.

13. To determine the said fact, it is necessary to refer the provision of Section 19 of the Prevention of Corruption Act, 1988 as engrafted after amendment vide Act No. 16 of 2018, dated 26.07.2018 which is mentioned herein below:-

"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 save as otherwise provided in the Lokpal and Lokayuktas Act, 2013]-

(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;

(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."

14. From the perusal of the above provision, it is apparent that after coming into operation of the Amendment Act No. 16 of 2018, the sanction for prosecution is mandatory even in the case of retired public servant. In the instant matter, though the applicant resigned/retired from his services in the year of 2013, but the FIR was registered on 04.09.2018 i.e., subsequent to the Amendment Act No. 16 of 2018 which came into effect on 26.07.2018 and the cognizance was taken on 28.05.2025 i.e., subsequent to the said amendment of 2018. The said amendment being prospective in operation, therefore, it is trite that unless otherwise provided either expressly or by necessarily implication if Section 19 of the Prevention of Corruption Act does not contain any express provision to show that they are retrospective in nature nor it is discernible by application, it shall be prospective in operation and shall be applicable from the date of commencement i.e., (w.e.f., 26.07.2018) as the legislature did not say anything otherwise and the Courts shall assume that the statute is meant to be prospective. Thus, it was mandatory for the prosecution to obtain prior prosecution sanction even in case of a retired public servant before taking cognizance. Though, the prosecution sanction was sought by the prosecution vide its application dated 08.05.2024 but the same was denied on the ground that the prosecution sanction is not required as the applicant/accused had already retired. The said order denying the sanction was passed without oblivious of the fact that it was mandatory to seek prosecution sanction even in the case of retired public servant before taking cognizance after the Amendment Act No. 16 of 2018, which came into effect on 26.07.2018 and has resulted in failure of justice. (emphasis supplied)

15. Recently, the Hon'ble Apex Court in ***State of Mizoram v. Dr. C. Sangnghina; 2019(13) SCC 335*** while dealing with such issue has observed that "the Special Judge ought to have examined the matter to ascertain whether such error or irregularity in the sanction has resulted in failure of justice."

16. Further, the Hon'ble Apex Court in ***State of Telengana v. Managipet @ Mangipet Sarveshwar; AIR OnLine 2019 SC 1686*** upholding the observations made in ***K. Kalimuthu v. State of D.S.P.; 2005 (4) SCC 512*** observed that the question whether the sanction is necessary or not

can be raised at an appropriate stage during trial.

17. Considering the fact, that the prosecution sanction is mandatory in view of Section 19 of the Prevention of Corruption Act, 1988 (as per Amendment Act No.16 in 2018) even for the retired public servants and despite the Amendment Act No. 16 of 2018 being prospective in operation, the learned Additional District and Sessions Judge, Meerut took cognizance vide order dated 28.08.2025 against the applicant without applying the judicial mind in a most casual and cursory manner, which has resulted in failure of justice and is not tenable in the eyes of law.

18. Considering the aforesaid facts and circumstances of the case and in the light of the judgements of the Hon'ble Apex Court, as discussed above, the impugned cognizance order dated 28.08.2025 and the order dated 17.10.2025 passed by the Additional District and Sessions Judge/Special Judge (Anti-Corruption), Meerut are hereby set aside and the matter is remitted back with direction that the prosecution/competent authority may take necessary steps to obtain fresh sanction as mandated under Section 19 of the Prevention of Corruption Act, 1988 (As amended vide Act No. 16 of 2018) within a period of six weeks from the date of the order and thereafter, the Trial Court shall proceed to pass a fresh cognizance order, having regard to the allegations made against the applicant in accordance with law, as expeditiously as possible, if there is no other legal impediment.

19. Accordingly, the present application is **allowed in the aforesaid terms.**

20. Registrar (Compliance) is directed to communicate the order for necessary compliance.

(Nand Prabha Shukla,J.)

September 25, 2026

Aditya Tripathi