



2026:AHC-LKO:72445

**A.F.R.****HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW****APPLICATION U/S 482 No. - 4298 of 2026**

Jay Pratap Singh Chauhan

.....Applicant(s)

Versus

Cbi Thru. Superintendent Of Police And Head Of Branch  
Lko. And Another

.....Opposite Party(s)

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|-------------------------------|---|--------------------------------------------------------------------------|
| Counsel for Applicant(s)      | : | Nadeem Murtaza, Bhupendra Singh Bisht,<br>Manu Gupta, Yash Vardhan Gupta |
| Counsel for Opposite Party(s) | : | Aakash Prasad                                                            |

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**Judgment Reserved On: 21.09.2026****Judgment Pronounced On: 08.10.2026****Court No. - 13****HON'BLE SUBHASH VIDYARTHI, J.**

1. Heard Sri S.C. Mishra, Senior Advocate assisted by Sri Nadeem Murtaza, Sri Yash Vardhan Gupta and Sri Saurabh Upadhyay, Advocates, the learned counsel for the petitioner, Sri Aakash Prasad, Advocate, assisted by Sri Himanshu Singh and Sri Anshul Verma, Advocates, the learned counsel for the opposite party no.1-Central Bureau of Investigation and Ms. Samidha, Advocate, the learned counsel for the opposite party no.3-National Highways Authority of India and perused the records.

2. By means of the instant petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as the BNSS), the petitioner has challenged the validity of the charge-sheet dated 30.10.2024 submitted in furtherance of of FIR No. RC0062024A0018 under Section 7 of the Prevention of Corruption Act, 1988 and 61(2) BNS r/w Section 7 of P.C. Act (as amended in 2018), lodged on 03.07.2024 in Police Station CBI ACB Lucknow, an order dated 06.10.2025 passed by the Member (Admin) NHAI granting sanction for prosecution of the petitioner for the aforesaid offences, an order dated 17.12.2025 passed by

the learned Special Judge, Prevention of Corruption, CBI Court No. 4, Lucknow in Miscellaneous Case No. 2676 of 2024, titled CBI vs. Bijender Singh, arising out of FIR No. RC0062024A0018 under Section 7 of the Prevention of Corruption Act, 1988 (as amended in 2018) & 61(2) BNS r/w Section 7 of P.C. Act, whereby the learned Special Judge has taken cognizance of the aforesaid offence and has summoned the petitioner to face trial for the aforesaid offence.

3. The aforesaid case has been instituted on the basis of a written complaint dated 01.07.2024, made by one Dhananjay Rai alleging that on 03.07.2023 the Indian Oil Corporation Limited had issued a LOI (letter of intent) in his favour for establishing a petrol pump. Thereafter on 18.09.2023, he had given an application to the Gorakhpur office of National Highway Authority of India for issuing a No Objection Certificate. He had submitted the relevant documents in November 2023. Brijendra Singh, Manager (Technical), NHAI Gorakhpur, was unduly delaying the file of NOC and he had demanded Rs. 1.50 lakhs as bribe for issuing the NOC. The complaint was verified discretely and the allegations of demand of bribe were established. Thereafter, FIR No. RC0062024A0018 was registered on 03.07.2024 against Brijendra Singh, Manager (Technical), NHAI Gorakhpur.

4. The CBI set up a trap on 03.07.2024 itself. The complainant made a call to the mobile number of the named accused Brijendra Singh in hands-free mode at about 15:00 hours on 03.07.2024 during which the latter confirmed his presence in the office and the complainant told that he would be visiting him in 15-20 minutes for which the petitioner agreed. The call was recorded in a newly inserted memory card with the help of a DVR (digital voice recorder). Thereafter, the CBI team, the complainant and two independent witnesses-(i) Shri Mulayam Singh, Track Maintainer-IV, Office of SSE (P-Way), East, NER Gorakhpur, and (ii) Shri Mukesh Kumar, Track Maintainer-IV, Office of SSE (P-Way) East, NER Gorakhpur, reached near the office of NHAI Gorakhpur. The complainant had told that the accused will not talk freely in the presence of any stranger, hence, to avoid any suspicion, shadow witnesses were directed to follow the complainant keeping a safe visible distance and try to see the transaction of bribe money. The complainant and shadow witness Mulayam Singh proceeded towards the office of the petitioner

and rest of the team members and the other witness followed them and reached outside the office of the petitioner and they kept on waiting there.

5. At about 15:30 hours the complainant made a phone call to Shri A. P. Rao, Inspector, communicating the pre-fixed signal about transaction of the tainted bribe money, whereupon the CBI team along with both the independent witnesses rushed towards the office of Brijendra Singh which was situated at the first floor of the building. The complainant was found sitting in a room adjacent to the lobby / hall along with Brijendra Singh, who had demanded and accepted bribe from him. Brijendra Singh was caught by the CBI team members.

6. While narrating the events, the complainant told that when he reached the office of Brijendra Singh, the latter was having lunch. After finishing lunch, Brijendra Singh made a gesture asking the complainant to follow him inside a room adjacent to the lobby. They both entered that room where the complainant told Brijendra Singh that he had come with the demanded bribe of Rs.50,000/- and he would give the remaining Rs.1,00,000/- in 2-3 days. Brijendra Singh demanded the bribe amount through gesture. The complainant took out the tainted bribe money from his right hand and Brijendra Singh accepted it with his right hand and kept the same in his pants' right side pocket. Thereafter, Brijendra Singh made a phone call to someone and discussed about the complainant's file. In the meantime the complainant had flashed the pre-fixed signal and the CBI team reached there and caught Brijendra Singh. On the direction of CBI team, a witness Mukesh Kumar recovered the tainted bribe money from the pocket of the pants of Brijendra Singh.

7. The other shadow witness Mulayam Singh told that the complainant had gone inside the office of Brijendra Singh whereas he had remained positioned outside the office.

8. Brijendra Singh told that he had made a phone call to Mukesh Kumar, office assistant of Jai Pratap Singh, Deputy Manager, NHAI (the petitioner), on whose behalf the money had been received from the complainant. Thereafter, the accused Brijendra Singh was made to make a controlled call to the petitioner. Brijendra Singh said 'सर वो हरिहरपुर वाला जो है' and the person from the other side replied that 'हां वो बनवा रहा हूँ'. Thereafter Brijendra requested the other person 'वो करवा दीजिये सर, उसको सर'. At this point

the person from the other side said 'मुकेश से बात हुई थी'. Brijendra Singh said 'वो सर, वो सर बता दिया था उन्होंने, वो दे दिया था पैसा यहाँ पर'. At this the person from the other side replied that 'हां, बात करता हूँ, बात करता हूँ'.

9. On the basis of this material, the petitioner has also been made an accused in the present case and a charge-sheet has been submitted against him also.

10. The learned counsel for the petitioner has submitted that the transcript of conversation between the petitioner and Brijendra Singh has been annexed on page number 179 of the petition as a part of Annexure no. 19 and the word 'paisa' is not there in it and it has been wrongly inserted in the charge-sheet. He has submitted that there is no material to even prima facie establish that the petitioner had demanded any money and, therefore, the charge-sheet, the order passed by the trial Court taking cognizance of the offence and summoning the petitioner to face the trial, are liable to be quashed.

11. The learned counsel for the petitioner next submitted that the CBI had sent a letter dated 30.10.2024 and subsequently an email dated 29.01.2025 seeking sanction of prosecution of the applicant, but the same was denied by means of an order dated 06.02.2025 passed by Member (Admn) and Disciplinary Authority for the following reasons: -

*“2.3. On simultaneous perusal of the following documents:*

*(i) the 'Post Trap Memo' dated 04.07.2024 duly signed by the concerned CBI officers, witnesses present at the venue on 03.07.2024; and*

*(ii) the CBI report dated 30.10.2024 duly signed by the SP, Lucknow, it has been noted that there is a specific mention of the word 'पैसा' (paisa) in the alleged conversation in the Post-Arrest Memo, which according to the CBI was the motive (bribe) attributable to Shri Jaypratap Singh Chauhan making him liable for arrest as a co-conspirator. However, the report dated 30.10.2024 submitted by the CBI, which refers to an alleged conversation between Shri Bijender Singh, PA and Shri Jay Pratap Singh Chauhan, Dy. Manager (Tech) does not mention the word 'पैसा' (paisa).*

*2.4. This omission in the CBI report suggests that the specific reference to the exchange of money as a bribe (motive - demand or acceptance) during the conversation is missing, rendering the conversation devoid of the allegation made against Shri Jaypratap*

*Singh Chauhan by the CBI.*

*2.5. From the above, the specific instance, whereunder the CBI has alleged Shri Jaypratap Singh Chauhan as a co-conspirator alongside Shri Bijender Singh in this episode, without the CBI being able to provide concrete evidence of the exchange of money or receipt of money by Shri Jaypratap Singh Chauhan beyond doubt, solely based on a “controlled” telephonic conversation that presents two apparent contradictory versions, both of which align with the CBI’s account of the events on based on a ‘controlled’ telephonic conversation that presents two apparent the fateful day, leaves a reasonable degree of doubt in my mind regarding the allegations levelled against the officer. The telephonic conversation relied upon by the CBI neither brings out any demand nor acceptance of bribe directly/indirectly by Shri Jaypratap Singh Chauhan and thus, it has failed to prime facie establish that the bribe has been accepted by the officer or on his behalf.*

*2.6. As per Government of India, Ministry of Road Transport and Highways’ order issued vide S.O. No. 3293 (E) dated 16.09.2019 and NHAI policy circular no. 14.19/2020 dated 06.01.2020, the Regional Officers of NHAI, as per their territorial jurisdiction shall exercise the powers and functions of highway administrators in their ex-officio capacity to discharge the duties assigned to them. The process for considering the NOC for any fuel station is undertaken at Regional Office on the recommendations received from the concerned Project Director of the Project Implementation Unit (PIU) which in this case happened to be Gorakhpur. The recommendation of the Project Director, PIU Gorakhpur is then examined/considered by a Committee of officers at Regional Office and upon the request being found commensurate with the requirements/policy, are finally granted/not granted by the Regional Officer, being the competent authority.*

*2.7. As per the documents placed before the undersigned it is noted that Shri Jaypratap Singh Chauhan, Dy. Manager (Tech) had a very limited role in the process of grant of NOC which the complainant was seeking from PIU-Gorakhpur.*

*3. In view of the above and the available facts/documents provided to me and after due consideration, it is found that the conclusions drawn by the CBI in this matter appear more conjectural than evidence-based against Sh Jaypratap Singh Chauhan, Dy. Manager (Tech). Hence, based on the facts placed before me, this is not a fit case for sanction prosecution against the above-said officer. Therefore, the sanction for prosecution against Sh Jaypratap Singh Chauhan, Dy. Manager (Tech) is denied.”*

12. The submissions advanced by the learned Counsel for the petitioner

were recorded in the order passed by this Court on 14.09.2026, which are being reproduced below: -

*“during hearing, the learned counsel for the petitioner has submitted that previously, the competent authority had declined to grant sanction for prosecution on two occasions and, thereafter, on a second review, the authority has granted sanction for prosecution of the petitioner. He has submitted that the sanctioning authority could have reviewed the order rejecting sanction for prosecution only on the ground of some fresh material, which was not there in the present case.*

*In these circumstances, it appears to be appropriate to give an opportunity of hearing to the complainant/opposite party No.2, who is an officer of the National Highways Authority of India (NHAI).*

*Accordingly, the learned counsel for the petitioner is directed to serve a copy of the petition on the Shri Sarvesh Dubey, the learned Standing Counsel, who is present and accepts notice on behalf of NHAI. He may file a short counter-affidavit/counter-affidavit within three days.”*

13. Ms. Samidha, the learned counsel for the respondent NHAI has filed a short counter affidavit of Shri Gautam Vishal, Chief General Manager (Tech.) NHAI, stating that CBI had sought sanction for prosecution of the petitioner as well as Brijendra Singh, Personal Assistant, PIU Gorakhpur, by means of a letter dated 30.10.2024 and further communication dated 29.01.2025. The competent authority examined the material, noticed that the word ‘paisa’ does not appear in the conversation attributed to the petitioner and came to a conclusion that the conclusions drawn by CBI appeared to be more conjectural than evidence based and recorded on 06.02.2025 that it was not a fit case for granting sanction for prosecution of the petitioner. It is further mentioned in the short counter affidavit that thereafter the Suspension Review Committee had noted that the competent authority’s decision declining sanction and recommended revocation of the petitioner’s suspension on that basis. Thereafter the matter was placed before the Chief Vigilance Officer NHAI. The competent authority again considered the question of sanction and passed a further decision dated 20.02.2025 declining sanction for prosecution of the petitioner.

14. It is stated in the short counter affidavit filed on behalf of NHAI that after examining the matter, an advice was received from Central

Vigilance Commission (CVC), an apex integrity institution of the Government of India, in terms of the Office Memorandum dated 01.03.2019 and 02.12.2020 issued by the Department of Personnel and Training. CVC issued an O.M. dated 17.09.2025 whereby it advised NHAI to issue sanction for prosecution of the petitioner. NHAI reconsidered the matter in light of the advice of the Central Vigilance Commission and granted sanction for prosecution by the impugned order dated 06.10.2025.

15. It has further been stated in the short counter affidavit of NHAI that CVC has merely given an advice and it does not, by itself, confer or transfer the statutory power vested under Section 19(1)(c) of the Prevention of Corruption Act. However, NHAI reconsidered the matter and granted sanction for prosecution by the impugned order dated 06.10.2025 in light of the advice of the Central Vigilance Commission, although no fresh material, fresh evidence, supplementary or further report of the CBI, additional document or new fact was received from the CBI during the period between 20.02.2025 and 06.10.2025 in relation to the applicant.

16. The respondent CBI has filed a counter affidavit wherein the transcripts of telephonic conversations between complainant and the named accused Brijendra Singh and transcripts of telephonic conversations between Brijendra Singh and the petitioner have been reproduced. Brijendra Singh requested the petitioner to complete the task of Hariharpur. The petitioner asked Brijendra Singh whether he had talked to Mukesh, whereupon Brijendra answered in the affirmative and he also said 'उन्होंने वो दे दिया सर इनको यहाँ पे'. The petitioner said that 'ठीक, हाँ बात करता हूँ' (Okay, I will talk).

17. The petitioner's contention that the competent authority had denied sanction for prosecution on 06.02.2025 and 20.02.2025, has been specifically denied in the counter affidavit filed on behalf of CBI and it has been stated that no orders were passed on 06.02.2025 and 20.02.2025 regarding grant or refusal of sanction of prosecution of the petitioner and those were merely internal communication, which were not addressed to any person or authority outside the NHAI and that the competent authority of NHAI has issued only one sanction order has been issued,

which is the impugned order dated 06.10.2025.

18. The CBI has filed a supplementary counter affidavit annexing therewith a copy of an Office Memorandum dated 01.03.2019 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, laying down guidelines for dealing with the disagreements between the disciplinary authority and CVC in cases for granting sanction for prosecution. The O.M. provides that any decision not to accord sanction for prosecution in such cases should be for very valid reasons. In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, he should report the case to the CVC and take further action after considering the CVC's advice, in terms of the Section 8(1) (g) of CVC Act, 2003. If the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to Department of Personnel and Training for final decision.

19. The learned Counsel for the petitioner has placed reliance on the judgments in the cases of **State of Karnataka Vs. Ameerjan**: (2007) 11 SCC 273, **Giri Raj Sharma Vs. State of U.P.**: 2021 SCC OnLine All 2002, and **Vijay Rajmohan Vs. CBI**: (2023) 1 SCC 329.

20. The learned Counsel for respondent CBI has submitted that the alleged first sanction order dated 06.02.2025 is not a sanction order and it is merely an internal communication by the competent authority from the administrative division sent internally to the Chief Vigilance Officer of NHAI. This communication had not been sent to CBI or forwarded to anyone outside NHAI. This document does not mention the word 'order', the communication has not been issued on the letterhead of NHAI and it does not carry the official seal of NHAI. It only takes into consideration the post-trap memorandum dated 04.07.2024 and the report dated 30.10.2024 sent by the Superintendent of Police, CBI.

21. Regarding the alleged second sanction order dated 20.02.2025, Sri Aakash Prasad has submitted that it is also not a sanction order addressed to CBI or anyone outside NHAI and it is also merely an internal communication made by the competent authority from the administrative division to the Chief Vigilance Officer, NHAI. This also does not mention

the word 'order', it is not printed on the official letterhead of NHAI, it does not bear any letter number and it does not carry the official seal of NHAI. This also refers only to the post-trap memorandum and the report dated 30.10.2024 submitted by the Superintendent of Police, CBI.

22. The learned Counsel for CBI has submitted that both the aforesaid alleged orders rejecting sanction for prosecution of the petitioner, are only notes forwarded by General Manager (Vigilance) to the Director, CVC. He has submitted that the only order granting sanction for prosecution of the petitioner, is the impugned order dated 06.10.2025, which has been issued on the letterhead of NHAI, which bears the heading "ORDER", which bears letter number 11019/56/2024-Admin-II (E.No.254202) and which bears the official seal of NHAI. It was issued after considering the advice of Chief Vigilance Commissioner under Section 8(1)(g) of CVC Act, 2003.

23. The learned Counsel for the CBI has placed reliance on the judgments in the cases of **Vivek Batra Vs. Union of India**: 2017 (1) SCC 69, **Mahant Prasad Ram Tripathi Vs. State**: 2022 SCC OnLine All 1588, **Parkash Singh Badal Vs. State of Punjab**: 2007 (1) SCC 1.

24. I first proceed to decide the question whether the competent authority had earlier passed orders refusing to grant sanction and thereafter he has reviewed his order and granted sanction for prosecution. In this regard, it would be appropriate to keep into consideration the following observation made by the Hon'ble Supreme Court in **Sethi Auto Service Station v. DDA**: (2009) 1 SCC 180: -

*"14. It is trite to state that notings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is communicated to the person concerned."*

25. The aforesaid ratio has been followed and reiterated in **Vivek Batra v. Union of India**: (2017) 1 SCC 69.

26. In **Mahant Prasad Ram Tripathi v. State**: 2022 SCC OnLine All 1588, this Court has also held that an internal communication between the Director General of Defence Estate, Ministry of Defence and Central Vigilance Commission cannot be construed as an order refusing sanction for prosecution of the petitioner and a separate order is required to be passed by the competent authority refusing to grant sanction for prosecution of the petitioner in pursuance to the said communication and it should be communicated to the C.B.I.

27. The alleged first two orders dated 06.02.2025 and 20.02.2025, through which the petitioner claims that the competent authority had declined to grant sanction for his prosecution, are merely internal communications made by Member (Admn) and Disciplinary Authority to the Chief Vigilance Officer, NHAI. Those have not been issued on the official letterhead of NHAI and do not bear any letter number and do not carry the official seal of NHAI. The communications dated 06.02.2025 and 20.02.2025 sent by Member (Admn) and Disciplinary Authority to the Chief Vigilance Officer, NHAI are not orders declining the request for sanctioning prosecution of the petitioner and these are merely internal communications from the administrative division to the Chief Vigilance Officer of NHAI. This internal communication had not been sent to CBI or forwarded to anyone outside NHAI.

28. In view of the reasons stated in the last preceding paragraph, I do not find force in the submission of the learned Counsel for the petitioner that the request for sanction had been denied by orders dated 06.02.2025 and 20.02.2025, which are merely internal communications made by Member (Admn) and Disciplinary Authority to the Chief Vigilance Officer, NHAI and this submission is turned down.

29. Now I proceed to deal with the question whether the competent authority of NHAI has the authority to decline sanction for prosecution of any accused person. The Office Memorandum dated 01.03.2019 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, laying down guidelines for dealing with the disagreements between the disciplinary authority and CVC in cases for granting sanction for prosecution provides that: -

*“2.1 The CBI recommends prosecution of persons only in those cases*

*in which they find sufficient justification for the same as a result of the investigation conducted by them. There are adequate internal controls within CBI to ensure that a recommendation to prosecute is taken only after a very careful examination of all the facts and circumstances of the case. Hence, any decision not to accord sanction for prosecution in such cases should, therefore, be for very valid reasons.*

*2.2 The following guidelines may be kept in view while dealing with cases of sanction of prosecution:*

*(i)...*

*(ii) In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it is required to report the case to the CVC and take further action after considering the CVC's advice, in terms of the Section 8(1) (g) of CVC Act, 2003; (ref: Corrigendum dated 18.07.2019)*

*(iii)...*

*(iv)...*

*(v) In a case falling under (ii) above, if the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to this department for final decision."*

30. A bare perusal of the Office Memorandum dated 01.03.2019 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, laying down guidelines for dealing with the disagreements between the disciplinary authority and CVC makes it manifest that in cases like the present one, where an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it cannot refuse to grant sanction and it is required to report the case to the CVC and take further action after considering the CVC's advice. If the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to the Department of Personnel and Training, Government of India for final decision and the disciplinary authority does not have the authority to take a final decision declining to grant sanction for prosecution of an employee.

31. In view of the reasons stated above, I hold that the competent

authority of NHAI does not have the authority to decline sanction for prosecution of any accused employee.

32. Now I proceed to deal with the binding effect of the advice of the CVC. In this regard, the learned Counsel for the petitioner has relied upon the judgment in the case of **Vijay Rajmohan v. CBI**: (2023) 1 SCC 329, wherein it was held that: -

*“19. ... The Central Vigilance Commission constituted under the CVC Act is specifically entrusted with the duty and function of providing expert advice on the subject. It may be necessary for the appointing authority to call for and seek the opinion of CVC before it takes any decision on the request for sanction for prosecution. The statutory scheme under which the appointing authority could call for, seek and consider the advice of CVC can neither be termed as acting under dictation nor a factor which could be referred to as an irrelevant consideration. The opinion of CVC is only advisory. **It is nevertheless a valuable input in the decision-making process of the appointing authority. The final decision of the appointing authority must be of its own by application of independent mind. The issue is, therefore, answered by holding that there is no illegality in the action of the appointing authority, the DoPT, if it calls for, refers, and considers the opinion of the Central Vigilance Commission before it takes its final decision on the request for sanction for prosecuting a public servant.**”*

(emphasis added)

33. The Hon’ble Supreme Court has held in no uncertain terms that the advice of CVC is a valuable input in the decision-making process of the appointing authority. The final decision of the appointing authority must be of its own by application of independent mind. The appointing authority has to refer and consider the opinion of the CVC before taking a final decision on the request for sanction for prosecuting a public servant. If the CVC has given its advice for granting sanction and the competent authority proposes not to act on the advice, it has no authority to decline sanction and it has to refer the matter to the Department of Personal and Training, Government of India for final decision.

34. In the present case, the appointing authority has considered and accepted the advice of the Central Vigilance Commission while taking its final decision on the request for sanction for prosecuting a public servant. Therefore, the impugned sanction order passed after relying upon the

opinion of CVC does not suffer from any illegality as per the law laid down in the case of **Vijay Rajmohan v. CBI** (supra).

35. The learned Counsel for the petitioner has relied upon the judgment rendered by a coordinate Bench of this Court in the case of **Giri Raj Sharma v. State of U.P.**: 2021 SCC OnLine All 2002, wherein it was been held that the sanctioning authority has got no authority or power to review or reconsider its earlier order whereby he has refused to grant the sanction to prosecute the petitioner. This ratio would not apply to the present case, as previously the disciplinary authority had merely sent internal communications to the CVC and it had not passed any order refusing to grant the sanction to prosecute the petitioner. The impugned order dated 06.10.2025 is the only order regarding grant of sanction for prosecution of the petitioner and this order has not been passed after reviewing any earlier order refusing to grant sanction for the petitioner's prosecution.

36. The next point to be decided is whether the impugned prosecution sanction order dated 06.10.2015 has been passed on the same material on the basis whereof the disciplinary authority had earlier declined to grant the sanction by its communications dated 06.02.2025 and 20.02.2025.

37. Apparently, Shri Gautam Vishal, Chief General Manager (Tech.) NHAI, the deponent of the short counter affidavit filed on behalf of NHAI, has tried to support the petitioner by stating that the authority has reviewed the earlier orders refusing prosecution sanction without there being any fresh material. However, this contention of the petitioner and the supporting stand taken in the short counter affidavit of NHAI, are incorrect. The internal communications dated 06.02.2025 and 20.02.2025 sent by the Disciplinary Authority to the CVC were issued after taking into consideration only the post-trap memorandum dated 04.07.2024 and the report dated 30.10.2024 sent by the Superintendent of Police, CBI. However, the prosecution sanction order dated 06.10.2025 states that it has been issued after examining the complaint, the verification report, the pre-trap memo, the post-trap memo, the statements recorded under Section 180 BNSS and taking into consideration the facts and circumstances of the case and on being fully satisfied after full application of mind, that the petitioner should be prosecuted for the said offences.

38. Therefore, the petitioner's contention that the impugned prosecution sanction order dated 06.10.2015 has been passed on the same material on the basis whereof the disciplinary authority had earlier declined to grant the sanction by its communications dated 06.02.2025 and 20.02.2025, is also without any force and the same is turned down.

39. In **Parkash Singh Badal Vs. State of Punjab** (supra), the Hon'ble Supreme Court held that: -

*“29. ... mere error, omission or irregularity in sanction is (sic not) considered fatal unless it has resulted in failure of justice or has been occasioned thereby. Section 19(1) is a matter of procedure and does not go to the root of jurisdiction as observed in para 95 of Narasimha Rao case [(1998) 4 SCC 626]. Sub-section (3)(c) of Section 19 reduces the rigour of prohibition. In Section 6(2) of the old Act [Section 19(2) of the Act] question relates to doubt about authority to grant sanction and not whether sanction is necessary.*

\* \* \*

*47. The sanctioning authority is not required to separately specify each of the offences against the accused public servant. This is required to be done at the stage of framing of charge. Law requires that before the sanctioning authority materials must be placed so that the sanctioning authority can apply his mind and take a decision. Whether there is an application of mind or not would depend on the facts and circumstances of each case and there cannot be any generalised guidelines in that regard.*

*48. ... There is a distinction between the absence of sanction and the alleged invalidity on account of non-application of mind. The former question can be agitated at the threshold but the latter is a question which has to be raised during trial.”*

40. In **State of Bihar v. Rajmangal Ram**: (2014) 11 SCC 388, the Hon'ble Supreme Court relied upon the ratio laid down in **Parkash Singh Badal** (supra), as also on a judgment in **State of M.P. v. Virender Kumar Tripathi**: (2009) 15 SCC 533 wherein it was held that in view of Section 19(3) of the PC Act, interdicting a criminal proceeding mid-course on ground of invalidity of the sanction order will not be appropriate unless the court can also reach the conclusion that failure of justice had been occasioned by any such error, omission or irregularity in the sanction. It was further held that failure of justice can be established not at the stage of framing of charge but only after the trial has commenced and the evidence is led.

41. In the present case the petitioner has not been able to point out any failure of justice having been occasioned to him by the impugned order dated 06.10.2025 granting sanction for the petitioner's prosecution.

42. The learned Counsel for the petitioner has placed reliance upon the judgment in the case of **State of Karnataka v. Ameerjan: (2007) 11 SCC 273**, which was passed in an appeal against an order of the High Court reversing the judgment of the conviction of the accused on the ground of invalidity of sanction order and in that case, the invalidity of the prosecution sanction order was not set up at an initial stage to quash the prosecution sanction order and the entire criminal proceedings, like the petitioner is seeking in the present case, The Hon'ble Supreme Court distinguished the judgment in **Parkash Singh Badal Vs. State of Punjab** (supra) and held that: -

*“17.Parkash Singh Badal [(2007) 1 SCC 1, therefore, is not an authority for the proposition that even when an order of sanction is held to be wholly invalid inter alia on the premise that the order is a nullity having been suffering from the vice of total non-application of mind. We, therefore, are of the opinion that the said decision cannot be said to have any application in the instant case.”*

43. In the present case, the petitioner is seeking quashing of the prosecution sanction order at the initial stage, without the petitioner facing the trial and he is seeking quashing of the entire criminal proceedings against him on this ground. Therefore, the aforesaid observation made in **Ameerjan** (supra) while deciding an appeal against an order of the High Court reversing the judgment of the conviction of the accused on the ground of invalidity of sanction order, will not apply to the instant case.

44. The petitioner has failed to make out any error or illegality in the prosecution sanction order dated 06.10.2025.

45. The learned Counsel for the petitioner has submitted that the word 'paisa' is not there in the conversations, and therefore, the trial Court could not have taken cognizance of the offence and summoned the petitioner to face the trial. I am unable to accept this submission also because at the stage of taking cognizance and summoning an accused person, the trial Court is merely required to satisfy itself that the prosecution allegations and the material produced in support thereof

makes out a prima facie case, which warrants to be adjudicated in trial. The trial Court is not required to satisfy whether the material is sufficient to lead to conviction of the accused.

46. The transcripts of telephonic conversations between complainant and the named accused Brijendra Singh and transcripts of telephonic conversations between Brijendra Singh and the petitioner reproduced in the counter affidavit filed by CBI shows that Brijendra Singh had requested the petitioner to complete the task of Hariharpur. The petitioner asked Brijendra Singh whether he had talked to Mukesh, whereupon Brijendra answered in the affirmative and he also said ‘उन्होंने वो दे दिया सर इनको यहाँ पे’. The petitioner said that ‘ठीक, हॉ बात करता हूँ’ (Okay, I will talk). A collective reading of the entire material makes out a case for taking cognizance of the offences and summoning the accused to face the trial and the trial Court has not committed any error or illegality in passing the impugned order of cognizance and summoning.

47. Lastly, the learned Counsel for the petitioner has submitted that the petitioner that the petitioner had been suspended on the same charges and it has been stated in the short counter affidavit filed on behalf of NHAI that the competent authority examined the material, noticed that the word ‘paisa’ does not appear in the conversation attributed to the petitioner and came to a conclusion that the conclusions drawn by CBI appeared to be more conjectural than evidence based and recorded on 06.02.2025 that it was not a fit case for granting sanction for prosecution of the petitioner and thereafter the Suspension Review Committee had noted that the competent authority’s decision declining sanction and recommended revocation of the petitioner’s suspension on that basis. He has submitted that on the one hand the authority has revoked suspension of the petitioner and on the other hand he has granted sanction for his prosecution, which is apparently illegal. The short counter affidavit filed by NHAI supports the petitioner’s contentions.

48. In **State (NCT of Delhi) v. Ajay Kumar Tyagi**: (2012) 9 SCC 685, the Hon’ble Supreme Court has held that: -

*“25. ... the exoneration in the departmental proceeding ipso facto would not result in the quashing of the criminal prosecution. We hasten to add, however, that if the prosecution against an accused is solely based on a finding in a proceeding and that finding is set aside*

*by the superior authority in the hierarchy, the very foundation goes and the prosecution may be quashed. But that principle will not apply in the case of the departmental proceeding as the criminal trial and the departmental proceeding are held by two different entities. Further, they are not in the same hierarchy.”*

(emphasis added)

49. The prosecution against the petitioner is solely not founded on any finding in a departmental proceeding and the criminal trial and the departmental proceeding are held by two different entities, who are not in the same hierarchy. Therefore, the revocation of suspension of the petitioner on the basis of an internal communication issued by the administrative authority will not affect the validity of his prosecution by CBI after sanction of prosecution as per the advice of CVC.

50. In view of the foregoing discussion, I am of the considered view that the petitioner has failed to make out any error or illegality in the order dated 06.10.2025 passed by the Member (Admin) NHAI granting sanction for prosecution of the petitioner for the aforesaid offences or in the order dated 17.12.2025 passed by the learned Special Judge taking cognizance of the offences and summoning the petitioner to face trial.

51. The petition lacks merits and the same is **dismissed**. It is clarified that any observations made in this order will not affect the decision of the trial court arrived on the merits of the case.

(Subhash Vidyarthi,J.)

**October 8, 2026**

Ram.

Whether the judgment is speaking: Yes

Whether the judgment is reportable: Yes

(Subhash Vidyarthi,J.)