

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. 13 OF 2014
IN
WRIT PETITION (CIVIL) NO. 463 OF 2012
PUBLIC INTEREST LITIGATION

In the matter of:

Common Cause & Ors. ...Petitioners

Versus

Union of India & Ors. ...Respondent

ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONERS

I, Kamal Kant Jaswal, S/o Late Shri Ambica Prasad Jasvaul, Director of the Petitioner with office at 5 Institutional Area, Nelson Mandela Road, Vasant Kunj, New Delhi-110070, do hereby solemnly affirm and state as under:

1. That I am the Director of the Petitioner No. 1 in the instant writ petition and being conversant with the facts and circumstances of the case, am competent and authorized to swear this Affidavit. I have also been authorized by the other Petitioners to file this additional affidavit on their behalf.
2. The petitioners have filed the above application (IA 13) with the following prayers:

“a) Direct Mr. Ranjit Sinha, Director, CBI, not to interfere in the coal block allocation case investigations and prosecutions being carried out by the CBI and to recuse himself from these cases.”

b) Direct an SIT appointed by this Hon'ble Court to investigate the abuse of authority committed by the CBI Director in order to scuttle inquiries, investigations and prosecutions being carried out by the CBI in coal block allocation cases and other important cases.

c) Pass other or further orders as may be deemed fit and proper."

3. The said application was listed before this Hon'ble Court on 09.09.2014 when this Hon'ble Court was pleased to issue notice to the respondents returnable on 19.09.2014.
4. The petitioners on 18.09.2014 moved another application (IA 19) with the prayer: "*Direct the Central Government to produce the appraisal report prepared by the Director General of Income Tax (Investigations) on their investigations of Mr. Moin Qureshi.*"
5. Both the aforesaid applications (IA 13 and 19) were listed before this Hon'ble Court on 19.09.2014 when this Hon'ble Court directed the Central Government to produce the appraisal report prepared by the DGIT on their investigations concerning alleged hawala operator Shri Moin Qureshi. This Hon'ble Court also directed the CBI not to file any more closure reports till further orders of the Court. This Hon'ble Court vide order dated 19.09.2014 adjourned the hearings on the aforesaid applications to 17.10.2014.
6. On 17.10.2014, the Union of India submitted the DGIT appraisal report concerning Shri Qureshi to this Hon'ble Court in a sealed cover. The Attorney General appearing for the Union of India orally informed the Court that the report contained information about the dealings and conversations of the alleged Hawala operator, Shri

Moin Qureshi. He also stated that there were several “coded conversations” between Shri Qureshi and the former CBI Director, Shri A P Singh, currently Member, Union Public Service Commission, regarding illegitimate transactions. He clarified that there were no Blackberry conversations between Shri Qureshi and Shri Ranjit Sinha, the incumbent CBI Director, and that there only were hearsay statements about him. This Hon’ble Court indicated that it would peruse the said report and adjourned the hearings on the aforesaid applications to 08.12.2014.

7. It would also be pertinent to mention that an application seeking the removal of Shri Ranjit Sinha, Director, CBI, from the 2G Case investigation and prosecutions was moved by Centre for Public Interest Litigation (CPIL) in the 2G Scam case being heard by a different bench of this Hon’ble Court. This Hon’ble Court *vide* order dated 20.11.2014 was pleased to allow the said application and directed Shri Sinha not to interfere in the 2G Case investigations and prosecutions. This order was passed after the Special Public Prosecutor appointed by this Hon’ble Court in the 2G cases, Shri Anand Grover, confirmed that the conduct of Shri Sinha was far from proper and amounted to serious interference in the 2G investigations and trial. A copy of the order dated 20.11.2014 passed in Civil Appeal 10660/2010 is annexed as **Annexure A** (Pg _____).
8. Subsequent to the last date of hearing, certain news reports disclosing facts that have a crucial bearing on these proceedings

have come to the knowledge of the petitioners. The petitioners seek leave to place these reports on record through this affidavit.

9. In the application (IA 13), the petitioners had pointed out that as the Coal Scam investigations progressed, it came to light that Shri Sinha, along with a few other senior officers of the level of the Joint Director, repeatedly overruled the investigation officers and forced them to not to register FIRs/RCs in cases where PEs had been registered. He even forced them to file closure reports in cases where FIRs had already been registered. Faced with such a situation, this Hon'ble Court, *vide* order dated 28.03.2014, directed the CBI to submit its reports to the Central Vigilance Commission (CVC) in cases where the Inquiry Officers had recommended registration of a Regular Case, but had been overruled by the CBI Headquarters. Later, the CVC, agreeing with the investigation officers, categorically recommended the registration of Regular Cases in as many as 14 such cases in the first instance. This Hon'ble Court directed the CBI to abide by the view taken by the CVC. This clearly shows that the decision taken at the level of the CBI Director to close these cases was wrong and amounted to subverting the process of investigation.
10. It has now come to light that the Special Public Prosecutor appointed by the Supreme Court in the Coal Scam cases, Shri R S Cheema, has disagreed with the findings of Shri Sinha to file closure reports in several FIRs despite the fact that evidence of criminal culpability had been found against several companies, influential accused and public servants. Reportedly, Shri Cheema has written

as many six letters to Shri Sinha concerning such sketchy and unwarranted closure reports. The closure reports in question have been found to be totally unsatisfactory and rejected by the Special Court dealing with the Coal Scam cases. A newsreport published in the Indian Express in this regard is annexed as **Annexure B** (Pg _____).

11. The petitioners in the said application (IA 13) had also pointed out that the entry register of 2013 and 2014 maintained at the gate of the official residence of Shri Sinha at 2, Janpath, New Delhi, shows that he had meetings, many of them late at night, at his residence with several accused persons in prominent cases like Coal Scam, 2G Scam, and with Hawala operators like Shri Moin Qureshi, without any of the investigation officers being present. According to the said application, there were visits by several of the Coal Scam accused, such as Shri Vijay Darda and Shri Devendra Darda, at the time Shri Sinha was trying to close the ongoing cases against them. The Dardas and Shri Sinha have not denied these meetings.
12. It has now come to light through a news report published in The Indian Express that in February this year, Shri Ranjit Sinha had overruled his agency colleagues to hold that there was no reason to prosecute Shri Vijay Darda, Member, Rajya Sabha; his son, Devendra Darda; Shri Santosh Bagrodia, former Coal Minister; and Shri H C Gupta, former Coal Secretary, in the Coal Blocks Allocation case. Shri Vijay Darda had written to Shri Manmohan Singh, the then Prime Minister, pressing for the allocation of a coal block in Bander, Chhattisgarh, to AMR Iron and Steel Pvt Ltd, which

transferred Rs 24.6 crore to a firm owned by Shri Darda's son after AMR got the block. On receipt of Shri Sinha's objections, the CBI's Additional Legal Advisor, who had previously recommended prosecution, did a U-turn and cleared the Dardas. Barely two months later, Shri Sinha himself did a startling U-turn and gave orders to file a chargesheet against the Dardas, this time citing the same arguments he had once vehemently objected to. The chargesheet was filed on March 27 this year against the Dardas and AMR director Shri Manoj Jayaswal. Significantly, Shri Devendra Darda made five visits to Shri Sinha's residence between February 2 and February 14, 2014 when this curious flip-flop happened. There had been animated debates within the CBI before prosecution against the Dardas, Shri Santosh Bagrodia, Shri H C Gupta and Shri Jayaswal was recommended.

13. The CBI's key allegations against AMR is that Shri Vijay Darda tried to influence the outcome of coal block allotment by writing letters in favour of AMR to the Prime Minister, who also held charge of the Coal portfolio; that Shri Vijay Darda's son, Shri Devendra Darda, represented AMR in the Screening Committee that allotted the coal block, claiming to be Director of the company and gave misleading information to the Committee; and that a Jayaswal firm gave an unsecured loan of Rs 24.6 crore to a Darda company. In addition, the CBI also claimed that it had found evidence that while settling a "family feud," Shri Manoj Jayaswal in July 2008 made a provision for 26 percent shares of "coal block applicant companies to the person who is instrumental in getting the (Bander) Coal Block allotted". The

CBI also claimed to have records of meetings at various locations between Shri Darda and Shri Jayaswal.

14. The case recommending chargesheet against Shri Darda and others was sent to Shri Sinha on February 4, 2014. Significantly, according to the visitor's logbook record of February 2 and February 3, 2014, Shri Devendra Darda spent 20 minutes and 15 minutes, respectively, at Shri Sinha's residence. In total, he made nine visits between February 2 and March 28, 2014. The logbook, which was opened in May 2013, does not record any earlier visit of Shri Devendra Darda. The CBI records show the period of these visits coincides with the period in which it changed its stand several times before eventually filing the chargesheet. On February 13, Shri Sinha wrote a strong rebuttal to the findings of his officers. Shri Devendra Darda had met Shri Sinha on two more occasions between February 4 and February 13, 2014. Shri Sinha made five key observations countering the arguments of his officers. He said that the case was built merely on "circumstantial evidence", that there was nothing wrong in Shri Devendra Darda attending the Screening Committee meeting on behalf of AMR because he had disclosed this fact; that there was no evidence to link the 24.6 crore payment with the allotment of the coal block, and anyways, this money had been paid back with interest. Significantly, the last reason given by Shri Sinha was not mentioned anywhere in the file. The relevant news report published in The Indian Express is annexed as **Annexure C** (Pg _____).

15. The petitioners in their application (IA 19) had stated that by one count, Shri Moin Qureshi had visited Shri Sinha about 90 times in the last 15 months as reflected in the entry register of the CBI Director's residence. Shri Qureshi is being investigated by the Income Tax Department for Hawala dealings.
16. Contrary to the oral submission made by the Attorney General on the last date of hearing that in the course of its investigations of Shri Qureshi, the DGIT had not found any direct evidence against Shri Sinha, The Indian Express has revealed that there is crucial evidence against Shri Sinha in the DGIT report itself. The appraisal report goes into the details of the illegal operations of Shri Qureshi and his dealings with various individuals, including their conversations over Blackberry Messenger (BBM). Amongst others, there are several coded conversations between Shri Qureshi and the former CBI Director, Shri A P Singh, relating to delivery of money, fixing of meetings, etc.
17. According to the report of The Indian Express, some of these messages concern Shri Pradeep Koneru, businessman and son of Shri Prasad Koneru, a co-accused in a case of disproportionate assets filed by CBI against Shri Jaganmohan Reddy; Shri Aditya, an employee of Shri Qureshi; Shri V. V. Laxminarayana, the CBI Joint Director who had investigated the case; and of course, Shri Qureshi. The messages have one common theme, viz. Shri Pradeep Koneru's efforts to seek Shri Qureshi's help in the bail applications and discharge petitions filed by his father and his

brother, Shri Madhu Koneru, who is a co-accused in what is commonly referred to as the Emaar-APIIC case.

18. On May 8, 2013, Shri Pradeep Koneru, Director of Trimex group, sent a message to Shri Qureshi, asking, "What's the best time to meet boss?" Shri Qureshi responded: "Afternoon". The BBM texts reveal that a few days later, Shri Pradeep was still persuading Shri Qureshi to set up a meeting with the "boss", whose identity becomes clearer in another exchange between the two on May 20. Shri Pradeep Koneru to Shri Qureshi: "It's important to meet boss. Do we have an appointment?". Shri Qureshi's reply: "Meeting confirmed today 2.30 pm". Shri Pradeep Koneru again: "Where do I meet you?" Shri Qureshi's response: "2 pm Defence Colony." Shri Qureshi's residence and office are in Delhi's Defence Colony. The logbook at Shri Sinha's residence showed that one "Kureshi", in a car bearing the registration number DL-7CG 3436, was there at 2.40 p.m. that day. The car mentioned in the text reportedly belongs to Shri Qureshi.

19. According to the The Indian Express report, the contents of the coded texts between the Shri Qureshi and Shri Pradeep Koneru are worthy of note. On July 13, Shri Koneru texted Shri Qureshi: "I have sent 25 diaries today." In the same series, Shri Koneru texted Shri Qureshi: "Dog has left. Can boss speak to new JD?". Shri Qureshi responded: "Boss will call him to Delhi." Significantly, in another message, Shri Qureshi told Shri Pradeep Koneru: "Met Boss. He will speak to JD Chennai." In July 2013, CBI Joint Director Shri V. V. Laxminarayana, who had filed several chargesheets against Shri

Jaganmohan Reddy, was repatriated to his parent cadre after the completion of his tenure even though there was a move to grant him an extension.

20. The said newsreport also reveals that in August 2013, Shri Prasad Koneru, Shri Pradeep Koneru's father, approached the Madras High Court seeking relaxation in his bail condition and the plea was granted. In this context, another set of messages between Shri Pradeep Koneru and Shri Qureshi assumes significance. On August 13, Shri Pradeep Koneru texted: "There is small delay. 250 mtr work will start from tomorrow". Shri Qureshi replied: "Do it asap. Its not good", and later added: "Pls finish remaining 450 mtr work. Thanks. I got reminder." Here are some of Shri Pradeep Koneru's messages to Shri Qureshi during that period: "Another 45 days to complete work. Business very bad. Pls help"; "Discharge petition of Madhu coming on October 13." When the Income Tax officials asked Shri Qureshi what the "work" mentioned in the messages was, he reportedly told them that he was referring to silk fabric. Then there is an exchange of texts between Shri Qureshi and Shri Aditya, an employee of Shri Qureshi's firm, Forum Sale. Shri Aditya wrote: "Received 50L from Pradeep". During questioning by Income Tax officials, Shri Qureshi reportedly said he could not "recollect the identity of Pradeep" mentioned in the text. However, investigators have in their possession an email received by Shri Aditya on September 7, 2013, which refers to the discharge petition filed in court by Shri Madhu Koneru. The sender's ID is pradeep@trimexgroup.com. Copy of a new sreport on this subject

published in The Indian Express is annexed as **Annexure D** (Pg _____).

21. In the light of the above facts disclosing the abuse of office and criminal misconduct by Shri Sinha as CBI Director, Shri Prashant Bhushan has filed a complaint with the Anti-Corruption Bureau of Delhi Police for registration of an FIR into the matter. A copy of the complaint dated 25.11.2014 is annexed as **Annexure E** (Pg _____). However, it is learnt that no FIR has been registered by the ACB into the matter.
22. In view of the foregoing, the petitioners request this Hon'ble Court to direct a court-monitored investigation by an SIT or by the ACB of Delhi Police in the entire matter, which is crying out for an independent and thorough investigation. It is evident that the CBI cannot be trusted with this task since two of its former Directors and other senior functionaries would be the subject matter of the investigation.

DEPONENT

VERIFICATION:

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct, that no part of it is false and that nothing material has been concealed therefrom. Paragraphs 1 to 11 are correct to my knowledge. Paragraphs 12 to 14 are based on newspaper report. Paragraph 15 is correct to my knowledge. Paragraphs 16 to 20

are based on newspaper reports. Paragraph 21 is correct to my knowledge and paragraph 22 is by way of submission to the Court.

Verified at New Delhi on the _____ day of December 2014.

DEPONENT