District- Patna

In the Court of Authorised Officer, Spl. Court Vigilance Patna
(Special Case No. 01 of 2026, CIS No. 01/2026)
Arising out of VIB, P.S. Case No. 37/2015
State Vs. Smt. Phulpari Kumari and three Others.
Name of P.O.- Shri Brajesh Kumar Pathak
A.O. Special Court Vigilance, Patna

ORDER

Dated:- 15.07.2026

<table>
<tr><th>Sl. No.</th><th>In the matter of: -
State of Bihar (Through Vigilance Investigation Bureau, Patna) ....The petitioner
V/s
1. Smt. Phulpari Kumari age about 58 years, the then Child Development Project Officer (dismissed), W/o Shri Yogendra Kumar Madhup, Village- New Bishunpur Pakri, P.O.- Anishabad, P.S.- Beur, Phulwarisharif, District- Patna.

2. Shri Mayank Raj, age about 25 years S/o Shri Yogendra Kumar Madhup, Village- New Bishunpur Pakri, P.O.- Anishabad, P.S.- Beur, Phulwarisharif, District- Patna.

3. Shri Abhijit Kumar, age about 22 years S/o Shri Yogendra Kumar Madhup, Village- New Bishunpur Pakri, P.O.- Anishabad, P.S.- Beur, Phulwarisharif, District- Patna.

4. Swarnim Priya age about 20 years D/o Shri Yogendra Kumar Madhup, Village- New Bishunpur Pakri, P.O.- Anishabad, P.S.- Beur, Phulwarisharif, District- Patna. . ...The opposite parties.

[For convenience, the abbreviations/short forms are being mentioned here as, the Special Court Act, 2009 in short as 'the Act'; The Special Court Rules, 2010 in short as 'the Rules'; The Prevention of Corruption Act, 1988 in short as 'PC Act'; the delinquent public servant, in short as DPS; opposite party or opposite parties in short as OP or OPs respectively; Public Prosecutor in short 'PP'; Investigating Officer in short as 'IO'; The Vigilance Investigation Bureau, Patna in short as 'VIB'; ; Disproportionate Asset in short as 'DA'; First Information Report in short as ' FIR'; Police Station in short as 'P.S.'; The Case Information System in short as 'CIS'; Post Office in short as 'P.O.'; Under Section in short as 'u/s'; Read with in short as 'r/w']</th><th>Remarks</th></tr>
<tr><td></td><td>1. Attendances have been filed on behalf of both sides. The learned Special PP Vigilance and Learned Counsel for the OPs are present before the Court. This case is fixed for the order on petition dt. 29.05.2026, filed on behalf of DPS/OP-1 Smt. Phulpari Kumari, copy of which served to the prosecution, thereafter in continuation of its petition dt. 29.05.2026 the learned counsel for the petitioner DPS/OP-1 filed a supplementary petition in continuation on dt. 15.06.2026, copy of which served to the prosecution. The learned Special PP Vigilance filed rejoinder on dt. 30.06.2026 on behalf of prosecution. Heard both sides on the petition.

2. Learned Counsel for the petitioner DPS/OP-1 submitted that, the present confiscation case is arising out from Special Case No. 20/2015, Vigilance P.S. Case No. 37/2015. The petitioner DPS/OP-1 Smt. Phulpari Kumari had filed a Criminal Miscellaneous No. 56839/2021 for quashing the cognizance order dated 28.01.2021 passed by the Learned Special Judge, Vigilance, Patna in connection with Special Case No. 20/2015 arising out from Vigilance P.S. Case No. 37/2015 registered for the offence u/s- 13(2) r/w 13(1)(e) of the PC Act, before the Hon'ble Patna High Court. By the order dated 14.05.2026 the said Criminal Miscellaneous No. 56839/2021 allowed and cognizance order dated 28.01.2021 passed in Special Case</td><td></td></tr>
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Contd.	No. 20/2015, Vigilance P.S. Case No. 37/2015 has been quashed by the Hon'ble Patna High Court. (Photo copy of the certified copy of order dated 14.05.2026 is made annexure- 1 herewith). So, in the facts and circumstances this confiscation proceeding arising out from the Vigilance P.S. Case No. 37/2015 is fit to be dropped. **3.** Learned Counsel for the petitioner DPS/OP-1 Smt. Phulpari Kumari, further submitted that he has filed a supplementary petition on dt. 15.06.2026 in continuation of previous petition dt. 29.05.2026. He is submitting the case history of Special Case No. 20/2015 which is on CIS as Special Case No. 329/2015, Filing No. Special Case/5522/2015 of the Learned Special Court Vigilance, wherein it is clear that DA criminal trial case i.e. Special Case No. 20/2015, Vigilance PS case No. 37/2015 has been disposed of on dt. 11.06.2026, nature of disposal shows uncontested-QUASH. **4.** Lastly, it is prayed by the Learned Counsel for the petitioner DPS/OP-1 Smt. Phulpari Kumari, to consider his petition dt. 29.05.2026 and supplementary petition in continuation dt. 15.06.2026, and in the light of submitted facts and circumstances, drop the proceeding of this confiscation case No. 01/2026 and dismiss the confiscation proceeding, for the ends of justice. **5.** On the other hand, Learned Special PP Vigilance, submitted that, the present confiscation proceeding is Special Case No.-01/2026, which has been initiated and arising out of Vigilance P.S. Case No.-37/2015, which was registered against the petitioner DPS/OP-1 Smt. Phulpari Kumari, for the offence u/s 13(2) r/w Section 13(1)(e) of the PC Act. The petitioner DPS/OP-1 has filed a petition before this court seeking dropping of the confiscation proceeding on the ground that the cognizance order dated 28.01.2021 passed in Special Case No.-20/2015, Vigilance P.S. Case No.-37/2015 has been quashed by the Hon'ble Patna High Court vide order dated 14.05.2026 in Criminal Miscellaneous No.-56839/2021. **6.** The VIB/prosecution, most respectfully submits that the petition filed	

ORDER

Dated:- 15.07.2026

Contd.	by the petitioner DPS/OP-1 is misconceived, premature and liable to be dismissed. The confiscation proceeding is an independent proceeding and does not abate merely because the cognizance order in the criminal case has been quashed. A confiscation proceeding can be initiated on an application filed by the Public Prosecutor being authorized by the State Government, whether or not the Special Court has taken cognizance of the offence. The VIB/Prosecution most respectfully submits that the Hon'ble High Court, while quashing the cognizance order, has not passed any order regarding the confiscation proceeding. The quashing of the cognizance order pertains only to the criminal prosecution of the petitioner DPS/OP-1 under the PC Act. **7.** Learned Special PP Vigilance further submitted that, this is not correct as per law that, present confiscation proceeding of Special Case No. 01/2026 pending in this court, is arise out of the Special Case No. 20/2015, the correct position is that, the present confiscation proceeding not arise from the Criminal Trial of DA Case/ Special Case No. 20/2015, rather it can be said that present confiscation proceeding arise out from the same Vigilance PS Case No. 37/2015. The confiscation proceeding under the Act is independent proceeding from the Criminal Trial of DA Case-Special Case No. 20/2015. **8.** Further, the order dated 14.05.2026 of the Hon'ble High Court was primarily based on the finding that the gold jewelry possessed by the petitioner DPS/OP-1 was within the permissible limits prescribed by the Income Tax Department's Instruction No.-1916 dated 11.05.1994 and Press Release dated 01.12.2016. **9.** The VIB, Bihar, Patna has taken a decision to file an SLP against the order passed by the Hon'ble Patna High Court in Cr. Misc. No.-56839/2021 vide order dated 14.05.2026. Accordingly, a request for necessary approval has been made to the Vigilance Department, Bihar, Patna. **10.** Lastly, it is prayed by the prosecution, to dismiss the petition dt.	

ORDER

Dated:- 15.07.2026

Contd.

29.05.2026 along with supplementary petition in continuation dt. 15.06.2026 filed by the petitioner DPS/OP-1 or pass any other order or direction as deem fit and proper in the interest of justice.

11. Taking into consideration the entire facts and circumstances of the case, after hearing both sides and perusal of the record, from which it transpires that the Hon'ble Patna High Court vide order dt. 14.05.2026 passed in Criminal Misc. No. 56839 of 2021 has quashed the cognizance order dt. 28.01.2021 of Special Case No. 20 of 2015 of the learned Special Judge Vigilance, Patna, in this order, the Hon'ble Court at Page No. 04 in Para-7 has been observed as,

> "7. In such view of the matter, the order of cognizance dated 28.01.2021 passed by learned Special Judge, Vigilance, Patna in connection with Special Case No. 20 of 2015 arising out of Vigilance P.S. Case No. 37 of 2015 registered for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 is quashed so far as the petitioner is concerned."

12. In the light of above observation, the learned Special Judge Vigilance, Patna has dismissed the proceeding of Special Case No. 20/2015. It is submission of the learned counsel for the petitioner DPS/OP-1 that the present confiscation proceeding (Special Case No. 01/2026) is also arise out of Vigilance P.S. Case No. 37 of 2015, so both of the cases i.e. Criminal Trial of DA Case/Special Case No. 20/2015 and case of DA confiscation proceeding/ Special Case No. 01/2026 should not proceed further.

13. There arise legal points concerning to the facts mentioned by the both sides in this case of DA confiscation proceeding which are as under:

> **1st Point**: The present DA confiscation proceeding (Special Case No. 01/2026) which is also arise out from the same Vigilance P.S. Case No. 37/2015 of the same PS Case No. 37/2015 the Criminal Trial of DA Case is Special Case No. 20/2015 of which cognizance order has been quashed by the Hon'ble Court under such situation the case of DA confiscation proceeding will proceed or not?

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2nd Point: The DA confiscation proceeding under the Special Court Act, 2009 is independent or dependent on the criminal trial of DA case?

3rd Point: What will be appropriate step in the light of the order passed on dt. 14.05.2026, in Criminal Misc. No. 56839 of 2021 by the Hon'ble Patna High Court?

(A) Regarding 1st & 2nd Legal Points:

14. To analyze these legal points it is pertinent to bring here Section-13 & Section-19 of Chapter- III of the Act,

> **Section 13. Confiscation of property.** - (1) Where the State Government, on the basis of prima-facie evidence, have reasons to believe that any person, who has held or is holding public office and is or has been a public servant. has committed the offence, the State Government may, whether or not the Special Court has taken cognizance of the offence, authorise the Public Prosecutor for making an application to the authorised officer for confiscation under this Act of the money and other property, which the State Government believe the said person to have procured by means of the offence.
>
> ...
>
> **Section 19. Refund of Confiscated money or property.** - Where an order of confiscation made under section 15 is modified or annulled by the High Court in appeal or where the person affected is acquitted by the Special Court, the money or property or both shall be returned to the person affected and in case it is not possible for any reason to return the property, such person shall be paid the price thereof including the money so confiscated with the interest at the rate of five percent per annum thereon calculated from the date of confiscation.

15. From perusal of Section 13 and 19 of the Act, the inference could be drawn that under the Act, Section 13 authorises confiscation of money and property believed to have been procured by means of the offence,

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whether or not the Special Court has taken cognizance of the offence. Section 19 provides for refund only in limited situation, where the confiscation order is modified or annulled in appeal or where the person affected is acquitted by the Special Court or in appeal. Section 19 does not say that confiscation depends on a subsisting cognizance order of criminal trial of DA case, there is no dependency of the confiscation proceeding under the Bihar Special Court Act, 2009 on the criminal trial of DA case which is proceeding under the Prevention of Corruption Act, 1988. Both of the proceedings are distinct and separate.

16. In case of **Yogendra Kumar Jaiswal v. State of Bihar & others, [(2016) 3 SCC183] the Hon'ble Supreme Court** has constitutionally upheld the confiscation proceeding under the Bihar Special Court Ac, 2009 and in **Shiva Shankar Verma v. State of Bihar [2011(3) PLJR 813] the Hon'ble Patna High Court** held in para-38 that, ...… "One has always to remember that trial has to be before the Special Court as per provisions of Chapter-II of the Act, and the proceedings under Chapter-III has to be before the Authorized Officers and the two jurisdictions and their nature are quite different from each other. The two fora have distinct and separate judicial identity with varied functions guided by different procedures; one has to try the accusation of commission of the 'offence' as defined by Section 2(e) of the Act, while the other, that's the Authorised Officer, has to adjudicate the proceeding arising out of the application under Section 13 under the special procedures of Chapter-III of the Act". So, the confiscation proceeding is distinct and independent proceeding, there is no express intention of the legislature which can infer that quashing of cognizance will terminate the confiscation proceeding.

17. Further, on perusal of Section 19 of the Act, it becomes clear that, if DPS is acquitted by the Learned Court of Special Judge Vigilance in Criminal Trial of DA case then the money or property or both shall be returned to the DPS or affected person.

18. Section 19 of the Act has provision which means that, the

Contd.	implementation of final adjudication of the confiscation proceeding will reach to its logical end as per procedure and provisions of the Act or the Rules or as per guidelines of the Hon'ble Courts and will be completed. **19.** But on annulment, modification of the confiscation order in appeal by the Hon'ble High Court or acquittal of the DPS in criminal trial of DA case by the Special Court, the money or property or both shall be returned to the person affected and in case it is not possible for any reason to return the property, such person shall be paid the price thereof including the money so confiscated with the interest at the rate of five percent per annum thereon calculated from the date of confiscation. **20.** Thus, from above analysis it is clear that, the confiscation proceeding will proceed independently as per provisions of the Act and the Rules. The confiscation proceeding is separate and independent proceeding from the criminal trial of the DA case. **(B) Regarding 3rd Legal Point:** **21.** Another legal question arises here that, the Hon'ble Court in the Order passed vide Cri. Misc. No. 56839/2021 dt. 14.05.2026 concerning to the Vigilance P.S. Case No. 37/2015 has held that, IO of the case has conducted erroneous calculations of the assets. Since Hon'ble Court has held in para-6 that, 6. "In the present case, if the gold is calculated with reference to the aforesaid circular, the petitioner does not possess more than 750 Grams which is permissible limit of petitioner. Thus, the Vigilance Department has seized the gold erroneously and has committed error in calculating the weight of the gold jewelry of the petitioner and determining the proportionate assets of the petitioner." **22.** Since, the Hon'ble Court has declared that calculation, valuation and procedure adopted by the IO in investigation of the Vigilance P.S. Case No. 37/2015 is "erroneous". The investigation and charge-sheet of the Vigilance P.S. Case No. 37/2015 are basis of the prosecution petition dt. 21.02.2026 u/s 13 of the Act. This will amount that basis of this	

Contd.	confiscation proceeding is declared "erroneous" by the Hon'ble Court. Then haw a confiscation proceeding will proceed on "erroneous" basis. Further, prosecution is approaching to the Hon'ble Supreme Court by filing an SLP and if in condition the criminal trial of DA case may revive then what will happen of this present confiscation proceeding? **23.** So, there are two situations, firstly in the light of Order passed vide Cri. Misc. No. 56839/2021 dt. 14.05.2026, the proceeding of this confiscation case may be dropped or may be dismissed as basis of the confiscation proceeding declared "erroneous" by the Hon'ble Court, further, the prosecution is approaching to the Hon'ble Supreme Court by filing an SLP then there is probability of arising a situation that, the Hon'ble Supreme Court may revive the cognizance order dt. 28.01.2021 and criminal trial of DA case will back to life and proceed further, under that situation what will be the fate of this confiscation proceeding? **24.** Under these circumstances it will be proper in the eye of law that present confiscation proceeding should not be dismissed (dismissal means the case is finally disposed of) rather it would be proper to keep the case record at the stage of "Sine-die" ("Sine-die" means the case is kept alive without fixing a hearing date which may be restored on the change of legal circumstance) with condition that on the revival of cognizance order dt. 28.01.2025 or revival of Special Case No. 20/2015 or any change in legal circumstance at the instance of either parties, the present confiscation proceeding will revive and proceed in accordance to the law. **25.** Keeping in view the discussions and analysis made above the solution appears in the form of keeping the present confiscation proceeding on "*Sine-die*" because there is probability of revival of cognizance order dt. 28.01.2021 or revival of the Criminal Trial of DA Case/ Special Case No. 20/2015 or in future there may occur change in legal circumstance, so present confiscation proceeding i.e. Special Case No. 01/2026 can be placed at the stage of "*Sine-die*". **26.** The term "*Sine-die" is defined as per Black's Law Dictionary that,*	

ORDER

Dated:- 15.07.2026

Contd.	*"without assigning a day for a further meeting or hearing" and Jowitt's Dictionary in English Law defined the term "Sine-die" as, " a matter is adjourned "Sine-die" when it is adjourned without a day being fixed for its resumption."* **27.** In simple terms, a "Sine-die" stage is only a procedural pause it doesn't amount to final disposal. The case can be revived or restored on the change of legal circumstance at the instance of either parties. **28.** On consolidation of all legal aspects, the *"Sine-die"* means an adjournment or postponement of a proceeding without fixing any specific date for its further hearing. It doesn't terminate or dispose of the proceeding but keeps it alive in a state of suspension until a future event occurs or until the court directs its revival. Such an order is generally passed where continuation or determination of the proceeding depends upon the outcome of another proceeding or upon the occurrence of a specified circumstance. **29.** Keeping a proceeding "*Sine-die*" is permissible in both Civil and Criminal Proceeding under the proper justification, the proper justification is as follows, Vide Order dt. 14.05.2026 in Criminal Miscellaneous No. 56839/2021, the Hon'ble Court has quashed the cognizance order dt. 28.01.2021 passed in Special Case No. 20/2015, Vigilance PS Case No. 37/2015. The Hon'ble Court has opined that basis of present confiscation proceeding which is manner of investigation, manner of calculation of the assets of the DPS are "erroneous" so considering the judicial notice of the observation of the Hon'ble Court, this confiscation should not proceed on the erroneous basis. As the investigation or charge-sheet or the prosecution petition dt. 21.02.2026 u/s 13 of the Act are interconnected. But in future there is probability of revival/restoration of the cognizance order dt. 28.01.2021 or restoration/revival of criminal trial of DA case-Special Case No. 20/2015 under that circumstance it will be appropriate as per law that this confiscation proceeding- Special Case No. 01/2026 State of Bihar v. Smt. Phulpari Kumari and Ors. should also be revived /	

ORDER

Dated:- 15.07.2026

Contd.	restored. Therefore, provision of "*Sine-die*" will be proper and justified under the present situation. **30.** The order to keep the proceeding on "*Sine-die*" will fulfill the judicial requirement in this situation as court is unable to proceed effectively and decide the matter because the basis of this confiscation proceeding i.e. the calculation of the disproportionate asset done by the IO is declared "erroneous" by the Hon'ble Patna High Court vide Criminal Miscellaneous 56839 of 2021 dt. 14.05.2026. **31.** So, it seems appropriate in the light of order passed vide Cri. Misc. No. 56839/2021 dt. 14.05.2026 by the Hon'ble High Court of Judicature at Patna that, present confiscation proceeding i.e. Special Case No. 01/2026 should be kept at the stage of "*Sine-die*". But there should be condition that, on the revival of cognizance order dt. 28.01.2021 or revival of Criminal Trial of DA case i.e. Special Case No. 20/2015 or on the change of any legal circumstance, the learned Special PP Vigilance Patna, will file a petition for revival and continuance of the present confiscation proceeding i.e. Special Case No. 01/2026 in the present court of Authorized Officer Special Court Vigilance, Patna. **32.** Therefore, keeping in view all the facts and circumstances of the case, in the light of order passed vide Cri. Misc. No. 56839/2021 dt. 14.05.2026 by the Hon'ble High Court of Judicature at Patna, the confiscation proceeding i.e. Special Case No. 01/2026 arise out from Vigilance PS Case No. 37/2015 State (through Vigilance Investigation Bureau, Patna) v. Smt. Phulpari Kumar and Ors. is hereby kept at the stage of "*Sine-die*" with liberty to either party to seek revival on change of circumstance. The proceeding of this case will be at the stage of "Sine-die" as provided in CIS. Further, this case will revive on the change of legal circumstances by the petition of either parties or on the petition of revival by the learned Special PP Vigilance, if in future the cognizance order dt. 28.01.2021 revives or Criminal Trial of DA Case i.e. Special Case No. 20/2015 revives or under any change in legal circumstance. In the light of these observations the petition of the petitioner DPS/OP-1 dt.	

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29.05.2026 and supplementary petition in continuation dt. 15.06.2026 is hereby dispose of.

33. Within this order, no opinion is being expressed on the merit of this confiscation proceeding i.e. Special Case No. 01/2026, CIS No. 01/2026 State of Bihar V. Smt. Phulpari Kumar and Ors.
The o/c is directed to do needful in accordance with prescribed procedure of law.

(Dictated & corrected)
Sd/-
(Brajesh Kumar Pathak)
A.O. Spl. Court Vigilance, Patna
Dated: 15.07.2026

1. Date of Order	15.07.2026
2. Date of Reserving Order	01.07.2026
3. Uploading Date	16.07.2026
4. Uploaded by	Ms. Smita Patel (Steno)