

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 11761/2023

1. Darshan Singh Solanki S/o Balbir Ram, Aged About 40 Years, R/o Ward No. 04, New Khunja, Near Bawari Gurudwara, Hanumangarh, (Raj.).
2. Manish Chaudhary S/o Brahmawaroop Chaudhary, Aged About 38 Years, R/o A-23, Krishna Nagar, Lalkothi, Jaipur, (Raj.).

----Petitioners

Versus

1. Union Of India, Through Chairman, Ministry Of Finance, Department Of Revenue, Central Board Of Indirect Tax And Customs Goods And Service Tax, New Delhi, India.
2. The Commissioner, Cgst Commissionerate, Jodhpur, Rajasthan.
3. Investigation Officer, Corruption Bureau, Hanumangarh, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. C.S. Kotwani Mr. Chinmoy Kotwani Mr. Abhijit Singh
For Respondent(s)	:	-

HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

24/02/2026

1. By way of the present writ petition, the petitioners have challenged the validity and propriety of the order dated 21.10.2021 (Annexure-08) issued by the Commissioner, CGST Commissionerate, Jodhpur, Rajasthan, whereby sanction for their prosecution was granted. The challenge is primarily on the ground that the sanction order is ad verbatim reproduction of the draft sanction forwarded by the Superintendent of Police, ACB, Bikaner

Range. In other words, the sanction to prosecute the petitioners was granted without independent application of mind, which is contrary to the mandate and object of Section 19 of the Prevention of Corruption Act, 1988 (PC Act).

2. The record indicates that the ACB received a complaint from one Deepak Chaddha alleging, inter alia, that he was being pressurized by the present petitioners to pay illegal gratification, failing which his firm would be subjected to a raid by officials of the CGST Commissionerate, Jodhpur. After verification of the demand, the ACB laid a trap; however, the same was unsuccessful. Thereafter, the Superintendent of Police, ACB, Bikaner Range forwarded the entire material collected during investigation, confirming the alleged demand by the petitioners, along with a draft/proforma sanction order to the competent authority of the respondent department, i.e., the Commissioner, CGST, Jodhpur, seeking sanction to prosecute the petitioners under various provisions of the PC Act and the IPC. A copy of the draft/proforma sent by the ACB has been placed on record with the additional affidavit at page 128 of the paper book.

3. The sole contention raised on behalf of the petitioners is that the Commissioner, CGST, Jodhpur, while issuing the impugned sanction order dated 21.10.2021 (Annexure-08), failed to record reasons after independently applying his mind to the facts of the case, thereby vitiating the sanction granted against the petitioners. In support of this contention, the petitioners have relied upon the following judgments:

- ***State of Karnataka Vs. Ameerjan reported in (2007) 11 SCC 273.***

- **Ganga Ram Vs. State of Rajasthan & Ors. (S.B. CWP No.1138/2018)**
- **Munish Kumar Sharma Vs. State of Rajasthan & Ors. (S.B. CWP No.7156/2007).**
- **Abdul Aziz Gauri Vs. State of Rajasthan & Ors. (D.B. SAW No.1231/2014).**
- **Subhash Bhatia & Ors. Vs. State & Ors. (S.B. CWP No.590/2010)**
- **Manish Mathur Vs. State of Rajasthan & Anr. (S.B. CWP No.12684/2012).**

4. This Court in the case of **Subhash Bhatia (Supra)** has held as under:-

"The authority competent to remove a public servant from service is clothed with the power to grant sanction for prosecution to such public servant by the Legislature with a definite intention as that authority being having administrative and disciplinary control on the person concerned is in a position to assess and weigh the accusation on basis of intimate knowledge of the work and conduct and also having day to day knowledge of overall administrative interest of the department.

The sanction for prosecution represent a deliberate decision and that requires objective satisfaction of the competent authority about a prima facie case against the person facing accusation. The authority competent while granting sanction is also required to record reasons for launching prosecution and is further required to specify its need in public interest. This important duty can be discharged only on independent application of mind to all the relevant facts on basis of which prosecution is proposed.

If any extraneous pressure is mounted on the uthority competent then there shall be all chances of frivolous and malicious prosecution. To maintain the spirit of the provisions for the grant of sanction prosecute a public servant, the authority competent is required to act independently, objectively and with an intention for not saving a culprit from prosecution but at the same time with a view to afford a reasonable protection to a public servant from unnecessary harassment and undue hardship through vexatious prosecution.

Keeping in mind, the above mentioned intention of the Legislature, Hon'ble Supreme Court in State of Karnataka Vs. Ameerjan (supra) authoritatively held that the order granting sanction must be demonstrative of the fact that there had been proper application of mind on the part of the sanctioning

authority. For the same reason, this Court too in the case of Kishan Lal (supra) held that the statutory power given to the authority competent is required to be exercised by the authority concerned and not by any body else."

5. While considering identical arguments in **Manish Mathur (supra)**—namely, that the sanction granted was an exact reproduction of the draft/proposal and thus did not reflect independent application of mind as required under Section 19 of the PC Act, 1988—this Court held as follows:

"As already stated, in the instant matter too the sanction granted and the draft to grant sanction are ad verbatim same. The Director, Mines and Geology appears to have adopted the draft ipse dixit. Section 19 of the Act of 1988 postulates absolute authority to grant sanction for prosecution to the competent authority, as such, the competent authority is required to apply its own mind by Considering all relevant facts. The competent authority may avail assistance of other persons, but in no case, any other authority can initiate the process of consideration for grant of sanction and struct the competent authority for granting sanction. In the case in hand, the consideration for grant of sanction, as a matter of fact, was initiated by the Anti Corruption Bureau by sending a draft for granting sanction for prosecution. The Anti Corruption Bureau could have communicated all relevant facts on the basis of which prosecution sanction could have been granted, but in no case, the Bureau could have instructed for grant of prosecution sanction under a proposed and drafted document. The prosecution sanction granted in the Instant matter by the Director, Mines and Geology, Udaipur under the letter dated 18.10.2012 on face depicts non-application of mind and abdication of the powers by the Anti Corruption Bureau. The same, therefore, is illegal."

6. After hearing learned counsel for the petitioners, this Court has carefully examined the sanction order dated 21.10.2021 (Annexure-08) issued by the Commissioner, CGST, Jodhpur, and the draft/proposal forwarded by the ACB seeking sanction for prosecution. This Court has no hesitation in concluding that the sanction order dated 21.10.2021 is merely a reproduction of the draft/proposal sent by the ACB to the competent authority of the CGST Department. The impugned order does not reflect any

independent application of mind to the relevant facts on the basis of which prosecution was sought. Such an approach is not in consonance with Section 19 of the PC Act, which mandates that the competent authority must apply its independent mind and record reasons while granting sanction to prosecute a public servant.

7. In view of the factual matrix of the case and the law laid down in ***Subhash Bhatia (supra)*** and ***Manish Mathur (supra)***, the sanction for prosecution granted against the petitioners vide order dated 21.10.2021 (Annexure-08) by the Commissioner, CGST, Jodhpur is declared illegal and is accordingly quashed.

8. It is, however, clarified that this order shall not preclude the competent authority, i.e., respondent No. 2 – the Commissioner, CGST, Jodhpur, from reconsidering the matter afresh in accordance with law for the purpose of granting sanction to prosecute the petitioners under the provisions of the PC Act, 1988.

(KULDEEP MATHUR),J