

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 2819/2025

Mukesh Singh Son Of Shri Dashrath Singh, Resident Of Nagwas Bad, Post Badiyal Khurd, Tehsil Baswa Police Station Bandikui, District Dausa And The Then Helper Project, S And T Department, North West Railway, Alwar And At The Time Of Incident Working At Section Ajarka- Harsoli, Project S And T, North - West Railways, Alwar.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Jagdish Poonia Son Of Shri Hardayal Poonia, Aged About 24 Years, Resident Of Poonia Ki Dhani, Mordi, Tehsil Roopangarh, District Ajmer At Present Khanpur Ahir, Tehsil And Police Station Mundawar, District Alwar.
3. Central Bureau Of Investigation, Office At Tilak Marg, Ashok Nagar, C-Scheme, Jaipur.

-----Respondents

Connected With

S.B. Criminal Revision Petition No. 792/2022

Ram Swaroop Son Of Kanaram, Aged About 43 Years, Resident Of 74, N.p Post Office 75, N.p Tehsil Raisingh Nagar, District Sri Ganganagar, Presently Residing At E-124, Kardhani, Kalwar Road, Jaipur At Present Posted As Superintendent Anti Evasion, C.g.s.t Jaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Public Prosecutor
2. Maniram Son Of Vidhyadhar Sharma, Aged About 35 Years, Resident Of Triveni Nagar, Rajawas, Police Station Harmada, Jaipur

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 1653/2022

Manoj Kumar S/o Shri Tej Singh, Resident Of Village Moroli, Police Station Udyog Nagar, District Bharatpur (Raj). Presently Sub - Inspector Railway Police Force, (R.p.f), Lakheri, District Bundi (Raj).

-----Petitioner

Versus

1. State Of Rajasthan, Through Its P.P.
2. Mohammed Wasim Ansari S/o Shri Mohammed Aamin Ansari, Resident Of Welcome Guest House, Ramdhan Chouraha, Near Goyanka Complex, Town Lakheri, District Bundi (Raj).

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 5577/2023

Varun Jain S/o Shri Vijay Jain, Aged About 33 Years, Resident Of 119/65, Agrawal Farm, Mansarovar, Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.

2. Rakesh Kumar Rathi S/o Shri Arjun Das Rathi, Aged About 45 Years, R/o House No. 112, Indira Colony, Near Government Girls Senior Secondary School, Sawai Madhopur, Police Station Mantown, District Sawai Madhopur, Rajasthan.

----Respondents

S.B. Criminal Writ Petition No. 703/2024

Govind Parashar S/o Mohan Lal Sharma, Aged About 51 Years, R/o B-8, Radha Vihar Colony, New Sanganer Road, Sodala, Jaipur 302019.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Home Department, Secretariat, Jaipur (Raj.)
2. Anti Corruption Bureau, Rajasthan Through Its Director General, J-9, Jhalana Institutional Area, Jaipur - 302004 (Raj.)
3. The Additional Superintendent Of Police, Office Of Additional Superintendent Anti Corruption Bureau, Navgrah Kund Ke Pass, Bijli Ghar Bharatpur.
4. Rakesh Kumar Rathi S/o Arjun Das Rathi, R/o Plot No. 112 Indira Colony, Nearby Government Girls Senior Secondary School, Police Station Mantown, District Sawai Madhopur.

----Respondents

S.B. Criminal Miscellaneous (Petition) No. 1727/2024

Jitendra Kumar Oswal S/o Shri Babu Lal Oswal, Aged About 51 Years, R/o Ward No. 08, Near Mahaveer Dal, Khatikan Mohalla, Srimadhopur District Sikar, Senior Section Engineer/ P.way (Railway Department), Palsana, District Sikar, At Present Senior Section Engineer/ P.way (Railway Department), Divisional Engineering Training Center, Bandikui, District Dausa.

----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Bhanwar Lal S/o Shri Gheesa Ram, R/o Village Govindpura, Police Station Khandela, District Sikar, Trackman (Railway Engineering Department) Palsana, District Sikar.
3. Central Bureau of Investigation through the Special Public Prosecutor

----Respondents

S.B. Criminal Miscellaneous (Petition) No. 5157/2024

Nawal Kishore Meena @ N. K. Meena, Son Of Shri Sharawanlal, Aged About 28 Years, Resident Of Gram Thali, Police Station Aandhi, District Jaipur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Public Prosecutor.
2. Central Bureau of Investigation through the Special Public Prosecutor

----Respondent

S.B. Criminal Miscellaneous (Petition) No. 7547/2024

Munnu Lal Maurya S/o Late Shri Paltu Prasad Maurya, Aged About 37

Years, R/o Village And Post Piprauli Bazar, P.s. Sahjnawa, District Gorakhpur (Up).

-----Petitioner

Versus

State Of Rajasthan, Through P.p.

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 8221/2024

Manoj Kumar Khinchi S/o (Late) Shri Gyarsilal, Aged About 46 Years, R/o E-12, Ramnagar, Sodala, Jaipur City (South), Distt. Jaipur (Raj.). (Presently Posted As Assistant Account Officer, Office Of The Accountant General (Audit-Ii) Rajasthan, Jaipur.)

-----Petitioner

Versus

1. State Of Rajasthan, Though Public Prosecutor
2. Premchand S/o Sh. Mohan Lal, Aged About 57 Years, R/o Suncity, Gayatri Colony, Jhalawar (Raj.).
3. Central Bureau of Investigation, Office at Tilak Marg, Ashok Nagar, C-Scheme, Jaipur

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 115/2025

Ajay Kumar Pal Son Of Akshaibar Nath Pal, Aged About 37 Years, Resident Of Village Nayanpur, Police Station Bhadohi Kotwali, District Sant Ravidas Nagar, Uttar Pradesh. The Then Senior Divisional Commercial Manager (Irts), Kota Division And At Present Posted At Jabalpur And Residing At Rb-V, 404/4 Rail Vihar Colony, South Civil Lines, Jabalpur, Madhya Pradesh.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Hemraj Son Of Shri Ramhari Meena, Resident Of Village Phoolwada, Police Station Wazirpur, District Sawaimadhopur At Present Catering Inspector Bharatpur.
3. Central Bureau of Investigation, Office at Tilak Marg, Ashok Nagar, C-Scheme, Jaipur

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 364/2025

Devendra Gurjar S/o Shri Pannalal, Aged About 31 Years, Resident Of 143, Jagdishpuri, Near Dhabas Puliya, Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Mufreed Khan S/o Shri Jahur, R/o Plot No. A01, Shyam Vihar Colony, Nai Ki Thadi, Jaipur City (South), Rajasthan.
3. Union Of India, Through Additional Solicitor General.
4. Central Bureau Of Investigation, Through Special P.p.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 450/2025



Anil Daima S/o Shri Veer Singh Daima, Aged About 55 Years, R/o 58 Brij Mandal Colony, Kalwar Road, Jothwara, Jaipur, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Director General Of Police, Anti- Corruption Bureau, Jhalana Doongari, Jaipur.
3. Superintendent Of Police, Central Bureau Of Investigation (Cbi) C-Scheme, Jaipur.
4. Shri Surendra Singh Rathore S/o Shri Ajit Singh Rathore, R/o H.no. 233, Pratap Nagar, Ajmer.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 451/2025

Ashok Kumar Dadiya S/o Shri Haripal Verma, Aged About 51 Years, R/o Flat No. 3122 Block No. 31 Rangoli Gardens Maharana Pratap Marg, Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Director General Of Police, Anti- Corruption Bureau, Jhalana Doongari, Jaipur.
3. Superintendent Of Police, Central Bureau Of Investigation (Cbi) C-Scheme, Jaipur.
4. Shri Vijay Narwal S/o Shri Ramesh Chand Narwal, R/o H.no. 52, 53, Karni Colony, Vijay Badi, Road No. 7, Sikar Road, Jaipur.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 1437/2025

Amrit Lal Meena Son Of Shri Girraj Prasad Meena, Aged About 37 Years, Resident Of C-16, Saraswati Apartment, Sector-18, Pratap Nagar, Jaipur And Manager (Civil) Under Suspension, National Projects Construction Corporation Limited (Npccl), Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. Amit Kumar Jain Son Of Late Shri Dhanraj Jain, Aged About 45 Years, Resident Of 65/87, Pratap Nagar, Sanganer, Police Station Sanganer, Jaipur.
3. Manish Kumar Jain Son Of Late Shri Dhanraj Jain, Aged About 41 Years, Resident Of 65/87, Pratap Nagar, Sanganer, Police Station Sanganer, Jaipur.
4. Central Bureau of Investigation, Office at Tilak Marg, Ashok Nagar, C-Scheme, Jaipur

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 2125/2025

Ghanshyam Sharma S/o Jandhuram Sharma, Aged About 62 Years, R/o Village Gurudhandi , Post Kherli, Tehsil/p.s. Bayana, District Bharatpur. Presently Flat No. 102, B, Mangal Bhawan ,near Bal Mandir,

Kota Junction ,former Senior Section Engineer ,usfd Office, Divisional Manager ,railways Kota.

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Haricharan S/o Prahlad, Aged About 35 Years, R/o Jalokhara, Post Badkalan, P.s. Sadar Gangapurcity ,district Sawai Madhopur.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 3877/2025

Sunil Kumar S/o Shri Shishram, Aged About 40 Years, R/o Village Beebasar, P.s. Jhunjhunu, Presently Residing At 201, Amour Tower, Pradhan Marg, Malviya Nagar, Jaipur (Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Maniram Sharma S/o Sh. Vidhyadhar Sharma, Aged About 39 Years, R/o Triveni Nagar, Rajawas, Jaipur (Raj.)
3. Central Goods & Service Tax through its Commissioner, New Central Revenue Building, Statue Circle, C Scheme, Jaipur, Rajasthan.
4. Income Tax Department through its Principal Chief Commissioner, NCR Building, Bhagwan Dass Road, C Scheme, Ashok Nagar, Statue Circle, Jaipur, Rajasthan.
5. Central Bureau of Investigation, Office at Tilak Marg, Ashok Nagar, C-Scheme, Jaipur

-----Respondents

For Petitioner(s)	:	Mr. V.R. Bajwa, Sr. Adv. Assisted by Ms. Savita Nathawat Mr. Ashvin Garg, Mr. Govind Purohit, Mr. Rishi Kumar Sharma, Dr. Manish Aggarwal through VC, Mr Anil Kumar Sharma, Mr. Manish Gupta, Mr. Tarun Jaiman, Mr. Surendra Sharma & Mr. Anurag Sharma
For Respondent(s)	:	Mr. Jag Mohan Saxena and Mr. Pradeep Kumar Choudhary, Special PPs for CBI Mr. Rajesh Choudhary, GA-cum-AAG for ACB Mr. Vivek Choudhary, PP Mr. Sandeep Pathak, Mr. Ajay Kumar Jain

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

Reserved On :: **01st September 2025**

Pronounced On :: **03rd October 2025**

BY THE COURT

REPORTABLE

Following issues of legal importance, have been raised and arisen in these petitions, hence, all the petitions were tagged, to be heard together with the consent of the respective counsels, only for the purpose of answering these legal issues:-

(I) If any offence under the Prevention of Corruption Act is committed by a person, serving under the Central Government, or an employee of the Central Government, within the territorial jurisdiction of the State of Rajasthan, whether the State agency of Anti-Corruption Bureau (ACB) is authorized and has jurisdiction to register a criminal case against such person and to proceed for investigation and filing of charge-sheet, Or whether the jurisdiction lies exclusively with the Central Bureau of Investigation (CBI), and without prior approval/ consent of the CBI, the ACB cannot proceed in the matter?

(II) If a charge-sheet of an offence under the Prevention of Corruption Act, is filed by the Anti-Corruption Bureau against a person, serving under the Central Government or an employee of the Central Government before the Court of competent jurisdiction, but without obtaining the approval/ consent of the CBI, whether such charge-sheet can be considered valid in law and within jurisdiction to commence and culminate the criminal trial of such offence in accordance with law?

2. At the outset, and before proceeding further to consider the above issues, it is worthy to note that both the legal issues, referred hereinabove, do not arise between the ACB and the CBI, because in the present petitions before this Court, these two investigating agencies are not at loggerheads, rather, these issues have arisen on raising a plea, by and on the behest of the accused/ offenders to contend, for their own beneficial interest, that against employees of the Central Government, or persons serving under the Central Government, only the CBI is competent and possesses jurisdiction to investigate the matters under the Prevention of Corruption Act, and the State agency of ACB, cannot proceed for investigation so as to culminate the investigation in filing of a charge-sheet before the court, unless and until prior approval/ concurrence of the CBI is obtained. The contention of learned counsel for the accused-petitioners is that ACB can register a criminal case against a person serving under the Central Government, in red-handed trap cases or where there is likelihood of destruction of evidence, if immediate action is not taken but thereafter, ACB is under legal obligation to inform the CBI to seek consultation whether to carry out and complete the investigation or not, else the ACB should hand over the case to the CBI for further investigation. Yet, if the investigation is continued and a charge-sheet is filed by the ACB, without obtaining prior approval/ consent of the CBI, such investigation as well as the charge-sheet, is liable to be declared as unlawful and cannot be accepted as valid in law & within jurisdiction. Therefore, on the basis of such investigation and charge-sheet, a person serving under the

Central Government or being an employee of Central Government, cannot be prosecuted, and continuation of the criminal trial against him would be bad in law and stands vitiated, as such cannot be sustained.

Thus, this Court shall proceed to deal with the aforesaid legal issues, keeping in mind the backdrop of facts under which these issues have emerged in the present petitions, by and on behest of the accused persons and not between the CBI *viz-a-viz* the ACB.

3. Heard learned counsels, appearing for the petitioners, the Special Public Prosecutors appearing for the CBI, the Government Advocate-cum-Additional Advocate General appearing for the ACB, the Public Prosecutor for State, as also learned counsel for the complainant, and perused the material placed before this Court during course of hearing for consideration from both sides.

4. Fundamentally, learned counsel for the accused-petitioners have placed reliance upon few of the selective clauses of the CBI (Crime) Manual, 2020 (erstwhile CBI (Crime) Manual, 2005) and the ACB Crime Manual, 2015, wherein it has been specifically prescribed that cases, which are substantially and essentially against Central Government employees, or concerning officers of the Central Government, shall be investigated by the Delhi Special Police Establishment (DPSE)/CBI. Although in certain circumstances as mentioned in the Manuals, the State agency may register the case and the State Police or the State Anti-Corruption Bureau, may continue investigation, but only after according information of such cases to the CBI, and after seeking CBI's consultation and not otherwise. Few other provisions envisaged in

the Crime Manuals of CBI and ACB, have also been read over and relied upon by the counsels for petitioners, and it has been urged that since the statutory mechanism is silent to deal with such issues, the provisions mentioned in the Crime Manuals only will govern the situation.

To buttress their contention, the rule of law adopted and expounded in **Taylor Vs. Taylor (1876 1 Ch D 426)** aeons ago, has been pressed into service, and the rule is that where a power is given to do a certain thing in a certain way, the thing must be done in that way only or not done at all, but it cannot be done in any other manner, as other methods of performance are necessarily forbidden.

5. In addition to above contention, while referring to the relevant provisions of the Delhi Special Police Establishment Act, 1946 (for short, DSPE Act), and Sections 17 and 17A of the Prevention of Corruption Act, 1988, much reliance has been placed on the Gazette Notification dated 21st May 2015, issued by the Ministry of Home Affairs, Government of India, substituting following paragraphs in the earlier notification dated 8th November 1993, as amended vide notification dated 23rd July 2014:-

"2. In the Notification number F. 1/21/92-Home (P) Estt. 1750 dated 8th November, 1993, as amended vide notification dated 23rd July, 2014 bearing No. 14036/4/2014-Delhi-I (Pt. File), for paragraph 2 the following paragraph shall be substituted, namely:—

2. This notification shall only apply to officials and employees of the National Capital Territory of Delhi subject to the provisions contained in the article 239AA of the Constitution, after paragraph 2 the following paragraph shall be inserted, namely:-

3. The Anti-Corruption Branch Police Station shall not take any cognizance of offences against Officers, employees and functionaries of the Central Government."

(Underlined is mine)

It has been pointed out that the amended notifications dated 23rd July 2014 and 21st May 2015, were put to challenge before the Hon'ble Supreme Court, but the validity of these notifications has been upheld by the Hon'ble Supreme Court in case of **Government (NCT Of Delhi) v. Union of India [(2020) 12 SCC 259]**. Hence, investigation commenced by the ACB and charge-sheet filed by the ACB against an employee of Central Government, be declared illegal, void and without jurisdiction.

6. *Per contra*, the above contentions put forth by learned counsel for the accused-petitioners, have strenuously been repelled and it has vehemently been argued that the arrangements and procedure to deal with matters of embezzlement, bribery and corruption under the Prevention of Corruption Act, against public servants belonging to the State Government or the Central Government, have been provided in the Crime Manuals of CBI & ACB, only to maintain internal administrative arrangements and to avoid duplication of efforts as also to ensure smooth functioning of investigation agencies at the Central and State levels. The accused under the PC Act cannot be allowed to take benefit, on the pretext of such departmental arrangement and procedure, prescribed for official purposes to maintain discipline. The attention of Court has been invited to the other clauses, envisaged in the CBI Crime Manual, to make it clear that it may not be possible for the CBI to take up all cases falling under these categories due to limited resources and the need to concentrate on cases, having inter-state or international ramifications, as well as those involving public corruption. Thus, it

has been contended that indeed, it is a matter of discretion whether the State Police or the CBI should investigate a particular offence, even though it may have been notified under Section 3 of the DSPE Act and ordinarily the original cases of theft, misappropriation, cheating, etc., even if committed by a Central Government employee, are to be dealt with by the State Police. It has been emphasized that in the PC Act, there is no provision to compartmentalize public servants to be segregated in two categories, one serving under the State Government, and another serving under the Central Government. Hence, according to respondents, merely on the basis of certain chosen clauses of the CBI Crime Manual, without reading the manual as a whole, it cannot be held as a Rule of Law that the State Investigation Agency, i.e., the ACB, is not authorized and does not have jurisdiction to investigate the matters of bribery and corruption, relating to employees of the Central Government, despite the fact that even if such offences were committed within the State's territorial periphery. The exclusion of jurisdiction of ACB against the employee of Central Government may not be inferred, once it is not specifically barred in the Statute.

7. It has further been argued that the general arrangement made in the manuals, is merely an internal arrangement between the two agencies to regulate the assignment of investigation of cases and to avoid overlapping or duplication of efforts. The aim and purpose of such arrangements is to enable both agencies to work effectively and systematically, to prevent corruption by public servants and to promote transparency in the discharge of

public duties by public officers. Both agencies exist to supplement each other and are meant to cooperate and support each other in achieving this objective and there is no Rule of Law of exclusion of ACB, to investigate the bribery and corruption case of a Central Government employee.

Otherwise also, it has been argued that the accused-petitioners may not be allowed to seek implementation of Crime Manuals of the CBI and ACB, treating their Manuals as an enactment of legislature, since the Hon'ble Supreme Court and the Delhi High Court have categorically held that the CBI Crime Manual is not a statute and has not been enacted by the legislature. Moreso, it has been highlighted that in the present matters, the jurisdictional issue regarding investigation and submission of a charge-sheet against an employee of the Central Government by the ACB, has not arisen between the CBI and ACB; rather, both agencies are in concurrence that the investigation carried out by the ACB and the charge-sheet submitted by the ACB against the accused-petitioners, who are employees of the Central Government, is valid and well within jurisdiction. Hence, the accused-petitioners cannot be allowed to take resort of the internal administrative arrangements of regulating the working of the CBI and ACB, for their own benefits and to claim that the investigation/ charge-sheet of ACB is without jurisdiction.

8. It has further been argued that, as far as upholding the validity of the notification dated 21st May 2015 by the Hon'ble Supreme Court in case of **Government (NCT Of Delhi)** (supra) is

concerned, the issue for consideration before the Hon'ble Supreme Court pertained to an altogether different issue. Such notification was issued by the Central Government of India, in respect of limiting the jurisdiction of the ACB of the NCT of Delhi, to employees of the Government of National Capital Territory of Delhi and excluding jurisdiction of ACB of NCT of Delhi to investigate offences committed by the Officials of Central Government under the PC Act, 1987. That notification was confined to NCT of Delhi. Reliance placed by learned counsel for the petitioners on this judgment, in support of the two legal issues raised herein is, therefore, misplaced, as in the State of Rajasthan, no such specific notification has been issued by the Central Government of India. Thus, by no stretch of imagination, the exclusion of jurisdiction of ACB, against the employee of Central Government, may not be inferred.

9. Heard. Considered.

10. To begin with the issues under consideration, it is desirable to have a look on the genesis of the establishment of the Central Bureau of Investigation (CBI) and the Anti-Corruption Bureau in the State of Rajasthan (ACB).

10.1 The ACB is a State-level agency in Rajasthan, established to investigate matters related to bribery and corruption committed by public servants and government employees, where the cause of action arises within the territorial jurisdiction of the State. It is an independent and separate branch of the Rajasthan Police, headed by the Special Inspector General of Police, under the administration and control of the Department of Home,

Government of Rajasthan. The State Government, in exercise of the powers conferred upon by virtue of Section 4 of the Code of Criminal Procedure (now Section 4, BNSS 2023), has declared the office of the Special IG, ACB Rajasthan, a police station, namely the Anti-Corruption Police Station, Rajasthan. The ACB deals with various types of cases, including red-handed trap cases, disproportionate asset cases, embezzlement cases, and misuse of public funds cases, in which a public servant is also involved.

10.2 The CBI was established in the year 1963 by the Ministry of Home Affairs, Government of India, as a Special Police Establishment (SPE) under the DSPE Act. Over the years, the CBI has emerged as the premier domestic anti-corruption and crime-investigating agency of India. Its field and area of operation have expanded from matters of bribery and government corruption to the investigation of breaches of Central laws, multi-state organized crimes, and offences or classes of offences notified by the Central Government under Section 3 of the DSPE Act. However, there are no such restrictions on matters that may be referred to the CBI by the constitutional Courts, but the subordinate Courts are not competent, in exercise of powers under Section 156(3) of the Code of Criminal Procedure (CrPC) [now Section 175(3) of BNSS 2023], to direct the CBI to conduct investigation. The CBI derives its powers to investigate from the DSPE Act. Section 2 of the DSPE Act prescribes the jurisdiction of the DSPE to investigate offences notified under Section 3 of the Act in the Union Territories. However, the jurisdiction of the DSPE Act can be expanded by the Central Government to include other

cases, including Railway cases and matters in the States, under Section 5(1) of the Act, provided the State Government accords consent under Section 6 of the Act.

It may be noted here that with the enactment of the Central Vigilance Commission Act, 2003, the Central Vigilance Commission (CVC) was accorded statutory status and the Commission was vested with superintendence powers over the DSPE/ CBI, in terms of Section 4 of the DSPE Act, insofar as it relates to the investigation of cases under the Prevention of Corruption Act, 1988. Such superintendence over the CBI by the CVC was permitted in pursuance of the directions issued by the Hon'ble Supreme Court in case of **Vineet Narain v. Union of India [(1998) 1 SCC 226]**. Subsequently, the Lokpal and Lokayuktas Act, 2013, was also enacted by the Ministry of Law and Justice, which provides for the establishment of a Lokpal for the Union and Lokayuktas for the States, to enquire into allegations of corruption against certain public functionaries and for matters connected therewith and incidental thereto.

11. Having gone through the provisions of Crime Manuals of CBI & ACB, it *prima facie* appears that there are no conflicting provisions, existing in the Crime Manuals of the CBI and ACB. There is no hesitation in observing that indeed, the provisions, in the manuals, have been prescribed for according guidance to the Officers and to make internal administrative arrangements to deal with complaints, conduct enquiries, investigation, supervision, control, and maintenance of records etc., with the objective that the CBI and the ACB should supplement each other and

coordinate with each other in discharging their duties in the areas specified in the manuals, to avoid any conflict between the two agencies, as well as to prevent duplication of efforts in a single matter by both agencies. Meaning thereby, the purpose of the arrangements made in the manuals is to ensure close cooperation between both agencies, and that they should render mutual assistance to each other, instead of falling in conflicts on jurisdictional issues. Nevertheless, in case of any difficulty or disagreement, the manuals provide that the matter should be settled at a higher level between the State DGP and the Director or Special/ Additional Director or Joint Director concerned of the CBI.

It would be apropos to reproduce certain provisions of the CBI (Crime) Manual, 2020 (erstwhile CBI Crime Manual, 2005) as under:-

"JURISDICTION OF CBI

Jurisdiction of DSPE vis-à-vis State Police

1.24 Even though the CBI/DSPE is empowered to investigate all offences notified by the Central Government under section 3 of the DSPE Act, 1946, it does not take up all such cases keeping in view its limited resources and its powers being concurrent and coextensive with those of the State Police Forces, which if exercised without coordination with the State Police, might lead to conflict and duplication of efforts. To avoid such duplication, an administrative arrangement has been arrived at by CBI with the State Police Forces, according to which : -

a) The cases, which are substantially and essentially against Central Government employees or concerning affairs of the Central Government, shall be investigated by the Delhi Special Police Establishment (CBI) although certain employees of the State Government may also be involved. The State Police or State Anti-Corruption Bureau/ Vigilance set-up, when informed of such cases involving their employees, will render necessary assistance to the CBI, during investigation and prosecution of such cases.

b) The cases, which are essentially and substantially against State Government employees or are in respect of matters concerning the State Government shall be investigated by the State Police irrespective of the fact that certain employees of the Central Government are also involved as co-accused. In such cases, the Delhi Special Police Establishment (CBI), when informed, will assist the State Police or State Anti-Corruption/Vigilance set-up, if necessary, in completing the investigation.

c) In addition to cases involving Central Government employees, the Delhi Special Police Establishment (CBI) is authorized to investigate cases of the following categories:-

i) Cases in which the interests of the Central Government or of any Statutory Corporation or Body set up and financed by Government of India are

involved, particularly those in which public servants are concerned or very large amounts are involved;

ii) Cases relating to the breaches of Central Laws with the enforcement of which the Government of India is mainly concerned;

iii) Big cases of fraud, cheating embezzlement and the like, relating to public Joint Stock Companies in which large funds are involved. Similar other cases when committed by organized gangs or professional criminals having ramifications in several States;

iv) Cases having interstate and international ramifications and being investigated by several agencies and where it is considered necessary that a single investigating agency should be in-charge of the investigation.

d) **While above is the general arrangement, it may not be possible for the CBI to take up all cases falling under these categories because of limited resources and the need to concentrate on cases having interstate or international ramifications and those involving bribery and corruption. It is, therefore, a matter of discretion, whether the State Police or the CBI should investigate a particular offence even though it may have been notified under Section 3 of the Delhi Special Police Establishment Act, 1946. Ordinary cases of theft, misappropriation, cheating etc, even if committed by Central Government employees have, therefore, to be dealt with by the State Police.**

1.25 It has also been agreed that the State Police or Anti-Corruption/Vigilance set-up may take immediate action in respect of the Central Government employees in the following circumstances:-

a) Where there is complaint of demand of bribe by a Central Government employee and a trap' has to be laid to catch such employee red-handed, and there is no time to contact the Superintendent of Police concerned of the CBI, the trap may be laid by the State Police/Anti-Corruption or Vigilance set-up and, thereafter, the CBI should be informed immediately and it should be decided in consultation with CBI whether further investigation should be carried out and completed by the State Police or by the CBI.

b) Where there is likelihood of destruction or suppression of evidence if immediate action is not taken, the State Police/ Anti-Corruption or Vigilance set-up may take necessary steps to register the case, secure the evidence and, thereafter, hand over the case to the CBI for further investigation.

c) Information about cases involving Central Government employees, who are being investigated by the State Police/Anti-Corruption or Vigilance set-up, should be sent by them to the local CBI Branch, Head of the Department and/or the office concerned as early as possible but, in any event, before a charge sheet or a final report is submitted.

d) All cases against Central Government employees which are investigated by the State Police/ Anti-Corruption or Vigilance set-up and in which it is necessary to obtain sanction for prosecution from a Competent Authority of a Central Government Department shall be referred to the Competent Authority directly under intimation to the CVC.

1.26 The CBI and the State Police/Anti-Corruption or Vigilance set-ups supplement and coordinate each other's work in certain spheres, as mentioned above. There should be close cooperation between them and they should render mutual assistance to each other. Head of CBI Branch should maintain close liaison with the officers of the State Police/ Anti-Corruption and Vigilance set-up. Such meetings may be held once a quarter or more frequently. They are authorized to correspond directly with the officers of State Police/Anti-Corruption or Vigilance set-up in matters relating to their work.

1.27 The services of the CBI are available to the States in taking up investigation of certain specified categories of serious offences having ramifications in more than one State. Matters relating to such cases requiring attention at the CBI Headquarters may be referred to the local Branch of the CBI which, in turn, will inform the Joint Director concerned or the Special /Additional Director concerned or the Director, CBI, as the case may be.

1.28 For success in investigation of cases, it is most essential that a decision as to which agency is to investigate, be taken very quickly. References about cases to be entrusted to the CBI should be made as soon as possible by the State authorities. Similarly, cases which the CBI feels that it should be handled by the State Police/Anti-Corruption or Vigilance set-up, may be entrusted to them without delay. In case of any difficulty or disagreement, the matter

should be settled at a higher level between the State DGP and the Director, the Special/ Additional Director or the Joint Director concerned in CBI.

1.29 While making a request to the CBI to take up any case for investigation, it has to be ensured that at least one of the offences alleged, particularly the main offence, is included in the list of offences notified under Section 3 of the Delhi Special Police Establishment Act, 1946. It is not necessary that all the offences alleged should be notified. If one and particularly the main offence is included in the list, the case can be taken up by the CBI.

(Emphasis Supplied)

It is noteworthy that, in no conflict the provisions and procedures prescribed in the CBI (Crime) Manual 2020, similar provisions are envisaged in the Manual of the ACB of the State of Rajasthan. The relevant clause is reproduced hereunder:-

"2-4 Complaints against Central Government employees

In respect of the Central Government employees, the State Police or Anti-Corruption/Vigilance set-up may take immediate action in the following circumstances:-

(i) Where there is complaint of demand of bribe by a Central Government employee and a 'trap' has to be laid to catch such employee red-handed, and there is no time to contact the Superintendent of Police copoemed of the CBI, the trap may be laid by the State Police/Anti-Corruption or Vigilance set-up and, thereafter, the CBI should be informed immediate and it should be decided in consultation with CBI whether further investe gation should be carried out and completed by the State Police or by the CBI.

(ii) Where there is likelihood of destruction or suppression of evidence if immediate action is not taken, the State Police/ Anti-Corruption or Vigilance set-up may take necessary steps to register the case, secure the evidence and, thereafter, hánd over the case to the CBI for further investigation.

(iii) Information about cases involving Central Government employees, who are being investigated by the State Police/Anti-Corruption or Vigilance set-up, should be sent by them to the local CBI Branch. Head of the Department and/or the office concerned as early as possible but, in any event, before a charge sheet or a final report is submitted.

(iv) All cases against Central Government employees which are investigated by the State Police/Anti-Corruption or Vigilance set-up and in which it is necessary to obtain sanction for prosecution from a competent authority of a Central Government Department shall be referred to the competent authority directly under intimation to the CVC.

(Emphasis Supplied)

12. This Court finds force in the contentions of counsels for respondents that from a bare perusal of the provisions and procedures of investigation, prescribed in the manuals of the CBI and the ACB as a whole, it appears that such manuals, in-fact, prescribe an internal departmental arrangements of work, distribution of responsibilities between CBI and ACB, just in order to maintain administrative control and discipline, and to avoid duplication of efforts by both agencies in a single matter. The

provisions of manuals, nowhere puts an embargo nor excludes jurisdiction of ACB to register a criminal case against an employee of Central Government and to initially carry out investigation therein, in accordance with procedure of law, even if, matter pertains to bribery and corruption. CBI may also exercise its jurisdiction against the employee of State Government, if the matter or nature of offences involves big fraud, cheating, embezzlement etc., in which large frauds are involved or where professional criminals, having ramification in several States, are involved or the cases having inter-state and international ramifications.

13. Thus, the mechanism and procedure prescribed in the Crime Manuals of CBI & ACB, makes it discretionary, that considering the gravity of matter and nature of offences as also involvement of professional criminals, a decision can be taken in coherence that which agency will continue and complete the investigation, and such decision is not necessarily to be based on the categorization of public servants, either belonging to State services or Central Government. Obviously, CBI may expand its jurisdiction in the whole country and State agency should confine itself within boundaries of that State. In the opinion of this Court, merely, on the basis that the accused/ offender is a public servant in the Central Government, no inference can be drawn as a Rule of Law or Thumb Rule that ACB of the State lacks jurisdiction to register a criminal case against him and to continue the investigation till completion, including submission of charge-sheet before the Court.

14. It can further be observed that there is no scope for the accused person to raise an objection, for exercising of jurisdiction by the ACB against him, merely on the basis that he/ she is serving under the Central Government or an employee of the Central Government. Nevertheless, the objection, if at all, may be allowed to be raised by the CBI or by affected or aggrieved person, where the matter involves serious offences, having involvement of large amount and professional criminals, having ramifications in more than one State, or where the Central Government is one of the stakeholders and where situations warrant that investigation should be done by CBI only and it is deemed improper and unjust to continue the investigation by the State Police/ ACB.

15. As far as the provisions of the Prevention of Corruption Act, 1988, are concerned, the statute itself does not make any distinction nor categorise public servants as belonging to the Central Government or the State Government, in the matter of investigation. Section 17 of the Act, 1988 refers to police officers of certain ranks, who alone can investigate offences under the Act, without making any reference to the offender as to whether he/ she is connected with the affairs of the Central or the State Government. For ready reference, Section 17 reads as under:-

"17. Persons authorised to investigate.-Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no police officer below the rank,-

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

(b) in the metropolitan areas of of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973 (2 of 1974), of an Assistant Commissioner of Police;

(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank,

shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further that an offence referred to in [clause (b) of sub-section (1)] of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

Investigation by Station Officer of Police Station

The respondent was a Station Officer of Police Station and was promoted as Deputy Superintendent of Police. While digging some land 20 gold bricks were found by some persons which they failed to deposit with the authorities but the respondent seized the gold bricks on information received but misappropriated the gold bricks. The investigation was carried out but the respondent challenged the legality of the investigation by an officer junior in rank to him. Held that the Inspector of Police, Crime Branch who made the investigation had been authorised by the State Government as contemplated by section 17. The investigation was not vitiated in law on the ground that the said Inspector was not higher in rank to the police officer who was alleged to have committed the offence.

Sanction is a pre-requisite to conduct investigation

(i) The provisions of section 17 are mandatory and the sanction by an officer not below the rank of Superintendent of Police, in respect of an offence under clause (e) of sub-section (1) of section 13, is a pre-requisite to conduct the investigation.

(ii) On three occasions there was demand of money and each constituted an offence by itself to investigate for which permission for investigation was necessary under section 17 and on the third occasion the Inspector had failed to take the permission under section 17 which is mandatory before investigation is launched, the accused appellant is entitled to succeed."

Section 17-A of the Act of 1988, which was inserted by introducing Prevention of Corruption (Amendment) Act, 2018, w.e.f. 26.07.2018, gives a reference to the requirement of obtaining previous approval of the Government, either the Union or the State, or of the authority competent to remove the person, as the case may be, for conducting any enquiry or inquiry or investigation by a police officer into any offence, alleged to have been committed by a public servant under the Act, where the alleged offence is committed in discharge of official functions or duties, and the proviso appended to Section 17-A makes it clear that no such previous approval shall be necessary in cases where the person is arrested on the spot on a charge of accepting or attempting to accept any undue advantage for himself or for any

other person. Another proviso makes it essential for the concerned authority to convey its decision within a stipulated time period. For ready reference, Section 17-A reads as under:-

"17A. Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.—

No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval-

(a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;

(b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month."

Thus, under the Prevention of Corruption Act as well, there is no provision, which expressly or impliedly excludes the powers and jurisdiction of the State Police/ ACB to investigate cases of bribery and corruption against employees of the Central Government or persons, serving under the Union, more so when the cause of action arises within the territorial boundaries of the State.

16. In the DSPE Act as well, Section 5 empowers the Central Government to extend the area of exercise of powers and jurisdiction by the DSPE/ CBI for investigation of any offence or classes of offences specified in a notification issued under Section 3 of the Act. However, to exercise such powers and jurisdiction by the DSPE within the boundaries of a State, not being a Union Territory or railway areas, the consent of the Government of that

State is mandatorily required as per Section 6 of the Act. Section 5-A of the DSPE Act regulates the competence of the officers of both the DSPE and the regular police force of the State to investigate offences under the DSPE Act. For ready reference, Section 5-A is being reproduced hereunder:-

"5-A. Investigation into cases under this Act.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no police officer below the rank-

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

(b) in the presidency-towns of Calcutta and Madras, of an Assistant Commissioner of Police;

(c) in Rue presidency-town of Bombay, of a Superintendent of Police; and

(d) elsewhere, of a Deputy Superintendent of Police,

shall investigate any offence punishable under Section 161, Section 165, or Section 165-A of the Indian Penal Code or under Section 5 of this Act without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorized by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without & warrant;

Provided further that an offence referred to in clause (c) of sub-section (1) of Section 5, shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

(2) If, from information received or otherwise, a police officer has a reason to suspect of commission of an offence which he is empowered to investigate under sub-section (1) and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any banker' books in so far as they relate to the accounts of the person suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his power under this sub-section:

Provided that no power under this sub-section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

Explanation.- *In this sub-section, the expressions 'Bank' and 'bankers' book' shall have the meanings assigned to them in the Bankers' Book Evidence Act, 1891."*

Thus, the DSPE Act also does not contain any provision, imposing a bar or depriving the State Agency/ ACB of its powers and jurisdiction to investigate offences of bribery and corruption, allegedly committed by Central Government employees within the territorial limits of the State.

17. Coming to the judgment of the Hon'ble Supreme Court delivered in the case of **Government (NCT Of Delhi) v. Union of India, [(2020) 12 SCC 259]**, upon which learned counsel for the petitioners, Shri Ashvin Garg, has relied upon. In that case, Issue No. 2 which was dealt with by the Hon'ble Supreme Court, has been pressed being relevant to the controversy under consideration before this Court. The Hon'ble Supreme Court framed Issue No. 2 as follows:

"Whether the exclusion of the jurisdiction of the Anti-Corruption Bureau (ACB) of the NCT of Delhi to investigate offences committed under the Prevention of Corruption Act, 1987, by officials of the Central Government, and limiting the jurisdiction of the ACB to employees of the GNCTD alone, is legal?"

This issue was based on questioning the validity of two notifications dated 13.07.2014 and 21.05.2015, issued by the Ministry of Home Affairs, Government of India, in supersession of the earlier notification dated 08.11.1993. By these notifications, the jurisdiction of the ACB of NCT of Delhi was confined to the employees of the GNCTD, thereby excluding its powers and jurisdiction over the officers, employees and functionaries of the Central Government.

The Hon'ble Supreme Court upheld the validity of both the notifications, taking into consideration the status of the NCT of Delhi as a quasi-State, conferred by virtue of Article 239-AA of the Constitution of India (which, although in constitutional terms, remains a Union Territory) and further taking note of the fact that Article 239-AA itself excludes Entry 2 of List II, appended to the Seventh Schedule of the Constitution of India, from the legislative

domain of the NCT of Delhi. Entry 2 of List II (State List) relates to the subject of 'Police', meaning thereby, in respect of 'Police', the NCT of Delhi does not possess either legislative or executive powers, which are otherwise vested in a State. Hence, in that backdrop, the exclusion of the jurisdiction of the ACB of the NCT of Delhi to investigate officials of the Central Government was upheld, since the powers of the NCT of Delhi itself stand totally excluded in respect of Entry 2 of List II, Schedule VII of the Constitution of India. The Hon'ble Supreme Court held that, indirectly, on the basis of the notification dated 08.11.1993, the NCT of Delhi cannot be permitted to exercise jurisdiction over employees of the Central Government under the Prevention of Corruption Act. Therefore, the two notifications dated 13.07.2014 and 21.05.2015, whereby the jurisdiction of the ACB of NCT of Delhi was limited to the employees of the GNCTD alone, was not faulted, and such exclusion of jurisdiction was held perfectly legal and justified.

18. It is noteworthy that the State of Rajasthan is a notified State, which possesses power and jurisdiction in respect of subjects listed at Entry 1 and Entry 2 of List II (State List), appended to the Seventh Schedule of the Constitution of India. Entry 1 relates to 'Public Order' and Entry 2 relates to 'Police'. Hence, the ACB of the State of Rajasthan cannot be presumed to lacks jurisdiction to investigate cases against employees of the Central Government, in respect of offences under the Prevention of Corruption Act. For the reasons stated above, the *ratio decidendi* expounded by the Hon'ble Supreme Court, while

deciding Issue No. 2, in the case of **Government (NCT of Delhi)** (supra), does not apply to answer the issues, falling under consideration before this Court in the present matters. In addition, it noteworthy that concededly, the two notifications dated 13.07.2014 and 21.05.2015, issued by the Ministry of Home Affairs, Government of India, do not take the State of Rajasthan within their compass, rather, these notifications are confined to the ACB of NCT of Delhi. No other notification of the Central Government has been brought to the notice of this Court, excluding the jurisdiction of the ACB of the State of Rajasthan to investigate cases of bribery and corruption against employees of the Central Government. Therefore, the judgment of the Hon'ble Supreme Court in case of **Government (NCT of Delhi)** (supra) does not render any support to the petitioners, in deciding the issues in their favour.

19. It is noteworthy that the Government of Rajasthan issued a notification dated 19.07.2020, revoking all previous general consents issued earlier by the State Government under Section 6 of the DSPE Act. It was made clear that the Government of Rajasthan does not accord any general consent under Section 6 of the DSPE Act for investigation of any offence or class of offences under Section 3 of the DSPE Act by the Delhi Special Police Establishment (CBI), and that prior consent of the Government of Rajasthan shall be required to be obtained on a case-to-case basis. Following the issuance of the notification dated 19.07.2020, the ACB, Government of Rajasthan, in furtherance thereof, issued a letter dated 20.07.2021, revoking the need to inform the CBI

after registering and initiating investigation for offences under the Prevention of Corruption Act against employees of the Central Government, in terms of the ACB Manual, 2015.

However thereafter, in supersession of the notification dated 19.07.2020, the Government of Rajasthan has now issued and published an another notification dated 04.01.2024 in the Rajasthan Gazette, notifying that *"the State Government hereby accords the consent to the extension of powers and jurisdiction of members of the Delhi Special Police Establishment in the whole of the State of Rajasthan for investigating the offence under the Prevention of Corruption Act, 1988, accorded vide notification dated 6th January, 1989. All previous general consents for any other offences and consent accorded case to case basis for any other offence by the State Government shall also remain in force."*

Thus, in the present scenario, by virtue of the recent notification dated 04.01.2024, issued by the Government of Rajasthan, although consent has been accorded by the State Government to exercise powers and jurisdiction by the DSPE /CBI for investigating offences under the Prevention of Corruption Act within the territorial jurisdiction of the State of Rajasthan, but this does not lead to the conclusion that the ACB of the State of Rajasthan has been denuded of its powers and jurisdiction to investigate offences under the Prevention of Corruption Act against employees of the Central Government, nor any inference of exclusion of the jurisdiction of the ACB of the State of Rajasthan be presumed in the above subject matter. In the case of **Lalita Kumari vs. Government of Uttar Pradesh [(2014) 2 SCC 1]**,

the Hon'ble Supreme Court, while dealing with the need for a "preliminary enquiry" as contained in Chapter IX of the Crime Manual of the CBI, held and observed that the Crime Manual of the CBI is not a statute and has not been enacted by the legislature. It was held that it is a set of administrative instructions issued for the internal guidance of CBI officers, and such administrative guidance cannot supersede the provisions of the Code of Criminal Procedure. It was further held that in absence of any indication to the contrary in the Code of Criminal Procedure itself, the provisions of the CBI Crime Manual cannot be relied upon to import the concept of holding of preliminary inquiry in the scheme of the Code of Criminal Procedure.

A similar view has been noted and reiterated by the Hon'ble Supreme Court in the case of **Central Bureau of Investigation (CBI) v. Thommandru Hannah Vijayalakshmi [(2021) 18 SCC 135]**.

20. Therefore, it can safely be concluded, after the above detailed discussion, that the jurisdiction of ACB of State of Rajasthan/ State Vigilance Setup, is not barred, nor its powers and jurisdiction are excluded in investigating cases of bribery and corruption against Central Government employees. The mechanism and procedure envisaged in the Crime Manuals of CBI and ACB, provide administrative guidelines to ensure coordination between both agencies within the State of Rajasthan, to regulate the investigation of cases promptly and regularly, to avoid overlapping, and prevent duplication of efforts. If non-adherence to any administrative guidelines by either of the agencies i.e., CBI

or ACB, is brought to notice by or on behalf of the accused/offender under the PC Act, the same cannot be held to render the entire investigation or submission of the charge-sheet, illegal or without jurisdiction.

21. Taking the nature of provisions of Crime Manuals, which are not to be treated alike statutory provisions, rather are administrative instructions/ guidelines to follow at departmental level, this Court is hesitant to have application of principle of law as laid down in case of **Taylor Vs. Taylor** (supra), to implement such administrative directions/ guidelines as a Rule of Law before the judicial forum, that too on the behest of accused persons. Similarly, the provisions of Crime Manuals, may not be allowed to precede over the statutory provisions of the PC Act and DSPE Act, and to treat such provisions of Crime Manuals as a part of Statute, which, if allowed, may go against the aim & object of the PC Act.

22. In a landmark judgment of the Hon'ble Supreme Court in the case of **A.C. Sharma v. Delhi Administration [(1973) 1 SCC 726]**, while dealing with the functions of investigation agencies, the following observations were made in Paragraph 15 of the judgment:-

"15.....In this connection it may not be out of place also to point out that the function of investigation is merely to collect evidence and any irregularity or even illegality in the course of collection of evidence can scarcely be considered by itself to affect the legality of the trial by an otherwise competent Court of the offence so investigated. In H. N. Rishabud and Inder Singh v. State of Delhi [AIR 1955 SC 196], it was held that an illegality committed in the course of investigation does not affect the competence and jurisdiction of the court for trial and where cognizance of the case has in fact been taken and the case has proceeded to termination the invalidity of the preceding investigation does not vitiate the result unless miscarriage of justice has been caused thereby. When any breach of the mandatory provisions relating to investigation is brought to the notice of the court at an early stage of the trial the Court will have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as may be called for, wholly or partly, and by such officer as it considers appropriate with reference to the requirements of Section 5-A of the Prevention of Corruption Act, 1952....."

23. In the case of **Sudha Gupta v. State of Himachal Pradesh [(2020) SCC OnLine HP 1773]**, while considering the observations of the Hon'ble Supreme Court in case of **Vineet Narain** (supra), it was noted that although the State Police should have informed the CBI after registration of a case, or laying a trap and collecting evidence related thereto, in consonance with the CBI Manual, yet the failure of the State Police or the investigating officer to inform or consult the CBI at an appropriate stage cannot be taken as a sufficient ground to quash the FIR and the criminal proceedings arising therefrom against the petitioner.

Reproduction of Paragraphs 19, 20 and 21 of the judgment, would be apropos and relevant to find support for the view taken by this Court:-

"19. There is no dispute that the Apex Court in its pronouncement in Vineet Narain's case, has observed and directed that CBI Manual, based on statutory provisions of Cr.P.C., provides essential guidelines for the CBI's functioning and it is imperative for the CBI to scrupulously adhere to the provisions in the Manual in relation to its investigative functions like raids, seizure and arrests, and any deviation from the established procedure should be viewed seriously and severe disciplinary action be taken against the officials concerned. Thus, observations and directions shall be relevant in a case being investigated by CBI. The pronouncement of the Apex Court nowhere suggests that for provisions of CBI Manual, jurisdiction of State Police to investigate matters involving Central Government employee, under P.C. Act, has been ousted or barred or provision of CBI Manual excludes or bars jurisdiction of State Police in such matters. Rather, even CBI Manual, itself provides that arrangement contained in Clause 1.10 is general arrangement and the State Police as a matter of discretion in given facts and circumstances of the case may investigate particular offence irrespective of its notification under Section 3 of DSPE Act.

20. Similarly, Apex Court in its judgment rendered in Shashikant's case, in paras 8 and 9, relied upon by the petitioner and also in its pronouncement in case of Committee for Protection of Democratic Rights, in para 33, referred by the petitioner, has reiterated that jurisdiction of CBI to investigate an offence is to be determined with reference to the notification issued under Section 3 of the DSPE Act and not by any separate order not having that character and that in CBI Manual Central Government has laid down procedure for conducting investigation including mode and manner in which preliminary inquiry should be conducted, which has approval of the Apex Court in Vineet Narain's case. Referring Vineet Narain's case supra, similar observations have been made by the Apex Court in N.S. Gnasewaran's case which has also been relied by the petitioner in his favour.

21. I also find support from the pronouncement of the Apex Court in A.C. Sharma's case, wherein it is observed that Section 5-A of DSPE Act and Section 17 of P.C. Act, 1988, do not confer power to investigate into the offences mentioned therein solely on DSPE/CBI, to the complete exclusion of regular Police Force."

24. Similar questions of law, with which this Court is presently dealing, have also come up for consideration before the High Court of Madhya Pradesh, the High Court of Andhra Pradesh, and the High Court of Kerala.

A Division Bench of the High Court of Madhya Pradesh, in the case of **Ashok Kumar Kirtiwar vs. State of Madhya Pradesh [(2001) 2 MPLJ 264]**, while answering an identical question, held and observed as under:-

"The contention that the Delhi Special Police Establishment Act, 1946 confers exclusive jurisdiction on the Special Police Force created under that Act to investigate the offences of bribery and corruption committed by the Central Government Employees, is also wholly misplaced. While this Central Act of 1946 does provide for an agency for investigation of such offences committed by the Central Government Employees, there is however, no provision in the Act to exclude jurisdiction of Police Officers of various States to investigate the said offences when committed by such employees in their States. The scope of the Central Act of 1946 is rather limited inasmuch as it provides for the investigation of such offences when committed by the Central Government Employees only. The Special Police force under this Central Act cannot investigate the offences committed by the State Government Employees. The legal position in the matter is made luculent by the Supreme Court in A.C. Sharma v. Delhi Administration [AIR (1973) SC 913] wherein almost similar fact situation, the Apex Court held:

"The setting up of Delhi Special Police Establishment by the Central Government under the DSPE Act does not by itself deprive the anti-corruption branch (Delhi Administration) of its jurisdiction to investigate the offence of bribery and corruption against Central Government employee in Delhi."

The P.C. Act of 1988 is a social legislation intended to curb illegal activities of public servants. As observed in Ramsingh 2000 (5) SCC 88, "The Act is designed to be liberally construed so as to advance its object. Procedural delays and technicalities of law should not be permitted to defeat the object sought to be achieved by the Act. The over-all public interest and the social object is required to be kept in mind while interpreting various provisions of the Act and deciding cases under it." Our view of the matter is also consistent with the object of the P.C. Act.

It will be thus seen that the Central Act of 1946 does not deprive the State Police, be it a regular police force or the S.P.E. of its jurisdiction to investigate the offences of bribery and corruption against the Central Government employees posted in the State of Madhya Pradesh. We thus answer the question extracted above in affirmative."

The High Court of Kerala, in the case of **State of Kerala vs. Navaneeth Krishnan [2023 SCC OnLine Ker 5730]**, following the view and dictum of the Division Bench of the Madhya Pradesh High Court, held and observed that the PC Act does not specifically

envisage a separate procedure for conducting investigation. The offences under the PC Act can be investigated into by the State agency or by the Central agency or by any police agency as can be seen from Section 17 of the said Act with the qualification that the police officer shall be of a particular rank. Section 17 does not exclude or prevent the State Police or a Special Agency of the State from registering a crime or investigating cases relating to bribery, corruption and misconduct against Central Government employees. It is for convenience and to avoid duplication of work, the Central Bureau of Investigation - a specialised investigating agency under the Special Police Establishment-is entrusted with the task of investigation of the cases of corruption and bribery against the employees of Central Government and its Undertakings and the Anti-Corruption Bureau-a specialised investigating agency of the State-is entrusted with the task of investigation of the cases of corruption and bribery against the employees of State Government and its Undertakings. It would be apropos to reproduce Para 17 of the judgment, which is the concluded paragraph, as under:

"17. The upshot of the above discussion is as follows: There is no special provision in the P.C. Act or DSPE Act excluding or preventing the State police or a Special Agency of the State from investigating cases relating to the corruption of the Central Government employees. None of the provisions of the P.C. Act or DSPE Act authorises CBI or Central Vigilance Commission or any other Central Government Agency alone to investigate in matters relating to the Central Government employees. In the absence of a specific provision in the DSPE Act or PC Act divesting the power of the regular police authorities to investigate into the offences under any other competent law, it cannot be said that the power of the State police or a Special Agency of the State to register a crime and investigate into the offence allegedly committed by the Central Government employees in their State is taken away. For these reasons, I hold that the VACB, being a specially constituted body to investigate into the bribery, corruption and misconduct mainly under the P.C. Act is always clothed with the authority to investigate offences involving corruption that take place within the State, whether it is committed by a Central Government employee or a State Government employee. Hence, the impugned order discharging the accused Nos. 2 to 4 cannot be sustained."

25. In the case of **State of M.P. vs. Ram Singh [(2000) 5 SCC 88]**, the issue that came up before the Hon'ble Supreme Court pertained to the competency and rank of a police officer to investigate offences under Section 13(1)(e) and Section 13(2) of the Prevention of Corruption Act. The investigation in that case was completed by an Inspector (SPE), but under the orders of the Superintendent of Police (SPE). The High Court had quashed the investigation and consequential proceedings; however, the Hon'ble Supreme Court set aside the judgment of the High Court, highlighting the intention and object behind the introduction of the special statute of the Prevention of Corruption Act. It would be apropos to reproduce Paragraphs 10 & 11 of the said judgment as under:-

"10. The Act was intended to make effective provisions for the prevention of bribery and corruption rampant amongst the public servants. It is a social legislation intended to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object. Dealing with the object underlying the Act this Court in R.S. Nayak v. A.R. Antulay [(1984) 2 SCC 183] held:

'18. The 1947 Act was enacted, as its long title shows, to make more effective provision for the prevention of bribery and corruption. Indisputably, therefore, the provisions of the Act must receive such construction at the hands of the court as would advance the object and purpose underlying the Act and at any rate not defeat it. If the words of the statute are clear and unambiguous, it is the plainest duty of the court to give effect to the natural meaning of the words used in the provision. The question of construction arises only in the event of an ambiguity or the plain meaning of the words used in the statute would be self-defeating. The court is entitled to ascertain the intention of the legislature to remove the ambiguity by construing the provision of the statute as a whole keeping in view what was the mischief when the statute was enacted and to remove which the legislature enacted the statute. This rule of construction is so universally accepted that it need not be supported by precedents. Adopting this rule of construction, whenever a question of construction arises upon ambiguity or where two views are possible of a provision, it would be the duty of the court to adopt that construction which would advance the object underlying the Act, namely, to make effective provision for the prevention of bribery and corruption and at any rate not defeat it.'

11. Procedural delays and technicalities of law should not be permitted to defeat the object sought to be achieved by the Act. The overall public interest and the social object is required to be kept in mind while interpreting various provisions of the Act and deciding cases under it."

26. Having enlightened with the case laws, referred hereinabove, this Court finds support to its view that in the State of Rajasthan, the jurisdiction of the ACB is neither barred nor excluded to register a criminal case under the Prevention of Corruption Act against an employee of the Central Government, or against a person serving under the Central Government, if the cause of action of such offence, arises within the State boundaries. Further, the ACB is duly empowered to initiate and continue the investigation till its completion, including submission of the charge-sheet before the competent Court. There exists no embargo or restriction on the exercise of such powers and jurisdiction by the ACB in the State of Rajasthan, nor the jurisdiction has been vested in the CBI exclusively, so as to bar the jurisdiction of the ACB against Central Government employees, to proceed for offences, allegedly committed under the Prevention of Corruption Act or under the DSPE Act. It has already been observed hereinabove that the Crime Manuals of CBI and ACB do not override the statutory provisions, nor can they import the concept of exclusion of the jurisdiction of the ACB against employees of the Central Government, which is indeed also not envisaged in the Crime Manual itself. The provisions of the Crime Manuals provide an arrangement, mechanism and procedure to streamline investigations in matters relating to bribery and corruption under the Prevention of Corruption Act, and bifurcation of the jurisdiction of investigation by the CBI against Central Government employees, and by the ACB of the State of Rajasthan against State Government employees — has been made

only with a view to maintain administrative discipline and official arrangements between the two agencies, and to avoid overlap or duplication of efforts in one matter. Indeed, the legal proposition which has emerged is that the State Police/ ACB of Rajasthan, possesses concurrent and co-extensive powers and jurisdiction with the CBI/ DSPE to investigate matters relating to bribery and corruption against Central Government employees, and both agencies are expected to discharge their powers, pious duties and legal obligations in coherence with each other, with full cooperation, support and in a manner, which supplements the functionalities of one another.

If, from the side of an accused/ offender, any defect in discharge of duties, owing to non-adherence to the administrative instructions or guidelines contained in the Crime Manuals, is pointed out, the same cannot render the investigation illegal or without jurisdiction, unless such defect goes to the root of the investigation or pertains to the incompetence of the investigating officer concerned. Thus, both the legal questions are hereby answered accordingly, which goes against the petitioners.

27. In view of the foregoing conclusions, if proceedings against an employee of the Central Government, initiated by the Anti-Corruption Bureau in matters of involvement in bribery, corruption, embezzlement of public funds, etc., are stayed in these matters, such stay order(s) in each case, is hereby vacated. However, in changed circumstances, or on any additional ground, if survives, the petitioners are at liberty to move fresh application, for seeking stay/ interim relief.

28. Let these petitions be listed before the Regular Bench, and if it is found that any petition(s) is liable to be disposed of finally in the light of the above conclusions, due to non-involvement of any other issue(s), that petition(s) shall stand disposed of accordingly.

(SUDESH BANSAL),J

Sachin Sharma