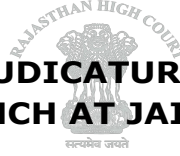




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Criminal Reference No. 2/2025

Shri Sujan Chand Panwar S/o Shri Bhanwarlal Panwar, Aged About 57 Years, R/o 166 Himmat Nagar, Near B-Railway Station, Pali Marwar, District Pali.

-----Petitioner

Versus

1. State Of Rajasthan, Through Joint Secretary, Department Of Personnel (K-3/complaint), Government Of Rajasthan, Secretariat (Main Building), Jaipur, Rajasthan.
2. Anti Corruption Bureau, Through The Director General Of Police , Office Situated At J-9, Jhalana Institutional Area, Jaipur, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Kapil Gupta with Mr. Sushil Yadav & Mr. Dharmendra Kumar Mr. Aajtshatru Mina Mr. Swadheen Singh Mr. Manav Sharma Mr. Rhythim Shrimal
For Respondent(s)	:	Mr. Rajesh Chaudhary, GA-cum-AAG with Aman Agarwal, Ms. Neha Goyal & Mr. Anirudh Mr. Rishab Kala Mr. S.S. Hora with Mr. Aman Garg

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

Order

24/04/2026

1. The issue raised by way of this reference is no more res integra in view of the judgment passed by the Hon'ble Supreme Court in the case of **Surendra Dhariwal Vs. State of Rajasthan and Anr.: Criminal Appeal Nos.3717-3718 of 2025.**



2. Learned Single Judge has referred following questions for the Division Bench, which reads as under:

"Whether the shelter of previous approval as is required in view of Section 17-A of the Prevention of Corruption (Amendment) Act, 2018 for conducting enquiry, inquiry or investigation is limited to the offence relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties or it applies for all cases with allegations of offense punishable under the Prevention of Corruption Act (other than the trap cases) though there may not be any recommendation made/decision taken by that public servant".

The Registrar (Judicial) is directed to place this matter before the Hon'ble Chief Justice for necessary orders and instructions."

3. In the case of **Himanshu Yadav Vs. State of Rajasthan: S.B. Civil Writ Petition No.17545/2021**, the learned Single Judge has observed as under:

"23. A bare look at section 17-A reveals that no police officer can conduct any inquiry or investigation into an offence punishable under the Act of 1988 unless a prior approval of the competent authority is obtained.

25. Indisputably, the allegation of demanding illegal gratification relates to discharge of official duties of the petitioner and no prior approval of the competent authority has been obtained. As such, the proceedings or the very attempt to arrest the petitioner on spot on the charge of accepting the bribe (which has failed), may or may not be illegal but the proceedings thereafter, further investigation and lodging of FIR against the petitioner without the approval of the competent authority is void ab initio."

4. In another case of **Ranidan Singh Vs. State of Rajasthan and Anr.: S.B. Criminal Miscellaneous Petition No.1219/2022**, the learned Single Judge has observed as under:

"20. Manifestly, the newly inserted provision prohibits the conducting of any inquiry or investigation into an offence under this Act by a public servant, except in cases of on-the-spot arrest, where the alleged act is related to any recommendation made or decision taken by the public servant in the discharge or official functions or duties, unless prior approval from the competent authority is obtained."

5. Learned Single Judge held that in his opinion that the object behind provision of Section 17-A of the Prevention of Corruption (Amendment) Act, 2018 (for short, "the P.C. Act") was



to give liberty to the public servant making a recommendation or taking a decision without any kind of influence. The recommendation or decision taken by a public servant while doing his official functions or duties can be put to challenge before the higher authority or Court of law and therefore, the requirement of previous approval has been provided for the allegations relatable to any recommendation made or decision taken by a public servant.

6. Having taken a different view following judicial propriety, the case was referred before us to the Division Bench.

7. Learned counsel appearing for the State has pointed out that in the meanwhile, the judgment passed in the case of **Ranidan Singh** (supra) was put to challenge before the Hon'ble Apex Court in Criminal Appeal No.3717-3718 of 2025 by the complainant Surendra Dhariwal and in the said appeal the Hon'ble Apex Court having considered the facts and the arguments advanced with reference to Section 17-A of the P.C. Act wherein it relied on its earlier judgment passed in the case of **Central Bureau of Investigation Vs. Santosh Karnani and another: 2023 SCC OnLine SC 427** wherein the Hon'ble Apex Court held as under:

"As may be seen, the first proviso to Section 17A refers to cases wherein a public servant is charged with acceptance of an undue advantage or attempt thereof. A prior approval or sanction to investigate such an officer in a trap case is likely to defeat the very purpose of trap and the investigation, which is not the underlying intention of the legislature. The investigation against respondent No.1, being an accused of demanding a bribe, did not require any previous approval of the Central Government. That apart, the accusation against Respondent No.1 does not revolve around any recommendations made or decisions taken by him in his quasi-judicial or administrative capacity."

9. It proceeded further to held as under:



"11. Section 17A was added to the Act, 1988 with the object and idea to protect public servants from arbitrary and frivolous investigation by requiring prior approval from a competent authority before any "enquiry or inquiry or investigation" could be conducted against them for recommendations made in the discharge from all their official duties.

14. In view of the aforesaid, these appeals succeed in part. The impugned order passed by the High Court is set aside and the matter(s) is remanded to the High Court for fresh consideration of both the petitions that is SB Criminal Miscellaneous (PET) No.1219 of 2022 and SB Criminal Miscellaneous (PET) No.1380 of 2022 respectively on grounds other than Section 17A of the 1988, Act. The High Court shall hear all the Parties concerned and decide the matter(s) on its own merits in accordance with law."

10. Thus, the view expressed by the learned Single Judge in the present case is found to be the correct view as taken by the Hon'ble Apex Court in Surendra Dhariwal (supra).

11. In view thereto, we also concurred to the view taken by the learned Single Judge that the Section 17-A would have no application in cases where a person is found to be accepting the bribe and or demanding bribe and is also in case where he is found red handed, he is caught in a trap case also.

12. The references answered accordingly.

(SHUBHA MEHTA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ