

No. 202/22/2018-AVD-II
GOVERNMENT OF INDIA
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training

North Block, New Delhi
Dated the 23rd October, 2018

ORDER

Subject **Order under Section 4(2) and other relevant provisions of the Delhi Special Police Establishment Act, 1946 (DSPE Act).**

The issue pertains to the premier investigating agency of the country viz, Central Bureau of Investigation (CBI) established under the Delhi Special Police Establishment Act, 1946 (DSPE Act for short).

2. The CBI enjoys and is expected to continue enjoying the trust, credibility and faith of all stakeholders as well as of the people of India and the judicial and other institutions.
3. The Hon'ble Supreme Court of India, in the case of Vineet Narain v. Union of India reported in (1998)1 SCC Page 226 was pleased to issue several directions which were, in effect, meant to ensure that the trust, faith and credibility of the people in this institution is not eroded. The said directions were thereafter adopted by the competent legislature and the DSPE Act was amended so as to ensure that the object and purpose of the Hon'ble Supreme Court passing the said directions are achieved.
4. The Central Vigilance Commission Act, 2003 (CVC Act for short) is an enactment which, inter alia, is enacted so as to ensure that the CBI, as a premier investigating agency not only discharges its functions strictly as per law but also to ensure that an independent body, viz. CVC can exercise an effective superintendence over its functioning as contemplated under Section-8 of the CVC Act and issue directions which may be required considering a specific fact situation existing from time to time. Similar powers are conferred upon the CVC under Section-4(1) of the DSPE Act.
5. The Central Government is also conferred with a statutory duty and function of exercising the power of superintendence over the CBI under Section-4(2) of the DSPE Act.
6. The recent developments emerging from various actions of the Director and the Special Director of the CBI have been under the close examination of the Central Government. The Central Government was/is concerned and conscious of the fact

that any actions/activities/ proceedings with regard to or within the institution of the CBI should not in any way result in eroding the faith of the nation, the stake holders during the process of various investigations conducted by the CBI and of the judicial institutions. The recent developments with regard to various actions taken by the Director and the Special Director of the CBI have also become a subject matter of critical and negative public debate which has the serious potential of eroding the faith and trust which the CBI enjoys and all possible measures should be adopted to ensure that it continues to enjoy.

7. The Central Vigilance Commission, which is seized of the issues concerning various actions and allegations with respect to the above referred two important functionaries of the CBI has, after examination of the records before it, taken a decision to exercise its powers under Section-8 of the CVC Act as well as Section-4(1) of the DSPE Act vide order dated 23rd October, 2018. It is apparent that the CVC has exercised the said powers and has issued directions in larger public interest considering an extraordinary and unprecedented situation which has emerged with a view to ensuring that the CBI, as an institution, does not lose its credibility and the faith of the people. To fulfil this objective, the CVC has undertaken an inquiry on the specified issues and is committed to ensure that such an exercise undertaken by it remains neutral, independent and uninfluenced from any one.

8. It is a matter of great public importance that the facts, circumstances and the reasons which have given rise to such an extraordinary and unprecedented situation are inquired into independently and at the earliest opportunity before any further erosions to the credibility of the institution takes place and to ensure institutional integrity.

9. Having carefully examined and evaluated the material made available to the Central Government, considering the decisions/orders F. No. 018/DPT/013-Vig. IX dated 23rd October, 2018 taken/issued by the CVC under Section-8 (1)(a), 8(1)(b) of the CVC Act read with Section-4(1) of the DSPE Act (enclosed), and after careful consideration of the issues which have arisen and which are likely to arise during the inquiry and keeping the possibility of the proceedings which may have to be initiated by the Central Government under the relevant statutory provisions, the Central Government is satisfied that an extraordinary and unprecedented situation has arisen which demands that the Central Government invokes its power and exercise its function under Section-4(2) of the DSPE Act and direct that Shri Rakesh Asthana, IPS, Special Director, CBI is hereby divested of and shall not exercise any of his functions, powers, duties and supervisory role in any manner as the Special Director of the CBI till the CVC concludes its exercise of inquiring into all the issues which have given rise to the present extraordinary and unprecedented situation and till the CVC and/or the Central Government takes an appropriate decision in accordance with law as regards the measures to be adopted as a consequence thereof. This direction is issued under Section 4(2) of the DSPE Act and all other provisions enabling the Central Government to take such an interim measure during the

pendency and conclusion of the proceedings unless varied, vacated or modified earlier. The period during which this interim measure remains in operation shall entitle Shri Rakesh Asthana to his emoluments and perks as he may be eligible, which shall be met by the CBI.

10. Due process of law in compliance with the principles of natural justice shall be observed before giving finality to the interim measure referred to above and also during the decision making process.

11. Therefore, in exercise of the powers under Section 4 (2) of the DSPE Act and all other provisions enabling the Central Government to take interim measures, the Central Government hereby directs that Shri Rakesh Asthana, IPS, Special Director, CBI, be divested of and shall not exercise any of his functions, powers, duties and supervisory role in any manner as the Special Director, CBI, with immediate effect and until further orders.

12. The period during which the aforesaid interim measure remains in operation shall entitle Shri Rakesh Asthana to his emoluments and perks as he may be eligible, which shall be met by CBI.

Lok Ranjan
(Lok Ranjan)

Additional Secretary to the Govt. of India

To

Shri Rakesh Asthana, IPS,
CGO Complex, Lodhi Road,
New Delhi.

Copy to:

1. The Central Vigilance Commissioner
2. The Secretary, Ministry of Home Affairs.
3. Secretary, DoPT
4. Prime Minister's Office (Shri V. Sheshadri, Joint Secretary)
5. Cabinet Secretariat (Shri Amandeep Garg, Joint Secretary)
6. PS to MOS (PP)/PSO to Secretary (P)/PPS to E.O.
7. Guard File

Lok Ranjan
(Lok Ranjan)

Additional Secretary to the Govt. of India