



2026:CGHC:12838

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****Order Reserved on 10/03/2026****Order Delivered on 18/03/2026****WPC No. 4421 of 2021**

Dr. Vevek Choudhary S/o Late Shri Kailash Chandra Choudhary Aged About
56 Years R/o E-1/4, Officers Colony, Devendra Nagar, Raipur Chhattisgarh

Petitioner(s)**Versus**

1 - State Of Chhattisgarh Through Secretary, Health And Family Welfare
Department, Mahanadi Bhawan, Mantralaya, Atal Nagar Nawa Raipur District
Raipur Chhattisgarh

2 - The Secretary, Department Of Medical Education, Government Of
Chhattisgarh, Mahanadi Bhawan, Mantralaya, Atal Nagar Nawa Raipur District
Raipur Chhattisgarh

3 - The Director Directorate Of Medical Education, Government Of
Chhattisgarh, Mahanadi Bhawan, Mantralaya, Atal Nagar Nawa Raipur District
Raipur Chhattisgarh

4 - The Dean Pt. J.N.Medical College, District Raipur Chhattisgarh

5 - The Managing Director Chhattisgarh Medical Services, Corporation
Limited, Having Its Office At 3rd Floor, Govind Sarang Trade Center, New
Rajendra Nagar, District Raipur Chhattisgarh

Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s) : Mr. Manoj Paranjpe, Senior Advocate along with Mr. Kabeer Kalwant, Advocate

For Resp No. 1 to 4 : Mr. Praveen Das, Addl. Advocate General along with Mr. Anand Gupta, Dy. GA

For Resp. No. 5 : Mr. Raghvendra Pradhan, Advocate

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

CAV ORDER

1. The petitioner has filed the present writ petition under Article 226/227 of the Constitution of India challenging the legality, validity, correctness and judicial propriety of the impugned letter bearing No. F-10-36/2021/55 dated 30-08-2021 (Annexure-P/1) (so far as it relates to the petitioner), whereby Respondent No. 2 has recommended registration of an FIR against the erring personnel in connection with the alleged corruption and misappropriation of government/public exchequer relating to the purchase and installation of PET CT Scan and Gamma Camera at Dr. Bhimrao Ambedkar Memorial Hospital, Raipur. The petitioner has also challenged the inquiry report dated 20-07-2021 submitted by a six-member committee, wherein adverse findings have been recorded against the petitioner without providing any opportunity of hearing.
2. The petitioner has prayed for following reliefs in the Writ Petition:-
 - “(i) That, this Hon'ble Court may kindly be pleased to direct the Respondents to produce entire records pertaining to the present case for its kind perusal.

(ii) That, this Hon'ble Court may kindly be pleased to allow the present writ petition and issue an appropriate writ/order/direction quashing the entire proceedings initiated against the petitioner and also may kindly be pleased to quash report dated 20-07-2021 being illegal/erroneous and without jurisdiction. The Hon'ble Court may kindly be pleased to further quash all consequential orders/actions including the order dated 30-08-2021. (Annexure P/1) The Respondents may further be directed not to take any further action in pursuance to the report dated 20-07-2021 (Annexure P/1) as being untenable in the eyes of law.

(iii) That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction to Respondent authorities to conduct fresh inquiry and take appropriate decision after affording an opportunity of hearing to the Petitioner and affording an opportunity to participate in the said inquiry.

(iv) That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction to Respondent authorities to pay adequate compensation to the Petitioner for tarnishing his image in the society.

(v) That, any other order/relief which this Hon'ble Court may deem fit, proper, and just in the facts and circumstances of the present case may also kindly be awarded to the petitioner in the ends of justice & equity.

(vi) That, the cost of the petition may kindly also be awarded to the petitioners.”

3. From the pleadings and documents annexed with the petition, it is apparent that the petitioner was posted as Joint Director-cum-Superintendent at Dr. Bhimrao Ambedkar Memorial Hospital, Raipur, and was associated with the process relating to the purchase and installation of PET CT Scan and Gamma Camera for the said Hospital.

On 8.3.2018 (Annexure - P/4) a turnkey proposal of setting up state of art Nuclear Medicine Diagnostic Centre was made by M/s Millicurie Healthcare Pvt. Ltd., Mumbai to the Hon'ble Minister, Department of Health & Family Welfare, Government of Chhattisgarh, which was forwarded by the Hon'ble Minister to the petitioner on 10-03-2018 for his opinion, and thereafter the petitioner submitted his opinion regarding the mode of purchase on 16-03-2018 (Annexure-P/5) and also opined that it should be under PPP (Public-Private Partnership) mode. On the basis of said opinion submitted by the petitioner, the Hon'ble Minister forwarded the matter to the respondent No.5 for doing the needful, which is evident from Annexure-P/6. However, the petitioner provided technical specifications of the equipment to the respondent No.5 by letter dated 22.3.2018 (Annexure-P/7) and 11.4.2018 (Annexure – P/8). Thereafter, on 17.4.2018 (Annexure – P/9) the respondent No.5 asked the petitioner to provide the estimated value of Gamma Camera and PET-CT and also to release 40% of the allotted budget. In response to the same, by letter dated 17.4.2018 (Annexure-P/10) the petitioner provided the estimated value of Rs.12.00 crore for PET-CT and Rs.8.00 crore for Gamma Camera and also stated therein that an amount of Rs.26.00 crores lying for purchase of equipments under the head of CGMSC. After getting the requisite information as also the technical specifications, the respondent No.5 floated the tender and uploaded the same in the public domain on 17.4.2018 (Annexure – P/11), however, the same was cancelled due to submission of only a single bid, whereafter a fresh tender was floated on 18-06-2018 (Annexure – P/12).

Subsequently by letter dated 22.10.2018 (Annexure – P/13) the respondent No.5 sought opinion of the petitioner with regard to release of 100% payment before opening of LC. Pursuant to the said letter, the petitioner by letter dated 24.10.2018 (Annexure -P/14) opined that the payment should be made as per the provisions of Chhattisgarh Store Purchase Rules. In the meanwhile, the respondent No.3 by letter dated 31.7.2019 (Annexure – P/15) asked the petitioner to provide certain information regarding purchase of PET-CT machine and allotment of funds. The Secretary of Medical Education also by letter dated 26.6.2021 (Annexure – P/16) asked for certain information from Head of Department, Department of Radiology with regard to irregularities committed in purchase and installation of PET-CT and Gamma Camera Machine. After collecting documents, the petitioner submitted his reply on 3.7.2021 (page 70 of petition). After considering all the aspects of the matter, a committee constituted by the respondent authorities, who conducted the inquiry and submitted its report on 20-07-2021(Annexure-P/2) and based on the said report, vide letter dated 30-08-2021 bearing No. F-10-36/2021/55, Respondent No. 2 informed the Director, Medical Education, Raipur to lodge FIR against the erring Official. Hence, this petition.

4. (a) Learned Senior Counsel for the petitioner would submit that the impugned letter dated 30.08.2021 recommending registration of an FIR is wholly illegal, arbitrary and without any material basis. It is contended that the inquiry report itself does not disclose any material to substantiate the allegations levelled against the petitioner and the findings recorded

therein are based on incorrect facts while ignoring the official documents available on record.

(b) Learned counsel would submit that the documents and the sequence of events clearly demonstrate that the petitioner, while working as Superintendent of Dr. Bhimrao Ambedkar Memorial Hospital, neither made any proposal nor raised any demand for purchase or installation of the PET CT Scan and Gamma Camera. The proposal for establishment of a nuclear medicine diagnostic centre was initially submitted by a private company and was forwarded by the office of the Hon'ble Health Minister to the hospital authorities for opinion. In pursuance thereof, the petitioner merely opined that such equipment would be beneficial for patients and suggested that the project may be implemented under Public Private Partnership (PPP) mode, with all manpower, specialised experts, and required radioisotopes to be arranged by the company itself. It is further submitted that the petitioner's role was limited to furnishing technical specifications and providing clarifications as directed, and the communications issued by him did not contain any demand note or proposal for procurement. All proceedings relating to budgetary sanction, administrative approval, tendering, procurement, and payment were carried out exclusively by the respondent No.5, which never sought any information from the petitioner regarding budget allocation or approval. In fact, the tender for procurement had already been floated on 10.04.2018, whereas the petitioner furnished technical specifications on 11.04.2018 and details regarding the earmarked budget on 17.04.2018, clearly indicating that he had no role in the decision-making process

leading to issuance of the tender. Learned counsel further contends that the petitioner had only indicated the estimated cost and the limited earmarked budget already available with CGMSC and had advised that any procurement be carried out strictly in accordance with the applicable Chhattisgarh Store Purchase Rules. It is thus argued that there is no material on record to show that the tender process or procurement was initiated at the instance of the petitioner or that he had any role in approving or consenting to any financial transaction.

(c) Relying on the order passed in *B.C. Chaturvedi v. Union of India and Others, (1995) 6 SCC 749*, learned counsel would submit that the Court may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

(d) According to learned counsel, the inquiry committee, without affording any opportunity of hearing to the petitioner and in absence of any cogent material, has wrongly held the petitioner responsible and recommended action against him. It is thus submitted that the findings of the committee are perverse, baseless and contrary to the record, and therefore the impugned action recommending registration of an FIR against the petitioner is liable to be quashed.

5. (A) *Per contra*, learned counsel for the State submits that the present writ petition is misconceived and devoid of merit. It is contended that the matter relates to irregular and improper purchase and installation of PET-CT and Gamma Camera machines in the Department of Radiotherapy at Dr. Bhimrao Ambedkar Memorial Hospital involving expenditure of about Rs. 18.45 crores from the State exchequer. Upon noticing several irregularities in the procurement process, the State Government constituted a six-member internal committee headed by an officer of Secretary rank to conduct an inquiry. The committee, after examining the relevant documents and seeking information from the concerned persons including the petitioner, submitted its detailed report dated 20.07.2021, on the basis of which the competent authority issued the communication dated 30.08.2021 directing registration of an FIR against the concerned officers involved in the irregular purchase. Learned counsel further submits that the committee was only a fact-finding body and therefore there was no requirement of granting a formal opportunity of hearing to a prospective accused before recommending registration of an FIR. It is argued that the petitioner has no vested right to seek a pre-hearing before initiation of criminal investigation, as the power to investigate into cognizable offences is governed by the provisions of the Criminal Laws. According to the State, the inquiry report reveals *prima facie* irregularities in the procurement of the equipment without proper administrative or financial sanction and therefore the direction for registration of FIR has been issued only to facilitate a fair investigation.

(B) According to the learned State Counsel, the then officers of the Hospital as also the then Director of the Medical Education had in connivance with the concerned company had committed hefty corruption and for the said reason, a direction was issued to register the FIR against the erring officials. As far as the contention of the petitioner that adequate opportunity of hearing was not afforded to him is concerned, if the authorities have come to a conclusion through an inquiry report that the involvement of petitioner or any person for the matter is prima-facie reflected in that situation no question of granting any opportunity of hearing arises as the same would go against the jurisprudence of the Criminal prosecution. In fact, the act of the conducting the investigation is the independent and inviolable power of the Government. He would submit that only after collecting the relevant material and upon appreciating the same in its true perspective the authorities reached to the conclusion that certain irregularities committed during the purchase of the equipments and hence, to discover the real scenario, the inquiry Committee has been constituted, who after considering all the aspects of the matter submitted its report and based on the same, the letter Annexure-P/1 was issued for registration of the FIR. In support of his contention, he would place reliance upon the decisions rendered by the Supreme Court in *State Bank of India and Others v. Rajesh Agarwal and Others*, (2023) 6 SCC 1 as also the decision rendered by this Court in the matter of *Dhanjay Kumar v. State of Chhattisgarh*, 2020 SCC OnLine Chh 4 and would submit that a prospective accused has no right of hearing before registration of the FIR and investigation by the police

officer or before the Court including the Writ Court. It is thus submitted that no interference is warranted in the exercise of writ jurisdiction and the petition deserves to be dismissed.

6. Learned counsel for respondent No. 5 would submit that the present writ petition is not maintainable against respondent No. 5 as no specific relief has been sought against it. It is further submitted that the Corporation had sought information regarding the approximate cost of the machinery and availability of budget from the Superintendent by letter dated 17.04.2018, and thereafter the tender process was undertaken by uploading the tender documents in the Public Domain on 17.04.2018 itself. The said tender having received only a single bid was cancelled and a fresh tender was floated on 18.06.2018, which culminated in issuance of purchase order in favour of the L-1 bidder, namely Lab India Private Limited. Learned counsel further submits that subsequent correspondence was made with the Superintendent for availability of budget for opening of the letter of credit (LC) and that payments were made in accordance with the information furnished by the concerned authorities. It is thus contended that the respondent has acted only in discharge of its official functions and that no specific allegation or relief is directed against it in the present petition. Therefore, the writ petition, so far as it concerns Respondent No. 5, deserves to be dismissed.
7. I have heard learned counsel for the parties at length and have carefully perused the pleadings as well as the documents available on record.

8. Before adverting to the rival submissions, it would be appropriate to briefly examine the nature of the inquiry and the findings recorded therein. The record reflects that the State Government, upon noticing certain alleged irregularities in the procurement and installation of PET-CT Scan and Gamma Camera machines involving expenditure of approximately ₹18.45 crores from the State exchequer, constituted a six-member committee headed by an Officer of Secretary rank to conduct a detailed fact-finding inquiry.
9. The inquiry committee, after calling for records from the concerned authorities and seeking information and explanations from the officers involved, including the present petitioner, examined the entire material and submitted its report dated 20.07.2021. A perusal of the said report indicates that the committee has recorded prima facie findings with regard to procedural irregularities in the procurement process.
10. The findings, inter alia, point towards absence of prior administrative approval for procurement of PET-CT equipment, lack of specific financial sanction for the said purchase, and the manner in which the procurement process was undertaken through tendering despite such deficiencies. The report further notes that the process was initiated on the basis of a proposal received from a private entity and thereafter carried forward through official correspondence, culminating in procurement through the concerned agency.
11. The challenge in the present writ petition is essentially directed against the inquiry report dated 20.07.2021 and the consequential

communication dated 30.08.2021 whereby recommendation has been made for registration of an FIR against the erring officials.

12. Upon a careful consideration of the material available on record, particularly the inquiry report dated 20.07.2021 (Annexure-P/2) and the sequence of events reflected from the correspondence exchanged between the parties, this Court finds that the petitioner was not merely a passive functionary but was actively involved at crucial stages of the procurement process. The petitioner, despite initially opining for procurement under the PPP mode, proceeded to furnish detailed technical specifications, estimated costs, and financial inputs which ultimately facilitated the conventional tendering process. The estimated valuation furnished by the petitioner, coupled with the indication of availability of funds under CGMSC, formed the basis for further financial and administrative decisions. Such conduct, prima facie, reflects inconsistency in the approach adopted by the petitioner and indicates his active participation in the decision-making chain without ensuring adherence to the prescribed procedural safeguards.
13. Further, the inquiry report reveals that the procurement process suffered from serious procedural lapses, including issues relating to financial sanction, tender conditions, and payment modalities. The petitioner, being posted on a responsible position, was expected to exercise due diligence and ensure compliance with the applicable rules. However, his role in providing inputs regarding specifications, estimated costs, and subsequent opinions on payment terms, without ensuring procedural

propriety, prima facie contributed to the irregularities noticed in the procurement.

14. At this juncture, it is necessary to note that the scope of interference under Article 226/227 of the Constitution of India is limited, particularly in matters where the issue relates to initiation of investigation based on a preliminary inquiry. This Court is not sitting in appeal over the findings recorded in the inquiry report, nor is it required to conduct a roving enquiry into the disputed factual aspects of the matter.
15. The contention of the petitioner that he had no role in the decision-making process and that his involvement was confined only to furnishing opinion or technical specifications, is essentially a defence on merits. Whether such a defence is sustainable or not can only be determined upon a detailed examination of evidence during the course of investigation or in appropriate proceedings, and not at this stage in writ jurisdiction.
16. The principal plank of the petitioner's challenge is that the inquiry report stands vitiated on account of violation of principles of natural justice, inasmuch as no opportunity of hearing was afforded to him. However, this contention does not impress this Court for more than one reason.
17. Firstly, the material brought on record by the respondents indicates that the committee had considered the entire material/communications issued by the Department to the petitioner seeking information and clarifications as also the response submitted by the petitioner. Thus, it

cannot be said that the petitioner was completely excluded from the inquiry process.

18. Secondly, and more importantly, the nature of the committee was only that of a fact-finding body, constituted to assist the Government in arriving at a prima facie satisfaction as to whether further action is required. The committee was not exercising any adjudicatory or quasi-judicial function so as to determine rights or liabilities of the petitioner.
19. It is well settled that in the case of a preliminary or fact-finding inquiry, strict adherence to the principles of natural justice is not required. The requirement of affording a detailed opportunity of hearing arises at a stage where the authority proposes to take a final decision affecting the civil rights of a person or to impose any penalty.
20. In the present case, the inquiry report dated 20.07.2021 is merely recommendatory in nature and does not, by itself, impose any civil or penal consequence upon the petitioner. The only consequence flowing from the said report is the issuance of communication dated 30.08.2021 directing registration of an FIR against the then responsible officials so as to enable investigation into the matter. The direction of FIR is not only against the petitioner.
21. The challenge to the said communication recommending registration of FIR also does not merit acceptance. It is trite law that the power to investigate into cognizable offences lies within the exclusive domain of the investigating agency and the Courts should be slow in interfering with such power at the threshold.

22. The argument advanced on behalf of the petitioner that he was entitled to a pre-decisional hearing before issuance of direction for registration of FIR is misconceived. A prospective accused has no vested right to be heard prior to initiation of criminal proceedings. Accepting such a proposition would seriously impair the efficacy of the criminal justice system.
23. In this context, the law laid down by the Supreme Court in ***Criminal Appeal No. 330 of 2021 (M/s Neeharika Infrastructure Pvt. Ltd. Vs. The State of Maharashtra & others)*** clearly holds that Courts should not stall investigation at the initial stage and should permit the investigating agency to proceed, unless the case falls within exceptional categories warranting interference.
24. The Supreme Court in the matter of ***State Bank of India (Supra)*** has held at paragraph 37 & 38 as under:-

“37.At the outset, we clarify that principles of natural justice are not applicable at the stage of reporting a criminal offence, which is a consistent position of law adopted by this Court.

38. In ***Union of India v. W.N. Chadha***, a two-Judge Bench of this Court held that that providing an opportunity of hearing to the accused in every criminal case before taking any action against them would "frustrate the proceedings, obstruct the taking of prompt action as law demands, defeat the ends of justice and make the provisions of law relating to the investigation lifeless, absurd, and self-defeating" Again, a two-Judge Bench of this Court in ***Anju Chaudhary v. State of U.P.*** has reiterated that the Code of Criminal Procedure, 1973 does not provide for right of hearing before the registration of an FIR.”

25. Further, this Court in *Dhananjay Kumar (Supra)* has observed that it is an absolutely settled legal position that a prospective accused has no right of hearing before registration of FIR and investigation by the police officer or before the Court including the writ Court, therefore, in a writ petition seeking direction for registration of FIR and investigation into a cognizable offence, the prospective accused is neither necessary nor a proper party.
26. In view of the law laid down by the Supreme Court in the matter of *State Bank of India (Supra)* and this Court in *Dhananjay Kumar (Supra)*, a prospective accused has no vested right to be heard prior to initiation of criminal proceeding as the Cr.P.C (BNS) does not provide for right of hearing to the prospective accused before the registration of an FIR.
27. In the considered opinion of this Court, the present case does not fall within any such exceptional category. The inquiry report, which forms the basis of the impugned communication, discloses prima facie irregularities in the procurement process involving substantial public funds, thereby justifying further investigation. Whether the petitioner is ultimately found to be responsible for the alleged irregularities or not is a matter which can only be determined upon a thorough investigation and, if required, during trial. At this stage, any interference by this Court would amount to prematurely stifling the investigation. Insofar as the prayer for quashing of the inquiry report is concerned, since the report is only preliminary and recommendatory in nature, no interference is warranted in exercise of writ jurisdiction.

28. In view of the aforesaid facts and circumstances of the case, this Court does not find any merit in the writ petition. The petitioner has failed to make out a case for interference either with the inquiry report dated 20.07.2021 or the communication dated 30.08.2021.
29. Accordingly, the writ petition being devoid of merit is hereby **dismissed**.
30. Consequently, the interim order granted earlier shall stand vacated.

Sd/-

(Bibhu Datta Guru)
JUDGE

Rahul

HEAD NOTE

A prospective accused has no vested right to be heard prior to initiation of criminal proceeding as the Cr.P.C (BNS) does not provide for right of hearing to the prospective accused before the registration of an FIR.