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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgement reserved on: 21.11.2025***
Judgement delivered on:19.12.2025

\+ W.P.(C) 17495/2025, CM APPL. 72229/2025 (Stay) & CM APPL. 72230/2025 (seeking permission to file confidential documents in a sealed cover)

MAHUA MOITRA .....Petitioner

Through: Mr. Nidhesh Gupta, Senior Advocate with Mr. Samudra Sarangi, Ms. Saloni Jain, Ms. Panya Gupta, Ms. Navya Nanda, Ms. Panchi Agarwal, Mr. Jimut Baran Mahapatra, Mr. Gur Simar Preet Singh, Mr.Bikram Dwivedi and Ms. Virti Gujral, Advocates

versus

LOKPAL OF INDIA THROUGH CHAIRPERSON AND ORS .....Respondents

Through: Mr. S. V. Raju, Additional Solicitor General with Mr. Ripudaman Bhardwaj, SPP, Mr.Kushagra Kumar, Mr. Amit Kumar Rana, Advocates and ASP/IO Mr. Alok Singh for R-2/CBI

Mr. Jeevesh Nagrath, Senior Advocate with Mr. Rishi Kumar Awasthi, Mr. Amit V. Awasthi, Mr. Piyush Vatsa, Ms. Ritu Arora, Mr. Avinash Ankit, Mr. Rahul Kumar Gupta, and Mr. Prabhakar Thakur, Advocates for R-3

Mr. Ravi Prakash, Senior Advocate with Ms. Astu Khandelwal, Taha Yasin, Mr.

Yasharth Shukla, Mr. Ali Khan and Ms. Srutee Priyadarshini, Advocates for R-3

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G E M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. This Writ Petition filed under Articles 226 and 227 of the **Constitution of India** [1] challenges the **Sanction Order dated 12.11.2025** [2], passed in Complaint No. 201/2023 by the learned **Lokpal of India**[3], whereby sanction was granted for filing a charge-sheet before the competent court under Section 20(7)(a) read with Section 23(1) of the **Lokpal and Lokayukta Act, 2013**[4] against the Petitioner/**Respondent Public Servant**[5]. The Petitioner further seeks a writ of *Mandamus* restraining Respondent No. 2, the **Central Bureau of Investigation**[6], from taking any further steps pursuant to the said Sanction Order.

2. With the consent of the parties, the matter was taken up for final hearing, and by way of this judgment, the Court now proceeds to adjudicate the petition finally.

BRIEF FACTS:

3. This Petition arises from proceedings initiated before the learned Lokpal pursuant to a complaint filed by a Member of

[1] Constitution
[2] Impugned Order
[3] Lokpal
[4] Act
[5] RPS
[6] CBI

Parliament, alleging misconduct and acts of corruption on the part of the Petitioner, who is also a sitting Member of Parliament.

4. The complaint relied on a letter dated 14.10.2023 received by the Complainant from Shri Jai Anant Dehadrai, Advocate, setting out the following allegations:

(i) That the RPS allegedly shared her Lok Sabha "Member Portal" login credentials with one **Shri Darshan Hiranandani**[7], a businessman based in Dubai, enabling him to access the portal and post Parliamentary Questions in her name;

(ii) That the RPS allegedly received Rs. 2 crores in Indian and foreign currency from DHN in lieu of asking Parliamentary Questions furthering his business interests, and had also allegedly received Rs. 75 lakhs, prior to the 2019 Lok Sabha elections;

(iii) That of the 61 questions asked by the RPS, approximately 50 allegedly pertained to the business interests of DHN;

(iv) That the RPS allegedly demanded and accepted various gifts, luxury items, travel expenses, holidays, and logistical assistance for domestic and foreign travel from DHN; and

(v) That the RPS sought and received assistance from DHN in the renovation of her officially allotted bungalow at New Delhi, including architectural drawings prepared by the in-house team of his company, allegedly in violation of **CPWD**[8] norms.

5. The complaint was considered by the Full Bench of the Lokpal on 08.11.2023, which referred the matter to the CBI for a Preliminary

[7] DHN
[8] Central Public Works Department

Inquiry under Section 20(1)(a) read with Section 20(2) of the Lokpal Act. The CBI was directed to submit its report by 22.12.2023.

6. On 22.12.2023, the CBI sought an extension of three months. The learned Lokpal granted an extension only until 15.02.2024.

7. The CBI submitted its **Preliminary Inquiry Report**[9] dated 15.02.2024, following which the learned Lokpal issued notice to the RPS under Section 20(3) to determine whether a *prima facie* case existed for directing investigation.

8. The RPS filed detailed objections contending that the complaint was politically motivated, that sharing credentials for clerical purposes was neither prohibited nor unusual, that she had personally finalised the Parliamentary Questions, that gifts exchanged were between friends, that the allegations of *quid pro quo* lacked any evidentiary basis, and that the Lokpal lacked jurisdiction in view of Section 14(2) of the Act. The RPS also submitted that the Committee on Ethics, Lok Sabha, had already taken disciplinary action and therefore further proceedings were unwarranted.

9. The Competent Authority submitted its comments, relying on the findings of the Committee on Ethics, and recommended institutional investigation concerning allegations of national security, *quid pro quo*, and financial impropriety.

10. After considering the PI Report, replies, comments of the competent authority, and the material placed on record, the learned Lokpal *vide* Order 19.03.2024, ordered further investigation by the CBI under Section 20(3)(a) of the Lokpal Act.

[9] PI Report.

11. The CBI thereafter conducted an investigation in terms of Section 20(5) and, on 30.06.2025, submitted a detailed Investigation Report to the learned Lokpal under Section 20(6). The matter was subsequently placed before the learned Lokpal in accordance with Section 20(7) of the Lokpal Act, seeking sanction and permission to file the charge-sheet before the court of competent jurisdiction.

12. In the meantime, on 12.08.2025, the RPS filed three applications before the learned Lokpal, *viz*, (i) an application seeking permission to address oral arguments; (ii) an application seeking extension of time to file a reply; and (iii) an application seeking production of all materials, documents, statements, assessments, reports, and any other records collected, prepared, or relied upon by the CBI during the investigation.

13. On 19.08.2025, the learned Lokpal allowed the applications seeking permission to address oral arguments and for extension of time to file the reply.

14. The learned Lokpal called upon the Complainant to furnish his submissions and documents.

15. Upon evaluating the Investigation Report and hearing the parties, the learned Lokpal, before considering the question of sanction, examined the statutory scheme governing the nature and scope of a report submitted under Section 20(6) of the Lokpal Act. The learned Lokpal noted the distinction between a report under Section 20(6) and a charge-sheet under Section 173 of the **Code of Criminal Procedure, 1973**[10], as well as the limited scope of sanction contemplated under Section 20(7)(a). The learned Lokpal further

[10] CrPC

observed that the procedure for granting sanction to initiate prosecution under Section 20(8) is distinct and comparable to the requirements under Section 19 of the **Prevention of Corruption Act, 1988**[11], and Section 197 of the CrPC.

16. Further, the learned Lokpal recorded *prima facie* material indicating that the RPS had shared her confidential portal credentials with DHN without authorization; that DHN accessed the Lok Sabha Portal using those credentials and posted Parliamentary Questions linked to his business interests; and that the RPS had allegedly received favours, including costly gifts, international air tickets, and renovation work carried out without payment. The learned Lokpal also clarified that these observations were confined exclusively to the limited purpose of determining whether sanction under Section 20(7)(a) for filing a charge-sheet ought to be granted.

17. Accordingly, by the Impugned Order, the learned Lokpal exercised powers under Section 20(7)(a) read with Section 23(1) of the Lokpal Act and accorded sanction to the CBI to file a charge-sheet before the court of competent jurisdiction within four weeks, for offences under Section 120-B of the Indian Penal Code, 1860, read with Sections 7, 8, and 12 of the PC Act. Simultaneously, the learned Lokpal deferred consideration of sanction to initiate prosecution under Section 20(8) of the Lokpal Act until after the filing of the charge-sheet and the forwarding of its copy to the Lokpal.

18. Aggrieved by the Impugned Order, which the Petitioner/RPS asserts is vitiated by jurisdictional errors, non-consideration of relevant material, and findings rendered beyond the permissible scope

[11] PC Act

of Section 20(7)(a) of the Lokpal Act, resulting in serious civil and criminal consequences, the Petitioner has preferred the present Writ Petition seeking appropriate reliefs.

CONTENTIONS OF THE PETITIONER/RPS:

19. Mr. Nidhesh Gupta, learned Senior Counsel for the Petitioner, would contend that Section 20(7)(a) of the Lokpal Act mandates that, before according sanction for prosecution, the learned Lokpal is required to consider all material available on record, including the Investigation Report submitted under Section 20(6), the comments of the competent authority, the response and documents placed by the public servant, and any other relevant material forming part of the proceedings.

20. He would further submit that, in accordance with the statutory requirement, the Petitioner placed before the learned Lokpal comprehensive written submissions, documents, judicial precedents, and other supporting material addressing each of the allegations. These submissions, *inter alia*, explained the circumstances relating to the alleged use of Parliamentary login credentials, clarified the nature of the Petitioner's relationship with the persons named by the Complainant, set out the background and context of the exchange of gifts, categorically denied any monetary transactions, and highlighted the fact that the Committee on Ethics, Lok Sabha, had already examined the matter and taken institutional action. It would, however, be contended that the Impugned Order reflects no consideration of these submissions and appears to have completely ignored the material furnished by the Petitioner.

21. Learned Senior Counsel for the Petitioner would also contend that the Impugned Order proceeds on an erroneous understanding of the statutory scheme by treating the sanction as one traceable to Section 20(8), whereas the power to grant sanction for prosecution flows from Section 20(7) read with Section 23(1). He would submit that the distinction between these two provisions is fundamental to the manner in which the Lokpal is required to assess the record, and that this error is not merely technical but permeates the reasoning contained in the Impugned Order, thereby vitiating the exercise of jurisdiction.

22. He would further contend that the grant of sanction to file a charge-sheet is not a mechanical exercise or a matter of routine approval, and rather, it requires the Lokpal to demonstrate application of mind to all material placed before it, including the submissions of the RPS; and the failure of the learned Lokpal to deal with these aspects renders the decision unsustainable.

23. Learned Senior Counsel would additionally submit that Section 20(7)(a) contemplates three distinct courses of action available to the Lokpal upon receipt of a report under Section 20(6), *first*, grant of sanction to file a charge-sheet; *second*, closure of the report before the learned Special Court if no case is made out; and *third*, issuance of directions to the competent authority for initiation of disciplinary or other appropriate action. He would contend that the statute, therefore, obliges the Lokpal to apply its mind to these available possibilities in light of the material before it.

24. He would further contend that the Impugned Order is vitiated by error, inasmuch as Section 20(7)(a) expressly provides for closure of the report, and the material, comments, and documents placed by

the Petitioner ought to have been duly considered and reflected in the reasoning, and the complete absence of such consideration vitiates the Sanction Order and renders it illegal.

25. He would further contend that, in the facts of the present case, the findings recorded during the Investigation were limited and inconclusive; in particular, the CBI expressly concluded that the allegations relating to cash payments were not substantiated and observed that certain aspects might warrant further investigation. It would then be submitted that despite this, the learned Lokpal, by directing the filing of the charge-sheet, failed to duly consider the material on record as well as the statutorily available courses of action under Section 20(7)(a), including, *inter alia*, the option of directing closure of the report, and therefore, the Impugned Sanction Order suffers from non-application of mind and contravention of the statutory mandate, and is therefore vitiated and unsustainable in law.

CONTENTIONS OF THE RESPONDENTS:

26. ***Per contra***, Mr. S.V. Raju, learned Additional Solicitor General of India, appearing for Respondent No.2-CBI, would contend that the right afforded to a public servant under Section 20(7) of the Lokpal Act is limited in scope and extends only to furnishing comments on the report submitted under Section 20(6).

27. He would further submit that the learned Lokpal, while not statutorily bound to do so, nonetheless extended considerable indulgence by permitting the Petitioner not only to file extensive written submissions and supporting documents but also to avail of a personal hearing, and that such indulgence cannot be elevated to any higher procedural entitlement.

28. Learned ASG would further contend that Section 25 of the Lokpal Act confers broad supervisory jurisdiction upon the learned Lokpal over investigations arising from complaints, and that the Impugned Sanction Order constitutes a valid exercise of such supervisory power. He would then submit that under the general criminal law framework, particularly Sections 197 and 198 of the CrPC, sanction is required only prior to the Court taking cognizance of the offence, and that no provision mandates the grant of sanction prior to the filing of a charge-sheet. He would, therefore, contend that the Lokpal Act cannot be interpreted to require a departure from this well-established sequence unless expressly provided.

29. Learned ASG would also submit that Section 23(1) of the Lokpal Act cannot be read in isolation and must be construed in conjunction with Section 23(2), which refers to the initiation of prosecution, a concept further reflected in Section 20(8). He would then argue that these provisions, read harmoniously, indicate that the filing of a charge-sheet pursuant to the learned Lokpal's direction is an administrative step and does not, by itself, amount to initiation of prosecution, which can commence only upon the learned Lokpal granting sanction under Section 20(8) of the Lokpal Act.

30. He would therefore contend that Sections 20(7), 20(8), 23(1) and 23(2) form part of a cohesive statutory scheme, under which the filing of a charge-sheet precedes the stage of seeking sanction for prosecution, and no illegality can be attributed to the Impugned Sanction Order when viewed in that holistic manner.

31. Mr. Jeevesh Nagrath, learned Senior Counsel appearing for Respondent No.3/Complainant, would adopt the submissions advanced by the learned ASG. He would further submit that Section

20(7) merely enables the Lokpal to obtain comments from the public servant and does not require any adjudicatory determination at that stage, the substantive decision-making arising only at the stage of sanction under Section 20(8) of the Lokpal Act.

ANALYSIS:

32. We have heard the learned counsel for the parties at length and, with their able assistance, carefully examined the entire record placed before us.

33. At the outset, it is necessary to reiterate that we are conscious of the limited scope of judicial review under Article 226 of the Constitution. The jurisdiction of the High Court under Article 226 is supervisory and is intended to ensure that statutory and quasi-judicial authorities act within the confines of their powers, follow the Principles of Natural Justice, and adhere to lawful and reasonable procedures. It is not an appellate jurisdiction enabling the Court to reassess evidence, re-evaluate factual findings, or substitute its own view merely because another view may be possible.

34. While exercising writ jurisdiction, the Court does not sit as an appellate authority over expert or specialized bodies. Its role is confined to examining whether the decision-making process is fair, rational, and legally sustainable. Interference is warranted only where the authority has acted without jurisdiction, committed a serious procedural irregularity, violated natural justice, or reached a conclusion that is manifestly arbitrary, perverse, or unsupported by the record.

35. Recently, the Hon'ble Supreme Court, in ***Ajay Singh v. Khacheru*** [12], reiterated the well-settled contours of Article 226 jurisdiction, emphasizing judicial restraint in interfering with factual findings of competent authorities. The Court once again clarified that reappreciation of evidence is impermissible unless the decision is perverse, illegal, or rendered without jurisdiction. The relevant portion reads as follows:

> "**16.** It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.
> **17.** On the said settled proposition of law, we must make reference to the judgment of this Court in ***Chandavarkar Sita Ratna Rao* v. *Ashalata S. Guram*** **[*Chandavarkar Sita Ratna Rao* v. *Ashalata S. Guram*, (1986) 4 SCC 447]**. The relevant portion thereof reads as under: (SCC p. 458, para 16)
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> > "*16. … It is well settled that the High Court can set aside or ignore the findings of fact of an appropriate court if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion which the courts below have come or in other words a finding which was perverse in law. This principle is well settled. In D.N. Banerji* v. *P.R. Mukherjee* [*D.N. Banerji* v. *P.R. Mukherjee*, (1952) 2 SCC 619] *it was laid down by this Court that unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Articles 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the court has not misdirected itself either on law or on fact, then in exercise of the power under Article 226 or Article 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities*."
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> **18.** The abovesaid proposition of law was reiterated in ***Shamshad Ahmad* v. *Tilak Raj Bajaj*** **[*Shamshad Ahmad* v. *Tilak Raj Bajaj*, (2008) 9 SCC 1]**, wherein it was observed that: (SCC pp. 10-11, para 38)
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> > "*38.* Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and

[12] (2025) 3 SCC 266

> tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law."

19. Observations similar in nature were made in ***Krishnanand* v. *State of U.P.* [*Krishnanand* v. *State of U.P.*, (2015) 1 SCC 553: (2015) 1 SCC (Civ) 584]**, wherein it was held that: (SCC p. 557, para 12)

> "*12.* The High Court has committed an error in reversing the findings of fact arrived at by the authorities below in coming to the conclusion that there was a partition. No doubt, the High Court did so in exercise of its jurisdiction under Article 226 of the Constitution. *It is a settled law that such a jurisdiction cannot be exercised for reappreciating the evidence and arrival of findings of facts unless the authority which passed the impugned order does not have jurisdiction to render the finding or has acted in excess of its jurisdiction or the finding is patently perverse*."
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> *(emphasis supplied)*

20. In our considered view, the High Court has committed an error of law and facts in setting aside the concurrent findings in both the impugned judgment and order **[*Khacheru* v. *State of U.P.*, 2013 SCC OnLine All 16168], [*Khacheru* v. *State of U.P.*, 2013 SCC OnLine All 16169].** There was no basis for the High Court to ignore the findings of the authorities and come to its own conclusion by appreciating the evidence on record. The same was outside the purview of Article 226 of the Constitution of India in the absence of any perversity or illegality afflicting the findings of the authorities."

(emphasis added)

36. Turning to the present case, we deem it appropriate now to extract the relevant paragraphs of the learned Lokpal's reasoning in the Impugned Order, which reads as under:

"**CONSIDERATION**

25. We have considered the Report presented to us by the CBI along with the relevant statements and documents referred to therein, including the comments of the RPS and the response of the complainant. After thoughtful consideration of the available materials and arguments, we deem it appropriate to state at the outset that this order is primarily to consider the request of the Investigating Agency, being CBI in terms of Section 20(7) of the Act of 2013 only, to grant sanction to file a charge sheet before the competent court against the named RPS and one other or otherwise.

26. Before we elaborate on this aspect, it would be apposite to advert to Sections 12, 20, 23, 25 and 56 of the Act of 2013, which read thus:

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27. On harmonious and purposive interpretation of these provisions, the legislative intent is to give a complete and overarching procedural powers to the Lokpal (Section 20 of the Act of 2013), to not only direct any agency to investigate the offences of corruption against specified public servants - falling within the ambit of Section 14 of the Act of 2013, but also to monitor/supervise the inquiry/investigation conducted by the Inquiry Agency/Investigating Agency nominated by it in relation to the offences punishable under Act of 1988 referred by it, by virtue of the enabling provision (Section 25 of the Act of 2013) bestowing such powers. As soon as the Report of investigation is prepared and presented by the Investigating Agency, the same is then taken up for consideration by the Bench of Lokpal consisting of not less than three Members. This Report, *stricto sensu*, is not a charge sheet or a police report as is ordinarily understood in terms of Section 173 of Code of Criminal Procedure 1973 to be filed in the court of competent jurisdiction upon completion of investigation. It is only upon grant of sanction under Section 20(7)(a) of the Act by the Lokpal; it is open to the nominated investigating agency to present a charge sheet [as noted in Section 12(2) and 12(3) read with Section 20(6) of the Act of 2013], before the court of competent jurisdiction.

28. Thus, the report submitted by the investigating agency for consideration of the Bench of Lokpal to accord sanction under Section 20(7)(a) read with Section 23(1) of the Act of 2013, is merely to facilitate the Bench of Lokpal to accord sanction for filing of a charge sheet. It is a prelude to preparation of a formal charge sheet to be presented in the court of competent jurisdiction post grant of sanction by Lokpal under Section 20(7)(a) of the Act of 2013.

29. At the time of filing of charge sheet before the Court of competent jurisdiction, consequent to sanction given by the Lokpal under Section 20(7)(a) of the Act of 2013, simultaneously, the investigating agency is duty bound to forward a copy thereof

(charge sheet) to the Lokpal [Section 20(6) of the Act of 2013], with a prayer to accord sanction to initiate prosecution against the named public servant [Section 20(8) read with Section 23(2) of the Act of 2013], as is required in respect of cases before the Lokpal which are governed by Chapter Ill read with Section 19 of the Act of 1988.

30. In other words, sanction under the two sub-sections is markedly distinct. In Section 20(7)(a), it is merely for allowing the nominated investigation agency to file a charge sheet or a police report ascribable to the stage of Section 173 of the Code of Criminal Procedure, 1973 (Code of 1973). Whereas, sanction under sub-section (8) of Section 20 is to allow the Prosecution Wing/Investigating Agency to initiate prosecution in the Court of competent jurisdiction against the named accused in reference to the charge sheet filed before the competent court, being a prerequisite for that Court to take cognizance of offences punishable under the Act of 1988 - which is analogous to and in place of sanction to be given under Section 19 of the Act of 1988, Section 197 of the Code of 1973 or section 6A of the Delhi Special Police Establishment Act, 1946 (DSPE Act, 1946) [Section 20(8) read with Section 23(2) and 56 of the Act of 2013].

31. It is possible that in a given case the Bench of Lokpal, including where the "draft charge sheet" with the accompanying documents and evidences forming part thereof to be presented to the court of competent jurisdiction as a charge sheet or police report upon completion of investigation, subject to sanction accorded by the Lokpal under Section 20(7)(a) of the Act of 2013, is already placed before the Lokpal along with the Report of investigation, Bench of Lokpal may accord both the sanctions [under section 20(7)(a) and Section 20(8)] by one composite order.

32. The above stated position is reinforced from sub-section (7) of Section 20, which predicates that the Report presented by the Investigating Agency must be considered by the Bench after obtaining the comments of the Competent Authority and the RPS concerned, for granting sanction under Section 20(7)(a) of the Act of 2013 to its own Prosecution Wing or to the Investigating Agency "to file a charge sheet before the court of competent jurisdiction, if it is of the view that it is not a case for closure of Report against the named RPS. It is only upon grant of such sanction under Section 20(7)(a) of the Act of 2013 by the Bench of Lokpal, the Investigating Agency gets authority to file charge sheet before the court of competent jurisdiction against the named RPS.

33. Even though the expression "sanction" has been used in clause (a) of sub-section (7) of Section 20 of the Act of 2013, it must be given its proper meaning - which is to accord sanction/approval to the Investigating Agency to file a charge sheet before the court of competent jurisdiction. Indeed, it is expected that the charge sheet so filed will be in consonance with the Report

submitted to the Lokpal for its consideration and commended to the Bench of Lokpal to accord sanction under Section 20(7)(a) of the Act of 2013. Nevertheless, that Report would not partake the character or status of a charge sheet or police report until a sanction is accorded by the Bench of Lokpal to file it in the court of competent jurisdiction against the named RPS [Section 20(7)(a) of the Act of 2013], as a charge sheet or police report ascribable to Section 173 of the Code of 1973 [deeming provision Section 12(3) read with non obstante clause in Section 20(6) of the Act 2013].

34. At this stage of sanction to file charge sheet [Section 20(7)(a) of the Act of 2013], it is open to the Lokpal to direct the Investigating Agency to look into other matters, which have either been overlooked by it (the 1O) or not properly dealt with in the Report submitted to it for grant of sanction to file charge sheet, by invoking Section 25 of the Act of 2013 bestowing supervisory powers in the Lokpal in that regard.

35. In other words, the Report of investigation is finally presented as a charge sheet only post sanction given by the Lokpal [as per Section 20(7)(a) of the Act of 2013]. It is possible that in a given case the charge sheet so filed by the nominated Investigation Agency may be in a different form; and contents may also vary from the Report presented by it at the stage of Section 20 (7)(a) of the Act of 2013: The efficacy of such variance would be a matter to be examined at the stage of issue of grant of sanction to initiate prosecution in the Court of competent jurisdiction against the named RPS, under Section 20(8) read with Section 23(2) of the Act of 2013.

36. Concededly, even in criminal action under the ordinary law (Section 197 of Code of 1973 or Section 19 of PC Act of 1988), sanction to initiate prosecution follows filing of a charge sheet or police report under Section 173 of the Code of 1973. On similar lines and to obviate the possibility of sanction to initiate prosecution against the named public servant in the case referred by Lokpal, being affected owing to any variations in the two reports, the Act of 2013 postulates that the issue of sanction under Section 20(8) of the Act of 2013 be taken up by the Bench on (read, 'after') the filing of the "charge sheet" referable to Section 173 of the Code of 1973 (which is also the norm as per the ordinary law). This is reinforced by a legal fiction (deeming provision) in Section 12(3); and/or Section 20(6) read with Section 56 of the Act of 2013, both containing non obstante clause.

37. In that sense, the parameters for grant of sanction/approval to file a charge sheet [Section 20(7)(a)]; and sanction to initiate prosecution in the Court of competent jurisdiction against the named RPS in terms of Section 20(8) [analogous to sanction under Section 197 of the Code of 1973 or Section 19 of the Act of 1988], may have to be understood in that perspective. Trite it is that the stage of taking cognizance of offences in question by the court of

competent jurisdiction, would arise only upon presentation of a charge sheet which is backed by sanction of Lokpal and followed by an order of Lokpal granting sanction under Section 20(8) of the Act of 2013 to initiate prosecution in the competent Court against the named RPS.

38. Be it noted, Section 23(2) restates the necessity of a grant of sanction by the Lokpal in terms of Section 20(8) of the Act of 2013, for the competent court to take cognizance of offence, which is subject matter of a complaint before the Lokpal. For this, we deem it apposite to also advert to Section 56 of the Act of 2013, making it amply clear that the provisions of the Act of 2013 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than the Act of 2013. This provision needs to be kept in mind in construing the amendment inserted in Section 19(1) of the Act of 1988 noting that it be given effect to save as otherwise provided in the Act of 2013. By the contemporaneous amendment of 2014 in Section 19 of the Act of 1988, it becomes amply clear that sanction of Lokpal-to initiate - prosecution in the court of competent jurisdiction against the named public servant, granted under Section 20(8), must prevail and insisted upon by the concerned court before taking cognizance of the offence arising from a complaint before the Lokpal. The above view is reinforced from sub-section (1) of Section 19 of the Act of 1988, as amended, which reads thus:

> "**19. Previous sanction necessary for prosecution.** - (1) No court shall take cognizance of an offence punishable under [sections 7, 11, 13 and 15] alleged to have been committed by a public servant, except with the previous sanction [2]**[save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)]-**
> ....."
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> (emphasis supplied)

Similar amendment has been made in the other two enactments mentioned in Section 23 of the Act of 2013.

39. Thus understood, at this stage [Section 20(7)(a)], we may merely consider the prayer of the CBI, to accord sanction to file charge sheet before the court of competent jurisdiction. Therefore, we need not burden ourselves with the cardinal principles to be adhered to by the sanctioning authority whilst granting sanction to initiate prosecution as required under Section 20(8) of the Act of 2013, which may have to be considered only after a formal charge sheet is prepared and presented by the CBI before the court of competent jurisdiction. Hence, we need not burden this order with the reported decisions relied upon by the RPS, which apply to the stage of grant of sanction to initiate prosecution in terms of Section 20(8) of the Act of 2013. Whether to accord sanction to initiate prosecution in respect of all or specified allegations in the complaint and subject matter of investigation can be decided after

looking into the final charge sheet or police report and its accompanying materials as would be filed before the competent court.

40. The material presented for consideration by the CBI in the Report under consideration along with the stated Report, in our opinion, is indicative of commission and omission of acts constituting offences punishable under the Act of 1988. In that, it is seen that the named RPS had shared her login credentials concerning Lok Sabha Member Portal with a private person without obtaining permission of the competent authority and more so, when sharing of login credentials was not permitted under the extant Rules. Also, there is material to show that a private person (DHN) accessed the Lok Sabha Members Portal of RPS to his advantage whilst using her login password and posted questions for and on behalf of RPS, as mentioned in his affidavit dated 20.10.2023 filed before the Parliamentary Committee on Ethics. it is seen that large number of questions were linked to the business interests of private person (DHN). In his (DHN) stated affidavit before the Committee on Ethics, it is inter alia asserted that RPS had made frequent demands and kept asking for various favours from him which he had to fulfil in order to remain in close proximity with her and get her support. There is also material to indicate that the RPS had taken favour from that private person (DHN) for arranging her expensive international business class flight tickets and accepted costly gifts, including Herms scarf and Bobbi Brown makeup kits from him. The RPS had also taken help and assistance for renovation of her bungalow without paying for the services and civil and repair works done thereat, valued between Rs. 12-15 lakhs, as per the market rates.

41. We are, therefore, in agreement with the observations of the Investigating Officer that sanction under Section 20(7)(a) read with Section 23(1) of the Act of 2013 be accorded for filing a charge sheet in the court of competent jurisdiction against the named RPS and DHN for commission of offences punishable under Section 120 IPC read with Section 7, 8 and 12 of PC Act, 1988 (amended in 2018). As aforementioned, the prayer for sanction to initiate prosecution against the named RPS, in terms of Section 20(8) read with Section 23(2) of the Act of 2013, need to be considered after the charge sheet is filed before the competent court and forwarded to us for consideration of issue of sanction to initiate prosecution against the named RPS. It is made clear that the observations made hitherto are only prima facie, for considering request to grant sanction under Section 20(7)(a) of the Act of 2013 and not final adjudication on merits of the allegations as such.

42. As regards the prayer of the named RPS that before granting sanction to initiate prosecution against the RPS the Bench should look into the relevant materials and documents, is premature. As aforesaid, we are presently dealing with the prayer

> of the Investigating Officer concerning the Report of CBI with request to grant sanction to allow the IO to file a charge sheet before the court of competent jurisdiction against the RPS, in terms of Section 20(7)(a) of the Act of 2013.
>
> **43.** Accordingly, in exercise of powers under Section 20(7)(a) read with Section 23(1) of the Act of 2013, we accord sanction to the Investigating Agency (CBI) to file charge sheet before the court of competent jurisdiction against the named RPS and other (DHN), within four weeks from today and submit copy of the same along with the documents filed therewith in the Registry of the Lokpal, for being considered further. To make it amply clear, we will be considering the second prayer about allowing the Investigating Agency to initiate prosecution against RPS for concerned offences in terms of Section 20(8) of the Act of 2013, only after the charge sheet is filed in the competent Court - so as to enable the court of competent jurisdiction to take cognizance of the offences allegedly committed by RPS, pursuant to the order passed by the Lokpal on the subject complaint in that regard."

37. After examining the entire proceedings conducted by the learned Lokpal and the passing of the Impugned Order, we find that this case reflects a clear departure from the procedure expressly mandated under the Lokpal Act. The manner in which the proceedings were conducted is neither contemplated by the statute nor required for the proper discharge of the Lokpal's functions. The procedure adopted appears to amount to a form of statutory ingenuity or re-engineering of the Lokpal Act, resulting in a process inconsistent with the scheme, object, and express provisions of the statute. Rather than adhering to the structured, sequential, and exhaustive framework laid down by the Legislature, the learned Lokpal has followed extraneous and impermissible procedures that find no support in the Lokpal Act.

38. The Lokpal Act establishes a complete, self-contained, and comprehensive statutory framework exclusively for inquiries and investigations into allegations of corruption against public servants. Its scheme ensures that the jurisdiction of the learned Lokpal is invoked only in matters involving alleged corrupt conduct. A conjoint reading

of the Statement of Objects and Reasons of the Lokpal Act and the principles embodied in the **United Nations Convention Against Corruption**[13], to which India is a party, makes the legislative intent abundantly clear. The UNCAC, particularly Article 36, obliges State Parties to establish autonomous bodies for investigating corruption, including bribery and abuse of authority.

39. In furtherance of these international commitments, and by virtue of Parliament's enabling power under Article 253 of the Constitution, the Lokpal Act was enacted to give domestic effect to the obligations under the UNCAC. The Lokpal Act is therefore a legislative measure aimed solely at addressing offences involving dishonest gain, corruption, and abuse of public office. It is designed to empower an independent and credible institution to combat serious acts of corruption, not to adjudicate matters involving mere procedural irregularities or administrative lapses.

40. The Lokpal Act provides for the establishment of the Lokpal at the Union level and Lokayuktas at the State level to inquire into allegations of corruption against public functionaries. The Statement of Objects and Reasons reflect that as early as 1966, the Administrative Reforms Commission, in its report on "Redressal of Citizens' Grievances", recommended the creation of a Lokpal at the Centre. The introduction to the Act confirms that it is an anti-corruption statute, established to inquire into allegations of corruption against public functionaries and for matters connected or incidental thereto. It creates a structured mechanism for receiving complaints,

[13] UNCAC

initiating inquiries, and prosecuting public functionaries in a time-bound manner.

41. The overarching purpose of the Lokpal Act is to ensure integrity and purity in public service. It provides a complete and self-contained mechanism for inquiring into allegations of corruption against public servants. The object of the Act explicitly states that it is enacted "*to provide for the establishment of a body of Lokpal for the Union and Lokayukta for States to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto*".

42. It is thus evident that the Lokpal Act is intended to address allegations of corruption, and for this purpose, an exhaustive statutory mechanism has been provided. This includes safeguards to ensure that inquiries into allegations of corruption are properly conducted, and that if *prima facie* substance is found, a thorough investigation is carried out under the supervision of the learned Lokpal. Upon completion of such investigation, the collected material and evidence are required to be submitted before the competent court for criminal prosecution and/or before the competent authority for initiating departmental proceedings.

43. The statutory architecture embodied in Chapter VII of the Lokpal Act, titled "*Procedure in Respect of Preliminary Inquiry and Investigation*", delineates a calibrated, sequential, and mandatory procedure governing the receipt, scrutiny, and progression of complaints brought before the learned Lokpal. Section 20 of the Lokpal Act sets out an exhaustive mechanism for handling complaints, conducting preliminary inquiries, carrying out investigations, and determining the appropriate course of action. Each

phase is statutorily structured and carries distinct legal significance. At this stage, it is necessary to reproduce Section 20 of the Lokpal Act, as its scope and application lie at the heart of the present controversy. The provision reads as follows:

> "**Section 20. Provisions relating to complaints and preliminary inquiry and investigation.** –
> **(1)** The Lokpal on receipt of a complaint, if it decides to proceed further, may order—
>
> (a) preliminary inquiry against any public servant by its Inquiry Wing or any agency (including the Delhi Special Police Establishment) to ascertain whether there exists a prima facie case for proceeding in the matter; or
>
> (b) investigation by any agency (including the Delhi Special Police Establishment) when there exists a prima facie case:
>
> Provided that the Lokpal shall if it has decided to proceed with the preliminary inquiry, by a general or special order, refer the complaints or a category of complaints or a complaint received by it in respect of public servants belonging to Group A or Group B or Group C or Group D to the Central Vigilance Commission constituted under sub-section (1) of section 3 of the Central Vigilance Commission Act, 2003 (45 of 2003):
>
> Provided further that the Central Vigilance Commission in respect of complaints referred to it under the first proviso, after making preliminary inquiry in respect of public servants belonging to Group A and Group B, shall submit its report to the Lokpal in accordance with the provisions contained in sub-sections (2) and (4) and in case of public servants belonging to Group C and Group D, the Commission shall proceed in accordance with the provisions of the Central Vigilance Commission Act, 2003 (45 of 2003):
>
> Provided also that before ordering an investigation under clause (b), the Lokpal shall call for the explanation of the public servant so as to determine whether there exists a *prima facie* case for investigation:
>
> Provided also that the seeking of explanation from the public servant before an investigation shall not interfere with the search and seizure, if any, required to be undertaken by any agency (including the Delhi Special Police Establishment) under this Act.
>
> **(2)** During the preliminary inquiry referred to in sub-section (1), the Inquiry Wing or any agency (including the Delhi Special Police Establishment) shall conduct a preliminary inquiry and on the basis of material, information and documents collected seek the comments on the allegations made in the complaint from the public servant and the competent authority and after obtaining the comments of the concerned public servant and the competent

authority, submit, within sixty days from the date of receipt of the reference, a report to the Lokpal.

(3) A bench consisting of not less than three Members of the Lokpal shall consider every report received under sub-section (2) from the Inquiry Wing or any agency (including the Delhi Special Police Establishment), and after giving an opportunity of being heard to the public servant, decide whether there exists a *prima facie* case, and proceed with one or more of the following actions, namely:—

(a) investigation by any agency or the Delhi Special Police Establishment, as the case may be;

(b) initiation of the departmental proceedings or any other appropriate action against the concerned public servants by the competent authority;

(c) closure of the proceedings against the public servant and to proceed against the complainant under section 46.

(4) Every preliminary inquiry referred to in sub-section (1) shall ordinarily be completed within a period of ninety days and for reasons to be recorded in writing, within a further period of ninety days from the date of receipt of the complaint.

(5) In case the Lokpal decides to proceed to investigate into the complaint, it shall direct any agency (including the Delhi Special Police Establishment) to carry out the investigation as expeditiously as possible and complete the investigation within a period of six months from the date of its order:

Provided that the Lokpal may extend the said period by a further period not exceeding of six months at a time for the reasons to be recorded in writing.

(6) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), any agency (including the Delhi Special Police Establishment) shall, in respect of cases referred to it by the Lokpal, submit the investigation report under that section to the court having jurisdiction and forward a copy thereof to the Lokpal.

(7) A bench consisting of not less than three Members of the Lokpal shall consider every report received by it under sub-section (6) from any agency (including the Delhi Special Police Establishment) and after obtaining the comments of the competent authority and the public servant may—

(a) grant sanction to its Prosecution Wing or investigating agency to file charge-sheet or direct the closure of report before the Special Court against the public servant;

(b) direct the competent authority to initiate the departmental proceedings or any other appropriate action against the concerned public servant.

(8) The Lokpal may, after taking a decision under sub-section (7) on the filing of the charge-sheet, direct its Prosecution Wing or any investigating agency (including the Delhi Special Police

> Establishment) to initiate prosecution in the Special Court in respect of the cases investigated by the agency.
> **(9)** The Lokpal may, during the preliminary inquiry or the investigation, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or, as the case may be, investigation as it deems fit.
> **(10)** The website of the Lokpal shall, from time to time and in such manner as may be specified by regulations, display to the public, the status of number of complaints pending before it or disposed of by it.
> **(11)** The Lokpal may retain the original records and evidences which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it or by the Special Court.
> **(12)** Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or investigation (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified by regulations."
>
> ***(emphasis supplied)***

44. In the present case, upon receipt of the complaint dated 21.10.2023, the learned Lokpal invoked Section 20(1)(a) of the Lokpal Act and directed the CBI to conduct a Preliminary Inquiry. The CBI completed the Preliminary Inquiry and submitted its report to the learned Lokpal, which was examined in accordance with Section 20(3) of the Lokpal Act.

45. After hearing the parties and scrutinizing the material placed on record, the learned Lokpal, by Order dated 19.03.2024, exercised powers under Section 20(3) and directed the CBI to undertake a full-fledged investigation. Pursuant thereto, the CBI conducted the investigation and submitted its investigation report under Section 20(6) of the Lokpal Act to the learned Lokpal on 30.06.2025.

46. However, at this stage, instead of adhering to the clear statutory mandate, the learned Lokpal deviated from the prescribed procedure and adopted a course of action that is not supported by the provisions or the scheme of the Lokpal Act. The Lokpal, being a creation of the

Act, and whose powers and functions are clearly delineated in the Statute itself, cannot seek to create a wholly new procedure which is not even contemplated under the Act.

47. The statutory framework under Section 20 is clear and unambiguous. Where an investigation is conducted pursuant to a direction of the learned Lokpal, Section 20(6) mandates that the investigating agency, notwithstanding the provisions of Section 173 of the CrPC [*now Section 193 of the* ***Bharatiya Nagarik Suraksha Sanhita, 2023***[14]], shall submit the investigation report to the court having jurisdiction and simultaneously forward a copy thereof to the Lokpal, instead of directly filing a charge-sheet before that court.

48. Once the investigation report is placed before the learned Lokpal, the Lokpal is required to proceed strictly in accordance with Section 20(7) of the Lokpal Act. At this stage, after obtaining the comments of the competent authority and the public servant concerned, the learned Lokpal may take the following courses of action:

(a) (i) grant sanction to its Prosecution Wing or the investigating agency to file a charge-sheet before the Special Court [*as defined under Section 2(1)(s) of the Lokpal Act*]; or (ii) direct the filing of a closure report before the said Special Court against the public servant;

(b) Direct the competent authority to initiate departmental proceedings or take any other appropriate action against the concerned public servant.

[14] BNSS

49. This stage is of critical importance and, therefore, the scope of consideration is consciously and deliberately circumscribed by the statute. The legislative scheme draws a clear distinction between the stage contemplated under Section 20(3) and that under Section 20(7) of the Lokpal Act. While Section 20(3) expressly mandates the grant of an oral hearing to the public servant, no such requirement exists at the stage of Section 20(7). At this latter stage, the learned Lokpal is vested only with a limited discretion to seek written comments from the competent authority as well as the concerned public servant. The statute does not confer any power or enablement upon the learned Lokpal to afford any oral hearing at this stage.

50. The limitation of the learned Lokpal's role at this stage to calling for written comments alone is both explicit and purposeful, for the following reasons:

(i) First, once a thorough investigation has been conducted by the investigating agency in strict accordance with the detailed procedures prescribed under the law incuding the CrPC, empowering the agency to collect evidence, summon records, record statements of witnesses including the accused, and carry out a complete inquiry, there is no justification for permitting the submission of additional documents or for granting oral hearings before the learned Lokpal at a later stage. The accused and all concerned parties already have full opportunity to present relevant material to the investigating agency during the investigation. Allowing further submissions or hearings at this stage would effectively amount to reopening or undermining the investigation process and could render it interminable. It is also relevant to note that the learned Lokpal, during the investigation

stage, is fully equipped under the statute, for example, under Sections 20(12), 22, 25, 26, and 28, to take all necessary steps to ensure an effective and comprehensive investigation.

(ii) Second, at this stage, the role of the learned Lokpal is confined to deciding whether to grant sanction for prosecution or to direct the filing of a closure report or initiating the departmental proceedings, strictly on the basis of the investigation report and the comments received. The learned Lokpal is not empowered to conduct a roving inquiry or a mini-trial.

51. Once an investigation is directed by the learned Lokpal, the investigating agency is duty-bound to carry out the investigation in strict conformity with law, including the provisions of the CrPC, which provide a complete and self-contained framework for the collection of evidence, oral as well as documentary. Upon completion of such investigation, there remains no scope for oral hearings or submission of further documents before the learned Lokpal by either the competent authority or the public servant. Any such exercise would amount to an unwarranted expansion of the scope of investigation and an impermissible encroachment into the adjudicatory domain of the learned Special Court.

52. The Lokpal Act empowers the learned Lokpal to ensure proper inquiry and to supervise investigation in matters relating to allegations of corruption against public servants. Once the investigation is completed, the learned Lokpal is required to examine the investigation report and, if satisfied, take a decision strictly in terms of Section 20(7) of the Lokpal Act. If sufficient material exists, the learned Lokpal may grant sanction for prosecution, whereupon the matter is

placed before the learned Special Court for taking cognizance and proceeding in accordance with law. If the material is insufficient, the Lokpal may direct the filing of a closure report. Also, the Lokpal may direct the initiation of departmental proceedings or other appropriate action by the competent authority. In all cases, the decision must be founded solely on the material collected during the investigation and not by conducting any form of adjudication or mini-trial.

53. The learned Lokpal is not vested with adjudicatory powers to determine guilt or to punish a public servant for alleged acts of corruption. At the stage of Section 20(7), the learned Lokpal's powers are limited to considering the investigation report and the written comments of the competent authority and the public servant. The decision taken at this stage cannot, by any stretch, be characterized as an adjudication on the merits of the allegations. The jurisdiction to conduct a criminal trial vests exclusively in the learned Special Court, while disciplinary or other service-related action lies within the domain of the competent authority.

54. In respect of criminal prosecution, Section 20(7) operates as a statutory bridge between the Lokpal Act and the procedural statute, *for instance*, the CrPC [*now BNSS*]. Upon completion of the investigation and grant of sanction by the learned Lokpal, the learned Special Court takes cognizance and proceeds further in accordance with the CrPC, including issuance of process, framing of charges, or discharge of the accused, as the case may be.

55. It is evident from the scheme of the Act that the Parliament, while enacting these provisions, was conscious of the need to carefully limit the powers of the learned Lokpal at this stage. Given that the Lokpal may comprise members who are sitting or former

Judges of the Hon'ble Supreme Court or High Courts, any deeper scrutiny or adjudication by the Lokpal at this stage, upon the investigation report, may cause prejudice to a fair trial before the learned Special Court, which alone is empowered to adjudicate the matter in accordance with the law.

56. At the stage contemplated under Section 20(7), Section 20(8) of the Lokpal Act also becomes relevant. This provision confers discretion upon the learned Lokpal, after deciding to proceed with the filing of a charge-sheet, to direct its Prosecution Wing or "*any*" investigating agency, and not necessarily which conducted the Investigation after the direction under Section 20(3) of the Lokpal Act, to initiate prosecution before the Special Court. The provision is clear and unambiguous and merely enables the Lokpal to determine which agency shall conduct and supervise the prosecution; it does not expand the Lokpal's role into the domain of adjudication.

57. It is also significant that Sections 20(6) and 20(7) consciously employ the expressions "investigation report" and "charge-sheet" distinctly. The report submitted under Section 20(6) is limited to seeking sanction and approval for further proceedings. Upon grant of sanction under Section 20(7)(a), the learned Lokpal may direct its Prosecution Wing or any investigating agency to file a formal charge-sheet or closure report in terms of Section 173(2) of the CrPC, after completing all procedural requirements necessary for the learned Special Court to take action and proceed further. In cases where the learned Lokpal directs its prosecution wing to proceed or carry out the prosecution before the learned Special Court, Section 12 of the Lokpal Act gets triggered.

58. The Lokpal Act empowers the Lokpal to constitute, *inter alia*, its own Inquiry Wing under Section 11 and a Prosecution Wing under Section 12 of the Act. For ready reference, Sections 11 and 12 of the Lokpal Act are reproduced hereinbelow:

> **"Section 11. Inquiry Wing.**
> **(1)** Notwithstanding anything contained in any law for the time being in force, the Lokpal shall constitute an Inquiry Wing headed by the Director of Inquiry for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988 (49 of 1988):
>
> Provided that till such time the Inquiry Wing is constituted by the Lokpal, the Central Government shall make available such number of officers and other staff from its Ministries or Departments, as may be required by the Lokpal, for conducting preliminary inquiries under this Act.
> **(2)** For the purposes of assisting the Lokpal in conducting a preliminary inquiry under this Act, the officers of the Inquiry Wing not below the rank of the Under Secretary to the Government of India, shall have the same powers as are conferred upon the Inquiry Wing of the Lokpal under section 27."
>
> ***(emphasis supplied)***

> "**Section 12. Prosecution Wing.**
> **(1)** The Lokpal shall, by notification, constitute a Prosecution Wing headed by the Director of Prosecution for the purpose of prosecution of public servants in relation to any complaint by the Lokpal under this Act:
>
> Provided that till such time the Prosecution Wing is constituted by the Lokpal, the Central Government shall make available such number of officers and other staff from its Ministries or Departments, as may be required by the Lokpal, for conducting prosecution under this Act.
> **(2)** The Director of Prosecution shall, after having been so directed by the Lokpal, file a case in accordance with the findings of investigation report, before the Special Court and take all necessary steps in respect of the prosecution of public servants in relation to any offence punishable under the Prevention of Corruption Act, 1988 (49 of 1988).
> **(3)** The case under sub-section (2), shall be deemed to be a report, filed on completion of investigation, referred to in section 173 of the Code of Criminal Procedure, 1973 (2 of 1974)."
>
> ***(emphasis supplied)***

59. It is pertinent to note that the learned Lokpal is not enabled to have its own Investigation Wing. For the purpose of investigation, the learned Lokpal is empowered to direct investigating agencies, such as the CBI, to conduct the investigation and submit an investigation report under Section 20(6) of the Lokpal Act. This position is evident from the reading of Sections 20(3)(a) and 20(1)(b) of the Act.

60. For the purpose of conducting a preliminary inquiry, a combined reading of Sections 20(1)(a) and 11 of the Lokpal Act makes it clear that the learned Lokpal has the discretion to direct such inquiry either through its own Inquiry Wing or through any agency, including the CBI. Similarly, Sections 20(7)(b) or Section 20(8) and 12 of the Lokpal Act empower the learned Lokpal to choose between its Prosecution Wing or any other investigating agency for the purpose of filing the charge-sheet and conducting the prosecution before the learned Special Court.

61. What is significant to note is that the said investigating agency delineated in Section 20(3) is a body that is unconnected to the Lokpal, since the Lokpal only has an "Inquiry wing" and a "Prosecution Wing". The investigation, therefore, in appropriate cases, is consigned to scrutiny by an independent external body as an additional safeguard and to obviate any taint in the event the inquiry has been conducted by the "Inquiry Wing" of the Lokpal.

62. It is further relevant to note that once the learned Lokpal decides that its Prosecution Wing shall file the charge sheet and conduct the prosecution before the learned Special Court, Sections 12(2) and 12(3) of the Lokpal Act empower its Prosecution Wing to file the charge sheet strictly "*in accordance with the findings of investigation report*". Needless to say, such a charge-sheet, when filed

by the Prosecution Wing, is statutorily deemed to be a charge-sheet under Section 173(2) of the CrPC.

63. We are of the considered view that the learned Lokpal has completely erred in treating Section 20(8) of the Lokpal Act as providing for a second round of sanction. The language of Section 20(8) is clear and unambiguous and does not, in any manner, confer discretion upon the learned Lokpal to grant another sanction once a sanction has already been accorded under Section 20(7)(a) of the Lokpal Act.

64. The employment of the word "may" in Section 20(8) is clearly relatable to the agency which may be directed to initiate the prosecution and which may be either the "Prosecution Wing" as defined in Section 12 or "any investigating agency". Section 20(8) and the use of the Word "may" therein is not relatable and cannot be extended to mean that after the decision under Section 20(7) has been taken for the filing of a charge-sheet, a further discretionary stage of evaluating whether the charge sheet has to be filed is presented to the Lokpal. This would effectively transform the power of the Lokpal from one of being a supervisor *qua* the inquiry and investigation into allegations of corpution to an adjudicatory agency which can decide on the merits or demerits of the investigation report, to proceed with initiating prosecution.

65. The difference is nuanced and this provision is sought to be interpreted by the Petitioner, and which to our mind is based on the learned Lokpal's understanding as to the alleged permissibility of the substantive splitting of the entire continuous process from the decision of the learned Lokpal under Section 20(7)(a) to the alleged power for a further sanction to "initiate prosecution" under Section 20(8). To our

mind, the legislative splitting of the process was necessitated by the presence of the power to direct the competent authority to initiate departmental proceeding under Section 20(7)(b) and is not to be construed as a substantive splitting of the process of initiating prosecution into two independent stages at which sanction may be accorded, first at the stage of 20(7)(a) and thereafter at the stage of 20(8).

66. Such an interpretation and proposing a second stage of sanction is purposeless. Once the sanction is granted under Section 20(7)(a), the learned Special Court is empowered to take cognizance, and the learned Lokpal cannot thereafter, arrest or derail the commencement of criminal prosecution. If the interpretation adopted by the learned Lokpal is accepted, the same would result in an anomalous situation, where, despite the grant of sanction under Section 20(7)(a), the Lokpal would retain discretion to halt the prosecution altogether. Such a construction would permit the Lokpal to arrogate to itself the power of adjudication which is endowed upon learned Special Court and appears to be wholly inconsistent with the statutory scheme, the principles of criminal jurisprudence, and the doctrine of separation of functions under the Lokpal Act.

67. The statutory scheme under the Lokpal Act is unequivocal. Similar to Section 197 of the CrPC and Section 19 of the PC Act, Section 20(7)(a) of the Lokpal Act constitutes the sole and final stage for the grant of sanction for prosecution. This position is further reinforced by a plain and harmonious reading of Section 23 of the Lokpal Act, which expressly delineates the power of the Lokpal to grant sanction. For ready reference, Section 23 is reproduced hereinbelow:

"**Section 23. Power of Lokpal to grant sanction for initiating prosecution. -**
(1) Notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) or section 6A of the Delhi Special Police Establishment Act, 1946 (25 of 1946) or section 19 of the Prevention of Corruption Act, 1988 (49 of 1988), the Lokpal shall have the power to grant sanction for prosecution under clause (a) of sub-section (7) of section 20.
(2) No prosecution under sub-section (1) shall be initiated against any public servant accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, and no court shall take cognizance of such offence except with the previous sanction of the Lokpal.
(3) Nothing contained in sub-sections (1) and (2) shall apply in respect of the persons holding office in pursuance of the provisions of the Constitution and in respect of which a procedure for removal of such person has been specified therein.
(4) The provisions contained in sub-sections (1), (2) and (3) shall be without prejudice to the generality of the provisions contained in article 311 and sub-clause (c) of clause (3) of article 320 of the Constitution."

(emphasis supplied)

68. There is no rationale, either textual or purposive, for construing the Lokpal Act as providing for multiple or successive stages of sanction. Under the CrPC and the PC Act, the sanctioning authority exercises its power only once. There is no legislative intent or statutory basis to suggest that, under the Lokpal Act, the learned Lokpal is required or empowered to grant sanction at a second or subsequent stage. Any such interpretation would run directly contrary to the express language of Section 23(1).

69. Section 23(1) is couched in clear and overriding terms. It expressly gives primacy to the learned Lokpal's power to grant sanction, notwithstanding anything contained in Section 197 of the CrPC, Section 6A of the Delhi Special Police Establishment Act, 1946, or Section 19 of the PC Act. The legislative object is evident, to eliminate any ambiguity or conflict as to which authority is competent

to grant sanction when an investigation is conducted by an agency pursuant to the learned Lokpal's directions. Since sanction under these statutes is a prerequisite for a court to take cognizance, the Parliament has consciously vested the learned Lokpal with exclusive authority to grant sanction under Section 20(7)(a) in cases governed by the Lokpal Act.

70. Thus, the learned Lokpal is empowered to grant sanction in substitution of the sanctioning authorities under the CrPC and the PC Act. No extra layer, stage, or scope of sanction for cognizance by the Court is contemplated in case of sanction under the Lokpal Act. The only distinction is that, in cases falling under the Lokpal Act, the Lokpal enjoys overriding authority to grant a sanction so as to avoid conflicting jurisdictions. This intent is further reflected in the corresponding amendments made to Section 197 of the CrPC and Section 19 of the PC Act, which were enacted simultaneously to remove any statutory anomaly.

71. Section 23(2) serves a clarificatory purpose. It reiterates that no prosecution shall be initiated against a public servant for acts alleged to have been committed in discharge of official duties, and no court shall take cognizance of such offence, except with the previous sanction of the Lokpal. This provision underscores the mandatory nature of the sanction prior to cognizance. Once a sanction is granted under Section 20(7)(a) read with Section 23, and the learned Special Court takes cognizance, the procedural regime of the CrPC governs the matter entirely.

72. In the present case, however, the learned Lokpal adopted a course of action wholly alien to the scheme of the Lokpal Act and not supported by any provision of the Act or by any rule or regulation

framed thereunder. After compliance with Section 20(6) of the Lokpal Act, the learned Lokpal exceeded its jurisdiction and departed from the prescribed statutory procedure. The jurisdictional error became apparent on 19.08.2025, when the learned Lokpal entertained two out of the three following applications filed by the Petitioner under Section 20 of the Lokpal Act:

(i) application seeking permission to advance oral submissions;

(ii) application seeking extension of time to file a reply; and

(iii) application seeking production of all materials, documents, statements, assessments, reports, and other records collected, prepared, or relied upon by the CBI during the investigation.

73. Significantly, there exists no enabling provision under Section 20, or elsewhere in the Lokpal Act, which permits a public servant to file such applications or empowers the Lokpal to grant the reliefs sought therein. As noted earlier, once the investigation report under Section 20(6) is received, the learned Lokpal is required to proceed strictly in accordance with Section 20(7) of the Lokpal Act and to take a decision, *inter alia*, on the question of grant of sanction, after obtaining the written comments of the competent authority and the public servant/the Petitioner herein.

74. At this stage, the learned Lokpal has no power to grant an oral hearing, nor to permit or call for additional materials, documents, statements, assessments, or reports etc., except to the limited extent expressly contemplated by the statute or by any rules framed thereunder. As repeatedly emphasized, Section 20(7)(a) empowers the learned Lokpal to, *inter alia*, either grant sanction for prosecution or to direct the filing of a closure report before the learned Special Court.

This power cannot be expanded to justify the conduct of a mini-trial or a detailed adjudication on the merits of the investigation report.

75. The statutory duty of the learned Lokpal at this stage is confined to evaluating the outcome of the investigation. If the investigation discloses sufficient material indicating the commission of a cognizable offence of corruption, the learned Lokpal is obliged to grant sanction and allow the learned Special Court to proceed in accordance with law. The written comments of the competent authority and the public servant are intended only to assist the Lokpal in arriving at a fair and prudent administrative decision regarding sanction, closure, or initiation of departmental proceedings, and not to reassess the merits of the investigation or to test the evidentiary value of the material collected. In the present case, however, the learned Lokpal disregarded these statutory limits and embarked upon an exercise of statutory interpretation that is misconceived, unnecessary, and contrary to the scheme of the Lokpal Act.

76. The interpretation adopted by the learned Lokpal, suggesting the existence of two stages of sanction, one under Section 20(7)(a) and another purportedly under Section 20(8) after the filing of the charge-sheet, is wholly erroneous. The Lokpal Act is a special statute enacted for a specific purpose and provides a complete and self-contained mechanism. Its design and structure leave no room for the concept of multiple or successive sanctions. No principle of statutory interpretation permits the introduction of a second layer of sanction where the statute expressly provides for only one. To accept such an interpretation would amount to rewriting and mutilating the legislative scheme of the Lokpal Act.

77. In the present case, the learned Lokpal has assumed, or has proposed to assume, the role of an adjudicatory authority and to conduct proceedings akin to a trial, an exercise that is wholly beyond the jurisdiction conferred upon it by the statute. The powers of the learned Lokpal are expressly limited to the conduct of inquiry, supervision of investigation, and the taking of consequential decisions strictly in accordance with the statutory framework.

78. For these purposes, the Lokpal is sufficiently and comprehensively empowered under the Act, including under Sections 25 to 34, which provide for effective supervision and facilitation of inquiry and investigation. However, none of these provisions authorize the learned Lokpal to enter into the adjudicatory domain, which is reserved exclusively for the learned Special Court in criminal proceedings, or, in the case of departmental action, for the competent authority.

79. In the Impugned Order, the learned Lokpal has misconstrued the scope and import of Sections 25 and 56 of the Lokpal Act, along with other related provisions, and has thereby ventured into the domain of legislation, which lies exclusively within the competence of the Parliament. These provisions are required to be implemented strictly in the manner expressly prescribed by the statute, and in no other manner.

80. The Lokpal Act, being a special statute, undoubtedly has an overriding effect over other enactments to the extent of inconsistency; it is precisely for this limited purpose that Section 56 has been enacted. However, the learned Lokpal erroneously treated Section 56 as permitting a source of additional substantive power, transcending the boundaries outlined by the Statement of Objects and Reasons and

the Statutory provisions which facilitate the carrying out its functions in line with the same and which expansion is wholly impermissible and contrary to the legislative intent underlying the Statute.

81. We are of the considered view, and reiterate, that the procedural safeguards embedded within the Lokpal Act occupy a central, substantive, and indispensable position in the statutory scheme. The Act is required to be implemented strictly and only in the manner expressly mandated by Parliament, and in no other manner whatsoever. Any deviation from the procedure prescribed by the statute would amount to a distortion of the legislative intent and an impermissible expansion of jurisdiction.

82. This principle is not only well settled in law but also stands unequivocally affirmed by binding judicial precedent, as well as by the very structure, scheme, and legislative design of the Lokpal Act itself. The said position has been expressly recognized by this Court in ***Mujahat Ali Khan v. Lokpal of India***[15]. The relevant extracts from the said judgment are reproduced hereinbelow for ready reference:

> "**37.** The statutory framework of Section 20 leaves no room for doubt that the requirement of affording an opportunity of hearing at the pre-investigation stage as well as at the post-investigation stage is mandatory. Section 20(3) explicitly provides that the learned Lokpal "shall", after giving an opportunity of being heard to the concerned public servant, decide whether a *prima facie* case exists and thereafter proceed to direct an investigation.
>
> **38.** The legislative intent in this regard is further evident from the structure of Section 20 itself. Even at the stage of Section 20(1), where the Lokpal decides to direct an investigation, as distinguished from ordering a preliminary inquiry under Section 20(1)(a), the third proviso thereof mandates that before such investigation is ordered, the Lokpal "shall" call for the explanation of the public servant so as to determine whether a *prima facie* case for investigation exists.
>
> ***

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40. It is a well-settled principle of law that when a statute prescribes that a particular act must be done in a particular manner, it must be done in that manner or not at all. This principle was first enunciated in ***Taylor v. Taylor***. The said principle was subsequently affirmed by the Privy Council in ***Nazir Ahmad v. Emperor***, and has since been consistently reiterated by the Hon'ble Supreme Court in numerous decisions, including ***Deewan Singh v. Rajendra Pd. Ardevi*** and ***M.P. Wakf Board v. Subhan Shah***, thereby making it a well-established doctrine in Indian legal jurisprudence. The Hon'ble Supreme Court, in ***Dhanajaya Reddy v. State of Karnataka***, observed on this doctrine in the following terms:

> "**26.** Relying upon ***Nazir Ahmad case*** **[AIR 1936 PC 253 (2)]** and applying the principles laid down in ***Taylor*** **v.** ***Taylor*** **[(1876) 1 Ch D 426]** this Court in ***Singhara Singh case*** **[AIR 1964 SC 358]** held: (AIR p. 361, para 8)
>
> > "*8.* The rule adopted in ***Taylor*** **v.** ***Taylor*** **[(1876) 1 Ch D 426]** is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him.""
>
> (*emphasis supplied*)

41. Further, a Constitution Bench of the Hon'ble Supreme Court in

Public Interest Foundation v. Union of India[16], reaffirmed this principle while referring to its earlier precedents. The Court observed as under:

> "**99.** In ***D.R. Venkatachalam* v. *Transport Commr.*, (1977) 2 SCC 273**, it was observed: (SCC p. 282, para 17)
>
> > "***17.*** In ultimate analysis, the rule of construction relied upon by Mr Chitale to make the last mentioned submission is: '*Expressio unius est exclusio alterius.*' This maxim, which has been described as 'a valuable servant but a dangerous master' (per Lopes, J., in Court of Appeal in ***Colquhoun* v. *Brooks*, (1888) LR 21 QBD 52 (CA)**) finds expression also in a rule, formulated **in *Taylor* v. *Taylor*, (1875) LR 1 Ch D 426**, (Ch D p. 430) applied by the Privy Council in ***Nazir Ahmad* v. *King Emperor*, 1936 SCC OnLine PC 41**, which has been repeatedly adopted by this Court. That rule says that an expressly laid down mode of doing something necessarily implies a prohibition of doing it in any other way."
>
> **100.** Similarly, in ***State* v. *Sanjeev Nanda*, (2012) 8 SCC 450**, this Court observed thus: (SCC p. 468, para 28)
>
> > "***28.*** It is a settled principle of law that if something is required to be done in a particular manner, then that has to be done only in that way or not, at all. In ***Nazir Ahmad* v. *King Emperor*, 1936 SCC OnLine PC 41**, it has been held as follows: (SCC OnLine PC)
> >
> > > "… The rule which applies is a different and not less well recognised rule—namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all."
>
> **101.** Another judgment where this principle has been reiterated is ***Rashmi Rekha Thatoi* v. *State of Orissa*, (2012) 5 SCC 690** wherein it was observed thus: (SCC p. 703, para 37)
>
> > "***37.*** In this regard it is to be borne in mind that a court of law has to act within the statutory command and not deviate from it. It is a well-settled proposition of law what cannot be done directly, cannot be done indirectly. While

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> exercising a statutory power a court is bound to act within the four corners thereof. The statutory exercise of power stands on a different footing than exercise of power of judicial review.""
>
> ***
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> **46.** The Lokpal, being a quasi-judicial authority vested with powers that carry penal and stigmatic consequences, is duty-bound to act in strict conformity with the procedure prescribed by law. It must ensure that its process remains fair, transparent, and consistent with the principles of natural justice. Failure to adhere to these safeguards, particularly when the outcome entails serious civil and criminal consequences, strikes at the very root of administrative fairness and justice."
>
> ***(emphasis added)***

83. In the present case, as is evident, the learned Lokpal clearly exceeded the limits of its statutory jurisdiction. As held hereinabove, at the stage contemplated under Sections 20(7) and 20(8) of the Lokpal Act, the public servant does not possess any statutory right to file additional documents, seek an oral hearing, or pray for directions beyond the submission of written comments in response to the investigation report.

84. Correspondingly, the roles of the learned Lokpal, the public servant, and the competent authority at this stage are narrowly and exhaustively circumscribed by the Lokpal Act. There was neither any necessity nor any legal permissibility for the learned Lokpal to consider any material beyond the investigation report and the written comments of the competent authority and the public servant. Consequently, no infirmity can be attributed to the grant of sanction on the ground that certain additional material, allegedly sought to be relied upon by the Petitioner, was not taken into consideration.

85. It is also of relevance that, at the very outset of the "*Consideration*" portion of the Impugned Order, the learned Lokpal

has expressly recorded, particularly in paragraph 25 thereof, that it had taken into account all relevant material placed before it, including the comments submitted by the RPS/ Petitioner herein. Upon such consideration, the learned Lokpal proceeded to accord sanction under Section 20(7)(a) of the Lokpal Act.

86. The allegation of non-consideration of material beyond the written comments is, therefore, legally untenable and misconceived. At the stage of Section 20(7), the filing or consideration of any material beyond the investigation report and the written comments is neither contemplated nor permitted under the Lokpal Act. The learned Lokpal is statutorily required to consider only such material as the Lokpal Act permits, and nothing further.

87. Any insistence on consideration of extraneous material would necessarily compel the learned Lokpal to act beyond its statutory mandate. Once a sanction is granted under Section 20(7)(a), the learned Lokpal becomes *functus officio* insofar as the merits of the case are concerned. The Act does not provide for deferment of sanction, reconsideration of material, or continuation of scrutiny by the Lokpal at a subsequent stage when the role of the learned Special Court has come into play. All issues relating to the appreciation of evidence, admissibility of material, and evaluation of rival contentions fall squarely within the exclusive adjudicatory domain of the learned Special Court.

CONCLUSION:

88. In view of the foregoing discussion and analysis, we are of the considered opinion that the learned Lokpal has erred in its

understanding and interpretation of the provisions of the Lokpal Act and resultantly, the Impugned Order dated 12.11.2025 is set aside.

89. The learned Lokpal is requested to accord its consideration for grant of sanction under Section 20 of the Lokpal Act, strictly in accordance with provisions thereof as construed hereinabove, within a period of one month from today.

90. The present Petition, along with pending application(s), if any, is disposed of in the above terms.

91. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 19, 2025/rk/sm/kr