



2026:DHC:9163-DB



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

*Reserved on: 7 July 2026
Pronounced on: 15 October 2026*

CNR No: DLHC011062962025

+ **W.P.(C) 19552/2025, CM APPLs. 81690/2025 & 29892/2026**

**COMPTROLLER AND AUDITOR GENERAL OF INDIA
THROUGH THE DEPUTY CAG HR & ORS Petitioners
Through: Dr. S. S. Hooda, Adv.**

versus

SANJIV KUMAR & ORS.

.....Respondents

Through: Mr. Sameer Shrivastava, Mr.
Harshit Goel, Ms, Deeksha Tripathi and Ms.
Harshita Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

% **15.10.2026**

C. HARI SHANKAR, J.

1. The Comptroller and Auditor General of India¹ seeks to challenge order dated 7 November 2025, whereby the Central Administrative Tribunal² has allowed PT/164/2025, preferred by the respondent under Section 25³ of the Administrative Tribunals Act,

¹ "CAGI" hereinafter

² "the Tribunal" hereinafter

³ 25. **Power of Chairman to transfer cases from one Bench to another.**

On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.



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1985⁴ read with Rule 6⁵ of the Central Administrative Tribunal (Procedure) Rules, 1987⁶ for transfer of the proceedings in relation to OA 53/2025, pending before the Ranchi Circuit Bench of the Tribunal, to the Principal Bench.

2. A bare reading of Section 25 of the AT Act, as well as of Rule 6 of the CAT (Procedure) Rules, makes it clear that the jurisdiction, vested in the Chairman of the Tribunal by the said provisions, is fundamentally discretionary in nature. This Court, in exercise of its writ jurisdiction, would ordinarily not interfere with such discretionary orders. The Court, while exercising jurisdiction in such cases, acts as a Court of *certiorari*. The parameters of *certiorari* jurisdiction are classically delineated in the following passages from *Syed Yakoob v. K.S. Radhakrishnan*⁷:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be*

⁴ "the AT Act" hereinafter

⁵ 6. **Place of filing application.—**

(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction—

(i) the applicant is posted for the time being, or
(ii) the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

⁶ "the CAT (Procedure) Rules" hereinafter

⁷ AIR 1964 SC 477



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issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide **Hari Vishnu Kamath v Syed Ahmad Ishaque**⁸, **Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam**⁹ and **Kaushalya Devi v Bachittar Singh**¹⁰).

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which

⁸ (1954) 2 SCC 881

⁹ AIR 1958 SC 398

¹⁰ AIR 1960 SC 1168



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are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

(Emphasis supplied)

3. Another relevant factor, in the present case, is the fact that the Principal Bench of the Tribunal unquestionably was possessed of the jurisdiction to entertain the OA filed by the respondent. Though Dr Hooda, arguing the writ petition, was at pains to point out that all the parties to the OA were located within the jurisdiction of the Ranchi Circuit Bench of the Tribunal, Rule 6 of the (Procedure) Rules, unlike Section 20¹¹ of the Code of Civil Procedure, 1908, does not envisage

¹¹ 20. **Other suits to be instituted where defendants reside or cause of, action arises** .- Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not



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the situs of the respondent as a factor on the basis of which territorial jurisdiction could be determined. An OA may be filed, under Rule 6, either where the applicant is located, or where the cause of action has arisen, in whole or in part.

4. The Hon'ble Chairman of the Tribunal has, while passing the impugned order dated 7 November 2025, observed that at least part of the cause of action, for instituting the OA, had arisen within the jurisdiction of the Principal Bench. Indeed, Dr. Hooda, too, did not seriously contest this legal position. The observation is clearly correct, as the prayer, in the OA, was to quash and set aside Circular No. 10/Staff Wing/2019 issued by the Headquarters of the CAGI, located at New Delhi.

5. The impugned order of the Hon'ble Chairman, therefore, merely permits the OA to be prosecuted and continued before the Principal Bench, which, even otherwise, was possessed of jurisdiction in the present matter. There was, clearly, no legal embargo on the respondent as the *dominus litis*, instituting the OA at the Principal Bench. The Supreme Court has, per the Constitution Bench in *Nasiruddin v. State Transport Appellate Tribunal*¹², observed as under:

“37. ... If the cause of action arises in part within the specified areas in Oudh it would be open to the litigant who is the *dominus litis* to have his *forum conveniens*. The litigant has the right to go to a court where part of his cause of action arises. In such cases, it

reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or
(c) the cause of action, wholly or in part, arises.

¹² (1975) 2 SCC 671

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is incorrect to say that the litigant chooses any particular court. The choice is by reason of the jurisdiction of the court being attracted by part of cause of action arising within the jurisdiction of the court. Similarly, if the cause of action can be said to have arisen partly within specified areas in Oudh and partly outside the specified Oudh areas, the litigant will have the choice to institute proceedings either at Allahabad or Lucknow.”

(Emphasis supplied)

6. Thus, as the *dominus litis*, it was clearly open to the respondent to file the OA either before the Ranchi Circuit Bench or before the Principal Bench of the Tribunal. In prosecuting the OA before either Bench, therefore, the respondent cannot be said to be choosing a particular forum of his liking, as clarified by the afore-extracted passage from *Nasiruddin*. He, as the *dominus litis*, is free to prosecute the OA before either Bench, and it would be incorrect to attribute any *mala fides* in his choosing to do so, before one Bench or the other.

7. We are, therefore, not inclined to interfere with the impugned order of the Hon’ble Chairman of the Tribunal, who is a respected retired Chief Justice of the High Court of Meghalaya and a former judge of the High Court of Bombay. It would be absurd, therefore, to read anything untoward into the impugned order dated 7 November 2025.

8. Dr. Hooda sought to submit that allowing the transfer of the OA at an advanced stage of the proceedings would amount to permitting bench hunting. We find the submission a trifle objectionable. An allegation of “bench hunting”, otherwise known as “forum shopping”, impliedly includes, within itself, a veiled allegation that one bench, or



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forum, is more “convenient” than the other. We find nothing, in the writ petition, to substantiate any such allegation. Nor does the writ petition attribute any *mala fides* to the respondent.

9. We, therefore, unequivocally reject the submission of “bench hunting”, advanced by Dr. Hooda.

10. The only one submission of Dr. Hooda, which concerns us, is the submission that pleadings were complete, and the OA was at the cusp of being decided, when it was transferred to the Principal Bench. There may be some substance in the submission that, if the OA has only to be finally heard, routine transfer of the OA to another bench could protract proceedings.

11. We find, however, from the admitted position emerging from pleadings including, *inter alia*, para 11 of the counter-affidavit filed by the respondent to the writ petition, that the papers have now been transferred to the Principal Bench. Even if the matter had earlier been heard, to some extent, before the Ranchi Circuit Bench, more than a year has elapsed since then, and sending the papers back to the Ranchi Circuit Bench would invariably result in further protracting of the proceedings, which, even as per the submissions of Dr. Hooda, is not advisable.

12. We may also note that the CAGI has not, in the writ petition, otherwise questioned or disputed the competence or capability of the Principal Bench to adjudicate on the *lis*.



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13. Cumulatively assessing all circumstances, therefore, we do not deem this to be an appropriate case in which we should interfere, at least at this stage.

14. We, however, request the Hon'ble Chairman to assign this matter to the concerned Bench, as per the roster maintained in the Tribunal as expeditiously as possible and, preferably, within a period of two weeks from uploading of the present judgment on the website of this Court. We also request the Bench, to which the matter will be assigned, to take up the matter expeditiously and render a final judgment thereon preferably within a period of three months.

15. This writ petition stands disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

OCTOBER 15, 2026/aky