



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

**Reserved on: 6<sup>th</sup> May, 2026**  
**Pronounced on: 01<sup>st</sup> July, 2026.**  
**Uploaded on: 01<sup>st</sup> July, 2026.**

+ W.P.(C) 15601/2024 & CM APPLs. 65495/2024, 65497/2024,  
5696/2025, 27449/2025

VIJAY BISHNOI

.....Petitioner

Through: Mr. Gautam Narayan, Senior  
Advocate with Mr. Sanjiv Kr. Saxena,  
Mr. Ramneek Mishra, Mr. Mukesh  
Kumar Tiwari and Ms. Asmita Singh,  
Advocates.

versus

COMPETITION COMMISSION OF INDIA & ORS. ....Respondents

Through: Mr. Vinay Kumar Garg, Senior  
Advocate with Mr. Ankur Chhibber,  
Mr. Shlok Chandra, Mr. Parikshit  
Singh Bhati, Mr. K.S. Rekhi and Ms.  
Lolita Crasta for CCI.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J.:**

1. The Petitioner, an officer of the Competition Commission of India<sup>1</sup>, challenges the memorandum of charge dated 3<sup>rd</sup> October, 2023 issued under Rule 14 of the CCS (CCA) Rules. The charge arises from allegations that he tampered with statements recorded during search and seizure proceedings conducted by the office of the Director General, CCI.

2. At this stage, the Court is not concerned with the correctness of the allegations or the merits of the disciplinary proceedings. The controversy is



confined to the validity of the charge memorandum and the manner in which it came to be issued.

3. It is not in dispute that CCI is the competent Disciplinary Authority in relation to the Petitioner. The record discloses that CCI approved initiation of major penalty proceedings against the Petitioner on 27<sup>th</sup> June, 2023, and thereafter approved a draft charge-sheet on 4<sup>th</sup> August, 2023. The matter was subsequently referred to the Central Vigilance Commission,<sup>2</sup> which rendered its first-stage advice on 25<sup>th</sup> September, 2023, following which the charge memorandum was issued on 3<sup>rd</sup> October, 2023.

4. The principal issue is therefore narrow but determinative: after receipt of CVC's first-stage advice, was the matter required to be placed before CCI again for fresh approval before the charge memorandum could issue? The answer determines the validity of the impugned disciplinary proceedings.

#### ***Factual background***

5. The Petitioner was working as Deputy Director (Law) in the Competition Commission of India. The disciplinary proceedings arise from allegations concerning tampering of statements recorded during search and seizure proceedings conducted by the office of the Director General, CCI, in Case No. 35/2020. In April, 2023, complaints and internal communications were received alleging that statements recorded during the said search and seizure had been tampered with. A preliminary enquiry was thereafter conducted. The Petitioner was placed under suspension by order dated 19<sup>th</sup> May, 2023.

6. The matter was placed before the Commission in its special meeting

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<sup>1</sup> "CCI"

<sup>2</sup> "CVC"



held on 27<sup>th</sup> June, 2023. The meeting was attended by the Chairperson and two Members. Agenda Item No. 6 concerned departmental proceedings in a case relating to tampering of statements recorded during search and seizure. The Commission decided that major penalty proceedings under Rule 14 of the CCS (CCA) Rules be initiated against the Petitioner. The Commission also directed that the draft charge-sheet in the matter be placed before it. It further directed that explanation be sought from certain other officers regarding their respective conduct in handling the case.

7. The draft charge-sheet was thereafter placed before the Commission in its special meeting held on 4<sup>th</sup> August, 2023. This meeting was also attended by the Chairperson and two Members. Agenda Item No. 1 concerned departmental proceedings against the Petitioner in the same matter. The minutes record the decision of the Commission in the following terms:

*“The Commission approved the draft charge sheet for instituting major penalty proceedings under Rule 14 of CCS (CCA) Rules, 1965 against Shri Vijay Bishnoi, Deputy Director (Law) for tampering the statements, recorded during search & seizure.”*

8. The Commission also directed that necessary action be taken for constituting the Review Committee for reviewing the suspension of the Petitioner.

9. After approval of the draft charge-sheet by the Commission, the matter was referred to CVC for first-stage advice. By office memorandum dated 25<sup>th</sup> September, 2023, CVC recorded that it had examined the case and, in agreement with the recommendation of the CVO and DA, CCI, advised initiation of major penalty proceedings against the Petitioner under



Rule 14 of the CCS (CCA) Rules. CVC also advised digitisation of documents relating to search and seizure and indicated timelines for appointment of the Inquiry Officer and Presenting Officer and completion of the inquiry.

10. Upon receipt of the CVC advice, the matter was processed internally on 29<sup>th</sup> September, 2023. The noting recorded that the Commission, being the Disciplinary Authority, had approved institution of major penalty proceedings against the Petitioner in its meeting held on 27<sup>th</sup> June, 2023 and that the draft charge-sheet had also been approved by the Commission in its meeting held on 4<sup>th</sup> August, 2023. The noting further recorded the advice tendered by CVC on 25<sup>th</sup> September, 2023. The file was then placed before the Chairperson.

11. On 3<sup>rd</sup> October, 2023, the Chairperson recorded as follows:

*“Draft Chargesheet as approved by the Commission and CVC may be issued. It may be ensured that every page of the chargesheet is duly signed.”*

12. The Chairperson also directed that digitisation of documents pertaining to the case be undertaken. The memorandum of charge was thereafter issued to the Petitioner on 3<sup>rd</sup> October, 2023.

13. During the course of the proceedings, the Petitioner sought copies of the file, file notings, agenda papers and minutes of meetings culminating in the memorandum of charge dated 3<sup>rd</sup> October, 2023. He thereafter instituted *W.P.(C) 1097/2024* challenging, *inter alia*, the appointment of the Inquiry Officer and seeking appointment of an independent officer to conduct the inquiry. The said petition was disposed of as withdrawn by order dated 25<sup>th</sup> January, 2024, with liberty to raise all contentions at the relevant stage of the inquiry proceedings.



14. The Petitioner again sought the aforesaid records under the Right to Information Act, 2005. Pursuant thereto, he was supplied, on 7<sup>th</sup> June, 2024, the agenda papers and minutes relating to the meetings of the Commission held on 4<sup>th</sup> August, 2023 and 3<sup>rd</sup> November, 2023. The Petitioner thereafter instituted *W.P.(C) 10135/2024*, assailing, *inter alia*, the memorandum of charge dated 3<sup>rd</sup> October, 2023, the order dated 14<sup>th</sup> June, 2024 whereby his defence was closed, and the order rejecting his objection to the Inquiry Officer.

15. *W.P.(C) 10135/2024* was disposed of as withdrawn by order dated 26<sup>th</sup> July, 2024, with liberty to the Petitioner to raise his objections and contentions at the appropriate stage of the inquiry proceedings. The Petitioner, thereafter, submitted a representation dated 13<sup>th</sup> August, 2024 before the Disciplinary Authority, contending, *inter alia*, that the memorandum of charge had not been approved by the competent Disciplinary Authority in accordance with Rule 14(3) of the CCS (CCA) Rules. The representation was rejected by CCI by order dated 30<sup>th</sup> September, 2024. Aggrieved, the present writ petition has been filed challenging the memorandum of charge dated 3<sup>rd</sup> October, 2023, the order dated 30<sup>th</sup> September, 2024, and consequential disciplinary proceedings.

***Submissions on behalf of the Petitioner***

16. Mr. Gautam Narayan, Senior Counsel for the Petitioner, assails the validity of the memorandum of charge dated 3<sup>rd</sup> October, 2023 on several grounds, which may be summarised as follows:

16.1. The Petitioner does not invite the Court, at this stage, to examine whether the allegation of tampering is true or false. The challenge is to the jurisdictional validity. The submission is that the charge memo was issued



without approval of the competent Disciplinary Authority and is therefore *non est*.

16.2. The Petitioner was appointed by CCI. On a conjoint reading of Section 17 of the Competition Act, 2002 and Rule 12 of the CCS (CCA) Rules, the Commission is the Disciplinary Authority. Once the Commission is the Disciplinary Authority, the requirement under Rule 14(3) that the Disciplinary Authority shall “draw up or cause to be drawn up” the articles of charge cannot be satisfied by approval of the Chairperson acting alone.

16.3. The distinction between approval for initiation of disciplinary proceedings and approval of the charge memo is now firmly settled. Rule 14(3) of the CCS (CCA) Rules embodies a jurisdictional safeguard requiring approval of the charge memorandum by the competent Disciplinary Authority. A charge memorandum issued without such approval is legally unsustainable and cannot be cured by subsequent conduct or participation in the inquiry proceedings. In this regard, reliance is placed on *Union of India v. B.V. Gopinath*,<sup>3</sup> *State of Tamil Nadu v. Promod Kumar*,<sup>4</sup> *Sunny Abraham v. Union of India*,<sup>5</sup> *Union of India v. R.K. Nim*,<sup>6</sup> *Union of India v. S.K. Jasra*,<sup>7</sup> and *Dr. Sahadeva Singh v. Union of India*.<sup>8</sup>

16.4. Developing this submission, Mr. Narayan argues that the Commission’s decision dated 27<sup>th</sup> June, 2023 was confined to initiation of major penalty proceedings. The minutes themselves directed that the draft charge-sheet be placed before the Commission. This shows that the

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<sup>3</sup> (2014) 1 SCC 351.

<sup>4</sup> (2018) 17 SCC 677.

<sup>5</sup> (2021) 20 SCC 12.

<sup>6</sup> 2024 SCC OnLine Del 7712.

<sup>7</sup> 2025:DHC:8985.

<sup>8</sup> 2016:DHC:4918-DB.



Commission was conscious that initiation and approval of the charge-sheet were separate stages. The subsequent decision dated 4<sup>th</sup> August, 2023, cannot be treated as the final approval contemplated by Rule 14(3), because the matter was yet to be placed before CVC for first-stage advice. The disciplinary process had therefore not reached its final point for issuance of the charge memo.

16.5. Reliance is placed on the DoPT office memorandum dated 29<sup>th</sup> November, 2012 and *A.M. Kulshrestha v. Union Bank of India & Ors.*<sup>9</sup> to contend that, upon receipt of CVC's first-stage advice, the matter was required to be placed before the Disciplinary Authority for an independent decision. This requirement ensures that the Disciplinary Authority applies its own mind to the CVC advice and does not act mechanically upon it. In the present case, while CVC rendered its advice on 25<sup>th</sup> September, 2023, the matter was placed only before the Chairperson and not before the Commission acting as the Disciplinary Authority. The charge memorandum, therefore, was issued without the approval required in law.

16.6. The CVC advice dated 25<sup>th</sup> September, 2023 cannot cure this defect. CVC is not the Disciplinary Authority. Its advice, whether called first-stage advice or otherwise, is only advisory. The final decision must remain with the Disciplinary Authority. CVC's concurrence with the proposal, therefore, cannot be treated as a substitute for approval by the Commission.

16.7. Further, Section 13 of the Competition Act, 2002, which confers powers of general superintendence, direction and control over administrative matters on the Chairperson, cannot be read to transfer the disciplinary power of the Commission to the Chairperson. Administrative superintendence



cannot override the statutory and service-rule requirement that the Disciplinary Authority must approve the charge memo.

16.8. Further reliance is placed on **Dr. Sahadeva Singh** to submit that even where a department contends that draft charges were before the competent authority at the stage of initiation, the Court must examine the file to see whether the charge memo was actually approved by the Disciplinary Authority. It is urged that the internal noting dated 29<sup>th</sup> September, 2023, which placed the draft charge-sheet for “approval” of the Chairperson, itself shows that the authorities did not treat the earlier Commission decision as final approval of the charge memo. If the Commission had already approved the charge memo for issuance, there was no occasion to seek approval from the Chairperson.

16.9. On maintainability, it is argued that the writ petition cannot be rejected as premature. **Union of India & Anr. V. Kunisetty Satyanarayana**<sup>10</sup> itself recognises that a writ court may interfere with a charge-sheet where it is wholly without jurisdiction or otherwise wholly illegal. The present challenge, falls within that exception. Nor is the petition barred by *res judicata* or constructive *res judicata*. The earlier writ petitions were not decided on merits on the present issue and the Petitioner was granted liberty to raise available contentions at the appropriate stage. Reliance is placed on **V.D. Barot v. State of Gujarat**,<sup>11</sup> **Mathura Prasad Bajoo Jaiswal v. Dossibai N.B. Jeejeebhoy**,<sup>12</sup> and **Srihari Hanumandas Totala v. Hemant**

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<sup>9</sup> 2025 SCC OnLine SC 1177.

<sup>10</sup> (2006) 12 SCC 28.

<sup>11</sup> (2002) 10 SCC 668.

<sup>12</sup> (1970) 1 SCC 613.



***Vithal Kamat.***<sup>13</sup>

16.10. The Petitioner further contends that the disciplinary proceedings have been conducted in violation of principles of natural justice. Despite repeated requests, several documents necessary for his defence have not been supplied. Although the Inquiry Officer directed supply of certain documents sought by the Petitioner, only a fraction thereof was furnished, while others were withheld on varying grounds including confidentiality, non-availability and non-existence. The non-supply of these documents has caused serious prejudice to his ability to effectively defend himself in the inquiry.

***Submissions on behalf of the Respondents***

17. Mr. V.K. Garg, senior counsel for the Respondents, submits that the Petitioner's challenge rests on an incorrect reading of the record and is not sustainable on the following grounds:

17.1. It is not disputed that the Commission is the Disciplinary Authority. It is also not disputed that approval of the charge memo by the Disciplinary Authority is required where Rule 14(3) applies. The Respondents' case is that such approval was in fact granted.

17.2. The Commission first considered the matter in its meeting held on 27<sup>th</sup> June, 2023. In that meeting, the Commission approved initiation of major penalty proceedings against the Petitioner and directed that the draft charge-sheet be placed before it. Pursuant to that direction, the draft charge-sheet was placed before the Commission in its special meeting held on 4<sup>th</sup> August, 2023. The minutes of that meeting expressly record that the Commission approved the draft charge-sheet for instituting major penalty proceedings under Rule 14 of the CCS (CCA) Rules against the Petitioner.

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<sup>13</sup> (2021) 9 SCC 99.



This shows direct and sufficient compliance with Rule 14(3).

17.3. The charge-sheet approved by the Commission on 4<sup>th</sup> August, 2023 was thereafter forwarded to CVC for first-stage advice along with the relevant documents. CVC examined the matter and, by office memorandum dated 25<sup>th</sup> September, 2023, agreed with the recommendation of CVO and DA, CCI, and advised initiation of major penalty proceedings. CVC suggested no change in the draft charge-sheet. The Respondents emphasise that the charge memo ultimately issued to the Petitioner on 3<sup>rd</sup> October, 2023 was the same as the draft charge-sheet approved by the Commission on 4<sup>th</sup> August, 2023.

17.4. On this basis, it is submitted that there was no occasion to place the very same draft charge-sheet before the Commission again after receipt of CVC advice. The Disciplinary Authority had already applied its mind and approved the draft charge-sheet. CVC made no alteration. The later step was therefore only issuance of the approved charge memo, not fresh approval of the charge memo.

17.5. The Chairperson's noting dated 3<sup>rd</sup> October, 2023 has to be read in this context. The Chairperson did not purport to approve the charge memo as Disciplinary Authority. The noting states that the "Draft Chargesheet as approved by the Commission and CVC may be issued." This recognises the prior approval of the Commission and merely directs administrative issuance. Section 13 of the Competition Act, 2002 empowers the Chairperson to exercise general superintendence, direction and control in respect of administrative matters of the Commission. Issuance of a charge memo already approved by the Commission falls within that administrative domain.



17.6. The Petitioner's reliance on ***B.V. Gopinath*** and the decisions following it is misplaced on facts. Those cases involved absence of approval of the charge memo by the competent Disciplinary Authority. In the present case, the Commission specifically approved the draft charge-sheet on 4<sup>th</sup> August, 2023. ***B.V. Gopinath*** supports the requirement of approval, but does not assist the Petitioner once the record shows that approval was granted.

17.7. Reliance is also placed on ***State of Jharkhand v. Rukma Kesh Mishra***,<sup>14</sup> to submit that ***B.V. Gopinath*** does not lay down an inflexible rule and must be applied in the context of the governing statutory framework and the factual record of each case. Once the draft charge-sheet had been expressly approved by the Commission in its meeting dated 4<sup>th</sup> August, 2023, the charge memorandum cannot be invalidated on a technical objection regarding approval.

17.8. The Respondents also rely on ***The Chairman, Central Board of Trustees v. M. Vijayaraj***<sup>15</sup> to submit that CVC advice is advisory and not a prior approval. The requirement of CVC consultation cannot be conflated with the jurisdictional requirement of approval by the Disciplinary Authority. The Respondents submit that the DoPT office memorandum dated 29<sup>th</sup> November, 2012 does not create a second mandatory approval stage where the Disciplinary Authority has already approved the draft charge-sheet and CVC has suggested no modification.

17.9. The present writ petition is barred by principles analogous to *res judicata* and constructive *res judicata*. The Petitioner had earlier challenged various aspects of the disciplinary proceedings in *W.P.(C) 1097/2024* and

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<sup>14</sup> 2025 SCC OnLine SC 676.

<sup>15</sup> 2011:DHC:5642-DB.



*W.P.(C) 10135/2024* and, having withdrawn those proceedings, cannot be permitted to re-agitate the same issues in the present petition. In any event, writ interference at the stage of a charge-sheet is exceptional. The Petitioner's grievances relating to supply of documents, appreciation of evidence, examination of witnesses and conduct of the inquiry are matters to be urged before the Inquiry Officer or the Disciplinary Authority and do not furnish a ground to quash the charge memorandum at the threshold.

***Points for determination***

18. On the basis of the pleadings and submissions advanced, the following points arise for determination:

- (i) whether the present writ petition is barred by *res judicata*, constructive *res judicata*, or by reason of the earlier withdrawal of writ proceedings.
- (ii) whether the memorandum of charge dated 3<sup>rd</sup> October, 2023 is void for want of approval by the Commission as the Disciplinary Authority under Rule 14(3) of the CCS (CCA) Rules.
- (iii) whether, after receipt of CVC's first-stage advice dated 25<sup>th</sup> September, 2023, the matter was required to be placed again before the Commission before issuance of the charge memo.
- (iv) whether the Chairperson's direction dated 3<sup>rd</sup> October, 2023 amounted to an impermissible exercise of disciplinary power vested in the Commission, or was merely an administrative direction for issuance of a charge memo already approved by the Commission.
- (v) what relief, if any, should follow.

***Analysis and findings***

***Maintainability and scope of interference***



19. The judicial principles relating to scope of interference, at the initial stage of disciplinary proceedings are well settled. A memorandum of charge does not, by itself, warrant interference under Article 226 of the Constitution.<sup>16</sup> A charge-sheet marks the commencement, not the culmination, of disciplinary proceedings. At that stage, neither has any finding of guilt been recorded nor any penalty imposed, and the proceedings may yet be dropped. *Kunisetty Satyanarayana* states this restraint in clear terms. At the same time, the decision recognises a limited exception where the challenge goes to jurisdiction or alleges that the charge-sheet is wholly without authority of law.

20. The Petitioner's objection falls within that limited category. His case is not that the charge is factually unsustainable, but that the memorandum of charge is *non est* because it was issued without approval of the competent Disciplinary Authority. Whether that objection is ultimately made out must be tested on the record. The petition cannot, therefore, be dismissed at the threshold merely because it assails a charge memo.

21. The plea of *res judicata* or constructive *res judicata* also does not commend acceptance. The earlier writ petitions were not adjudicated on merits on the issue now raised; they were withdrawn with liberty to urge available contentions at the appropriate stage. The Petitioner thereafter submitted a representation dated 13<sup>th</sup> August, 2024, which the Commission rejected on 30<sup>th</sup> September, 2024. The present petition, therefore, does not seek to re-agitate an issue previously decided between the parties. The Court accordingly proceeds to examine the jurisdictional objection on merits.

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<sup>16</sup> *Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh* (1996) 1 SCC 327; *Special Director v. Mohd. Ghulam Ghouse* (2004) 3 SCC 440.



***Rule 14(3) and the authorities cited***

22. Rule 14(3) of the CCS (CCA) Rules provides that where it is proposed to hold an inquiry against a government servant, the Disciplinary Authority “shall draw up, or cause to be drawn up,” the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge, together with a statement of imputations in support of each article. Rule 14(4) then contemplates delivery to the charged officer of the articles of charge, the statement of imputations, the list of documents and the list of witnesses by which the charges are proposed to be proved.

23. In ***B.V. Gopinath***, the Supreme Court held that approval for initiation of disciplinary proceedings is not the same as approval of the charge memo. In that case, though initiation of major penalty proceedings had been approved by the Finance Minister, the charge memo had not been placed before him for approval. The Supreme Court rejected the contention that approval for initiation would, by itself, include approval of the charge memo.

24. ***Promod Kumar*** and ***Sunny Abraham*** proceed on the same principle. Where the governing rule requires the Disciplinary Authority to “draw up or cause to be drawn up the articles of charge,” the requirement is not an empty formality. ***Sunny Abraham*** further holds that a charge memo invalid at inception for want of approval cannot be revived by *post-facto* approval.

25. This Court has applied the same principle in ***R.K. Nim***, and ***S.K. Jasra***. In ***R.K. Nim***, the draft charge-sheet was not placed before the competent authority for approval. In ***S.K. Jasra***, the Court found absence of approval of the charge memo by the Disciplinary Authority. Both decisions turned on a factual defect going to the root of Rule 14(3).



26. The Petitioner has also placed substantial reliance on *Dr. Sahadeva Singh*. In that case, the department contended that the Minister's approval for initiation of disciplinary proceedings should also be treated as approval of the draft charge-sheet. The Division Bench rejected that submission. It found that a subsequent file note had expressly sought approval of the "draft memo", but the file was never thereafter placed before the Minister. That circumstance, in the Court's view, showed that approval of the charge memorandum was still pending. On that basis, the charge memorandum was quashed.

27. The Respondents, on the other hand, rely on *Rukma Kesh Mishra*. In that case, the Supreme Court cautioned against mechanical application of *B.V. Gopinath* and *Promod Kumar* as precedents, emphasising that the governing rules and factual matrix must be examined in each case. It held that where the draft charge-sheet formed part of the proposal placed before the competent authority, approval to initiate disciplinary proceedings could, on the facts of that case, be read as approval of the draft charge-sheet as well. The Court further observed that the expression "cause to be drawn up" permits the Disciplinary Authority to have the charge-sheet prepared by another authority and that, where such authority is superior to the charged officer, courts ought ordinarily to exercise restraint.

28. The authorities discussed above indicate that the question cannot be answered merely by asking whether approval for initiation of disciplinary proceedings was granted. Equally, it cannot be resolved by mechanically applying *B.V. Gopinath* or *Promod Kumar*. The Court must examine the governing rules, the material placed before the Disciplinary Authority, the nature and scope of the approval granted, and whether the charge



memorandum ultimately issued can fairly be said to have received such approval.

***Application to the present record***

29. On the record placed before this Court, the Petitioner's jurisdictional objection cannot be accepted.

30. The Commission, in its meeting dated 27<sup>th</sup> June, 2023, approved initiation of major penalty proceedings against the Petitioner and directed that the draft charge-sheet be placed before it. Had the matter rested there, the Petitioner's reliance on ***B.V. Gopinath*** and the line of authorities following it would have required closer consideration, because approval of initiation of proceedings, by itself, does not satisfy the requirement of Rule 14(3).

31. The record, however, discloses a further and significant step. Pursuant to the Commission's direction, the draft charge-sheet was placed before it in the special meeting held on 4<sup>th</sup> August, 2023. The minutes record that the Commission "approved the draft charge sheet for instituting major penalty proceedings under Rule 14 of CCS (CCA) Rules, 1965" against the Petitioner. The approval was thus directed not merely to the initiation of proceedings but to the draft charge-sheet itself.

32. This feature of the record distinguishes the present case from ***B.V. Gopinath, Promod Kumar*** and the other decisions relied upon by the Petitioner. In those cases, the defect lay in the absence of approval of the charge memorandum by the competent Disciplinary Authority. Here, the Commission not only approved initiation of proceedings; it also considered and approved the draft charge-sheet placed before it on 4<sup>th</sup> August, 2023.

33. The Petitioner nevertheless submits that the Commission's approval



dated 4<sup>th</sup> August, 2023 did not bring the approval process to a close. The Petitioner argues that once CVC tendered its first-stage advice on 25<sup>th</sup> September, 2023, the matter had to return to the Commission for a fresh and independent decision before the charge memorandum could be issued. For this proposition, reliance is placed on the DoPT Office Memorandum dated 29<sup>th</sup> November, 2012 and the decision of the Supreme Court in *A.M. Kulshrestha*.

34. The submission is not persuasive on the present record. The requirement that the Disciplinary Authority must apply its own mind is a substantive safeguard and not a mere formality of repeatedly endorsing the same view. Where, after the Disciplinary Authority has approved a draft charge-sheet, CVC's first-stage advice introduces a material change, such as modification of the articles of charge, alteration of the statement of imputations, addition or deletion of relied-upon documents or witnesses, or any other matter requiring reconsideration of the proposed disciplinary action, the matter would ordinarily have to return to the Disciplinary Authority. However, where CVC merely concurs with the proposal and the charge memorandum ultimately issued is the same draft already approved by the competent Disciplinary Authority, the legal requirement is satisfied. Here, CVC's advice dated 25<sup>th</sup> September, 2023 neither altered nor qualified the draft charge-sheet approved by the Commission on 4<sup>th</sup> August, 2023.

35. This conclusion is also consistent with the limited proposition for which the Respondents rely upon *M. Vijayaraj*. Although that decision was not concerned with the approval requirement under Rule 14(3) of the CCS (CCA) Rules, its relevance lies in recognising the advisory character of CVC's first-stage advice and distinguishing such advice from a requirement



of approval. The decision-making authority continues to be the Disciplinary Authority. CVC's advice is an input in that process; it is not the source of authority to issue the charge memorandum.

36. Viewed in this light, the DoPT Office Memorandum dated 29<sup>th</sup> November, 2012 cannot be read as mandating fresh approval of an unchanged charge-sheet merely because CVC advice was received in the intervening period. Its object is to ensure that the Disciplinary Authority does not act mechanically on CVC's advice, but independently retains control over the decision to proceed departmentally. That safeguard is satisfied where the Disciplinary Authority has already applied its mind to, and approved, the draft charge-sheet, and the subsequent CVC advice neither alters nor calls into question that draft.

37. On the present record, the Commission approved the draft charge-sheet on 4<sup>th</sup> August, 2023. The CVC advice dated 25<sup>th</sup> September, 2023 left that draft undisturbed, without any alteration to the articles of charge, the statement of imputations, the list of documents or the list of witnesses. The charge memorandum thereafter issued on 3<sup>rd</sup> October, 2023 was, in substance, the very same document. No fresh approval of the Commission was therefore required before its issuance.

38. The decision in *A.M. Kulshrestha* also does not advance the Petitioner's case. That case turned on a materially different circumstance: the employer had represented before the High Court that the charge-sheet would issue only after receipt of CVC advice, yet served it before that consultative step was completed. The Supreme Court disapproved that course because the employer acted contrary to its own stand and prematurely issued the charge-sheet. The present case is different. CVC's first-stage



advice was received before issuance; it did not alter the approved draft; and the charge memorandum served was, in substance, the same draft approved by the Commission on 4<sup>th</sup> August, 2023. *A.M. Kulshrestha*, properly understood, therefore does not apply.

39. The internal noting dated 29<sup>th</sup> September, 2023 requires separate consideration, since the Petitioner places considerable emphasis on it. The noting proposed that the charge-sheet be placed before the Chairperson for “consideration and approval”. If read in isolation, that expression may appear to support the Petitioner’s submission that approval of the competent Disciplinary Authority was still awaited. The file, however, cannot be read in fragments. A stray expression in an internal noting cannot be treated as the operative decision, nor can it be divorced from the earlier approvals recorded by the Commission and the final order made on the file. The same noting expressly records that the Commission, as the Disciplinary Authority, had approved initiation of major penalty proceedings on 27<sup>th</sup> June, 2023 and had thereafter approved the draft charge-sheet on 4<sup>th</sup> August, 2023. The Chairperson’s order dated 3<sup>rd</sup> October, 2023 is consistent with that position. It does not purport to approve the charge-sheet as the Disciplinary Authority. On the contrary, it directs that the “Draft Chargesheet as approved by the Commission and CVC may be issued.” The Chairperson thus proceeded on the footing that the draft charge-sheet already stood approved by the Commission, and confined himself to directing issuance of that approved charge memorandum.

40. Section 13 of the Competition Act, 2002 must be read in that setting. The Chairperson’s power of general superintendence, direction and control over administrative matters cannot prevail where the Commission is



required to act as the Disciplinary Authority. But once the Commission had approved the draft charge-sheet, the direction to issue that approved charge-sheet was administrative in character. It did not amount to the Chairperson exercising, or assuming, the disciplinary jurisdiction vested in the Commission.

41. The decision in *Dr. Sahadeva Singh* turned on a materially different record, where the subsequent movement of the file indicated that approval of the draft memo was still being sought from the disciplinary authority. No such inference arises on the present record, which shows that the Commission had already approved the draft charge-sheet on 4<sup>th</sup> August, 2023.

42. The memorandum of charge dated 3<sup>rd</sup> October, 2023 is therefore not void for want of approval under Rule 14(3) of the CCS (CCA) Rules.

43. One further aspect urged during the hearing may be noticed. Mr. Narayan submitted that the minutes recording approval of the draft charge-sheet in the Commission's meeting dated 4<sup>th</sup> August, 2023 bear the signature of the Chief Vigilance Officer, and not of all Members of the Commission. On that basis, he contended that the minutes do not conclusively establish that the Commission had, in fact, granted the approval recorded therein. The submission cannot be accepted. Minutes are the formal institutional record of the business transacted and decisions taken by a statutory body. Unless the governing statute, rules, regulations or binding procedure require every member to authenticate them by signature, the absence of individual signatures does not, by itself, undermine the decision recorded. To hold otherwise would elevate form over substance, particularly where there is no challenge to the meeting, quorum, agenda or decision itself. Mr. Garg, on



instructions, has also clarified that where decisions of the Commission are unanimous, separate signatures of all Members are not obtained. This statement is taken on record.

44. More importantly, there is no material before the Court to suggest that the meeting dated 4<sup>th</sup> August, 2023 was not convened, the requisite Members were not present, the draft charge-sheet did not form part of the agenda, or the minutes incorrectly recorded the decision taken. The presumption of regularity attaches to official acts and official records. Its purpose is not to place such records beyond judicial scrutiny, but to ensure that institutional decisions are not treated as doubtful on conjecture alone. That presumption may undoubtedly be displaced by cogent material showing that the record is inaccurate, fabricated, or contrary to the decision actually taken. No such material has been placed in the present case. In these circumstances, the Court finds no reason to doubt the record of approval reflected in the minutes dated 4<sup>th</sup> August, 2023.

***Other grievances***

45. The Petitioner has also raised grievances concerning supply of documents, refusal of additional documents, closure of defence and related procedural orders passed during the inquiry. These grievances are distinct from the jurisdictional objection founded on Rule 14(3). They do not bear upon the competence of the Commission to approve the charge memo. They concern the fairness of the inquiry and the opportunity afforded to the Petitioner to defend himself.

46. The legal position is settled in principle. A charged officer must have access to the relied-upon material and must receive a reasonable opportunity to defend himself. Denial of material documents may vitiate disciplinary



proceedings where prejudice is shown. At the same time, the charged officer has no unqualified right to demand every document referred to in the wider administrative or preliminary enquiry record.<sup>17</sup> Under the scheme of Rule 14 as well, requests for additional documents are to be examined for relevance and necessity to the defence.

47. In the present case, the Petitioner's request for additional documents was considered during the inquiry. The record indicates that the request was not rejected entirely. Certain documents were permitted; some were stated to have been supplied or made available for inspection; and others were declined on grounds such as relevance, confidentiality, or their connection with the preliminary enquiry or disciplinary record. The Petitioner disputes this approach and maintains that denial of those documents has caused serious prejudice to his defence. The grievance, therefore, is not that the inquiry proceeded in complete disregard of his request, but that the request was not adequately considered, thereby prejudicing his defence.

48. This Court is not inclined, at this stage, to undertake a document-by-document review of every request made by the Petitioner. That exercise would require an assessment of each document's relevance to the articles of charge, its necessity for the defence, the evidence led, the reasons for withholding or refusing it, and the stage at which the request was made. Those questions are fact-sensitive and must be evaluated against the inquiry record as a whole. A document described in isolation may add little once the admitted facts, evidence and cross-examination are considered; conversely, refusal of a document may become material if it bears directly on a charge or the credibility of the evidence relied upon. The issue is therefore better

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<sup>17</sup> *Chandrama Tewari v. UOI (Through General Manager, Eastern Railways)* 1987 SCC OnLine SC 742.



examined, in the first instance, by the Disciplinary Authority while considering the inquiry record, the Petitioner's objections, and whether any actual prejudice has been caused. To interfere at this stage would risk turning every disputed request for documents into a threshold challenge to the inquiry, before the competent authority has had occasion to assess its bearing on prejudice, fairness, and the overall validity of the disciplinary proceedings.

49. At the same time, the Petitioner's procedural grievances cannot be treated as irrelevant or foreclosed. If such objections have already been placed on record, or are specifically urged before the Disciplinary Authority, they shall be considered before any final order is passed in the disciplinary proceedings. The Disciplinary Authority shall examine whether the documents or opportunities allegedly denied were relevant and necessary for an effective defence, and whether their denial has caused actual prejudice in the conduct of the inquiry. The Court expresses no opinion on the merits of these objections. They are left open for consideration by the Disciplinary Authority in accordance with law.

### ***Conclusion***

50. The points for determination are answered as follows:

- (i) The writ petition is not liable to be rejected on the ground of *res judicata*, constructive *res judicata*, or by reason of the earlier withdrawal of writ proceedings.
- (ii) The Commission is the Disciplinary Authority for the Petitioner.
- (iii) The Commission approved initiation of major penalty proceedings on 27<sup>th</sup> June, 2023 and thereafter expressly approved the draft charge-sheet on 4<sup>th</sup> August, 2023.



(iv) Since the draft charge-sheet approved by the Commission was the same charge-sheet later issued to the Petitioner, and since CVC suggested no alteration in the draft, no fresh approval of the Commission was required after receipt of CVC's first-stage advice.

(v) The Chairperson's direction dated 3<sup>rd</sup> October, 2023 was an administrative direction to issue the charge-sheet already approved by the Commission. It was not an assumption of the disciplinary power vested in the Commission.

(vi) The challenge to the procedural orders concerning supply of documents, refusal of additional documents and closure of defence is not accepted as a ground to quash the charge memo or interdict the inquiry at this stage. The Petitioner is, however, at liberty to raise those objections before the Disciplinary Authority, which shall be considered in the manner indicated above, before passing any final order.

51. The challenge to the memorandum of charge dated 3<sup>rd</sup> October, 2023 on the ground of want of approval by the Disciplinary Authority is accordingly rejected.

52. The writ petition is disposed of in the above terms. All contentions of the Petitioner on the merits of the charge, appreciation of evidence, procedural prejudice and proportionality of any eventual penalty are left open to be urged in accordance with law at the appropriate stage. Pending applications, if any, stand disposed of.

53. Interim order dated 9<sup>th</sup> December, 2024, stands vacated.

**SANJEEV NARULA, J**

**JULY 01, 2026/nk**