

BEFORE THE HON’BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 144 OF 2025

IN THE MATTER OF:
VIJAYKUMAR KARSANBHAI GADHAVI AND ORS.APPELLANTS

VERSUS

UNION OF INDIA AND ORS.RESPONDENTS

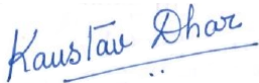
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THROUGH


RITWICK DUTTA


RAHUL CHOUDHARY


KAUSTAV DHAR

ADVOCATES

COUNSELS FOR THE APPELLANTS
N-73, LGF, Greater Kailash – 1,
New Delhi – 110048
Mobile: +91 9312407881
Email: litigation@dclawchambers.com

PLACE: PUNE / NEW DELHI
DATE: 30.06.2026

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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APPEAL NO. 144 OF 2025**

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MOST RESPECTFULLY SHOWETH:

1. The Appellants herein is challenging the Forest Clearance granted by the Government of Gujarat dated 21.03.2025 for diversion of 0.9689 hectares of unclassified forest land for laying part of seawater intake and effluent disposal pipeline and passage for construction equipment in favour of GHCL Ltd in Kachchh District of Gujarat. Additionally, the Stage-I Forest Clearance dated 18.07.2023 and Stage-II Forest clearance dated 04.01.2024 granted by the MoEF&CC is also challenged. (Annexures A/1, Pg. 81, Annexure A/2, Pg. 83, Annexure A/3, Pg. 86).
2. That the Section 2 Order issued by the Government of Gujarat as well as the Stage I & II Forest Clearances are challenged herein in view of the law laid down by this Hon'ble Tribunal in the matter titled **Vimal Bhai vs. Union of India 2012 SCC OnLine NGT 77**. (Annexure A/1 of Rejoinder dated 13.11.2025 @ Page 1163 Para 30 of the judgment) and **Milind Pariwakam & Anr. Vs. Union of India (O.A. No. 52 of 2015)** annexed herewith as **ANNEXURE A/1**.
3. It is submitted that the Forest Clearance process under the provisions of the Forest (Conservation) Act, 1980 involves multiple steps leading to the final order under Section 2 of the Act. The Appellants submit that there was illegality at every stage of the forest clearance process beginning from the initial stage at the DCF level right up to the level of PCCF. The following facts with respect to the various stages are relevant for the purpose of the present Appeal:

I. FORM A PART I FILLED BY THE USER AGENCY:

That the User Agency has filled up the FORM A PART I for seeking prior approval of the Central Government under Section 2 of the Forest (Conservation) Act, 1980 for diversion of for diversion of 0.9689 hectares of unclassified forest land for laying part of seawater intake and effluent disposal pipeline and passage for construction equipment in favour of GHCL Ltd in Kachchh District of Gujarat. (Annexure R/2, Pg. 1224 of the Counter Affidavit dated 11.12.2025 filed by Respondent Nos. 3 & 4, Forest Department of Gujarat.

II. FALSE AND MISLEADING INFORMATION IN FORM A PART II BY FILLED BY DEPUTY CONSERVATOR OF FOREST:

The Appellants herein submit that Form A Part II [No GJ-0373/2021] filled by the Deputy Conservator of Forest is replete with false and misleading information.

- i. In **Serial No. 8 (i) of the Form** has submitted that no wildlife is present in and around the forest land proposed for diversion. The relevant part reads: (Annexure A/6, Pg. 91 of the Appeal).

“Details of Wildlife Present in and around the forest land proposed for diversion: No”.

It is submitted that it is impossible that an area abutting a coast will not have any wildlife. The definition of wildlife, both in science and in law, is quite wide to

include both undomesticated fauna, avifauna and uncultivated plants. The section requires the DCF, as a responsible officer of the State, to disclose truthfully, the presence or absence of wildlife “in and around” the forest land proposed for diversion. The use of the word ‘around’ in addition to the word ‘in’ means that the legislature intended the DCF to not just limit the details of wildlife to those ‘in’ the forest area, but also ‘around’. The detailed submissions on the significance of “in and around’ and the necessity for purposive construction is part of the Additional Affidavit wherein the Appellant has relied on the Judgment of the Hon’ble Supreme Court titled **Workmen of Dimakuchi Tea Estate vs. Management of Dimakuchi Tea Estate 1958 SCC OnLine SC 4** wherein it was held that: (**Additional Affidavit by Appellant dated 31.07.2025 Pg. 319**).

"9.....the words of a statute, when there is a doubt about their meaning are to be understood in the sense in which they best harmonise with the subject of the enactment and the object which the legislature has in view. Their meaning is found not so much in a strictly grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained".

Copy of the Judgment is annexed as Annexure A/6 Additional Affidavit by Appellant dated 31.07.2025, Pg. 355, Para 9)

ii. In **Serial No 8 (v) of the Form** the Deputy Conservator of Forest answers to the question with regard to presence of wildlife species the following false answer has been submitted by the DCF: (Annexure A6, Pg. 91 of Appeal).

“(v) Whether any rare/endangered/ unique species of Flora and Fauna are found in the area: NO”

It is pertinent to note that the information provided by the Deputy Conservator under Serial No. 8 (i) of Form A Part II is entirely erroneous, false, and misleading. A critical examination of the records reveals a stark contradiction, wherein the project proponent, made while seeking Environmental Clearance, have clearly recorded the presence of several Schedule I species within the proposed project area. This information was recorded in Entry Nos. 14 and 14.1 of Form I Part C filled while seeking Environmental Clearance. These Schedule I species are accorded the highest level of protection under the Wildlife Protection Act, 1972. (Annexure A7, Pg. 109 of Appeal). The relevant extracts of Form I Part C filled by the project proponent while seeking Environmental Clearance is hereby reproduced:

14	<i>Whether any Schedule I species found in the study area?</i>	<i>Yes</i>
14.1	<i>Details of Schedule I species</i>	<i>Flap Shell Turtle, Green Sea Turtle, Olive Ridley Sea Turtle, Indian Monitor Lizard, Black Shoulder Kite, Eurasian Spoonbill, Indian Peafowl, Marsh Harrier, Oriental Honey Buzzard, Gugal</i>

iii. It is unfortunate that while the Project Proponent has disclosed the presence of Scheduled Species many of which are either rare, endangered or threatened, the DCF, despite being a State functionary and is duty bound to protect the resources under the doctrine of public trust has not disclosed the presence of the endangered

species in clear violation of the **Narender Singh vs. Divesh Bhutani (2022) SCC OnLine SC 899** wherein the Hon'ble Supreme Court has clearly stated that the department is constitutionally obligated to protect the forest, in upholding the constitutional mandate:

“49. After all, the forest department is the custodian of forests. It is this department of the State which is under an obligation to protect the forests for upholding the constitutional mandate”.

It is submitted that such a conduct is nothing but dereliction of statutory and constitutional responsibility entrusted to an officer of the state. It cannot be an argument that the area involved in the diversion is not substantial. The Hon'ble Supreme Court in the recent decision in **Save Mon Region Federation and Another vs. State of Arunachal Pradesh and Others 2026 SCC OnLine SC 526** has held that constitutional violations cannot be justified on the ground that they constitute only a small proportion of the overall transactions. A low percentage of illegal acts does not become a licence for violating the law. Even a single instance of arbitrary or unlawful exercise of public power is sufficient to attract constitutional scrutiny and offend Article 14:

“1. In a constitutional democracy governed by the rule of law, the exercise of public power is always subject to constitutional discipline. The State does not hold public resources as a private proprietor, but as a trustee on behalf of the people. Whenever the State undertakes the allocation of public resources, the award of public contracts, or the execution of public works, it is bound to act in a manner that is transparent, fair, and consistent with the guarantee of equality under Article 14 of the Constitution of India. The process through which such decisions are taken must therefore be capable of withstanding objective scrutiny and must reflect a decision-making framework that is free from arbitrariness, favouritism, or undisclosed conflicts of interest.

33. We are not persuaded that such arithmetic can answer the constitutional concern. The Constitution does not tolerate a breach of public trust merely because the breach is numerically small when measured against the total universe of State expenditure. Even a single instance of award of public work through a process tainted by conflict of interest, or by a deliberate bypass of competition, constitutes an affront to Article 14. A low percentage cannot become a licence. It cannot be a defence to nepotism. It cannot neutralise the illegality that attaches to an award which is not supported by a transparent process and contemporaneous records.

34... Even assuming that the share is small in aggregate, the constitutional question remains whether public power has been used to confer private benefit, whether open competition has been displaced without justification, and whether the decision trail is intact”.

Copy of the judgment is annexed herewith as **ANNEXURE A/2.**

iv. **Evidences establishing the Presence of Turtles in and around the forest land to be diverted:**

It is pertinent to note here that the RTI Replies received from the Forest Department, Kutchchh categorically shows nesting site within 15 km radius around the forest land proposed for diversion.

The Appellants herein relies upon multiple RTI responses received from the Forest Range Officer, Mandvi, Kachchh West Forest Division dated 23.03.2022,

(Annexure A/10, Pg. 126 of the Appeal); RTI Response dated 06.02.2025 (Annexure A/1, Pg. 331 of the Additional Affidavit dated 31.07.2025), RTI Response dated 15.05.2025 (Annexure A/2, Pg. 332 of the Additional Affidavit dated 31.07.2025); and RTI Response dated 13.12.2025 (Annexure A/2, Pgs. 4429 & 4457 of the Additional Documents filed in Appeal No. 19 of 2025). The Applicant further relies upon geo-coordinate photographs of turtle nesting sites fenced by the Forest Department for protection, taken in December 2022 (approximately 2.6 km from the project site), March 2025 (approximately 3 km), and July 2025 (approximately 6 km) (Annexure A/4, Pgs. 316, 337 & 338 of the Additional Affidavit filed in Appeal No. 144 of 2025).

The Appellants herein submit that the Clearance issued by the State Government and the Stage-I and Stage-II Forest Clearances are granted on the basis of false, incorrect, and misleading information are liable to be quashed in view of the law laid down in **Sandeep Desai vs. State of Goa (O.A. 47 of 2012)**. It is clear that the DCF has overlooked the information supplied by his own department about the presence of wildlife species around the project area. (Annexure A/21 Pg. 225 of Appeal).

“We are further of the opinion that MoEF and the other authorities casually granted the clearances /approvals without verification of the necessary facts and without following the due procedure. This resulted into undertaking of the mining activity by the Respondent no. 6 though temporarily. The Respondent no. 6 appears to have removed earth for breaking the forest areas and also fell certain trees therefrom. Under these circumstances, we deem it proper to allow the application with the following reliefs:

.....

B. The EC, FC and the permission granted by the Chief Wildlife Warden are quashed and set aside.

D. The MoEF (the competent authority for grant of EC and FC) and the State Government of Goa (in respect of approval by Chief Wildlife Warden) shall initiate departmental proceedings within period of two months against the concerned officers, if any of them is still in service for dereliction in duty and misconduct in granting of the said permission/clearance without following procedure of law and on basis of erroneous statement of facts. If such responsible officers are no more in service, then the estimated loss or an amount of Rs. 5 Lacs (for each approval/clearance) shall be recovered from such officers who participated in the grant of EC/FC and permission by the Chief Warden of wild life by taking proper proceedings against them and after hearing them. The amount shall be deposited with Registrar, NGT within 9 (nine) months.”

III. FALSE AND MISLEADING SITE INSPECTION REPORT BY DEPUTY CONSERVATOR OF FOREST:

- i. It is submitted that the Site Inspection was conducted by the Deputy Conservator of Forest, Kachchh West Division, Bhuj on 29.11.2021. (Annexure A-19 Page 222). The relevant extract is hereby reproduced:

SN	Particular	Report by DFO
8.	Importance of area from wildlife point of view, status of wildlife (density and abundance of important species, bird	NO

	<i>life reptiles, butterflies, and other scheduled animals, any endangered wildlife. Any latest census of wildlife in this area.</i>	
9.	<i>Endemism of flora/fauna of any other unique ecosystem in the area.</i>	NO

PART III OF THE FOREST CLEARANCE PROCESS RECOMMENDATION BY CCF:

- ii. Further, it is crucial to note that the Chief Conservator of Forest, Kachchh vide recommendation order dated 28.01.2022 has recommended the project for diversion of 0.9689 (Annexure A20 of Appeal Pg. 224). The relevant part reads as follows:

16.	<i>Specific recommendation of concerned Chief Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons:</i>	<i>Recommended for diversion of 0.9689 ha. Forest land as Per below condition. 1. Preparation and implementation of a Holistic Conservation Plan for mitigation of any negative effects to the Sea Turtle.</i>
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- iii. It is submitted that the recommendation of the CCF in Part III is contrary to the law since no ‘detailed reasons’ are given by the DCF. The Appellants herein submit that it is surprising that despite stating there are no wildlife species in the proposed project area, the Chief Conservator of Forests without visiting the site and giving any detailed reason as required under the law recommended for preparation and implementation of a holistic conservation plan to mitigate the negative effects upon sea turtles.

IV. LACK OF REASONED JUSTIFICATION IN THE RECOMMENDATIONS FOR THE PROPOSED DIVERSION:

PART IV RECOMMENDATION OF THE STATE FOREST DEPARTMENT

- i. It is submitted that this stage requires the ‘detailed opinion and specific recommendation of the state forest department for acceptance or otherwise of the proposal with remarks. (See Annexure A/22, Pg. 230 of the Appeal). The Relevant extract of the Part IV Recommendation is hereby reproduced:

1.	<i>Detailed Opinion and specific Recommendation of the State Forest Department for acceptance otherwise of the proposal with remarks. (While giving opinion , the adverse comments made by conservator of Forest of DY. Conservator of forest should be categorically and critically commented upon)</i>	Recommended for Sanction
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- ii. It is pertinent to note that the Nodal Officer has merely stated in the column on ‘Detailed Opinion and Specific Recommendation’ as “Recommended for Sanction”. There is not a whisper in the statement as to what is the ‘detailed opinion’. It is submitted that the Legislature, conscious of the fact that forest land diversion has to be avoided as far as possible, thought it necessary to not only insist that the decision maker gives an ‘opinion’ but rather a ‘detailed opinion’. The use of the expression ‘recommended for sanction’ is not only contrary to the statutory

requirement but reflects a casual and lackadaisical approach on the part of the nodal officer.

PART V RECOMMENDATION OF THE STATE GOVERNMENT:

iii. It is submitted that the final stage on the part of the state government prior to the consideration by the Central Government involves the ‘comments’ of the Secretary of the Forest Department or any other officer of the state government not below the rank of under-secretary. The following is the form filled by the State Government. (See Annexure A/23, Pg. 231 of Appeal). The Relevant extract of the Part V Recommendation is hereby reproduced.

1.	Recommendation of the State Government: (Adverse comments made by any officer or authority in Part II or Part III or Part IV should be specified commended upon	Recommended
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iv. That the Hon’ble High Court of Delhi in the matter titled **Capital Broadways Pvt. Ltd. V. Income Tax Officer Ward Delhi & Anr. (W.P. No. 4303 of 2017)** had deprecated the practice of ‘rubber stamp’ reason. The relevant para reads as follows: (Annexure A/24 @ Pg. 232 of Appeal)

20. As explained in the above cases, mere repeating of the words of the statute, mere rubber stamping of the letter seeking sanction or using similar words like “Yes, I am satisfied” will not satisfy the requirement of law. Hence, we are of the firm view that PCIT has failed to satisfactorily record his concurrence. The mere use of expression “Yes, I am satisfied” cannot be considered to be a valid approval as the same does not reflect an independent application of mind. The grant of approval in such manner is thus flawed in law.

21. Hence, for the aforesaid reasons, we are of the view that the approval granted by the PCIT for issuance of notice under Section 148 of the Act is not valid and therefore the impugned notice under Section 148 dated 24.03.2017 cannot be sustained. Accordingly, the impugned notice is set aside”.

v. Furthermore the Hon’ble Delhi High Court in the matter titled **Central India Electric Supply Co. Ltd. v. ITO (2011 SCC OnLine Del 472)** has taken a view that merely rubber stamping of “Yes” would suggest that the decision was taken in a mechanical manner: (Annexure A/27 @ Pg. 242 of Appeal)

“19. ...However, in the instant case, the manner in which the proforma was stamped amounting to approval by the Board leaves much to be desired. It is a case where literally a mere stamp is affixed. It is signed by an Under Secretary underneath a stamped Yes against the column which queried as to whether the approval of the Board had been taken. Rubber stamping of underlying material is hardly a process which can get the imprimatur of this court as it suggests that the decision has been taken in a mechanical manner. Even if the reasoning set out by the Income-tax Officer was to be agreed upon, the least which is expected is that an appropriate endorsement is made in this behalf setting out brief reasons. Reasons are the link between the material placed on record and the conclusion reached by an authority in respect of an issue, since they help in discerning the manner in which conclusion is reached by the concerned authority”

vi. In the instant case, it seems that the State of Gujarat follows the system of rubber stamp rather seriously by actually taking recourse to an actual rubber stamp. The above discussed Judgments are relevant in the context of mechanical reasons which reflects non application of mind by the concerned officers. The other

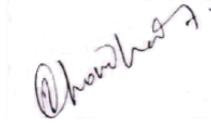
relevant judgments are **Chhugamal Rajpal vs. S.P. Chaliha & Ors. (1971) 79 ITR 603 (SC)** (Annexure A/25 @ Pg. 234 of Appeal) and **The Principal Commissioner of Income Tax-7 (PCIT) vs. Pioneer Town Planners Pvt. Ltd. (2024) SCC OnLine Del 4453** (Annexure A/26 @ Pg. 239 of Appeal).

- vii. The mere use of the term "recommended" or similar expressions, without a substantive rationale, does not fulfil the legal requirement for a valid recommendation. Such rubber-stamping of approvals undermines the integrity of the decision-making process. The Hon'ble Supreme Court and the Delhi High Court, in a catena of judgments as discussed above, has consistently held that orders passed in such a mechanical and unreasonable manner are legally unsustainable. Therefore, the grant of approval in the present case, based solely on such superficial recommendations, is flawed.

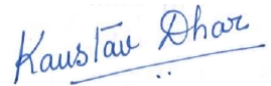
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KAUSTAV DHAR

ADVOCATES

COUNSELS FOR THE APPELLANTS

N-73, LGF, Greater Kailash – 1,

New Delhi – 110048

Mobile: +91 9312407881

Email: litigation@dclawchambers.com

PLACE: PUNE / NEW DELHI

DATE: 30.06.2026

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 52 of 2015
(M.A. No. 156 of 2015)

IN THE MATTER OF:
Milind Pariwakam & Anr. Vs. Union of India

CORAM : HON’BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON’BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON’BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON’BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Raj Panjwani, Sr. Adv. along with Mr. Ritwick Dutta, Mr. Rahul Choudhary and Ms. Pallavi Talware, Advocates
Respondent No. 1: Ms. Panchajanya Batra Singh and Mr. Harish Chauldhary, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 20 March 13, 2015	<u>Original Application No. 52 of 2015</u> This Original Application No. 55 of 2015 has been filed by the Applicant who claims to be a Wildlife Biologist interested in the Environmental and Wildlife issues. According to him, he has been pursuing these remedies now for a considerable time. By means of this Application, the challenge has been raised to the communications dated 8th August, 2014 and 15th January, 2015 issued by MoEF, Respondent No. 1 in this Application. The prime challenge to these communications is inter alia but primarily on the following grounds: 1. These communications are in violation of the scheme and particularly Section 2 of the Forest Conservation Act, 1980. 2. The communications are bound to adversely affect the right of appeal as contemplated to an aggrieved person in terms of Section 16 of the National Green Tribunal

	Act, 2010. The Learned Counsel appearing for the Union of India fairly stated that there is an legal lacuna in the communications issued by the Ministry but in view of the Affidavit that has been filed before the Tribunal today, the said lacuna and the gaps stand fully satisfied. Thus there is hardly any occasion for the Tribunal to quash these communications. The legal position undisputed before us is that permitting user of the Forest area for non-forest activity can only be permitted under Section 2 of the Forest Conservation Act, 1980 by the State Government in whose jurisdiction the forest falls. It is also undisputed before us that MoEF has intended to provide guidelines for expeditious granting of consent to the linear projects which are amongst others of national importance and necessary for the development of the country. We have perused the Affidavit filed on behalf of Respondent No. 1 before us today. It is correct that this Affidavit remedies the legal error in the OM but not to the entire extent. In light of the above submissions and having heard the Learned Counsel appearing for the parties at some length, we pass the following directions: a. The OM issued by MoEF will be given effect to read with the Affidavit but only and only subject to the directions contained in this Judgment. b. No non-forest activity in the Forest Area that is covered under Section 2 of the Forest Conservation Act, 1980 would be permitted and carried on in any manner whatsoever unless an order has been passed
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		by the competent authority of that State Government and put it in the public domain by putting it on its website and complying with the other requirements in accordance with law . c. As the law has already been stated by the Tribunal that it is only an Order passed under Section 2 of the Forest Conservation Act, 1980 that is appealable under Section 16 of the NGT Act, we direct that Appeals would lie against such Orders to avoid difficulty to any litigant/ aggrieved person from approaching the Tribunal in accordance with law. The communications dated 8th August, 2015 and 15th January, 2015 will be read and construed in terms of this Judgment alone. We make it clear that if any condition has been put up by the MoEF in its approval required by the State Government only those conditions can be complied with which are administrative in nature and do not in any way include or even permit carrying on of any activity in the forest area. In addition to the above, we expect MoEF to put its approval required under Section 2 Forest Conservation Act, 1980 to put on the website. Accordingly, Original Application No. 52 of 2015 stands disposed of while leaving the parties to bear their own costs. <u>M.A. No. 156 of 2015</u> This Application does not survive for consideration as the main Application itself stand disposed.
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		Accordingly, M.A. No. 156 of 2015 stands disposed of. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)
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2026 SCC OnLine SC 526

In the Supreme Court of India

(BEFORE VIKRAM NATH, SANDEEP MEHTA AND N.V. ANJARIA, JJ.)

Save Mon Region Federation and Another ...
Petitioner(s);

Versus

State of Arunachal Pradesh and Others ...
Respondent(s).

Writ Petition (Civil) No. 54 of 2024^s

Decided on April 6, 2026

Advocates who appeared in this case :

Mr. Prashant Bhushan, AOR, Ms. Neha Rathi, Adv., Ms. Kajal Giri, Adv., Ms. Somya Kumari, Adv., Mr. Prateek Yadav, Adv., For Petitioner (s)

Mr. Anil Shrivastav, AOR, Mr. Tushar Mehta, Solicitor General (N.P.), Mr. K M Nataraj, A.S.G., Mr. Sharath Nambiar, Adv., Mr. Vinayak Sharma, Adv., Mr. Vatsal Joshi, Adv., Mr. Anuj Srinivas Udupa, Adv., Mr. Chitransh Sharma, Adv., Mr. Yogya Raj Purohit, Adv., Ms. Indira Bhakar, Adv., Ms. Satvika Thakur, Adv., Ms. Ritika Ranjan, Adv., Mr. S. Subramaniam, Adv., Mr. Mukesh Kumar Maroria, AOR, Mr. Madhav Sinhal, Adv., Mr. Aaditya Shankar Dixit, Adv., Mr. Santosh Kumar, Adv., Mr. Sarthak Karol, Adv., Mr. Himanshu Satija, Adv., Mr. Aman Mehta, Adv., Mr. Gurmeet Singh Makker, AOR, Mr. K.M. Nataraj, A.S.G., Mr. Vinayak Sharma, Adv., Mr. Anuj Udupa, Adv., Mr. Anmol Chandan, Adv., Ms. Disha Thakkar, Adv., Mr. Amrish Kumar, AOR, For Respondent (s)

The Judgment of the Court was delivered by

VIKRAM NATH, J.:— In a constitutional democracy governed by the rule of law, the exercise of public power is always subject to constitutional discipline. The State does not hold public resources as a private proprietor, but as a trustee on behalf of the people. Whenever the State undertakes the allocation of public resources, the award of public contracts, or the execution of public works, it is bound to act in a manner that is transparent, fair, and consistent with the guarantee of equality under Article 14 of the Constitution of India. The process through which such decisions are taken must therefore be capable of withstanding objective scrutiny and must reflect a decision-making framework that is free from arbitrariness, favouritism, or undisclosed conflicts of interest.

2. Public confidence in governance rests upon the assurance that opportunities created by the State are administered through institutions that respect equality, integrity, and accountability. Where the distribution of public resources is clouded by allegations of nepotism, patronage, or opaque decision-making, the issue is not merely one of administrative irregularity. It raises concerns that go to the heart of the constitutional promise that State action shall be fair, impartial, and guided by reason. Constitutional courts, as guardians of that promise, are therefore required to ensure that the exercise of public authority remains anchored in legality, transparency, and institutional accountability.

3. The present Writ Petition under Article 32 of the Constitution of India has been instituted by the petitioners, namely, Save Mon Region Federation, a civil society organisation working for the residents of the Mon region in the State of Arunachal Pradesh, and Mr. Joddik Tali, stated to be its authorised representative and a resident of the State. The petition has been filed in public interest, alleging that the award and execution of public works contracts in the State have been marked by arbitrariness, favouritism and serious departures from the governing financial and procurement norms, including allegations of preferential allotment of works to Respondent Nos. 4 to 6 and to firms or individuals stated to be related to them. On that basis, the petitioners seek, inter alia, a direction for an independent investigation by a Special Investigation Team (hereinafter referred to as "SIT") and or the Central Bureau of Investigation (hereinafter referred to as "CBI"), along with such further consequential directions as this Court may deem fit.

4. The facts giving rise to the present writ petition are as follows:

4.1. The gravamen of the petition is an allegation of systemic illegality and arbitrariness in public procurement and award of public works in the State of Arunachal Pradesh, with a particular emphasis on the award of works to firms and individuals stated to be closely connected with respondent No. 4 (the present Chief Minister of Arunachal Pradesh) and respondent Nos. 5 and 6, and to their close political associates. The petitioners assert that the pattern reflected in the listed works indicates nepotism, conflict of interest and abuse of official position, resulting in diversion of public contracts to a narrow set of beneficiaries.

4.2. In support of the above, the petitioners allege, inter alia, that several works were awarded through work orders without an open and competitive tender process, including works of substantial value, and that the record placed by the State is incomplete as it does not disclose the underlying tender documents, comparative statements, approvals, file notings and other material particulars needed to demonstrate fairness and transparency. The petitioners also rely

upon procurement norms which emphasise transparency, competition, fairness, and avoidance of conflict of interest, and contend that even where general procurement rules are stated not to apply proprio vigore to State Governments, the State's own sanction conditions often require adherence to procedural formalities and competitive bidding.

4.3. As regards the period of the alleged irregularities, the petitioners place reliance upon a range of works spanning multiple years. They rely, in particular, upon earlier allegations examined through audit scrutiny, and also allege continuation of the pattern in later years. For purposes of affidavits and compilation of details directed by this Court, the controversy has been addressed with reference to the period between 2015 and 2025, and the petitioners contend that even within that period the material suggests persistent procedural departures and preferential treatment.

4.4. On the aforesaid premise, the petitioners seek directions for an independent investigation, including constitution of a SIT or a Court-monitored investigation by the CBI, asserting that the allegations implicate public faith in governance and the integrity of public expenditure, and therefore warrant scrutiny beyond departmental or internal mechanisms.

4.5. The present writ petition also bears a close connection with SLP (C) No. 34696 of 2010, titled *Voluntary Arunachal Sena v. State of Arunachal Pradesh*, which arose out of an earlier public interest litigation before the High Court. By order dated 20.03.2024, this Court disposed of the said special leave petition and directed that the complaint or complaints on which the proceeding was founded be examined by the Comptroller and Auditor General of India (hereinafter referred to as "the CAG").

4.6. In the said order, this Court also took note that interlocutory applications seeking interference in respect of certain subsequent contracts were not being examined in those proceedings, as an independent writ petition had been filed in relation to such subsequent set of contracts, which is the present writ petition. Pursuant to the directions issued thereafter in these proceedings, the CAG has filed its final report dated 21.07.2025 in relation to the nine allegations which formed part of the record in SLP (C) No. 34696 of 2010. The petitioners rely upon the report to contend that it reflects repeated departures from tender based procurement and serious gaps in official documentation. The State, on the other hand, relies upon the portions of the report which record verification of payments with reference to measurement books and joint physical verification of certain works.

5. Having heard learned counsel for the parties and having perused

the pleadings, affidavits and the material placed on record, the principal issue that arises for consideration is whether the allegations and the prima facie material relating to the award and execution of public works contracts, including the asserted pattern of repeated departures from open and competitive tendering, gaps in official documentation, and the stated award of works to Respondent Nos. 4 to 6 or firms and individuals related to them, warrant a direction by this Court for an independent investigation by the CBI and or the constitution of a SIT, and, if so, the scope of such investigation and the consequential directions required to secure the integrity of the process.

Applicable standard for invoking Court-directed investigation

6. The petitioners seek a direction for investigation by the CBI or, in the alternative, the constitution of a SIT. It is well settled that, in exercise of jurisdiction under Article 32 of the Constitution, this Court possesses the constitutional authority to direct that an investigation be carried out by an agency other than the ordinary State investigating machinery, including the CBI, where the circumstances of the case so warrant. At the same time, the jurisprudence of this Court has consistently emphasised that such power is to be exercised with restraint.

7. In *State of W.B. v. Committee for Protection of Democratic Rights*¹, the Constitutional Bench of this Court held that a direction by a constitutional court to the CBI to investigate a cognizable offence within the territory of a State is not barred merely for want of State consent, and such a direction does not violate the federal structure or the doctrine of separation of powers. The Court also underscored that constitutional courts, as protectors of civil liberties, have not only the power but also the obligation to protect fundamental rights, including under Article 21. However, the same decision cautions that the very amplitude of the power under Articles 32 and 226 of the Constitution of India requires great care in its exercise. It has been reiterated that a direction to the CBI is not to be made as a matter of routine or merely because allegations have been levelled against the local police. The extraordinary power is to be exercised sparingly and cautiously, and in exceptional situations where it becomes necessary to lend credibility and instil confidence in the investigation, or where the incident has wider ramifications, or where such a course is necessary for doing complete justice and enforcing fundamental rights. The relevant portion from the judgment is as follows:

“69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither

impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

8. The governing principle is that transfer of investigation to the CBI is justified only in rare and exceptional cases where it is necessary to do justice between the parties and to instil confidence in the public mind, or where the investigation by the State police lacks credibility and it is necessary to secure a fair, honest and complete investigation. Illustratively, such transfer may be warranted where high officials of the State are involved, where the accusation is against top officials of the investigating agency such that they may influence the course of investigation, or where the investigation is prima facie found to be tainted or biased.

9. These principles also make it clear that this Court, while considering a request for CBI investigation or constitution of an SIT, does not undertake an adjudication on culpability. The Court examines whether the material placed discloses a prima facie case which necessitates entrustment of investigation to an independent agency so that the rule of law is upheld and the investigative process commands

confidence, particularly where the status or authority of persons implicated may reasonably give rise to apprehensions about the impartiality of the ordinary investigative process. In determining whether the extraordinary jurisdiction to entrust investigation to the CBI should be exercised, the Court ordinarily examines whether the material placed before it discloses (i) a prima facie case raising serious questions of legality, (ii) circumstances suggesting that investigation by the ordinary State machinery may not inspire confidence where high public functionaries are implicated, and (iii) the necessity of an independent inquiry to preserve public confidence in the rule of law.

Constitutional discipline in public procurement

10. The award of public contracts is an exercise of public power. It involves the expenditure of public funds and the conferment of economic benefit by the State. Such decisions are not insulated as matters of private contract. They are subject to the discipline of Article 14 of the Constitution of India, because the State must act fairly, transparently, and in a non-arbitrary manner when it distributes public resources.

11. This Court has repeatedly recognised that State owned or public owned resources cannot be dealt with at the absolute discretion of the executive. Public interest is the paramount consideration. One of the ordinary and safest methods of securing that public interest is by inviting competition through tenders. A departure from competitive tendering may be permissible in a limited set of situations, but only when the departure is justified by rational and recorded reasons that do not suggest discrimination. In *Sachidanand Pandey v. State of W.B.*², this Court emphasised that appearance of public justice is as important as doing justice, and nothing should be done which gives an appearance of bias, jobbery or nepotism. That principle has particular force in matters of public contracting, because secrecy, discretion and personal proximity are precisely the conditions in which abuse of power becomes difficult to detect.

12. The constitutional requirement is not satisfied merely because a work exists on the ground or because an authority asserts that funds were utilised. Public procurement has two distinct dimensions. One is the physical execution of work. The other is the integrity of the process by which public money is committed and paid out. A project may be visible at the site and yet the procurement decision may still be unconstitutional if it was arrived at through an arbitrary, opaque or conflicted process. It is the decision-making process which must be capable of scrutiny through contemporaneous records, including the tender trail where tender is required, and the recorded justification where tender is dispensed with.

13. The discipline that governs State largesse reinforces this position. The State and its instrumentalities cannot confer benefits according to the whims of any political or administrative functionary. In *Akhil Bhartiya Upbhokta Congress v. State of M.P.*³, this Court held that every decision to confer benefit must be founded on a sound, transparent and discernible policy and must be implemented by a non-discriminatory method, free from favouritism and nepotism. The same understanding informs the statement in *Centre for Public Interest Litigation v. Union of India*⁴, that whenever a contract or licence is granted the public authority must adopt a transparent and fair method so that eligible persons have a fair opportunity of competition. These decisions do not lay down tendering as a mechanical ritual. They treat transparency and fair opportunity as constitutional essentials in the disposition of public resources.

14. These principles are especially stringent where the allegation is of conflict of interest or related party benefit. In such situations, the constitutional concern is not limited to whether the State obtained value for money. The concern is whether public power was used, directly or indirectly, to confer private advantage, or whether the process was structured in a manner that excluded competition and enabled a preferred beneficiary. Once such a concern arises on the record, it is not answered by showing that the overall percentage of work awarded to related parties is numerically small. A constitutional violation in public contracting is not diluted by statistics. Even a single instance, if established, undermines equality, the rule of law and public confidence in fair administration.

15. At the same time, it must be emphasized that judicial review in this field does not convert the Court into a tender approving authority. The Court does not sit to choose the contractor or to re-evaluate technical bids. The Court examines whether the process conforms to constitutional standards of fairness, transparency and non-arbitrariness, and whether the record supports the decision. Where the complaint is not about comparative merits of bidders but about systemic opacity, repeated departures from competitive methods, missing records and alleged conflict of interest, the matter travels beyond an ordinary contractual grievance and raises questions of constitutional accountability.

Procurement deviations and missing records as red flags

16. A separate but closely connected aspect concerns the legal significance of a departure from competitive tendering and the non-availability of core procurement records. Competitive tendering is not an inflexible ritual, but it remains the ordinary method by which the State demonstrates fairness and secures public confidence in the

disposition of public resources. When the State dispenses with an open tender, the exception must be strictly conditioned. The decision to depart from competition must be supported by reasons recorded by the competent authority, and those reasons must be rational and capable of objective scrutiny. In administrative law, the insistence on reasons is a restraint on arbitrariness and a safeguard of transparency, and it enables effective judicial review. The requirement of reasons is not satisfied by broad assertions made after the event. Even where the order itself does not contain a detailed narration, the record must disclose why the ordinary rule was departed from and what safeguards were adopted to ensure that the departure did not become a vehicle for favouritism. This Court has recognised that, at the least, the record should disclose reasons, even if those reasons are brief.

17. The non production of core records such as tender documents, comparative statements, evaluation material, approvals, measurement records and vouchers raises a distinct and serious concern. The State is the custodian of public records and it is expected to maintain them in a manner that makes public expenditure traceable and accountable. When material records that ought to exist are not produced, the Court is not required to treat that circumstance as innocuous. The law also permits a court to draw a presumption against a party that withholds evidence within its power, and that principle applies with greater force where the custodian is the State.

18. It must also be emphasised that a physical trace of a project, by itself, does not answer the constitutional question. The distinction between physical execution and legality of the procurement process assumes particular importance where the State seeks to rely on the mere existence of completed works as a defence. One is whether some work was executed. The other is whether the process by which public money was committed and paid out was fair, competitive where competition was required, and free from conflict of interest. Judicial review in contract matters focuses on the decision making process and tests it for legality and absence of arbitrariness, bias and mala fides.

19. For these reasons, where the material placed before the Court indicates repeated resort to non-competitive methods without a demonstrable record of reasons, or indicates gaps in the record trail that prevent meaningful scrutiny, the matter travels beyond a routine contractual grievance. Such features become relevant indicators for determining whether an independent investigation is required, so that responsibility for deviations and missing records may be fixed and the integrity of public procurement is secured in accordance with the rule of law.

Appreciation of the record in the present case

20. The pleadings in the writ petition proceed on the basis that the

petitioners have placed on record a list of public works, across multiple departments and schemes, which according to them reveals a sustained pattern of award of contracts and work orders to a narrow set of entities claimed to be closely connected with Respondent Nos. 4 to 6. The petitioners allege that the works were repeatedly awarded without an open and competitive tender process, that the requirement of disclosing and addressing conflicts of interest was bypassed, and that the procurement record does not contain the contemporaneous decision trail that would ordinarily demonstrate fairness and transparency.

21. In particular, the petitioners identify certain firms and individuals as forming the core of the alleged pattern. The petitioners allege that contracts were awarded to firms stated to be owned or controlled by the close family members of Respondent No. 4, who is the present Chief Minister of Arunachal Pradesh, and to entities stated to be owned by Respondent Nos. 5 and 6 and by close political associates. The petitioners contend that the scale and frequency of such awards, when viewed together, disclose a prima facie case of nepotism, conflict of interest and abuse of public office.

22. The petitioners further allege that a significant number of the works were executed through the work order system without tender, including works of substantial value. The petitioners assert that the work order method was not employed as an exception justified by genuine urgency or special circumstances, but was used in a manner that displaced competition and facilitated repeated awards to a preferred class of contractors. The petitioners also contend that even where a tender is stated to have been issued, the contemporaneous material that would ordinarily support the award, including comparative statements, evaluation records and file notings, has not been produced.

23. The record also includes the final report filed by the CAG on 21.07.2025 in relation to the directions arising from SLP (C) No. 34696 of 2010. The final audit report deals with nine allegations and contains findings which are material for appreciating the nature of the issues raised before us. For example, in relation to the award of carriage contract work for transportation of 24,800 MT of rice under Sampoorna Gramin Rozgar Yojana, the audit records that the Department concerned did not invite tender or quotation, though four firms submitted offers, and the work order was issued to the firm selected as the lowest bidder. The audit also records that the proprietor of the concerned firm was Shri Jambey Tashi as alleged in the special leave petition, but that there was no information on record regarding his family relationship with Shri Dorjee Khandu. The audit further notes that the Department verified claims on distances on the basis of notifications issued by Deputy Commissioners and that, on cross-verification, it did not find differences between the contractor's claims

and the supporting records. At the same time, the audit records that monthly progress reports contemplated under the scheme guidelines were not prepared and that details for certain districts were not furnished, and it also notes that joint physical verification was undertaken in respect of a sample of works shown as executed.

24. More significantly, across several other allegations, the audit report records repeated features that have a direct bearing on procurement integrity and record accountability. The audit records multiple instances of execution of works without call of tender, and it repeatedly notes that the basis for selection of contractors and the reasons for dispensing with tender were not on record. The audit report also records several instances where vouchers were not produced, or where crucial tender-related documentation was stated to be unavailable. Illustratively, the audit records that for the NLCPR project relating to improvement and re-alignment of the porter track from Jang to Sulungthi, vouchers for an amount of Rs. 107.11 lakhs were not produced, and for the NLCPR project relating to construction of the porter track from Nuranang to Mago, vouchers for an amount of Rs. 23.20 lakhs were not produced. In the NLCPR project relating to construction of the road from Lhou Nallah to Mukto CO Headquarters via Gomkeling and Serjong, the audit records that vouchers for an amount of Rs. 12.24 crores were not produced and that documents relating to comparative bid statements and award of work where tender notice was issued were not made available, resulting in the audit being unable to probe the award further. These are not minor clerical omissions. They directly affect the traceability of public expenditure and the ability of the audit process to verify whether procurement decisions were taken in accordance with law. They go to the heart of whether the expenditure is traceable and whether the procurement decision is capable of objective scrutiny.

25. The audit report similarly records that in the project relating to improvement and upgradation of road network in Tawang township, a large part of the work was executed through multiple contractors without call of tender and vouchers for a part of the expenditure were not produced. In the project relating to providing water supply in Tawang township, the audit records that while certain components were put to tender, several other components were executed without call of tender, and that vouchers for an amount of Rs. 273.92 lakhs were not made available. In the allegation relating to the corpus fund of Rs. 23 crores sanctioned to the Bodhi Language and Literature Promotional Society, the audit records that the corpus fund remained as a fixed deposit, but that the accrued interest amounting to several crores of rupees was transferred to a savings account and the audit could not directly confirm its utilisation due to lack of documentation linking

expenditures to specific end uses. The audit further records that as per information furnished by the Registrar of Societies, the Society never renewed its registration after the initial registration in 1993. In relation to the PMGSY projects, the audit report records that in certain projects works were executed without inviting tender by engaging a large number of contractors, and in certain other projects, although tenders were stated to have been issued and awarded, the relevant comparative statements or award documentation was stated to be unavailable, thereby disabling scrutiny of whether competition was fair and how the award decision was taken.

26. The petitioners filed an additional affidavit after the CAG report was on record, wherein they expressly dispute and criticise parts of the audit conclusions. The petitioners contend that the work order system, even where used for so-called petty or emergent works, does not dispense with statutory requirements such as fair opportunity and recorded justification, and that the absence of tenders and the absence of complete records cannot be normalised as an administrative practice. The petitioners also contend that the audit's reliance on joint physical verification cannot be treated as a substitute for verifying adherence to procurement norms and technical specifications, and that physical existence of a work does not answer questions of conflict of interest, distortion of competition, record tampering, or unexplained expenditure. The petitioners further allege that the State's disclosure in its additional affidavit is incomplete, that certain works referred to by the petitioners were omitted, and that the State did not furnish the contemporaneous procurement record, including tender committee material, comparative statements and file findings.

27. The State of Arunachal Pradesh, in its reply, has sought to meet the petitioners' case on a broad platform. The State asserts that the CAG is a constitutional authority and that the audit report is now within the domain of constitutional and legislative scrutiny. The State further asserts that award of works through the work order system is not peculiar to the respondents alleged by the petitioners, and that the work order system is rooted in the geographical and socio-economic conditions prevailing in Arunachal Pradesh. The State explains the process by which administrative approval and expenditure sanction is granted, followed by technical sanction, and states that works valued below Rs. 50.00 lakhs are executed on work order basis in terms of the statutory framework, while works above that value are ordinarily executed through tenders. The State relies upon the Arunachal Pradesh District Based Entrepreneurs and Professionals (Incentives, Development and Promotional) Act, 2015, including Section 3A, which contemplates that works costing up to Rs. 50.00 lakhs, for which no special technical know-how is required and subject to the statutory

conditions, may be given through work order without tender. The State denies that Section 3A has been violated and asserts that the petitioners have not placed explicit proof of such violation. The State also asserts that a large proportion of the works referred to by the petitioners were awarded through tender and that the petition is being projected beyond the factual foundation laid by the petitioners themselves.

28. The State has also placed on record a compilation which it states has been prepared across seven major works departments, covering the period 01.04.2014 to 31.12.2025, and including a summary of tenders and work orders, and a summary of the percentage of works awarded to Respondent Nos. 4 to 6 or firms related to them. The State asserts that the share of such awards is miniscule in terms of both tenders and work orders and places reliance on departmental percentages which include figures such as 0.32 per cent and 0.07 per cent for the Department of Power, 0.03 per cent and 0.01 per cent for the Public Health Engineering and Water Supply Department, 1.03 per cent and 0.08 per cent for the Rural Works Department, 0.79 per cent and 0.06 per cent for the Water Resource Department, 0.80 per cent and 0.26 per cent for the Public Works Department, 1.20 per cent and 0.00 per cent for the Department of Hydro-Power Development, and 0.37 per cent and 0.36 per cent for the Department of Urban Development.

29. Having considered the record at this stage, we find that the petitioners' allegations are not confined to a mere grievance about the outcome of a tender. They raise issues that go to the integrity of public procurement and the traceability of public expenditure. The audit report, the petitioners' additional affidavit, and the State's replies together disclose repeated resort to non-tender methods, repeated absence of recorded reasons for such resort, and repeated non-production of vouchers and tender-related records in relation to high value public projects. The State's reliance on aggregate percentages does not, by itself, answer the concerns arising from specific instances where the procurement trail is incomplete or absent. These are matters that require structured investigation into the decision-making process, the custody and availability of records, the reasons for deviations, the identification of beneficiaries and related-party links, and the ascertainment of whether any cognizable offences or other legal breaches are disclosed.

Problems with the State's arguments

30. We are unable to accept the attempt of the State to answer allegations of this nature by reference to broad generalities. The first response of the State is that the CAG is a constitutional authority and that its report now lies within the domain of the Governor and the State Legislature. That submission proceeds on a misconception. Legislative

scrutiny through the Public Accounts Committee is an important mechanism of financial accountability, but it does not displace the constitutional role of this Court when allegations before it implicate arbitrariness in public procurement, possible conflict of interest, and prima facie misuse of public office. The proceedings before this Court are not rendered infructuous merely because an audit report is also capable of being examined in the legislative domain. The CAG report has been called for and placed on record in these proceedings pursuant to orders of this Court, and it forms part of the material that must be assessed for the limited purpose of determining whether an independent investigation is warranted.

31. The second response of the State is to normalise the work order system by attributing it to the geographical and socio-economic conditions of Arunachal Pradesh and to rely upon the Arunachal Pradesh District Based Entrepreneurs and Professionals (Incentives, Development and Promotional) Act, 2015. We do not doubt that the State may, consistent with law, design procurement modalities that respond to local conditions. We also accept that certain works may be executed through work orders within the statutory framework. However, what is under scrutiny in these proceedings is not the existence of a work order system as a concept. The concern is the manner of its deployment in relation to public works and the procurement trail that accompanies it. A statutory framework permitting limited dispensation with tender does not authorise unstructured discretion. It does not dilute the requirements of Article 14. It does not permit repeated departures from competition without recorded reasons. It does not permit the State to proceed without a decision trail that makes the award capable of objective scrutiny, particularly where allegations of related-party benefit are made.

32. The third response of the State is that the petitioners have failed to produce “explicit proof” of violation of Section 3A of the Act of 2015. That submission reverses the constitutional burden. The petitioners are not public record custodians. The State is. The State awards contracts, maintains the files, sanctions expenditure, records the reasons for deviations, and holds the tender and work order record. When serious allegations of unfairness and conflict of interest arise and the record itself shows gaps in essential documents, the Court cannot place the entire onus on the petitioners to establish the illegality by materials they do not control. At the prima facie stage, what is material is whether the record discloses circumstances that warrant an independent investigation. Missing vouchers, missing comparative statements, and absence of recorded reasons are not neutral facts. They are indicia that the State must answer and that require independent verification.

33. The fourth response of the State is to rely on aggregate percentages and to assert that the share of works awarded to Respondent Nos. 4 to 6 or firms related to them is “minuscule”. We are not persuaded that such arithmetic can answer the constitutional concern. The Constitution does not tolerate a breach of public trust merely because the breach is numerically small when measured against the total universe of State expenditure. Even a single instance of award of public work through a process tainted by conflict of interest, or by a deliberate bypass of competition, constitutes an affront to Article 14. A low percentage cannot become a licence. It cannot be a defence to nepotism. It cannot neutralise the illegality that attaches to an award which is not supported by a transparent process and contemporaneous records.

34. Moreover, the percentage argument is inherently capable of masking what the Court is required to examine. A Statewide denominator can conceal concentration within a district, concentration within a particular department, concentration in high-value projects, or concentration within a small set of contractors. Even assuming that the share is small in aggregate, the constitutional question remains whether public power has been used to confer private benefit, whether open competition has been displaced without justification, and whether the decision trail is intact. The State's compilation, which is presented as a statistical answer, does not address the absence of tender records and vouchers noted in the audit material. It also does not answer why, where tender is claimed, comparative statements and related records are unavailable.

35. We also find it difficult to accept the State's posture that its compliance is complete because it has furnished details only with reference to the works listed by the petitioners. The orders of this Court required a detailed disclosure and a transparent response on the contracts in issue, including those relating to Respondent Nos. 4 to 6 or firms related to them, and the subsequent order clarified that the scope was not confined to a single district. The State cannot choose a narrow construction of disclosure obligations when the controversy concerns the integrity of public procurement. In any event, where the State asserts that the petition is “Tawang-centric”, it is still obliged to answer, with complete procurement records, how the questioned awards were made, why tender was dispensed with, and why essential documents are missing.

36. Ultimately, what emerges from the record is that the State does not deny that the work order system has been used extensively. The audit material reflects multiple instances of non-tender execution and missing documentation. The petitioners allege related-party benefit and conflict of interest. In response, the State offers broad justifications,

invokes percentages, and disclaims comment on the audit report. These answers do not meet the gravity of the allegations. They do not restore the confidence that a matter of this nature requires. They reinforce the need for an investigation by an independent agency that can trace the decision-making process, locate responsibility for missing records, and examine whether the pattern disclosed is an outcome of lawful administration or an abuse of public office.

Necessity of an independent investigation by the CBI

37. Having regard to the principles set out above and the material placed on record, we are satisfied that this is a fit case where an independent investigation is necessary. The record discloses repeated resort to non-tender methods in relation to public works, repeated absence of recorded reasons explaining why competition was dispensed with, and repeated non-production of vouchers and tender-related documentation in relation to projects of substantial value. Such circumstances raise legitimate concerns not merely of administrative irregularity but of possible abuse of public office, manipulation of procurement processes, and concealment or destruction of official records, matters which require investigation by an independent agency vested with statutory powers of criminal investigation. The petitioners further allege that a significant cluster of such awards has accrued to Respondent Nos. 4 to 6 or to firms and individuals related to them, thereby raising a serious question of conflict of interest and abuse of public office. These are not matters that can be left to be answered by broad affidavits or by statistical summaries. They require a structured investigation into the decision-making process, the manner of selection of contractors, the justification for deviations from tender-based procurement, and the integrity and custody of public records.

38. The final report filed by the CAG has evidentiary relevance in this context, though it is not determinative of criminal culpability. The audit identifies repeated gaps in the documentary trail, including non-availability of vouchers and non-availability of tender evaluation material, and in several instances it records that it could not probe the award process further for want of essential records. These features, when read with the petitioners' assertions of related-party benefit and with the State's inability to furnish a complete contemporaneous procurement trail, provide a sufficient prima facie foundation for entrustment of investigation to an independent agency.

39. We are also mindful that the allegations in the present proceedings concern public contracting under the authority of the State and are directed, in material part, against persons who occupy, or are stated to be closely connected with those who occupy, high constitutional and political office in the State. In such circumstances, leaving the matter to be investigated by agencies that function under

the administrative control of the State would raise a serious and reasonable apprehension, in the public mind, about institutional independence. The credibility of the process is as important as its eventual outcome. Where a case concerns the integrity of public procurement and involves allegations of conflict of interest at the highest levels, an investigation must be not only fair but must also appear fair.

40. A CAG audit is not designed to perform the role of a criminal investigation. An audit may verify accounts, test compliance, and record deficiencies. It cannot, however, conduct searches and seizures, trace beneficial ownership and related-party links through layered entities, examine the money trail, identify the persons responsible for custody and disappearance of files, or determine whether the facts disclose the commission of cognizable offences. These are functions that lie within the domain of an investigating agency empowered by law.

41. We have considered whether constitution of an SIT under the supervision of the State would suffice. In the facts of the present case, we are of the view that the nature of allegations, the institutional proximity of the persons against whom allegations are made, and the recurring deficiencies in the procurement record make it necessary to entrust the investigation to an agency which is institutionally independent of the State executive. The CBI is the appropriate agency for this purpose.

42. Accordingly, we deem it appropriate that CBI shall register a preliminary enquiry forthwith and shall conduct a time-bound investigation into the award and execution of the public works contracts and work orders which form the subject matter of this writ petition and the affidavits filed in these proceedings. The investigation shall include examination of the procurement process, the reasons and approvals for dispensing with tender, the availability and custody of records including vouchers, comparative statements and file notings, the identity of beneficial owners of the contractor entities, the fund flow and payments made, and any other connected matter necessary to ascertain whether any illegality or cognizable offence is disclosed.

43. Before issuing directions for investigation, it is also necessary to clarify the temporal scope of the inquiry. During the course of these proceedings, affidavits and compilations of records were directed to be furnished with reference to the period 2015 to 2025, and the State itself has placed materials covering substantially the same timeframe. The allegations in the writ petition, the audit scrutiny, and the record placed before this Court together indicate that the questioned pattern of procurement practices is alleged to have occurred across multiple departments during this period. In order to ensure that the

investigation is both effective and structured, while at the same time avoiding an unbounded or roving inquiry into earlier periods for which no material has been placed before this Court, it is appropriate that the investigation be confined to the period 01.01.2015 to 31.12.2025.

Conclusion

44. For the reasons recorded above, and in exercise of the jurisdiction of this Court under Article 32 of the Constitution of India, the writ petition is disposed of with the following directions:

- I. The Central Bureau of Investigation (CBI) shall register a preliminary enquiry within two weeks from the date of this judgment and shall proceed in accordance with law.
- II. The preliminary enquiry and the consequential investigation, if any, shall cover the award and execution of public works contracts and work orders in the State of Arunachal Pradesh for the period from 01.01.2015 to 31.12.2025, including the works and compilations placed on record in these proceedings. The CBI shall, in particular, examine awards made to Respondent Nos. 4 to 6 and to firms or individuals related to them, and shall examine the procurement process, the reasons and approvals for dispensing with open tender, the compliance with the applicable statutory and statutory requirements, the availability and custody of records, the flow of funds and payments, and such other connected aspects as are necessary to ascertain whether any illegality or cognizable offence is disclosed.
- III. The CBI shall not be precluded from examining transactions outside the above period to the limited extent necessary for tracing beneficial ownership, related-party links, fund flows, or other connected circumstances that bear upon the transactions within the above period.
- IV. The State of Arunachal Pradesh and all its concerned departments, authorities and instrumentalities shall cooperate fully with the CBI. They shall, within four weeks from the date of this judgment, make available all relevant records, including sanction orders, administrative approvals, technical sanctions, tenders, comparative statements, tender committee records, work orders, agreements, measurement books, bills, vouchers, utilisation certificates, completion certificates, and all electronic data relating to e-procurement and payments.
- V. The Chief Secretary, State of Arunachal Pradesh shall, within one week from the date of this judgment, designate a nodal officer for coordination with the CBI, and each of the concerned departments shall also designate a nodal officer within the same period. The nodal officers shall ensure timely production of records and shall facilitate access to offices, servers and record rooms as may be

required.

VI. The State of Arunachal Pradesh shall ensure that no record, physical or electronic, relevant to the subject matter of the enquiry and investigation is destroyed, altered, or rendered inaccessible. The Chief Secretary shall issue necessary directions to all concerned departments within one week from the date of this judgment to secure preservation of records and electronic logs.

VII. The CBI shall file a status report before this Court within sixteen weeks from the date of this judgment.

45. We clarify that the observations made in this judgment are for the purposes of deciding whether an independent investigation is warranted. They shall not be construed as findings on the merits of any allegation, and they shall not prejudice any person in any proceedings that may arise.

46. Pending applications, if any, stand disposed of. There shall be no order as to costs.

¹ (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401

² (1987) 2 SCC 295

³ (2011) 5 SCC 29 : (2011) 2 SCC (Civ) 531

⁴ (2012) 3 SCC 1

⁵ 2026 INSC 320

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