

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Date :21.11.2024

**PIL No.9/2012
CM No. 2618/2024 and other
connected applications
c/w
WP(C) PIL No.14/2020**

Sheikh Mohd. Shafi and another

.....Petitioners

Through: Mr. S.S. Ahmed, Advocate
Ms Supriya Chouhan, Advocate

versus

Union of India & others

.....Respondents

Mr. Vishal Sharma, DSGI
Mr. S.S. Nanda, Sr. AAG

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE M.A. CHOWDHARY, JUDGE**

ORDER

1. This Public Interest Litigation was filed in the year 2012 complaining of specific cases where despite registration of FIRs in serious matters, no charge sheet had been filed and also non-processing of sanctions in important cases. Accordingly, response was sought from the Government regarding non-presentation of challans in such cases, which have been pending for decades together including the cases registered under the Prevention of Corruption Act. Additionally, information was also sought from the General Administration Department, Government of J&K regarding the present status of the employees involved in the criminal cases and also the benefits they may have been drawing.

2. Vide order dated 02.06.2023 this Court had observed that in respect of the cases registered by the Central Bureau of Investigation under FIR Nos.RCCHG051201850006 and RCCHG051201850007, the prosecution sanction was awaited due to alleged lack of documents as pointed out by the Union of India. Accordingly, it was directed to file the status report with respect to these two FIRs on the next date of hearing.

3. Now after taking number of opportunities under different pretexts the CBI has filed the status report on 15.10.2024 averring therein that the investigation was got conducted district-wise looking into the role of each Licensing Authority for illegal issuance of arms license for the period 2012 to 2016. It is averred that during the investigation it was revealed that during the period between 2012 to 2016 approximately 1.53 lakh arms licenses were issued in 10 districts of Jammu Division and approximately 1.21 lakh arms licenses were issued in 12 districts of Kashmir Division. The licensing authorities, i.e., District Magistrates, gun house dealers and other middlemen had hatched a criminal conspiracy for issuance of arms licenses illegally in favour of ineligible persons by forging documents in lieu of monetary considerations. It is further averred that after completion of investigation in case RCCHG051201850006 pertaining to 10 districts of Jammu Division incriminating evidence established in 07 districts against the then licensing authorities, i.e., DMs, JCs, gun house dealers and middlemen.

4. Though the status report of CBI reveals that prosecution sanction in respect of certain bureaucrats have been accorded, yet prosecution sanction in respect of Dr. Shahid Iqbal Choudhary, IAS, Niraj Kumar, IAS, Smt. Yasha Mudgal, IAS, the then DM, P.K. Pole, IAS, the then DM, Roshan Lal, Judicial

Clerk then posted in Udhampur District is still pending before the competent authorities. Similarly, prosecution sanction against Nissar Ahmad Wani, KAS, the then DM and Safiq, the then Judicial Clerk then posted in Poonch District is still pending. Prosecution sanction in respect of Jitender Kumar Singh, IAS, the then DM, Praveen Kumar Khajuria and Azeem Maqbool, the then Judicial Clerks then posted in Poonch; prosecution sanction of one Surjeet Singh, the then Judicial Clerk posted in Ramban and prosecution sanction of Jitendra Kumar, the then DM, Prasanna Ramaswamy G., the then ADM and Ramesh Kumar, the then DM posted in Kathua is still pending.

5. Similarly, the status report reveals that after completion of investigation in case RCCHG051201850007 pertaining to 12 districts of Kashmir Division incriminating evidence established in 09 districts against the then licensing authorities, i.e., DMs, JCs, gun house dealers and middlemen. It further reveals that prosecution sanction in respect of M. Raju, IAS, the then DM Kargil, Fida Hussain, KAS, the then DM Kargil, Mohd. Ibrahim, Sr. Assistant then posted in the office of DC Kargil; Rajeev Ranjan, IAS, the then DM Kupwara, Abdul Hafeez Shah, the then ADM Kupwara; G. Prasanna Ramaswamy, IAS, the then District Magistrate, Leh, Ghulam Haider, the then Judicial Clerk in the office of DC Leh; Yasha Mudgal, IAS, the then District Magistrate, Baramulla, Kargil, Mehraj Din Wani, the then JC/Patwari working in Arms Section, Office of DM Baramulla; Tariq Ahmad Sheikh, Junior Assistant/Incharge Judicial Section in the Office of DM Srinagar; Mohammad Ashraf Sheikh, the then Judicial Clerk in the office of DC Ganderbal; Neeraj Kumar, IAS, the then DM Pulwama and Abdul Rashid Dar, the then Judicial Clerk in the office of DC Pulwama, is still pending.

6. Obviously, the CBI in its investigation under FIR Nos.RCCHG051201850006 and RCCHG051201850007 has specifically concluded that the licensing authorities, i.e., District Magistrates, gun house dealers and other middlemen had hatched a criminal conspiracy for issuance of arms licenses illegally in favour of ineligible persons by forging documents in lieu of monetary considerations, yet the competent authorities including the Ministry of Home Affairs have not accorded sanction for prosecution of afore-stated persons, particularly influential bureaucrats for the last many years. It seems the prosecution sanction is being sanctioned by these authorities on the basis of pick and choose basis as big fishes are still roaming free and the matter is being delayed on one or the other pretext, which is a matter of grave concern. One such example is regarding prosecution sanction of one Mr. Kumar Rajeev Ranjan, IAS, the then District Magistrate, Kupwara, against whom the CBI registered a case on 16.10.2008 pertaining to irregularities in issuance of large scale Arms License from J&K under Section 6 of PC Act, 2006 and still prosecution sanction against him has not been sanctioned.

7. At this stage Mr. Nanda, learned Sr. AAG has produced a communication dated 20.11.2024 from Under Secretary to Government, General Administration Department stating that the matter is still under examination/consultation with the Department of Law, Justice & Parliamentary Affairs and, thus, prayed for certain more time to do the needful. Mr. Vishal Sharma, learned DSGI also seeks some more time on the same lines.

8. Reluctantly, one month more time is granted to the learned counsel appearing for respondents for doing the needful well before the next date of

hearing, failing which this Court would have no option but to take some coercive measures.

9. List the matter on 30th December, 2024.

Jammu
21.11.2024
(Anil Sanhotra)

(M.A. Chowdhary)
Judge

(Tashi Rabstan)
Chief Justice

Whether the order is reportable ?

Yes/No

Whether the order is speaking ?

Yes/No