

# Amarendra Dhari Singh vs Central Bureau Of Investigation on 1 June, 2021

**Author: Mukta Gupta**

**Bench: Mukta Gupta**

\$~13 (Transferred Matter)

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL.) 1035/2021  
CRL.M.A.8341/2021

AMARENDRA DHARI SINGH ..... Petitioner  
Represented by: Mr.Siddharth Aggarwal, Sr. Advocate  
with Mr.Madhav Khurana, Ms.Trisha  
Mittal & Mr.Abhinav Sekri,  
Advocates.

Versus

CENTRAL BUREAU OF INVESTIGATION ..... Respondent  
Represented by: Mr.Anupam S.Sharma, Special P.P.  
with Mr.P.Airan, Ms.Harpreet Kalsi,  
Advocates and Mr.S.D.Misra, Suptd.  
of Police (Investigating Officer), CBI.

CORAM:  
HON'BLE MS. JUSTICE MUKTA GUPTA  
ORDER

% 01.06.2021 The hearing has been conducted through video conferencing. W.P.(CRL.) 1035/2021

1. A detailed reply affidavit to the writ petition be filed within three weeks.

2. Rejoinder affidavit within two weeks thereafter.

3. List the writ petition before the Roster Bench on 14th July, 2021. CRL.M.A.8341/2021 (ad-interim relief)

1. This writ petition and application being Crl.M.A.8341/2021 are listed before this Court in view of the urgency in the application as the Roster W.P.(Crl.) 1035/2021 Page GUPTA Signing Date:01.06.2021 19:25:45 Bench is on leave.

2. By the present petition, the petitioner had sought directions to the respondent-CBI to supply the copy of the Look Out Circular issued against the petitioner and withdraw the said Look Out Circular.

3. By the interim application which has been heard today, the prayer of the petitioner is an order, directing the respondent-CBI to issue appropriate directions to the competent authority to suspend the Look Out Circular issued against the petitioner at all ports of entry and exit in the country during the pendency of the present writ petition and/or an order permitting the petitioner to travel to New York, USA for the purpose of medical treatment for a period of three weeks from the date of the petitioner's departure.

4. The petitioner was diagnosed Hodgkin's disease i.e. lymphatic cancer in the year 2002 and was given treatment under the supervision of Dr.Morton Coleman at the Centre for Lymphoma & Myeloma, Weill Cornell Medicine/New York Presbyterian Hospital, New York. Since then, the petitioner is undergoing regular and specialized treatment for his ailment under the supervision of Dr.Morton Coleman and for this purpose has been regularly going to USA. As per the petition, on 30th June, 2019 and 5th July 2019, search and seizure were carried out by the Income Tax Department at the petitioner's residence and office, followed by summons by the Income Tax Department for the petitioner to be present for his statement on 17 th July, 2019 and 2nd August, 2019. According to the petitioner, he co- operated in the investigation and submitted written explanations when it was revealed to the petitioner that Look Out Circulars had been opened against him by the Income Tax Department and the Enforcement Directorate.

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5. Faced with this situation, since the petitioner was required to go to U.S.A. for his regular check up and follow up, the petitioner filed W.P.(C) 147/2020 before this Court seeking quashing of the LOCs opened against him. The said writ petition is still pending before this Court wherein Income Tax Department was impleaded as respondent No. 1 and Enforcement Directorate as respondent No. 2. In the miscellaneous application i.e. CM 403/2020 in W.P.(C) 147/2020, vide order dated 20th January 2020, this Court noted that by the said application, the petitioner seeks permission to travel to U.S.A. for his treatment of Hodgkin's disease i.e. lymphatic cancer and hyperthyroidism of the eye glands which he has been suffering from 2002 and 2011 respectively. At that stage, no criminal proceedings were pending against the petitioner which fact was confirmed by the respondent and the learned counsel for the Income Tax Department i.e. respondent No. 1 therein, informed that the petitioner was found to be involved along with one Sanjay Jain and Pankaj Jain in receiving USD 37 Million in Dubai out of which, 100 Crores have been distributed in cash in India. It was further clarified that neither any show cause notice was issued to the petitioner nor any attachment proceedings initiated and the matter was still pending investigation with the Income Tax Department. Learned counsel for the respondent No. 2 i.e. Enforcement Directorate also informed that the Look Out Circular had been issued at the behest of Enforcement Directorate only limited to the extent that the respondent No. 2 be informed about the arrival and departure of the petitioner into and from India and that respondent No. 2 had no objection if the petitioner travels abroad for the reasons stated in the application i.e. for the follow up treatment of his Hodgkin's disease i.e. lymphatic cancer and hyperthyroidism of the eye glands. Considering the W.P.(Crl.) 1035/2021 Page

GUPTA Signing Date:01.06.2021 19:25:45 submissions of the parties, this Court looking into the fact that the petitioner has been travelling since 2002 for his ailment abroad, suspended the Look Out Circular issued against the petitioner for a period of four weeks from the date the petitioner leaving the country for U.S.A., subject to the certain conditions, inter alia i.e. disclosing the travel itinerary, his place of stay etc. to the respondent No.1; depositing a Fixed Deposit Receipt of 20 lacs with the Registrar General of this Court; returning back to India on or before 8 th March, 2020; and that he will not contact any other persons involved in the investigation or tamper with the evidence and on return, shall inform the respondent no.1 and join the investigation.

6. Since the petitioner was required to visit U.S.A. for his follow up and check up, the petitioner who is a Member of Parliament, Rajya Sabha sought permission from the Joint Secretary, Ministry of External Affairs vide email dated 10th May, 2021 seeking exemption from the U.S. Embassy for himself, his sister and brother-in-law to travel to New York explaining that he was under treatment of Dr.Morton Coleman for Cancer and that he was regularly visiting USA for this purpose and that his appointment and medical check ups were scheduled for 19th May, 2021. In response to the said request, further communications were carried out and on 21st May, 2021, the petitioner received a communication from the U.S. Embassy granting permission to the petitioner and his sister for travel from 25 th May, 2021 to 24th June, 2021.

7. Before petitioner could travel, as noted above, CBI conducted its search on the basis of FIR registered on 19th May, 2021 for a complaint dated 14th June, 2016 from the Director, Ministry of Chemical and Fertilizers, forwarding the complaint of Mr.Nishikant Dubey, Member of W.P.(Crl.) 1035/2021 Page GUPTA Signing Date:01.06.2021 19:25:45 Parliament. Simultaneously, CBI also opened the Look Out Circular against the petitioner on 19th May, 2021 and hence, the permission from this Court to travel to New York, USA in the present application.

8. On a query raised by this Court as to what enquiry was conducted on the complaint dated 14th June, 2016 till date, learned Special P.P. for the CBI submits that an issue whether officers of autonomous organizations like NAFED and KRIBHCO i.e. Multi State Cooperative Societies are Public Servants and thus, subject to the provisions of Prevention of Corruption Act, was pending consideration. He states that in this regard, opinion from the Attorney General was received on 31st December, 2012 and in response thereto, two circulars were issued on 1st February, 2013 and 1st March, 2013 by the Union of India which were subject matter of challenge before this Court. He states that a writ petition before this Court was decided on 16th August, 2016 when Union of India informed that OM dated 1 st March, 2013 had been withdrawn and this Court observed that in view of the withdrawal of the OM dated 1st March 2013, the OM dated 1st February 2013 also would not survive. A review of this order was sought, failing a relief on which, a special leave petition was filed before the Hon'ble Supreme Court wherein the matter was remanded back to this Court vide order dated 8th April, 2019.

9. Considering the fact that the enquiry in the matter was pending before the CBI since 14th June, 2016 and during this period, petitioner has travelled to U.S.A. and the fact that the petitioner is required to follow up his treatment in which regard, an email has also been received from Dr. Morton Coleman and the petitioner and his sister have been granted permission for travel from 25th

May, 2021 until 24th June, 2021, this Court deems it appropriate to permit the petitioner to travel to U.S. with his sister for his W.P.(Crl.) 1035/2021 Page GUPTA Signing Date:01.06.2021 19:25:45 follow up treatment.

10. This Court is informed that the Fixed Deposit Receipt of 20 lakhs as directed by this Court to be deposited vide order dated 20 th January, 2020 is still lying with Registrar General of this Court and has not been withdrawn by the petitioner. Learned Special P.P. for the CBI states that the petitioner has bank accounts as also agricultural lands worth 10 Crores as is reflected in his affidavit filed along with his nomination form for Rajya Sabha.

11. Consequently, the petitioner is permitted to travel U.S.A. for a period of three weeks from the date of his departure and in any case, not beyond 25th June, 2021, subject to the following conditions:-

(i) the petitioner, shall disclose the travel itinerary, his place of stay in the USA and the contact details to the Investigating Officer Mr.S.D.Misra, Supdt. of Police, CBI;

(ii) the petitioner shall not withdraw the Fixed Deposit Receipt of 20 lakhs lying deposited with the Registrar General of this Court in the meantime;

(iii) the petitioner shall return back to India on or before 25th June, 2021;

(iv) during the visit to USA, petitioner shall not contact any other person involved in the investigation carried out by the respondent and specifically, Amol Awasthi, Anupam Awasthi and Vivek Gahlaut and will not tamper with any other evidence;

(v) on return back to India, petitioner shall inform the Investigating Officer Mr.S.D.Misra and will join the investigation as and when directed; and

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(vi) during the period of his visit to USA, petitioner will not,

in any manner, alienate or encumber or transfer his share in the agricultural land, if not already disposed of, as mentioned in his affidavit dated 12th March, 2020 filed along with the nomination form for Rajya Sabha.

12 Application is disposed of.

13. Order be uploaded on the website of this Court.

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