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SUBRATA CHATTORAJ

v.

UNION OF INDIA & ORS.

(I.A. No. 16 of 2015 in Writ Petition (Civil) No. 401 of 2013)

B

OCTOBER 16, 2015

**[T. S. THAKUR AND C. NAGAPPAN, JJ.]**

*Investigation – Investigation by CBI – Chit fund scams in West Bengal and other States – Issuance of direction to transfer cases registered in different police stations to CBI for fair and credible investigation by this Court – During pendency of investigation by CBI, writ petition in public interest by Union of India seeking transfer of large number of other similar cases to CBI – Disposal of writ petition by the High Court seeking direction to Central Government to issue notification transferring all chit fund cases registered in State of Assam to CBI to investigate the said cases – Direction also issued for investigation u/s. 173 Cr.P.C. where charge-sheets had already been filed – Subsequently, IA by CBI seeking modification of the said order that CBI may be permitted to undertake the investigation for limited FIRs and others may be continued by local police of the State since it could not handle the large number of cases with the existing manpower and other infrastructure at its disposal – Held: Citizens are entitled to not only expect but demand that investigations ought to be fair and effective as much as they ought to be quick and efficient – It cannot be said that the investigating agencies hands are full of or that it does not have the manpower to handle cases, no matter circumstances justify or demand investigation by any agency from outside a given State – CBI as a centrally control investigating agency cannot afford to lose the advantage of it being seen by the citizens and the courts as a credible agency – It*

*can ill-afford to do so on account of shortage of manpower or any other constraint – Thus, the Central Government directed to take steps for comprehensive revision of the cadre strength of CBI and take immediate steps for filling up the vacancies that are already sanctioned – Constitution of India, 1950 – Article 21 – Scams.*

*Subrata Chattoraj V. Union of India & Ors. (2014) 8 SCC 768:2001 (6) SCR 783; Nimeon Sharma and Ors. V. Home Secretary, Government Of Meghalaya (1980) 1 SCC 700: 1979 (3) SCR785; Abdul Rehman Antulay And Ors. V. R.S. Nayak and Anr. (1992) 1 SCC 225:1991 (3) Suppl. SCR 325; Hussainara Khatoon V. Home Secretary 1979 AIR 1369:1979 (3) SCR 532; Kartar Singh V. State Of Punjab (1994) 3 SCC 569: 1994 ( 2) SCR 375; P. Ramachandra Rao V. State Of Karnataka (2002) 4 SCC 578 – referred to.*

**Case Law Reference**

2001 (6) SCR 783	Referred to.	Para 2	E
1979 (3) SCR785	Referred to.	Para 18	
1991 (3) Suppl. SCR 325	Referred to.	Para 19	
1979 (3) SCR 532	Referred to.	Para 20	
1994 (2) SCR 375	Referred to.	Para 21	F
(2002) 4 SCC 578	Referred to.	Para 22	

CIVIL ORIGINAL JURISDICTION: I.A. No. 16 of 2013.

IN

Writ Petition (Civil) No. 401 of 2015.

[Under Article 32 of the Constitution of India]

WITH

SLP (C) No. 21834 of 2015.

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A Maninder Singh, ASG, C. U. Singh, Subhasish  
Bhowmick, Anip Sachthey, Bhargava V. Desai, Saumya  
Mehrotra, Parijat Sinha, Kabir Sankar Bose, Sunita Sharma,  
N. K. Karnail, Dhruv Sharan, Sushma Suri, S. Sheoram, Avijit  
B Roy, Vartika Sahary (for Corporate Law Group), Debasis  
Sur, Kailash Chand, Kirti Renu Mishra, Ramesh Babu M.  
R., Swati Setia, Ashok K. Srivastava, B. K. Prasad, B. V.  
Balaram Das, Senthil Jagadeesan, Legal Options, Liz  
Mathew, Sumjit Kumar, Samir Ali Khan, Arti Singh, Sajith P.  
C Snehasish Mukherjee, Gaurav Sharma, Prateek Bhatia, R.  
Balasubramanian, Pranav Kumar for the appearing parties.

The Judgment of the Court was delivered by

T.S. THAKUR, J. 1. Leave granted.

D 2. In ***Subrata Chatteraj v. Union of India & Ors. (2014)***  
E **8 SCC 768** this Court directed transfer of cases registered in  
different police stations in the State of West Bengal against  
Saradha Group of Companies and all such cases registered  
F against any other company to the Central Bureau of  
Investigation for a fair and credible investigation including  
investigation if necessary into the larger conspiracy angle and  
the money trail involved in the commission of the offences. By  
the same order we had allowed Writ Petition (C) No.413 of  
G 2013 and Writ Petition (C) No.324 of 2014 and directed transfer  
of cases registered against 44 other chit fund companies for  
a similar investigation. The cases involving chit fund deposits  
across several States in the eastern part of the country involved  
several companies, and a scam that was estimated to be over  
H 20,00,00,000/- (Rupees twenty thousand crores) at the relevant  
point of time. As many as 25 lakhs claims were said to have  
been lodged by the depositors before the Commissions of  
Inquiry set up by the States of Odisha and West Bengal which  
too was indicative of the magnitude of the scam. The scam  
had inter-state ramifications apart from international money

laundering dimensions involving several persons in public life. A  
It put a question mark on the role of regulators like the SEBI  
and the Reserve Bank of India. Investigation by CBI was in  
that backdrop held to be the only effective method of bringing  
the truth to light unearthing the ramifications and bringing to  
book all those involved in the scam. B

3. The CBI has pursuant to the directions issued by this  
Court taken over the investigation of the cases in question and  
made significant headway towards completion of the same.  
While the investigation was still in progress Writ Petition No. 15 C  
of 2013 was filed in public interest by the respondents in which  
they prayed for transfer of a large number of other cases to the  
CBI on the analogy of the order passed by this Court in Subrata  
Chattoraj's case (supra). The High Court of Guwahati has, by  
order dated 8<sup>th</sup> May, 2015, disposed of the said writ petition D  
with a direction to the Central Government to issue a notification  
transferring all chit fund cases registered in the State of Assam  
to the Central Bureau of Investigation with a direction to the  
CBI to investigate the said cases. Further investigation in terms E  
of Section 173(8) of the Code of Criminal Procedure where  
charge-sheets have already been filed have also been directed  
by the Court. The present appeal filed by the CBI assails the  
correctness of the said direction. The CBI has at the same  
time filed IA No. 16 of 2015 in Writ Petition (C) No. 401 of 2013 F  
(Subrata Chattoraj v. Union of India & Ors.) in which it has  
prayed for modification of our order dated 9<sup>th</sup> May, 2014 to the  
following extent:

"i) That the CBI may be permitted to undertake the  
investigation for only 70 FIRs in relation to non- G  
Saradha Group Companies. In all other cases  
pertaining to non-Saradha Group Companies in the  
State of West Bengal i.e., other than those 70 FIRs  
where CBI has registered 9 cases, these may kindly H

A *be directed to be continued / pursued in accordance with law by the local police of West Bengal. It may be directed by this Hon'ble Court that the CBI need not take up other cases in the State of West Bengal.*

B *ii) The local State Police of Orissa and West Bengal are continuing to receive complaints regarding Chit Fund frauds even after 9.5.2014, i.e. the date of the judgment of this Hon'ble Court. In all those cases, there is neither any direction nor is there any requirement for the CBI to take up investigation in all FIRs which are registered by the State Police authorities in the State of WB after 09.05.2014. Therefore, a clarification/direction deserves to be issued by the orders of this Hon'ble Court directing the State of West Bengal and State of Orissa to take all necessary steps, in accordance with law, pertaining to all those Chit Fund fraud FIRs which are registered in these states after 9.5.2014.*

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E *iii) That similar direction would deserve to be issued with regard to Chit Fund cheating / fraud cases registered by the Police authorities in the State of Assam as well as in the State of Tripura after 9.5.2014 i.e. this Hon'ble Court directing the State of Assam and Tripura to take all necessary steps, in accordance with law, pertaining to all those Chit Fund fraud FIRs which are registered in these states after 9.5.2014.*

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G *iv) Any other order or orders, which this Hon'ble Court may deem fit and proper in the light of the facts stated and submissions made hereinabove.*

*It is prayed accordingly."*

H 4. One of the main reasons which the CBI has advanced in support of its prayer for modification is that CBI is a small

organisation with limited material and human resources and pre-occupied with Coal Scam and 2G Scam cases entrusted to it. Transfer of a large number of cases relating to Chit fund scam in the State of Assam, Odisha and West Bengal will, according to the CBI, bring it under tremendous pressure which, according to the averments made in the application, the CBI cannot handle with the existing manpower and other infrastructure at its disposal.

5. When the matter came up for hearing before this Court on 27<sup>th</sup> July, 2015 it was argued by Mr. Maninder Singh, learned Additional Solicitor General, that there was severe manpower deficit in the CBI which was hampering its functioning and the investigations entrusted to it. Learned ASG placed on record a statement indicating the requirement of additional manpower for registration of 265 non-Saradha group cases pertaining to the State of West Bengal. In the statement the CBI appeared to be asking for 10 Superintendents of Police, 15 Investigating Officers, 30 Dy. Superintendents of Police, 85 Investigating Officers in the rank of Inspectors, 40 Sub-Inspectors, 20 Assistant Sub-Inspectors and 30 Head Constables. It was submitted that the State of West Bengal had been requested to provide the additional manpower required to undertake and complete the investigations but the State had expressed its inability to do so. The response of the State of West Bengal to the projected manpower requirement was placed on record by Mr. Nageshwar Rao, learned senior counsel, in the form of an additional affidavit according to which as many as 26213 vacancies in different cadres including Superintendants of Police, Additional Superintendants of Police and Deputy Superintendants of Police etc. remain to be filled up in the said State. It was submitted by Mr. Nageshwar Rao that since a large number of cases arose from the State of West Bengal, the State Government was not averse to providing a reasonable number of officers to the CBI, despite

A its own constraints. It was suggested that the Director General  
of Police, Government of West Bengal and the Director, CBI,  
could evolve an acceptable arrangement as regards the  
number of officers to be deputed to CBI and the cadre from  
which they would be drawn. We had accepted that suggestion  
B and directed the two officers to work out an acceptable  
arrangement on the subject.

6. When the matter appeared again before us on 24<sup>th</sup>  
August, 2015, it was pointed out that the Director General of  
C Police, State of West Bengal, was not prepared to spare more  
than three Deputy Superintendants of Police, two Inspectors,  
five Sub-Inspector and ten Constables to ease the manpower  
crunch faced by the CBI. This number was, according to Mr.  
Ranjit Kumar, Solicitor General, appearing for the CBI, totally  
D inadequate in the facts and circumstances of the case. Mr.  
Kumar argued that as against the total cadre strength of 4544  
officers of different ranks ranging from Constables to the  
Director, CBI, was somehow managing the show with a strength  
of 3790 officers leaving a deficit of 724 officers in different  
E cadres. We had in that view directed the Government of West  
Bengal to at least double the number of officers it was ready  
to lend to the CBI in order to enable the CBI to tide over the  
difficulty. The State was asked to prepare a panel of 12 Deputy  
F Superintendants of Police, 8 Inspectors, 20 Sub-Inspectors  
and 40 Constables from out of which the CBI would select,  
according to the prevalent criteria, 6 Deputy Superintendants  
of Police, 4 Inspectors, 10 Sub-Inspectors and 20 Constables  
G for deputation to the CBI. It was also directed that those  
selected by the CBI shall regardless whether they were  
consenting for such deputation be taken on deputation  
keeping in view the fact that investigation into cases  
transferred to the CBI was in national interest and those  
selected for serving the CBI were expected to respond to the  
H call of duty towards the nation. We had further directed that no

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**[T.S. THAKUR, J.]**

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Court shall entertain any petition on behalf of any of the officers sent by the State of West Bengal on deputation to the CBI but those aggrieved of such deputation shall be free to approach this Court. Having said that we had formulated seven queries for the CBI to answer in regard to the current cadre strength, revision of the said cadre strength in the past and the number of cases currently pending with the CBI for investigation as also the steps taken and the impediments, if any, in filling up the unfilled vacancies. The CBI was directed to respond to the said queries and to give a clear picture as to the nature of the problems and the possible solution to the same. The CBI has, pursuant to the said direction filed an additional affidavit in which it has tabulated the current cadre strength in different ranks as under:

<i>Designation of post</i>	<i>Sanctioned Strength</i>	<i>Deputation quota</i>	<i>Promotion Quota</i>	<i>Direct Quota</i>	<i>LDCE (Limited Departmental Competitive Examination)</i>
Director	1	0	0	0	0
Spl./Addl. Director (SD/AD)	4	0	0	0	0
Joint Director (JD)	18	14	4	0	0
Deputy Insp. General of Police (DIG)	39	33	6	0	0
Sr. Superintendent of Police (Sr. SP)	10	0	10	0	0
Superintendent of Police (SP)	101	63	38	0	0
Addl. Superintendent of Police ASP	91	0	91	0	0
Deputy Superintendent of Police (DSP)	265	27	209	0	29

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Inspector.	908	417	491	0	0
Sub Inspector (SI)	414	0	83	243	88
B Asst. Sub Inspector (ASI)	207	0	145	0	62
Head Constable	583	0	408	0	175
C Constable	1903	1903	0	0	0
<b>TOTAL</b>	<b>4,544</b>	<b>2462</b>	<b>1485</b>	<b>243</b>	<b>354</b>

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7. In answer to query no.2 raised by this Court the affidavit states that no comprehensive revision of CBI cadre strength has taken place since the formation of CBI in the year 1963 no matter the cadre strength has been increased over the years in a piecemeal manner with a view to establishing the presence of CBI in those areas of the country where there was no CBI office despite a requirement for the same. The creation of posts in different cadres has been indicated by the CBI as under:

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*i. Creation of 336 posts for 08 new Branches-DoPT (Department of Personnel & Training, Government of India) vide order No.201/04/2009-AVD.II dated 30.08.2010 conveyed approval of the competent authority for creation of 336 posts for 08 new CBI Branches. It is respectfully submitted that creation of these posts was meant for 08 new Branches i.e. Srinagar, Shimla, Thiruvananthapuram, Port Blair, Chhattisgarh,*

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*Imphal, Ghaziabad and Pune with the object to undertake anti-corruption work in those areas of country which were not covered earlier.* A

ii. *Creation of 01 post of Joint Director/North-Eastern Region – DoPT vide order No.202/73/2010-AVD.II dated 09.04.2012 conveyed approval of the competent authority for creation of one post of Joint Director. It is respectfully submitted that this post was created exclusively for North-Eastern Region.* B

iii. *Creation of 88 posts for 22 additional Special Courts – DoPT vide order No.245/63/2012-AVD.II (Pt.IV) dated 28.05.2013 conveyed approval of the competent authority for creation of 88 posts (1 Public Prosecutor, 1 Pairvi Officer (Inspector), 1 Naib Court (Head Constable) and 1 Stenographer for each court) for conducting/helping prosecution in 22 addl. Special Courts in different States/UTs in the country. It is clarified that these posts were created only for conducting helping prosecution work and not for investigation work.”* C  
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8. In answer to query no.4 touching the number of cases under investigation by CBI and number of cases pending with the CBI at the time of increase in the cadre strength mentioned above the CBI has given the following figures: F

Date	No. of cases pending
30.08.2010	1007
31.03.2012	1012
31.05.2013	1037
31.08.2015	1241

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A 9. So also the break-up of 724 vacancies in CBI in all cadres has been set out by the CBI in the affidavit as under:

	<b>Rank</b>	<b>Vacancies</b>	<b>Dep. Quota</b>	<b>Prom. Quota</b>	<b>Direct quota</b>	<b>LDCE</b>
B	Director	0	0	0	0	0
	SD/AD	2	2	0	0	0
	JD	3	3	0	0	0
	DIG	13	10	3	0	0
C	Sr. SP	6	0	6	0	0
	SP	34	25	9	0	0
	Addl. SP	24	0	24	0	0
	Dy. SP	44	0	7	0	28
D	Inspector	114	100	14	0	0
	Sub-Inspector	247	0	56	150	41
	ASI	33	0	23	0	10
	Head Constable	36	0	27	0	9
E	Constable	168	168	0	0	0
	<b>TOTAL</b>	<b>724</b>	<b>317</b>	<b>119</b>	<b>150</b>	<b>88</b>

F 10. As regards the steps taken by CBI for filling up of the vacancies the affidavit states as under:

"That the following steps are being taken by CBI for filling up the vacancies:-

	<b>Rank</b>	<b>Steps taken/being taken</b>
G	Joint Director/JD (3 vacancies)	04 IPS officers working as DIGs in CBI have been empanelled to hold IG level post at Centre on 17.08.15 and their cases are being processed for induction as JD in CBI since 17.08.15

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Deputy Insp. General of Police /DIG (13 vacancies)	08 IPS officers presently working as SP in CBI have been empanelled to hold DIG level post at Centre on 02.09.15 and their cases are being processed for induction as DIG in CBI since 02.09.15
Sr. Superintendent of Police/Sr.SP (6 vacancies)	A proposal seeking relaxation in the eligibility criteria in respect of 16 SsP of CBI for consideration of their promotion to the rank of Sr.SP was sent to DP&T on 01.12.2014. DoPT allowed relaxation in respect of 03 SsP on 11.06.2015. However, the said proposal is pending in view of the decision given by the Hon'ble Delhi High Court on 22.05.2015 in WP (C) No.7370/2010 filed by Shri S.K. Khare.
Superintendent of Police/SP (34 vacancies).	Joining of 01 IPS officer is awaited.  Cadre clearance with respect to 03 IPS officers has been obtained on 25.08.15 & 27.08.15.  Proposal to fill up 07 vacancies of SP has been sent to DoPT on 10.08.2015 for onward transmission to UPSC for convening the meeting of DPC (Departmental Promotion Committee)
Addl. Superintendent of Police/ASP (24 vacancies)	<ul style="list-style-type: none"> <li>• A proposal for relaxation of eligibility criteria for 26 officers has been sent to DoPT on 30.12.2014.</li> <li>• Proposal for relaxation of 15 more officers has been sent to DoPT on 10.09.15.</li> </ul>

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A	Deputy Superintendent of Police/DSP (44 vacancies)	<ul style="list-style-type: none"> <li>• Interview held from 1<sup>st</sup> Sept. to 3<sup>rd</sup> Sept., 2015 for filling up of 08 vacancies under deputation quota.</li> <li>• Approval of modalities for holding LDCE for filing 28 posts was obtained on 14.08.15.</li> </ul>
B	Inspector (114 vacancies)	<ul style="list-style-type: none"> <li>• 71 Sub-Inspectors promoted as Inspector vide order dated 05.09.2015 after seeking relaxation from DoPT.</li> <li>• DO letter from DCBI issued to DGs of States and CPOs on 04.09.2015 for circulation for nominating names of willing/eligible officials for induction as Inspector in CBI on deputation basis.</li> </ul>
C	Sub Inspector/SI (247 vacancies)	<ul style="list-style-type: none"> <li>• Offer of appointment have been issued to 63 candidates for reporting at CBI Academy on 14.09.2015.</li> <li>• A requisition for 93 dossiers was sent on 25.11.2014 to SSC for filling up vacancies.</li> <li>• 12 Sub-Inspectors selected under LDCE-2015. Offer of appointment issued for joining at CBI Academy on 14.9.2015.</li> <li>• 14 Officers promoted on 29.06.2015.</li> </ul>
D	Asst. Sub Inspector/ASI (33 vacancies)	<ul style="list-style-type: none"> <li>• DPC meeting for promotion of 22 HCs to ASI was held on 22.07.2015.</li> <li>• Examination for promotion of HCs/General Duty cadre(GD) to ASI/GD conducted on 27.06.2015. Interview of qualifying candidates was held on 3<sup>rd</sup> &amp; 4<sup>th</sup> Sept., 2015. Result awaited.</li> </ul>
E	Head Constable (36 vacancies)	<ul style="list-style-type: none"> <li>• Integrity Certificate/Vigilance Clearance &amp; APAR grading in respect of 53 Constables have been called for on 31.08.2015 for consideration of their promotion.</li> <li>• LDCE of Constable to the rank of Hd. Const. for the year 2015 held on 22.08.2015 in CBI Academy. Result is awaited.</li> </ul>
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Constable(168 vacancies)	<ul style="list-style-type: none"><li>• 42 Constables of Central Police Organisations and State Police have been selected. Their joining is awaited.</li><li>• Approx. 100 nominations received from various organizations are under process of selection.</li><li>• Nominations of approx. 125 Constables have been called from different Police Forces against existing and anticipated vacancies.</li></ul>
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11. Impediments in filling up the unfilled vacancies have also been enumerated by the CBI in the following words:

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(i) *Residency (eligibility) period for promotion – Non-availability of eligible officers for promotion in the rank of ASI to Sr. SP due to non-completion of residency period required for promotion under Recruitment Rules is an impediment in filling up the vacancies. CBI has written to DoPT for seeking relaxation in eligibility criteria.*

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(ii) *Higher Grade Pay in State Police –*

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*CBI is facing difficulty in filling vacancies under deputation quota particularly in two ranks i.e. Constable and Inspectors from some states viz. Tamil Nadu, West Bengal, Rajasthan and Assam due to higher grade pay in the analogous post. As per DoPT OM dated 17.6.2010 para 3.3., a person in higher Grade Pay/scale of pay shall not be appointed on deputation to a post in lower Grade Pay/scale of pay if the deputation is from Central Government to Central Government and also in cases where the scale of pay and dearness allowance in the parent cadre post and ex-cadre post are similar.*

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(iii) *Cadre Clearance/NOC by States/CPOs-Candidates short-listed by CBI for deputation from State Police*

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A            *forces/CPOs require clearance for that purpose by respective competent authorities of the States/CPOs. In many cases, the cadre clearance/NOC from states/CPOs is not forthcoming.”*

B            12. Proposals for increase of cadre strength of CBI which are under consideration of the Government of India have been enumerated in paras 10(i) to 10(iv) of the affidavit as under:

C            *i. Proposal dated 02.09.2011 regarding strengthening of CBI by creation of 2063 posts in different ranks in three phases (Phase-I – 711 posts). This proposal is currently pending consideration with Ministry of Finance, Department of Expenditure, Government of India.*

D            *ii. Proposal dated 15.01.2014 was sent for creation of 252 additional posts of Head Constables and Constables for execution of summons/warrants arising out of creation of 70 Additional Special Courts. This proposal is currently pending consideration with DoPT, Government of India.*

E            *iii. Proposal dated 31.07.2015 was sent for setting up new Zone AC-HQ-II by creation of 496 posts in different ranks for VYAPAM Case in two phases i.e. Phase-I – 322 posts and Phase-II – 174 posts. This proposal is currently pending consideration with the Ministry of Finance, Department of Expenditure, Government of India.*

F            *iv. Proposal dated 12.8.2015 was sent for setting-up new Zone EO-III by creation of 410 posts in different ranks for Chit Fund/Ponzi Scheme Scam cases in two phases i.e. Phase-I – 278 posts and Phase-II – 132 posts. This proposal is currently pending consideration with the Ministry of Finance, Department of Expenditure, Government of India.”*

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13. More importantly, the CBI's affidavit candidly concedes that a comprehensive revision of cadre strength is long overdue and such a step is necessary for strengthening the CBI in meeting the emerging challenges. The affidavit states: A

*"That a comprehensive revision of cadre strength of CBI is long overdue and such a step will definitely strengthen the organization and help CBI in meeting the emerging challenges and fulfil the increasing expectations of the society."* B

14. The absence of a comprehensive review of cadre strength ever since the organisation came to be established is somewhat surprising to say the least. The averments made in the passage extracted above shows as if the CBI is itself crying for a comprehensive revision of the cadre strength. We are at a loss to understand why such a revision has not been carried out so far and why should it be left to Court to direct a revision which in its very nature is a Governmental function in the performance of which there ought to be no deficit. C

15. The data furnished by the CBI further shows that creation of vacancies and filling up of such vacancies has suffered primarily because of a lackadaisical attitude of the departments concerned towards a matter of significant public importance directly related to the administration of justice and the rule of law. For instance, despite 2 vacancies in the cadre of Special Directors, no steps appear to have been taken thus far. So also against 3 vacancies in the cadre of Joint Directors the appointment process is reported to have been initiated but only in August, 2015. D

16. Similarly, there are 13 vacancies in the cadre of DIGs against which only 8 appointments are said to be under process that too since 2<sup>nd</sup> September, 2015. Against 6 vacancies in the cadre of Sr. SPs, the proposal for relaxation E

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A seems to be languishing since 1<sup>st</sup> December, 2014 except in three cases where DoPT is said to have responded to the proposal. The position in regard to remaining vacancies in the cadre of DSPs and below is no different. There are 34 vacancies in the cadre of SPs against which a proposal for 7  
B vacancies appears to have been sent to DoPT as recently as on 10<sup>th</sup> August, 2015. Nothing is said about the remaining vacancies nor any reason given for not filling up of the same. Against 24 vacancies in the cadre of ASPs also only a  
C proposal for relaxation of eligibility criteria appears to have been sent to DoPT which has not so far fructified.

17. The position in regard to lower cadre is even worse. As for instance there are 114 vacancies in the cadre of Inspectors, 47 vacancies in the cadre of Sub-Inspectors, 33  
D vacancies in the cadre of ASIs, 36 vacancies in cadre of Head Constables and 168 in the cadre of Constables. While it is true that a comprehensive review of cadre strength is overdue, there is little or practically no explanation for the failure of the  
E Government to fill up the vacancies that stand sanctioned and are available for being filled up by the Government. The impression that one gathers from the current state of affairs and the neglect and apathy of the past is that filling up of  
F vacancies is a low priority area for the Government, no matter the number of cases has gradually increased forcing the CBI to throw up its hands and plead inability to take over and complete investigation into cases of considerable importance because of the manpower crunch. This is not a happy  
G situation to say the least. Cases transferred to CBI are not run of the mill cases involving ordinary crimes or criminals nor is CBI an ordinary investigating agency. It is a specialised agency which has on account of its dispassionate and sustained hard work earned for itself a certain amount of credibility in the  
H minds of the people of this country. Whenever cases of public importance apart from cases of corruption against Central

Government employees and people in high places come to occupy the centre stage of public attention, people cry for a CBI investigation in the hope that the investigation would unravel the truth regardless of the influence or clout political or otherwise of those being investigated. Courts have also reposed confidence in the fairness of investigation of the CBI despite accusations that are at times made that even CBI can be misused. What is important is that the CBI is today a premier investigating agency handling a considerably large number of cases of significant public importance. Saradha Chit Fund scam is just one such case apart from many others which are currently in the Courts or under investigation. The question is whether indifference or apathy can be allowed to frustrate either the cause of justice or become an instrument of oppression and injustice implicit in an unduly delayed completion of investigation. Our answer is in the negative. We say so because quick and effective investigation has been recognised by this Court in a series of judgments delivered over the past few decades to be a part of right to life guaranteed under the Constitution. We may, in this regard, refer to some of the decisions which have recognised fair, effective and speedy investigation as one of the facets of the guarantee contained in Article 21 of the Constitution of India.

18. In ***Nimeon Sharma and Ors. v. Home Secretary, Government of Meghalaya (1980) 1 SCC 700***, this Court held that the delay in investigation and trials was a wholesale breach of human rights guaranteed under Article 21 of the Constitution of India and that criminal justice breaks down, at a point when expeditious trial is not attempted while the affected parties are languishing in jail. Speaking for the Court Krishna Iyer, J. said :

*“4..... Criminal justice breaks down at a point when expeditious trial is not attempted while the affected*

A *parties are languishing in jail. The Criminal Procedure*  
Code in Sections 167, 209 and 309 has emphasised  
the importance of expeditious disposal of cases  
including investigations and trials. It is unfortunate,  
indeed pathetic, that there should have been such  
B considerable delay in investigations by the police in  
utter disregard of the fact that a citizen has been  
deprived of his freedom on the ground that he is  
accused of an offence. We do not approve of this course  
and breach of the rule of law and express our strong  
C displeasure at this chaotic state of affairs verging on  
wholesale breach of human rights guaranteed under  
the Constitution especially under Article 21 as  
interpreted by this Court.”

D 19. In **Abdul Rehman Antulay and Ors. v. R.S. Nayak**  
**and Anr. (1992) 1 SCC 225**, this court held that fair, just and  
reasonable procedure was implicit in Article 21 of the  
Constitution and that Article 21 guarantees a right in the  
E accused to be tried speedily. It is in the interest of all concerned  
that the guilt or innocence of the accused is determined as  
quickly as possible in the circumstances observed this Court.  
What is important is that right to speedy trial flowing from Article  
21 was held to encompass all stages, namely, the stage of  
F investigation, inquiry, trial, appeal, revision and retrial. The  
following passage is, in this regard, apposite:

G *“86. In view of the above discussion, the following*  
*propositions emerge, meant to serve as guidelines. We*  
*must forewarn that these propositions are not*  
*exhaustive. It is difficult to foresee all situations. Nor is*  
*it possible to lay down any hard and fast rules. These*  
*propositions are:*

H (1) *Fair, just and reasonable procedure implicit in Article*  
*21 of the Constitution creates a right in the accused to*

*be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the social interest also, does not make it any the less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.*

(2) Right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and re-trial. That is how, this Court has understood this right and there is no reason to take a restricted view.

xxx

xxx

xxx”

(emphasis supplied)

20. In **Hussainara Khatoon v. Home Secretary 1979 AIR 1369**, this Court ruled that the State cannot avoid its constitutional obligation to provide speedy trial to the accused by pleading financial or administrative inability. The State is under a constitutional mandate to ensure speedy trial and whatever is necessary for this purpose has to be done by the State. It is also a constitutional obligation of this Court as the guardian of the fundamental rights of the people and as a sentinel on the *qui vive* to enforce the fundamental right of the accused to speedy trial by issuing necessary directions to the State which may include taking of positive action, such as augmenting and strengthening the investigative machinery, setting up new courts, building new court houses, providing more staff and equipment to the court, appointment of additional judges and other measures calculated to ensure speedy trial.

21. In **Kartar Singh v. State of Punjab (1994) 3 SCC 569**, this Court declared that the concept of speedy trial is read into Article 21 as an essential part of the fundamental

A right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal, and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into finality, can be averted. The following passage is, in this regard, relevant:

C *“The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional guarantee of speedy trial is properly reflected in Section 309 of the Code of Criminal Procedure.”*

F 22. In ***P. Ramachandra Rao v. State of Karnataka (2002) 4 SCC 578***, this Court held that the mental agony, expense and strain which a person proceeded against in criminal law has to undergo and which, coupled with delay, may result in impairing the capability or ability of the accused to defend himself have persuaded the constitutional court of the country in holding the right to speedy trial manifestation of fair, just and reasonable procedure enshrined in Article 21. Speedy trial, again, would encompass within its sweep all its stages including investigation, inquiry, trial, appeal, revision and retrial in short everything commencing with and accusation

and expiring with the final verdict – the two being respectively the *terminus a quo* and *terminus ad quem* – of the journey which an accused must necessarily undergo once faced with an implication. The constitutional philosophy propounded as a right to speedy trial has though grown in age by almost two and a half decades, the goal sought to be achieved is yet a far off peak.

23. It is unnecessary to burden this judgment any further with reference to the decided cases that declare in unequivocal terms that right to life guaranteed under Article 21 of the Constitution of India guarantees the right to speedy justice which implies not only the right to speedy trial but right to speedy investigation in criminal cases as well. Investigation by ordinary State Investigating Agencies are often quick but not so very scientific and focussed for a variety of reasons including the fact that the investigating branch of the State Police is either ill-trained in modern and scientific techniques of investigation or ill-equipped to handle complicated matters that require professional training and equipment, deeper understanding of the nuances of law and greater motivation to discover the truth. While these are found in a greater measure among those working for the Central Bureau of Investigation, the problem that has of late arisen is that of manpower crunch and the ever increasing number of cases involving large scams transferred to CBI for investigation. The demand for CBI investigation into several other cases of public importance also appears to be increasing by the day. Courts are often hesitant, if not reluctant, to transfer cases to CBI knowing fully well that its hands are full with large number of cases already transferred for investigation. But that can be no reason why the agency should not be fully equipped in terms of men and material both to take up investigations whenever called upon to do so either by the Government or by the Courts. In a democratic country like ours governed by the rule of law citizens are entitled to not

- A only expect but demand that investigations ought to be fair and effective as much as they ought to be quick and efficient. It is no answer to say that the agencies hands are full of or that it does not have the manpower to handle cases, no matter circumstances justify or demand investigation by any agency
- B from outside a given State.

24. Suffice it to say that CBI as a centrally control investigating agency cannot afford to lose the advantage of it being seen by the citizens and the Courts as a credible agency.
- C It can ill-afford to do so on account of shortage of manpower or any other constraint. It is, therefore, time for the Central Government to direct a comprehensive revision of the cadre strength of the Central Bureau of Investigation and take immediate steps for filling up the vacancies that are already
- D sanctioned. In the result we deem it fit to issue the following directions:

- (1) The Central Government shall as expeditiously as possible but not later than two months from today take steps for a comprehensive revision of the cadre strength of the Central Bureau of Investigation established under the Delhi Special Police Establishment (DSPE) Act, 1946. The revision of the cadre strength when ordered shall be completed within
- E a period of four months from the date Government issues the necessary directions.
- F

- (2) Pending comprehensive revision of the cadre strength as per (1) above, the Central Government shall take immediate steps at the appropriate level to fill up the available vacancies within the existing cadre. This would imply that the Government attends to and processes on urgent basis all proposals currently pending at different levels of the hierarchy to which we
- G have made a reference in the body of this order.
- H

- (3) The Government of West Bengal shall as already directed forward a panel of 12 Deputy Superintendants of Police, 8 Inspectors, 20 Sub-Inspectors and 40 Constables to enable the CBI to select from out of the said panel, 6 Deputy Superintendants of Police, 4 Inspectors, 10 Sub-Inspectors and 20 Constables for deputation to CBI. The needful shall be done within four weeks if not already done by the Government of West Bengal in which case the CBI shall expedite the process of selecting personnel to be taken on deputation to mitigate its current manpower requirement.

25. IA No.16 of 2015 is disposed of with the above directions.

Nidhi Jain

I.A disposed of .