

SANJIV KUMAR VS. STATE OF HARYANA AND OTHERS

EXTRACT FROM THE SUPREME COURT OF INDIA ORDER IN WRIT PETITION NO. 93/2003 OF SANJIV KUMAR VS. STATE OF HARYANA AND OTHERS DELIVERED BY JUSTICE R.C. LAHOTI AND JUSTICE ASHOK BHAN ON 25.11.2003 AT NEW DELHI

"We have given our thoughtful consideration to the respondents' proposal for entrusting the whole matter to a commission of Inquiry, assisted by a special Investigating task force. The flaw with the commissions of Inquiry, as revealed by experience, is that they do not have enough teeth and for their functioning they have to depend on the State's assistance. Commissions of Inquiry remain pending for unreasonable length of time. The reports submitted do not bind the State and in spite of transparency and public hearings which the commissions often hold, at times with fanfare, the reports hardly serve any purpose. By the time the reports are submitted the public memory has already faded and people are not any more bothered about the results. It is in the discretion of the State to take or not to take any action on the report submitted by commission of Inquiry and the experience is that the follow -up action depends more on political considerations rather than for public good.

We feel, Commissions of India are more suited for Inquiring into such matters of public Importance where the purpose is to find out truth so as to learn lessons for future and devise policies or frame legislation to avoid recurrence of lapses. Such Commissions do not suitably serve the object of punishing the guilty.

In the peculiar facts and circumstances of the case, looking at the nature of the allegations made and the mighty people who are alleged to be involved, we are of opinion, that the better option of the two is to entrust the matter to investigation by C.B.I. We are well aware, as was also told to us during the course of hearing, that the hands of CBI are full and the present one would be an additional load on their head to carry. Yet, the fact remains that CBI, as a central investigating agency enjoys Independence and confidence of people. It can fix its priorities and programme the progress of Investigation suitably so as to see that any inevitable delay does not prejudice the investigation of the present case. They can think of acting fast for the purpose of collecting such vital evidence, oral and documentary, which runs the risk of being obliterated by lapse of time. The rest can afford to wait for a while. We hope that the investigation would be entrusted by the Director, CBI to an officer of unquestioned Independence and then monitored so as to reach a successful conclusion ; the truth is discovered and the guilty dragged into the net of law. Little people of this country, have high hopes from CBI, the prime investigating agency which works and gives results. We hope and trust the sentinels in CBI would justify the confidence of the people and this Court reposed in them.

Looking at the quantum of matters which are now being dealt with CBI there is need to strengthen this body both qualitatively and quantitatively. Extraordinary care is needed in choosing the personnel for CBI as it handles cases requiring a high degree of professionalism in investigation. The cases are sensitive. And the results of investigation have national and international ramifications. It has to be saved from becoming just another police force. We cannot, right now foresee, any substitute for CBI.

The Registrar General shall communicate a copy of this order forthwith to the Director, CBI accompanied by one set of paper book so that the CBI may apprise itself of the allegations and counter allegations for the purpose of initiating Inquiry or Investigation. The records and the audio cassette shall be collected by the investigating officer from the custody of the Registrar (Judicial). The statement of the complainant, Sanjeev Kumar, shall be recorded forthwith. The investigating officer shall decide to what extent the investigation must proceed forthwith and without any loss of time. On an offence being disclosed the CBI shall register the same and against such persons as may be suspected to be involved."