

2025 LiveLaw (SC) 1012

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.K. MAHESHWARI; J., VIJAY BISHNOI; J.
October 16, 2025.

CIVIL APPEAL NO. 11842 OF 2025 (Arising out of SLP (C) No. 22746 of 2023)
LEGISLATIVE COUNCIL U.P. LUCKNOW & ORS. versus SUSHIL KUMAR & ORS.

CIVIL APPEAL NO. 11843 OF 2025 (Arising out of SLP (C) No. 22726 of 2023)
LEGISLATIVE COUNCIL U.P. LUCKNOW & ORS. versus SUSHIL KUMAR & ORS.

CIVIL APPEAL NOS. 11844-11845 OF 2025 (Arising out of SLP (C) Nos. 22970-71 of 2023)
STATE OF U.P. & ANR. versus SUSHIL KUMAR & ORS.

CIVIL APPEAL NO. 11846 OF 2025 (Arising out of SLP (C) No. 457 of 2024)
STATE OF UP & ANR. versus VIPIN KUMAR & ORS.

Constitution of India - Article 226 – CBI investigation - Power of the High Court to direct a Central Bureau of Investigation (CBI) inquiry - Judicial restraint in ordering CBI investigation - Held, the power of the High Court under Article 226 of the Constitution to direct a CBI inquiry must be exercised sparingly, cautiously, and in exceptional situations - It should not be passed as a matter of routine or merely because a party levels allegations against the local police - There must be sufficient material to come to a *prima facie* conclusion that there is a need for such an inquiry, and a commission of a criminal offence is *prima facie* disclosed - The direction is justified only when the integrity of the process is compromised to a degree that shakes the conscience of the Courts or public faith, often involving high-ranking officials or systemic failure - In matters relating to recruitment, it would not be appropriate to direct CBI investigation in the routine course unless the facts are so abnormal that they shake the conscience of the Court - The High Court's direction for a CBI inquiry was based on mere 'doubt,' 'assumption,' and 'inexplicable details' concerning the external agency's master data, which did not satisfy the *prima facie* threshold required for such an investigation - Supreme Court set aside order of High Court and directed a CBI enquiry into alleged irregularities in the recruitment process for the U.P. Legislative council and Assembly Secretaries - Appeal allowed. [Relied on *State of W.B. v. Committee for Protection of Democratic Rights*; Paras 11, 14- 23]

For Appellant(s): Mr. V. Giri, Sr. Adv. Mr. Adarsh Upadhyay, AOR Mr. Satwik Misra, Adv. Mr. Shashank Pachauri, Adv. Mr. Nihar Dharmadhikari, Adv. Ms. Pallavi Kumari, Adv. Mr. Sharan Dev Singh Thakur, Sr. Adv. Ms. Ruchira Goel, AOR

For Respondent(s): Mr. Mahesh Thakur, AOR Mr. Ranvijay Singh Chandel, Adv. Mr. Narveer Yadav, Adv. Mr. Ramesh Babu M. R., AOR Ms. Shruti Sharma, Adv. Mr. Sahil Bhalaik, AOR Mr. Tushar Giri, Adv. Mr. Siddharth Anil Khanna, Adv. Mr. Ritik Arora, Adv. Mr. Shivam Mishra, Adv. Ms. Gulshan Jahan, Adv. Mr. Rajiv Yadav, AOR Ms. Ruchira Goel, AOR Mr. Mahesh Thakur, AOR Mr. Ranvijay Singh Chandel, Adv. Mr. Vibhav Chaturvedi, Adv. Mr. Narveer Yadav, Adv. Mr. Akshay Kumar, Adv.

J U D G M E N T

J.K. Maheshwari, J.

1. In this batch of appeals, the common order dated 18.09.2023 passed in Special Appeal Defective No. 485 of 2023 and Writ-A No. 140 of 2022 along with order dated 03.10.2023 passed in Civil Miscellaneous Review Application No. 117 of 2023 in Special Appeal Defective No. 485 of 2023 by the High Court of Judicature at Allahabad, Lucknow

Bench, have been assailed. For the sake of convenience, the parties in the instant appeals are outlined below as thus:

Civil Appeal(s)	Parties	Impugned order
C.A. No. 11842/2025	Legislative Council, U.P. and Others Vs. Sushil Kumar & Ors.	Special Appeal Defective No. 485/2023
C.A. No. 11843/2025	Legislative Council, U.P. and Others Vs. Sushil Kumar & Ors.	Civil Miscellaneous Review Application No. 117 of 2023 in Special Appeal Defective No. 485 of 2023
C.A. No. 11844-11845/2025	State of Uttar Pradesh and Another Vs. Sushil Kumar and Others	Special Appeal Defective No. 485/2023 AND Civil Miscellaneous Review Application No. 117 of 2023 in Special Appeal Defective No. 485 of 2023
C.A. No. 11846/2025	State of U.P. Through Addl. Chief Secretary (Legislative Assembly) and Others Vs. Vipin Kumar Singh and Others	Writ-A No. 140/2022

Since the issues and facts involved in these appeals are common, hence they are being decided by a common order.

2. For the sake of brevity, facts of C.A. No. 11842/2025 are being adverted to. As borne from records, the controversy was set into motion when Respondent Nos. 1 to 3 (original writ petitioners) filed writ petition¹ challenging the process of selection of various posts under the Secretariat of Legislative Council, Uttar Pradesh as notified vide 'Advertisement No. 1/2020' dated 17.09.2020 and supplementary advertisement dated 27.09.2020, inter-alia, contending that the said process of selection was unfair, unjust, arbitrary, unreasonable and collusive. The petitioners prayed for the following reliefs: -

- i) to issue a writ, order or direction in the nature of certiorari quashing the entire process of selection pursuant to Advertisement No. 1/2020 dated 17.9.2020 and Supplementary Advertisement dated 27.9.2020 issued by opposite party No. 1 as contained in Annexure No. 1 to the writ petition.
- ii) to issue a writ, order or direction in the nature of Mandamus commanding the opposite parties not to proceed with the selection pursuant to Advertisement No. 1/2020 dated 17.9.2020 and Supplementary Advertisement dated 27.9.2020 issued by opposite party no. 1 as contained in Annexure No. 1 to the writ petition.
- iii) to issue a writ, order or direction in the nature of Mandamus commanding the opposite parties to hold fresh process of selection in accordance with the scheme of U.P. Legislative Council Secretariat Service (Recruitment and conditions of Services) Rules, 1976 as amended vide 4th Amendment Rules 2019.
- iv) to issue a writ, order or direction in the nature of Mandamus commanding the opposite parties to allow the petitioners to continue to work on their respective posts as

¹ Writ-A No. 36/2021.

per Scheme of Government Order dated 22.5.1998 contained in Annexure No. 3 to the writ petition and further be pleased to consider them for regular appointment.

v) Issue any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case in favour of the petitioner in the interest of justice.

vi) Allow the writ petition with costs."

3. During the pendency of the writ petition, counter affidavit was filed and the learned Single Judge relying upon the judgment of this Court in '**Sachin Kumar & Ors vs. Delhi Subordinate Service Selection Board (DSSSB) & Ors.**'², vide order dated 12.04.2023 issued the following directions –

"27. In view thereof, to maintain the public confidence in the recruitment process in the Legislative Assembly and Legislative Council in respect of Class-III posts, the recruitment should be in the hands of the specialized statutory recruitment body, and not in the hands of a selection committee or a private agency. Therefore, it is directed that in future all Class-III posts in Assembly and Council are to be filled up by the selection made by the Uttar Pradesh Subordinate Services Selection Commission. In this respect, necessary amendment in the recruitment rules are to be carried out within a period of three months from today.

28. The petitioners, who have been given appointment on contractual basis should be allowed to work on contractual basis and paid remuneration accordingly, subject to their performing duties of the posts, if the posts are vacant on which they have been working, till regularly selected candidates come from Uttar Pradesh Subordinate Services Selection Commission and join the posts."

4. Being aggrieved by the said directions, review petition³ was filed, which was disposed-of vide order dated 15.05.2023 maintaining the order of the learned Single Judge. Aggrieved, special appeal⁴ was preferred by Respondent Nos. 1 to 3. It is relevant to note, while the aforesaid special appeal was pending, Writ-A No. 140/2022 was filed by other set of writ-petitioners, inter-alia seeking relief in nature of certiorari for quashing entire selection and appointment made on the post of Assistant Review Officer in Uttar Pradesh Legislative Assembly Secretariat in pursuance to Advertisement No. 1/2020 and also a high-level enquiry into alleged manipulation and favoritism in selection and appointment. Vide order dated 21.08.2023 passed in special appeal, the matter was directed to be taken up with Writ-A No. 140/2022. The relevant portion of the order dated 21.08.2023 is reproduced below as thus:

" xxx xxx xxx

Put up on 24.08.2023 along with Writ-A No. 140/2022,

Vipin Kumar v. State of U.P. through Additional Chief Secretary (Legislative Assembly) and others.

The relevant records shall be produced by Sri Gaurav Mehrotra, learned Counsel for Legislative Council on the next date of listing.

xxx xxx xxx "

5. In furtherance thereto, the High Court by the common impugned order, referred the matter to the Central Bureau of Investigation (CBI) for conducting a preliminary enquiry and to submit a report to the Court within the time so specified and directed the office to

² (2021) 4 SCC 631

³ Civil Misc. Review Application No. 53 of 2023.

⁴ Special Appeal Defective No. 485 of 2023

register the case as suo-motu P.I.L. The relevant portion of the order is reproduced as thus: -

“(10) Since this Court is vested with the jurisdiction of P.I.L., therefore the Court further proceeds to take suo motu notice in public interest on the aforesaid questions for necessary directions and the case be listed as suo motu P.I.L. in the matter of recruitment of Staff in Vidhan Parishad and Vidhan Sabha, Secretariat, U.P. in the light of grievance raised in the Special Appeal and Writ-A No. 140 of 2022, Vipin Kumar v. State of U.P. through Additional Chief Secretary (Legislative Assembly) and others connected thereto.

ORDER

(11) Having regard to the facts evident from the record and keeping in view the aforesaid questions of public importance, we are of the opinion that the matter be referred to Central Bureau of Investigation (CBI) for conducting a preliminary enquiry to submit the report to this Court within a period of six weeks from the date of this order along with photocopies of the relevant record.

(12) Office is directed to register the case separately as suo motu P.I.L. whose title is as under: “Suo Motu in the matter of Recruitment of staff in Vidhan Parishad Sabha and Vidhan Sabha, Secretariat, U.P.”

(13) Let a copy of this order alongwith the instructions placed before this Court be registered as part of P.I.L.

(14) The original record supplied to the Court shall be kept in the sealed cover.

(15) Photocopy of the original record shall be transmitted to the C.B.I. by the Senior Registrar of this Court in a sealed cover to facilitate the preliminary enquiry in the matter.

(16) Dr. L.P. Mishra, Advocate is appointed as amicus curiae to assist the Court in the matter of suo motu P.I.L.

(17) Let the Special Appeal and P.I.L. be listed before the appropriate Bench in the first week of November, 2023.”

6. On filing review⁵ against the above directions, the same was dismissed on 03.10.2023 maintaining the order impugned. Hence, the present appeals as indicated above in para 1.

7. Heard the learned counsel for the parties at length. Mr. V. Giri, learned senior counsel representing the Legislative Council as well as the State Government, submits that by the impugned judgment, the Division Bench by clubbing the Special Appeal with the Writ Petition wherein constitutionality of the Uttar Pradesh Legislative Assembly Recruitment Rules was challenged and by converting the said Special Appeal into a Public Interest Litigation, the Division Bench exceeded from its jurisdiction to decide the Special Appeal. It is further urged that without affording the appellant an opportunity referring the matter to CBI for enquiry, violates principles of natural justice. He further submitted that there are no averments in the writ petition or in the special appeal warranting referral of matter to the CBI insofar as the allegations specified therein are concerned. Therefore, direction as issued by the High Court is not in accordance with law. Reliance in this regard has been placed on the judgments of this Court in the cases of **Secretary, Minor Irrigation & Rural Engg. Services UP vs. Sahgoo Ram**⁶; **Shree Shree Ram Janki, Asthan Tapovam Mandir vs. State of Jharkhand**⁷.

⁵ Civil Miscellaneous Review Application No. 117 of 2023 in Special Appeal Defective No. 485 of 2023.

⁶ (2002) 5 SCC 521

⁷ (2019) 6 SCC 25

8. Per contra, learned counsel appearing for Respondent Nos. 1 to 3 (petitioners before the High Court) submits that they have not asked for any relief directing CBI enquiry in the matter. Without there being such prayers, the High Court suo-motu has passed the order. It is urged, they are working since last about ten years on contractual basis and their prayer is only to the extent to regularize them in the Uttar Pradesh Legislative Assembly. It is also contended that they have not made any allegation of manipulation or malpractice in the examination and neither pleaded for CBI investigation. In such circumstances, appropriate orders may be passed.

9. Having considered the submissions and the controversy involved, it is first necessary to examine the circumstances in which a CBI inquiry can be directed. This Court has addressed this issue in a series of judgments, as outlined below from some of the cases.

10. In **Secretary, Minor Irrigation & Rural Engg. Services UP** (supra), this Court had the occasion to deal with a direction of High Court whereby CBI was directed to hold an inquiry into the allegations made against the then Minister for Minor Irrigation and Rural Engineering Services in government of Uttar Pradesh. While setting aside the impugned order therein, following was observed—

“5. While none can dispute the power of the High Court under Article 226 to direct an inquiry by CBI, the said power can be exercised only in cases where there is sufficient material to come to a prima facie conclusion that there is a need for such inquiry. It is not sufficient to have such material in the pleadings. On the contrary, there is a need for the High Court on consideration of such pleadings to come to the conclusion that the material before it is sufficient to direct such an inquiry by CBI. This is a requirement which is clearly deducible from the judgment of this Court in the case of Common Cause [(1999) 6 SCC 667]. This Court in the said judgment at paragraph 174 of the Report has held thus: (SCC p. 750, para 174)

“174. The other direction, namely, the direction to CBI to investigate ‘any other offence’ is wholly erroneous and cannot be sustained. Obviously, direction for investigation can be given only if an offence is, prima facie, found to have been committed or a person's involvement is prima facie established, but a direction to CBI to investigate whether any person has committed an offence or not cannot be legally given. Such a direction would be contrary to the concept and philosophy of ‘life’ and ‘liberty’ guaranteed to a person under Article 21 of the Constitution. This direction is in complete negation of various decisions of this Court in which the concept of ‘life’ has been explained in a manner which has infused ‘life’ into the letters of Article 21.”

11. The issue whether the High Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, when can direct the CBI, established under the Delhi Special Police Establishment Act, 1946, to investigate a cognizable offence which is alleged to have taken place within the territorial jurisdiction of a State without the consent of the State Government, was referred for the opinion of the Constitution Bench in *State of W.B. v. Committee for Protection of Democratic Rights*⁸. This Court while affirming exercise of such powers by High Courts made following succinct observations –

“70. Before parting with the case, we deem it necessary to emphasize 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.

⁸ (2010) 3 SCC 571

This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill 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.

71. In *Minor Irrigation & Rural Engg. Services, U.P. v. Sahngoo Ram Arya* [(2002) 5 SCC 521 : 2002 SCC (L&S) 775] this Court had said that an order directing an enquiry by CBI should be passed only when the High Court, after considering the material on record, comes to a conclusion that such material does disclose a prima facie case calling for an investigation by CBI or any other similar agency. We respectfully concur with these observations.”

12. In ***Shree Shree Ram Janki, Asthan Tapovam Mandir*** (supra), High Court had issued a direction to CBI to investigate and to take appropriate action qua allegations involving illegal transfer of temple trust property by trust members in collusion with public officials. This direction was issued in pursuance to a PIL filed seeking such relief. On challenge, this Court quashed the impugned direction while observing as hereunder:

“21. We find that the finding recorded by the High Court that the deity could not transfer its land in any case is not tenable. The appellant relies upon statutory provisions in support of its stand to transfer of land. The sweeping remarks that the allegations are against the Government and the Board which consist of government functionaries; therefore, the matter requires to be investigated by CBI are wholly untenable and such sweeping remarks against the Government and/or the Board should not have been made. The functioning in the Government is by different officers and the working of the Executive has in-built checks and balances. Therefore, merely because, permission has been granted by a functionary of the State Government will not disclose a criminal offence. The High Court has thus travelled much beyond its jurisdiction in directing investigations by CBI in a matter of sale of property of the deity. Still further, the High Court has issued directions without there being any complaint to the local police in respect of the property of the religious Trust.

22. It may be kept in mind that the public order (Entry 1) and the police (Entry 2) is a State subject falling in List II of Schedule VII of the Constitution. It is a primary responsibility of the investigating agency of the State Police to investigate all offences which are committed within its jurisdiction. The investigations can be entrusted to Central Bureau of Investigation on satisfaction of the conditions as specified therein only in exceptional circumstances as laid down in State of W.B. [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571] case. Such power cannot and should not be exercised in a routine manner without examining the complexities, nature of offence and sometimes the tardy progress in the investigations involving high officials of the State investigating agency itself.”

13. In ***Manik Bhattacharya v. Ramesh Malik***⁹, a direction was issued by High Court to CBI for conducting an inquiry while registering a case vis-à-vis allegations of grave irregularities in West Bengal Teachers Eligibility Test, 2014. Therein, although this Court refused to quash the impugned directions on account of CBI having proceeded with such inquiry substantially, an observation was made that direction of CBI inquiry in recruitment related controversy was not appropriate. The relevant paragraph is reproduced as thus:

“11. In our opinion, under normal circumstances, it would not be appropriate to straightaway direct CBI investigation in a recruitment related controversy unless, of course the allegations are so outrageous and the perpetrators of the alleged offences are so powerful that investigation by the State Police would be ineffectual. The reasons given by the learned Single Judge in directing investigation by CBI at such an early stage of the proceeding may fall short of the standards laid

⁹ (2022) 17 SCC 781

down in Sampat Lal [State of W.B. v. Sampat Lal, (1985) 1 SCC 317]. But considering the submission of the learned counsel for CBI and the fact that investigation by the said agency has substantially progressed, we do not want to stall such investigation at this stage and wait to see if the State Police can carry on the same investigation impartially. We accordingly decline the plea of the petitioners to stay that part of the order impugned, by which continuance of the investigation by CBI has been directed. Before we issue further order in this matter, we direct CBI to file a comprehensive report as regards the scope and nature of illegalities they have found in the subject-recruitment process.”

14. In view of the precedents of this Court referred hereinabove, it is evident that while issuing directions to CBI to hold an investigation, pleadings and material sufficient for CBI inquiry are required to be looked into. It is further required to be seen that based on such material, whether the involvement of the persons is prima facie established. This Court while issuing directions observed that no inflexible guideline can be laid down to decide whether or not such power should be exercised, but it has been reiterated that the order of CBI investigation or enquiry should not be passed in routine manner on mere allegations levelled by the parties. The exercise of such power by the High Court or by this Court must be made sparingly, cautiously and in an exceptional situation when credibility of investigation is in question and to repose confidence in investigation. The Court may exercise such discretion, where the incident may have national or international ramifications and with intent to do complete justice or for enforcing the fundamental rights. Mere sweeping remarks are not enough to direct for CBI investigation, until prima facie disclosure of commission of criminal offence is made out. It is further said that in the matters relating to recruitment, it would not be appropriate to direct CBI investigation in routine course unless the facts brought on record are so abnormal that shake the conscience of the Court.

15. For appreciating the legal position set forth above, it is necessary to assess the pleadings and the prayers of the writ petitions. The prayers involving Writ-A No. 36/2021 have already been reproduced in para 2 hereinabove and the direction as issued by the learned Single Judge in para 3 above against which Special Appeal Defective No. 485/2023 was filed and entertained along with Writ-A No. 140/2022. However, at this juncture, the relief sought in Writ-A No. 140/2022 is also required to be referred for ready reference which is reproduced as under:

“xxx xxx xxx

- i. a writ order and direction in nature of certiorari Quashing entire selection and appointment made on the post of Assistant Review Officer in Uttar Pradesh Legislative Assembly Secretariat in pursuance to Advertisement no. 1/2020 dated 07.12.2020 as Contained in ANNEXURE NO. 1 to this writ petition;
- ii. a writ order or direction in nature of Mandamus commanding opposite parties to conduct a high level inquiry regarding allegations raised in the present writ petition pertaining to manipulation in the Mains Written Examination and typing results and favoritism in the selection and appointment of Assistant Review Officers in pursuance to advertisement no. 1/2020 dated 07.12.2020;
- iii. a writ, order or direction in the nature of Mandamus commanding opposite parties to conduct entire selection process a fresh by involving agencies.

xxx xxx xxx ”

A bare reading of the prayer makes it clear that the allegations raised in the writ petition pertained to the favoritism and manipulation in the result of mains written examination. On the allegations, quashing of entire selection and appointment was sought along with a

high-level enquiry. A further perusal of the pleadings in the writ petition indicate that favoritism was alleged against the external agency, which conducted the examination and allegedly favored certain set of candidates.

16. In the said factual conspectus, the key question that arises for our consideration is (1) whether the Division Bench while entertaining Special Appeal Defective No. 485/2023 against the order of learned Single Judge along with Writ-A No. 140/2022 was justified to direct the office to register a separate case as suo moto PIL and to hold a preliminary enquiry through CBI asking for a report within the specified time? (2) Whether the facts and circumstances of the case warrant a CBI enquiry in line with the established guidelines of this Court?

17. As discussed above, the dispute was set into motion when challenge was laid to the selection process of various posts under the Secretariat of Legislative Council in Writ-A No. 36/2021. The prime grievance of the petitioners was of unfairness, arbitrariness and collusiveness in the selection process. It is pertinent to note that both the writ petitions did not contain any prayer seeking CBI enquiry in the matter. Learned Single Judge by a detailed order dated 12.04.2023 disposed-of the writ petition noting that recruitment should be in the hands of a specialized agency, rather a private agency. It was further directed that in future, all the posts had to be filled by Uttar Pradesh Subordinate Services Selection Commission, and necessary amendments be made in the recruitment rules in this regard. The review filed against the aforesaid order was dismissed, and subsequent thereto, Special Appeal No. 485 of 2023 was filed, wherein the impugned order has been passed.

18. It was primarily asserted in the special appeal that learned Single Judge failed to take note of the largescale irregularities, favoritism and nepotism in the process of selection. In the interregnum, another writ petition being Writ-A No. 140/2022 was filed asking identical reliefs along with high level enquiry on the allegation of manipulation and favoritism. Both the Special Appeal Defective No. 485/2023 and Writ-A No. 140/2022 were directed to be posted together vide order dated 21.08.2023 with direction to produce the relevant record. Later, vide order impugned dated 18.09.2023 by way of interim measure, the Division Bench gave directions to CBI for conducting the preliminary enquiry and to submit a report. The office was directed to register the case as Public Interest Litigation. In view of the above, it is a matter of concern and required to be referred that the Division Bench while entertaining the special appeal against an order of learned Single Judge, how can direct the office to register the case separately as suo moto PIL. If such direction is carried out, it would amount to entertaining a public interest litigation against the order of learned Single Judge which primarily cannot be said to be in consonance with the rules prevalent and demand of propriety. At present, we are not dealing with this issue in detail and leave it to be looked into by Hon'ble the Chief Justice of the High Court.

19. Perusing the facts of the case in hand, the Division Bench, was only considering the challenge to the order dated 12.04.2023 passed by the learned Single Judge. The appeal was taken up along with Writ-A No. 140/2022 involving identical issue. Admittedly, neither of the parties in the special appeal nor in the writ petitions prayed for an inquiry by setting up the CBI into motion. In absence of foundation and such a prayer, what prompted the Division Bench at appellate stage to direct registration of PIL by taking suo-motu cognizance and refer the matter to CBI to conduct preliminary enquiry assumes significance. To appreciate the same, the record indicate that the entire controversy revolved around the process of recruitment of staff in the Secretariat in Legislative Assembly because it was conducted by external agencies. The original writ petitioners in

sum and substance challenged the selection process alleging arbitrariness, unfairness, collusiveness and favoritism by such agencies. On perusal of impugned order, it reveals that the Division Bench on the premise of fairness in public employment and credibility of the recruitment agency, proceeded to test the entire veracity of allegations cast upon the selection process.

20. In this regard, the challenge was made by 3 petitioners in Writ-A No. 36/2021 and then before the Division Bench in Special Appeal Defective No. 485 of 2023, which was later tagged with Writ-A No. 140/2022 filed by sole petitioner raising contentious allegations in the selection process notified for 99 vacancies of 11 cadres. It appears that all the 4 petitioners participated in the selection process and on being unsuccessful, challenged the same. Learned Single Judge disposed-of the writ petition with above directions vide order dated 12.04.2023. In special appeal, the Division Bench passed the impugned order. The Division Bench was swayed on mere doubt on the process adopted for identification of external agencies to conduct the examination. The relevant portion of the impugned order is quoted hereunder:

“9. The letter dated 08.07.2020 directing the Nodal Officer for identifying the external recruitment agency to the best of our understanding restricts the agencies either empanelled by the State/Public Service Commission or other institutions dealing with public examinations for recruitment. We have not been taken through any correspondence of refusal with the U.P. Public Service Commission or any other Subordinate Services Selection Commission or any institution dealing with employment recruitment examinations before identification of the five private external agencies whose consideration in an unnatural way leads us to doubt. On scrutiny of the company master data with respect to the agency chosen for recruitment, we came across some inexplicable details which, prima-facie, satisfy the Court for a preliminary enquiry by an impartial agency as regards the identification of external agency in the present case entrusted the function of recruitment in public service which in our firm view cannot be compromised on the hallmark of fairness. The Court proceeds to frame the following questions in Public Interest:.....”

As evident from above, the Division Bench based its decision on an assumption of doubt and ordered a CBI inquiry in the present case, despite not having any necessary foundation and prayer by either of the parties. During the course of hearing even before us, learned counsel appearing on behalf of the original writ petitioners has made a candid prayer that their clients are not interested for holding any CBI enquiry in the matter except to grant of relief as prayed in the writ petition.

21. Be that as it may, it is well settled that directions for CBI enquiry should not be ordered by the High Courts or this Court in a routine manner. The jurisprudence, as developed by this Court through judgements referred above, qua the direction of an investigation by the Central Bureau of Investigation (CBI) is well-settled. It imposes a significant self-restraint on the exercise of this extraordinary constitutional power under Article 32 or Article 226 of the Constitution of India. The exercise of inherent powers to direct CBI to investigate must be exercised sparingly, cautiously, and only in exceptional situations. This Court has consistently cautioned that a CBI investigation should not be directed as a matter of routine or merely because a party casts certain aspersions or harbors a subjective lack of confidence in the State police. It goes without saying that for invoking this power, the concerned Court must be satisfied that the material placed prima facie discloses commission of offences and necessitates a CBI investigation to ensure the fundamental right to a fair and impartial investigation, or where the complexity, scale, or national ramification of such allegations demands expertise of central agency.

22. An order directing an investigation to be carried out by CBI should be treated as a measure of last resort, justified only when the Constitutional Court is convinced that the

integrity of the process has been compromised or has reasons to believe that it may get compromised to a degree that shakes the conscience of Courts or public faith in the justice delivery system. Such compelling circumstances may typically arise when the materials brought in notice of the court prima facie point towards systemic failure, the involvement of high-ranking State officials or politically influential persons, or when the local police's conduct itself creates a reasonable doubt in the minds of the citizenry regarding their ability to conduct a neutral probe. In absence of such compelling factors the principle of judicial restraint demands that the Court must refrain from interfering. In other words, Constitutional Courts must exercise some degree of judicial restraint in unnecessarily burdening a specialized central agency with matters that do not satisfy the threshold of an exceptional case.

23. What is coming out from the above discussion is that the directions of High Court that are impugned in the present appeals were issued on basis of some 'doubt', 'assumption' and 'inexplicable details' qua master data of external agency. However, the impugned order fails to specifically point out these 'doubts' and 'inexplicable details' that led the High Court to pass such directions. In this context, we are of the opinion that the prima facie threshold that is required for passing a direction of CBI investigation has not been satisfied. Furthermore, all the petitioners before the High Court (Respondent Nos. 1 to 3 herein) have also fairly stated before us that they have not sought relief for any CBI enquiry before the High Court.

24. In view of the discussion made hereinabove, the present appeals stand allowed and the impugned orders dated 18.09.2023 passed in Special Appeal Defective No. 485 of 2023 and order dated 03.10.2023 passed in Civil Miscellaneous Review Application No. 117 of 2023 in Special Appeal Defective No. 485 of 2023 by the High Court stand set-aside.

25. The Division Bench of the High Court is requested to hear the Special Appeal Defective No. 485 of 2023 on its own merits. We also set aside the direction passed in the impugned order dated 18.09.2023 to register the said case separately as suo motu PIL, leaving it to the discretion of Hon'ble the Chief Justice of the High Court to look into the prevalent rules of the High Court and to register the said petition in the form as specified in the rules. It is needless to observe that on the facts of the case, for the purpose of deciding Special Leave Defective No. 485 of 2023 with Writ-A No. 140/2022, we have not expressed any opinion on merits of the case. The Bench so assigned, if any, shall independently examine the pleadings and the reliefs as prayed therein and pass appropriate orders uninfluenced by any of the observations made hereinabove. The appeals stand disposed-of in above terms. Pending applications, if any, shall stand disposed of.