

**Central Administrative Tribunal Lucknow Bench Lucknow.**

Original Application No. 434/2009

This, the 11<sup>th</sup> day of January, 2009

**Hon'ble Ms. Sadhna Srivastava, Member (J)**  
**Hon'ble Dr. A. K. Mishra, Member (A)**

**Ramendra Vikram Singh**, aged about 59 years, son of late Shri Balram Singh, resident of H-10/D, Sector 'D', LDA Colony, Kanpur Road, Lucknow.

**Applicant**

**By Advocate Sri R. C. Singh.**

**VERSUS**

1. Union of India through the Secretary to the Government of India, Ministry of Home, New Delhi.
2. State of U.P. through its Principal Secretary, Home Department, Sachivalay, Lucknow.
3. Chief Secretary to the Government of U.P., Lucknow.
4. Secretary to the Government of U.P., Vigilance Department, Lucknow.
5. Anti Corruption Organization, U.P., Lucknow through its Additional Director General of Police.
6. Director General, Vigilance Department/Establishment, U.P. Lucknow
7. Inspector General of Police (Karmik), U.P. Lucknow.

**Respondents**

**By Advocate Sri S. P. Singh/Sri A. K. Chaturvedi**

**ORDER**

**By Hon'ble Dr. A. K. Mishra, Member (A)**

This application is directed against the letter dated 18.9.2008 issued by respondent No. 2 by which a vigilance inquiry has been initiated against the applicant. The applicant has taken the ground that the

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basis of initiation of vigilance inquiry is a pseudonymous complaint dated 26.2.2005 filed by one Sri S. B. Maurya, said to be a Senior Politician of Bhartiya Janta Party, Kanpur Nagar. The State Government, in the Home department, earlier had decided that no inquiry was to be made in respect of allegations in the pseudonymous complaint as no such person corresponding to the name of complainant existed at Kanpur Nagar. The State Government had communicated its decision in letter dated 6.2.2007. The re-initiation of a fresh inquiry on the basis of the same complaint, according to the applicant, was malafide and revealed the prejudiced intention of the State Government against the applicant.

2. The learned counsel for the respondents has raised a preliminary objection about the maintainability of the O.A. on the ground of jurisdiction of this Tribunal to hear a case relating to vigilance inquiry in respect of criminal allegations. The matter was taken up for hearing on the preliminary objection. The learned counsel for the respondents submits that a proposal was moved on 11.4.2008 by Respondent No. 2 for consideration of the State Vigilance Committee comprising Chief Secretary, U.P., Secretary Home, U.P., Secretary, Department of Vigilance, U.P. for considering the desirability of initiating vigilance inquiry against the applicant in respect of allegations of acquisition of assets disproportionate to known source of income and



purchase of property in the names of his wife, brother and mother in the District Kaushambi on much lesser rates than the prevailing circle rates. This proposal was considered by the State Vigilance Committee on 31.7.2008 and it was recommended that a vigilance inquiry should be conducted against the applicant. The recommendation was accepted by the competent authority on 11.8.2008 on the basis of which the impugned letter dated 18.9.2009 was issued.

3. The second proposal dated 20.9.2008 of Respondent No. 2 was also considered by the State Vigilance Committee which recommended Vigilance inquiry in respect of allegations of purchase of Seesam wood and related matters. Their recommendation was accepted by the competent authority and accordingly, another letter dated 10.7.2009 was issued by respondent No. 4 to the vigilance department.

4. He further submits that UP Vigilance Establishment has been constituted by means of the provisions of UP Vigilance Establishment Act 1965 and it has the characteristics of a special force. The vigilance establishment can start a vigilance inquiry which is in the nature of police investigation and register an FIR after obtaining government orders; it may refer the matter to the State Government for taking disciplinary proceedings in the Administrative Department concerned. It is only when an administrative departmental action is



initiated that an employee has a cause of action to approach this Tribunal. Admittedly, the applicant is a Member of Indian Administrative Service; therefore, he can approach this Tribunal only when a regular cause of action arises after the State Government decide to take departmental action. This Tribunal does not have jurisdiction to stay preliminary investigation by a police establishment into allegations of corrupt practices involving acquisition of assets disproportionate to known-source of income of an employee. He further claims that the letter dated 26.2.2005 of Sri S. B. Maurya was not the only basis of the inquiry, although some of the materials mentioned in the letter could be used for the purpose of investigation. According to him, earlier the Anti Corruption Organization which is not entitled to conduct inquiry in the matter of anonymous complaint had closed the matter. But it does not preclude the vigilance establishment to start a police inquiry into criminal allegations.

5. He further states that the applicant had filed the Writ Petition No.9719/(M/B) 2008 praying for the same relief but withdrew it in order to file the present original application. The issue whether it is cognizable before this Tribunal was never adjudicated upon.

6. The learned counsel for the applicant submits that the jurisdiction of this Tribunal is derived from



Section 3 (Q) of the Administrative Tribunal Act. The provision of this Section is extracted below:-

**3(q) "service matters", in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be of any corporation (or society) owned or controlled by the Government, as respects-**

- (i) remuneration (including allowances), pension and other retirement benefits;**
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;**
- (iii) leave of any kind;**
- (iv) disciplinary matters; or**
- (v) any other matter whatsoever;**

It was contended that the present matter falls under the category of "any other matter whatsoever". Under Section 19 of the Administrative Tribunal Act, an application can be made to the Tribunal if a person is aggrieved by any order pertaining to service matters which have been defined as aforesaid. According to him, a decision was taken by the Home Department not to take up inquiry in respect of allegations made on a pseudonymous complaint letter. There were no other



materials other than the allegations made in the letter of Sri Maurya when the proposal was considered by the State vigilance Committee. Therefore, the fresh inquiry now ordered could not be sustained and the Tribunal had got jurisdiction to interfere in the matter:


7. On hearing both sides and going through their respective submissions, we find that the vigilance inquiry is in the nature of police investigation into allegations of acquisition disproportionate assets which is a punishable offence under the prevention of Corruption Act. Information is being collected by the vigilance establishment from various sources about the assets of the applicant. Admittedly, vigilance organization is a special police force and they have powers to investigate allegations coming from what ever source following the guidelines issued under order dated 28.9.77 which pertains to the work and conduct of inquiries to be made by U.P. vigilance establishment. The investigation may lead to closure of the case, or criminal prosecution after approval of State Government is obtained, or may result in disciplinary proceedings. It is only when the latter course of action is taken and the applicant is aggrieved by any order passed in that context that he can approach this Tribunal for redress. The jurisdiction of the Tribunal cannot be invoked in case of an open vigilance inquiry which is in the nature of Police investigation. The applicant will have many opportunities



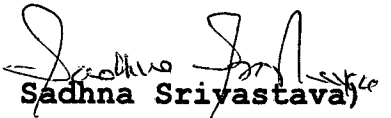
to establish his defence plea not only at the time of inquiry but also at subsequent stages.

8. In the circumstances, we decline to interfere with process of investigation of the vigilance organization.

The application is accordingly dismissed. No costs.

  
(Dr. A. K. Mishra)  
Member (A)

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(Ms. Sadhna Srivastava)  
Member (J)

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