

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL MISCELLANEOUS PETITION NO. \_\_\_\_/2013

IN

SPECIAL LEAVE PETITION (CRL) NO. 5513 OF 2013

IN THE MATTER OF:

Lalu Prasad @ Lalu Prasad Yadav ...Petitioner

Versus

State of Jharkhand ...Respondent

AND IN THE MATTER OF

Rajiv Ranjan Singh @ Lallan Singh son of Late Shri  
Jwala Prasad Singh, presently residing at C-1/15,  
Pandara Park, Pandara Road, New Delhi-110003

...Applicant/Intervenor

PETITION FOR INTERVENTION

The humble petition on behalf of the  
applicant above named

MOST RESPECTFULLY SHOWETH

1. That this is an application seeking intervention in the above Special Leave Petition which arises out of RC No. 20 (A)/1996 pertaining to the 'Fodder Scam' and which is at its concluding stages before the Special Judge-IV, CBI (AHD), Ranchi, Jharkhand.

2. That the applicant is a Member of the Lok Sabha from Munger Parliamentary Constituency in the State of Bihar. He was one of the writ petitioners before the Patna High Court in a writ petition filed by way of public interest which led to the unearthing of the fodder scam in which large scale defalcation of public funds, fraudulent transactions and falsification of account had taken place in the erstwhile unified State of Bihar during the period 1977 to 1996. The applicant has been fighting all along for a free and fair investigation of the cases and expeditious conclusion of the trial so that the guilty are brought to book and public confidence in the judicial system is not shaken at the hands of the corrupt and the influential.
  
3. That the applicant has no personal interest in this matter except an earnest desire that the pending cases involving influential persons such as the petitioner himself who is a politician who wields power and influence, are expeditiously concluded. In fact, the CBI itself in its counter affidavit in the High Court in CWJC No. 5117/2011 has

acknowledged this fact, which had been filed by the applicant pursuant to the liberty granted by this Hon'ble Court in W.P. (C) No. 316/2011. True copy of the proceedings dated 01.08.2011 of this Hon'ble Court is annexed hereto as Annexure-1.

4. That the petitioner has alleged that that the applicant's lawyer Shri P.K.Shahi is related to the Special Judge and therefore there is imminent bias against him due to which he shall be denied fair trial. This averment also finds mention in the impugned order dated 01.07.2013 in Criminal Miscellaneous Petition No. 1619/2013 at paragraph no. 5. Since there is a mention of the name of the applicant in the impugned order, the applicant seeks leave of this Hon'ble Court to intervene so that the facts are brought on record and the distortion sought to be projected by the petitioner is suitably corrected. Further, since the applicant was one of the writ petitioners in the PIL, he is virtually in the position of the informant of the case. In this view of the matter, he has a locus standi to file this petition for intervention.

5. That the brief facts are that pursuant to directions of this Hon'ble Court in State of Bihar & Anr. Vs. Ranchi Zila Samta Party & Anr., (reported in 1996 (3) SCC 682, the Hon'ble Patna High Court was entrusted to oversee and monitor investigation by CBI into the scam with the purpose of ensuring free and fair investigation into the case. This Hon'ble Court was pleased to observe that when a cloud was cast on the administration in a democratic set up, it becomes imperative and appropriate for an independent agency to conduct the investigation. The State Government and the Hon'ble Patna High Court were directed to assign adequate number of Special Judges to deal with the cases arising out of the scam expeditiously so that no evidence may be lost and a free and fair trial can be conducted. This was done to avoid any impression of bias and avoid the erosion of the credibility of the investigation and reasonable impression of lack of fairness and objectivity in the investigations. These directions have been reiterated by this Hon'ble Court in successive orders, both reported and unreported,

with respect to cases pertaining to the fodder scam cases, from time to time.

6. That after filing of charge sheets, charges were framed against the accused persons in 63 cases relating to the fodder scam. After the bifurcation of the State of Bihar into the States of Bihar and Jharkhand in November 2000, 53 cases were transferred to the State of Jharkhand. Trial in 44 cases involving contractors and junior level officers stand concluded.
7. That the CBI itself has earmarked 6 cases involving 'larger conspiracy angle' involving two Chief Ministers, three Ministers, Chairman of Public Accounts Committee, one MLA and seven IAS officers apart from senior officers of the Animal Husbandry Department, State Treasury Officers including treasury peons and influential Suppliers. These are R.C. Nos. 20(A), 38(A), 47(A), 64(A), 68(A) and 63(A) which pertain to the charge of conspiracy. 5 out of these cases are being tried before the CBI Special Courts at Ranchi in the State of Jharkhand

while one case being R.C. No. 63 is being tried before the CBI Special Court at Patna in the State of Bihar. Virtually all these cases are based on same or similar facts.

8. That since the larger conspiracy angle cases remain pending, the accused move about freely and are also beneficiaries of political and government largesse. Many of such accused have successfully contested elections to the State Assemblies and the Parliament and even enjoyed the office of a Union Minister for Railways.
9. That seeing the rate of conviction in the concluded cases the accused in the pending cases are leaving no stone unturned to delay their trial. The CBI appears to be obliging them by adopting a go-slow approach in the trials, on some pretext or the other. In fact, the Hon'ble Jharkhand High Court in its order dated 17.06.2013 in CWJC No. 293/2001 while monitoring the progress of the pending trials has severely castigated the CBI for its handling of the trials. The attempt of CBI to justify the

explanation regarding delay of arguments is unbecoming of a prosecuting agency. True copy of the Order dated 17.06.2013 of the Jharkhand High Court in CWJC No. 293/2001 is annexed hereto as Annexure-2

10. That it is respectfully submitted that RC No. 20(A)/1996 involving influential politicians and senior bureaucrats is at its final stage. In this case, 45 out of 46 accused have already concluded their arguments. Only the petitioner above named, is deliberately delaying in concluding his arguments, on one pretext or the other. Successive applications have been filed in the Trial Court and the High Court, a fact noted with disdain by the Special Judge in his order sheet of 06.06.2012. All this is only to delay conclusion of the trial in RC 20(A)/1996. True copy of the Order Sheet of the Special Judge dated 6.06.2012 is annexed hereto as Annexure-3.

11. That with intent to terrorize and demoralize the Trial Court, the petitioner filed an application in RC

20(A)/1996 which is pending before the Special Judge-IV, CBI (AHD), Ranchi for transfer on scurrilous allegations of relationship between the Special Judge and the lawyer of the applicant in the PIL. This received wide coverage in the print and electronic media. It is submitted that this Special Judge has been hearing RC 20(A)/1996 since the past about two years. Statements of the accused under S. 313 Cr.P.C. have been recorded before him; defence witnesses of all the accused have been examined and cross-examined by him; arguments of the prosecution have been advanced before him; all the 46 accused have concluded their defence arguments; the last accused namely Shri Lalu Prasad Yadav has also advanced his defence arguments before him on several dates; repeated adjournments have been taken by him; he has filed several applications before him and also before the Hon'ble High Court. It is submitted that filing of the aforementioned motivated petitions for transfer and stay are with intent to terrorise and demoralize the Special Judge from pronouncing the judgment so that conclusion of the trial gets further delayed and

the accused politicians who wield tremendous influence can continue to remain free with impunity. This 'genealogical relationship' has been publicly denied by Shri Prashant Kumar Shahi and has also been reported by the press. He has categorically stated that he is neither related nor is known to the Learned Judge and that he has never met him or recognizes him by name or face. Curiously, this false allegation of 'relationship' was never ever raised, pleaded or mentioned till fixing of the date of pronouncement of the judgment. Copy of this press clipping is annexed hereto as Annexure-4.

12. That the CBI has refuted the allegations of the petitioner and has also detailed the dilatory tactics of the accused in concluding the trial, in para 4 of the impugned order. The same is extracted herein below for convenience:

“4. As against this, Mr. Khan, learned counsel for the CBI submits that on account of several reasons, the trial got delayed, but the fact is that the learned Judge has been conducting

the trial since 16/11/2011 but apprehension had never been shown that the petitioner may not get justice even if several petitions had been rejected. But, when on account of delaying tactics adopted by the petitioner in not concluding the arguments, the Court issued such notice informing therein that the written arguments is to be submitted by 1st July, 2013 so that the judgment be pronounced on 15th July, 2013 application for transfer has been filed. That notice seems to have been issued for the reason that the trial had already been protracted and in spite of sufficient opportunities being given, the arguments were not being concluded and at number of occasions without there being any reason, nobody appeared for advancing arguments on behalf of the petitioner, which may create apprehension in anybody's mind that the said tactics is being adopted only to delay the trial and that when the Court become a bit harsh, the last weapon was used by filing this transfer petitioner taking a plea

that Mr. P.K. Shahi, who is said to be a relative of the learned Judge though distantly, would try to influence the Judge in getting the petitioner convicted which apprehension is quite unfounded as nothing has been shown to this Court that the learned Judge ever come in contact of Mr. Shahi though he may be related to Mr. Shahi and, therefore, it becomes quite obvious that this application has been filed simply to delay the trial and, hence, the prayer made in the petitioner never warrants to be allowed.”

13. That it is respectfully submitted that it was the duty of the CBI to place the order dated 17.06.2013 of the Monitoring Bench in CWJC No. 293/2001, when the petition for transfer was being heard by the Jharkhand High Court on 28.06.2013 in CrI. M.P. No. 1619/2013. It ought to have also informed the High Court that the notice for concluding the arguments and filing of written arguments by 02.07.2013 and pronouncement of the judgment on 15.07.2013 was in compliance of the directions of

the Monitoring Bench of the High Court to expeditiously conclude the trial. This action of the Special Judge has been explained by the Hon'ble High Court in its impugned order in para-10 as being reasonable on the facts of the case and was an endeavour of the Special Judge to expeditiously conclude the trial. However, for reasons best known to the CBI, this was not done. In the circumstances, the applicant has reasons to believe that the CBI would again not come forth and place the entire facts in its true perspective before this Hon'ble Court either.

14. That in this view of the matter it is respectfully submitted that the above SLP, which is another ploy to delay the trial, is devoid of any merit and deserves to be dismissed in the interest of justice.

#### PRAYER

It is therefore most respectfully prayed that your Lordships may graciously be pleased to

- a. allow this criminal miscellaneous petition and permit the applicant to intervene in the above

special leave petition and address arguments in support of the said petition; and

- b. pass any other order or orders as may be deemed fit on the facts and in the circumstances of this case and in the interest of justice.

Drawn & Filed by

(Gopal Singh)

Advocate for the applicant/intervenor

New Delhi

Dated: 12.07.2013

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL MISC. PETITION NO. \_\_\_\_\_ OF 2013

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SPECIAL LEAVE PETITION (CRL.) NO. 5513 OF 2013

IN THE MATTER OF:

Lalu Prasad @ Lalu Prasad Yadav ...Petitioner

Versus

State of Jharkhand ...Respondent

AFFIDAVIT

I, Rajiv Ranjan Singh alias Lallan Singh, aged about 58 years, son of Late Shri Jwala Prasad Singh, presently residing at C-1/15, Pandara Park, Pandara Road, New Delhi-110003, do hereby solemnly affirm and state as follows:-

1. That I am the applicant/intervenor in the above criminal miscellaneous petition. I am conversant with the facts and circumstances of this case and hence competent to swear this affidavit.
2. That I have gone through the contents of the accompanying criminal miscellaneous petition for intervention in the above special leave petition. The facts stated in the accompanying criminal

miscellaneous petition are true and correct to my knowledge and information derived from the record of the case which I believe to be true. No part of the same is false and nothing material has been concealed there from.

3. That the Annexures are the true copies of their originals.
4. That the facts stated in the above affidavit are true and correct to my knowledge and information derived from the record of the case which I believe to be true. No part of the same is false and nothing material has been concealed there from.

DEPONENT

VERIFICATION:

Verified that the facts stated in the above affidavit are true and correct to my knowledge and information derived from the record of the case which I believe to be true. No part of the same is false and nothing material has been concealed there from.

Verified at New Delhi on this the 12<sup>th</sup> day of July, 2013.

DEPONENT