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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Reserved on: 26.05.2026***  
***Pronounced on: 09.07.2026***

+ **W.P.(CRL) 3343/2023 & CRL.M.A. 31018/2023**

**CHITRA RAMKRISHNA**

.....Petitioner

Through: Mr.N. Hariharan, Sr. Adv. with  
Mr.Rony John, Mr.Shivam  
Batra, Mr.Arshdeep Singh,  
Ms.Arпита Bhardwaj,  
Mr.Abhishek Bhushan,  
Mr.Mohd. Ibrahim, Mr.Amaan  
Shreyas, Ms.Punya Rekha  
Angara, Mr.Aman Akhtar,  
Ms.Vasundhara N., Ms.Sana  
Singh, Ms.Vasundhara Raj  
Tyagi, Mr.Arjan Singh Mandla,  
Prateek Bhalla and Ms.Mallika  
Chadha, Advs.

versus

**UNION OF INDIA & ANR**

.....Respondents

Through: Mr.Chetan Sharma, ASG and  
Mr.Amit Tiwari, CGSC with  
Mr.Chetanya Puri, Ms.Ayushi  
Srivastava, Mr.Arpan Narwal,  
Mr.Kushagra Malik and  
Mr.Ujjwal Tyagi, Advs. for  
UOI  
Mr.Anupam S. Sharma, SPP  
with Ms.Harpreet Kalsi,  
Mr.Vashisht Rao, Ms.Amisha P  
Dash, Mr.Abhiyant Singh,  
Mr.Mayank Tyagi, Ms.Pragati  
Ojha and Ms.Pragya Nath,  
Advs. for CBI



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**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****J U D G M E N T****NAVIN CHAWLA, J.**

1. The present Writ Petition has been filed under Articles 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, seeking, *inter alia*, the following reliefs:

*“(a) Declare that Section 2(c)(viii) and Section 2(b) of the Prevention of Corruption Act, 1988 are vague, arbitrary and unconstitutional, and are violative of Article 14 and Article 21 of the Constitution of India; and*

*(b) Strike down Section 2(c)(viii) and Section 2(b) of the Prevention of Corruption Act, 1988 for violating Article 14 and Article 21 of the Constitution of India, insofar as they are sought to be made applicable to private persons employed with a private limited company; and*

*(c) In the alternative, read down and/or limit the scope of operation of Section 2(c)(viii) r/w Section 2(b) of the PC Act, insofar as they are sought to be made applicable to private persons employed with or serving as a director of a private limited company incorporated in India*

*(d) Declare that the sanction letters dated 15.11.2022 and 11.02.2023 issued by the Board of Directors of NSE are illegal and ultra vires the Prevention of Corruption Act, 1988 since the Petitioner herein is not a public servant in terms of the Prevention of Corruption Act, 1988; and*

*(e) Issue a writ of certiorari, or in the nature of certiorari, calling for the records of the case and quashing the Impugned Order dated 18.07.2023 whereby the Ld. Special Judge (PC*



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*Act, CBI - 02), Rouse Avenue District Court, New Delhi has taken cognizance of offence under Section 13(2) r/w 13(1)(d) of the PC Act as against the Petitioner, and has summoned the Petitioner as an accused in FIR No. RC / AC1 / 2018 / A0011 dated 28.05.2018 lodged with P.S. CBI/AC-I under Sections 120-B / 204 of the Indian Penal Code, 1860, and Sections 7/12/13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, and Section 66 of the Information Technology Act, 2000, and all proceedings arising therefrom; and  
(f) pass any such further order(s) as this Hon'ble Court may deem fit in the facts and circumstances of the present case."*

### **FACTUAL BACKGROUND**

2. The facts, in brief, giving rise to the present Writ Petition are that M/s National Stock Exchange of India Limited (hereinafter referred to as, 'NSE') is a Recognized Stock Exchange of India and functions as the first level regulator. It was incorporated in 1992 under the Companies Act, 1956 and, in terms of the provisions of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as, 'SCR Act'), was recognized as a Stock Exchange by the Securities and Exchange Board of India (hereinafter referred to as, 'SEBI') in April 1993. It commenced its operations in 1994.

3. The petitioner was designated as the Joint Managing Director of NSE from 2009 till 31.03.2013. With effect from 01.04.2013, she took charge as the Chief Executive Officer ('CEO') and Managing Director ('MD') of the NSE.

4. Pursuant to complaints made against the NSE officials regarding misuse of NSE's co-location facilities, which had been



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conceptualized and implemented during the tenure of the petitioner in the NSE, the petitioner resigned from her position on 02.12.2016.

5. Information was received by the Central Bureau of Investigation (hereinafter referred to as, 'CBI') that during the period 2010 to 2014, when the petitioner was managing the affairs of the NSE, Shri Sanjay Gupta, the owner and promoter of M/s OPG Securities Pvt. Ltd. ('OPG Securities'), in conspiracy with some unknown officials of the NSE, had abused the server architecture of the NSE. It was alleged that certain officers/officials of the NSE were passing information regarding switch-on time of the NSE Exchange Servers, facilitating access to the technologically latest and least crowded servers and providing unfair access to the NSE's co-location facility to OPG Securities. This allegedly enabled OPG Securities to be the first to login to the Exchange Servers of the NSE and receive data feed before others. It was further alleged that OPG Securities was also allowed to connect to the backup servers of the NSE, which had zero load and provided better and faster access to the market feed.

6. Upon receiving complaints regarding exploitation of the Exchange Servers, SEBI conducted an inquiry. According to the Report of its Technical Advisory Committee, OPG Securities had exploited the tick-by-tick architecture of NSE by consistently being the first to log in on the Exchange Servers of the NSE during the period 2010 to 2014. It was also alleged that bribes had been paid to some unknown officials of NSE and SEBI for conferring undue favour upon OPG Securities.



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7. Accordingly, on the basis of the said information, an FIR dated 28.05.2018, bearing RC No. AC1 2018 A0011, was registered by the CBI at Police Station CBI/AC-I, under Sections 120B and 204 of the Indian Penal Code, 1860 (hereinafter referred to as, 'IPC'), Sections 7, 12 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as, 'PC Act'), and Section 66 of the Information Technology Act, 2000, (hereinafter referred to as, 'IT Act'). The FIR was registered against the suspected persons for the offences relating to criminal conspiracy, attempt to give and receive bribe, misuse of official position, and destroying evidence. As per the said FIR, the suspected accused persons included some unknown officers/officials of the SEBI and the NSE.

8. The SEBI also passed orders dated 30.04.2019 and 11.02.2022 regarding issues at the NSE relating to appointment of Mr. Anand Subramanian as the Chief Strategic Advisor and his re-designation as the Group Operating Officer and Advisor to MD, and fraudulent trade practices by sharing of internal confidential information, and imposed penalties on the petitioner.

9. After investigation, a chargesheet dated 21.04.2022 was filed by the CBI under Section 120B of the IPC and Section 13(1)(d) read with Section 13(2) of the PC Act against the petitioner and Mr. Anand Subramanian, who was the then Group Operating Officer and Advisor to the Managing Director of NSE.

10. In the said chargesheet, it was alleged that the petitioner, being a 'public servant', had entered into a criminal conspiracy with Mr. Anand Subramanian and had granted preferential access to certain



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brokers. In furtherance thereof, information regarding switching on time of the Exchange Servers was passed and access to the technologically latest and least crowded servers was also being provided. It was further alleged that the petitioner had abused her position as the Joint MD of NSE by illegally and arbitrarily appointing Mr. Anand Subramanian as the Chief Strategic Advisor to the MD and by granting him disproportionate and arbitrary increase in remuneration from time to time without taking approval of the Nomination and Remuneration Committee of the NSE. The chargesheet further referred to the Memorandum and Articles of Association of NSE, and it was noted that the officials of NSE perform a 'public duty' and fall within the definition of "public servant" under Section 2(c)(viii) of the PC Act. The chargesheet also stated that the NSE has been held to be a "public authority" under the Right to Information Act, 2005 (hereinafter referred to as, RTI Act) by this Court in *National Stock Exchange of India Ltd. v. Central Information Commission & Ors.*, 2010 SCC OnLine Del 1513, and as 'State' within the meaning of Article 12 of the Constitution of India, by the Supreme Court in *K.C. Sharma v. Delhi Stock Exchange & Ors.*, AIR 2005 SC 2884.

11. The provisions of the PC Act invoked in the chargesheet, that is, Section 13(1)(d) and 13(2), relate to criminal misconduct by a 'public servant', and provide for the requirement of a prior sanction for prosecution, in terms of Section 19 of the PC Act. Accordingly, a Report was prepared by the CBI seeking sanction in terms of Section 19 of the PC Act from the competent authority in the NSE to



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prosecute the petitioner. The proceedings before the learned Trial Court were adjourned from time-to-time for want of sanction from the competent authority.

12. In the meanwhile, a Supplementary Chargesheet dated 18.08.2022 was also filed by the CBI under Section 120B read with Sections 201, 204, 420 of the IPC, Sections 85, 66 read with Section 43 of the IT Act and Section 13(2) read with Section 13(1)(d) of the PC Act, implicating the petitioner herein.

13. In the said Supplementary Chargesheet, it was alleged that the petitioner was a key decision-maker in the implementation of co-location facility and that it was within her knowledge that fair and equitable access to data was not being considered during the finalization of the design for co-location and tick-by-tick system for data dissemination. It was further alleged that the petitioner misused her official position to shield the inherent weaknesses of the system, which was prone to manipulation, and allowed her co-conspirators to illegally benefit from it by gaining faster access to data and through access to servers with better hardware. It was also alleged that the increase in profits and the trading volumes also caused illegal benefits to the petitioner.

14. The Board of Directors of the NSE, upon perusing the CBI Report and the other relevant material, and while contesting that its officers are 'public servants' or are covered by the PC Act, *vide* resolution dated 19.06.2022, granted conditional sanction for the prosecution of the petitioner. Thereafter, the Sanction Order dated 15.11.2022 was passed by the Company Secretary on behalf of the



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Board of Directors of the NSE. In the said Sanction Order, the Board of Directors of the NSE, however, clarified as under:

*“It is being clarified that the sanction has been granted for the prosecution of Ms. Chitra Ramkrishna and Mr. Anand Subramanian in view of the positions that they held, in the peculiar facts and circumstances of the case, and that this is not an acceptance by the National Stock Exchange of India Ltd. that any of its personnel are public servants or that it is covered by the provisions of the Prevention of Corruption Act, 1988”*

15. Thereafter, another Request for Sanction was placed before the Board of Directors of the NSE, seeking sanction to prosecute the petitioner based on the Supplementary Chargesheet dated 18.08.2022.

16. On the basis of the Resolution dated 10.02.2023, the Board of Directors of NSE, *vide* the Sanction Order dated 11.02.2023, again accorded sanction under Section 19 of the PC Act for the prosecution of the petitioner, subject to the following clarification:

*“It is further clarified that the grant of sanction is without prejudice to NSE's rights, and its contentions in pending legal proceedings and should not be treated as acceptance by NSE that any of its personnel, whether former or present, are public servants or that it is covered by the provisions of the Prevention of Corruption Act, 1988.”*

17. The Sanction Orders dated 15.11.2022 and 11.02.2023 were thereafter taken on record by the learned Trial Court, *vide* the orders dated 14.02.2023 and 15.05.2023, respectively, and are in challenge before this Court in the present Writ Petition.



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18. The present Writ Petition also challenges the order dated 18.07.2023 passed by the learned Special Judge (PC Act) (CBI), whereby the learned Special Judge, after a perusal of the complaint, witness statements and other relevant documents, took cognizance against the petitioner and the other accused persons for the offences punishable under Section 120B of the IPC read with Section 13(1)(d) read with Section 13(2) of the PC Act read with Sections 201, 204 and 420 of the IPC and Sections 85, 66 read with Section 43 of the IT Act.

19. The petitioner has also challenged the constitutional validity of Section 2(c)(viii) and Section 2(b) of the PC Act, on the ground that the said provisions are vague, arbitrary, and unconstitutional insofar as they are made applicable to private persons employed by a private company.

**SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE PETITIONER**

20. Mr. N. Hariharan, the learned Senior Counsel for the petitioner, submits that Section 2(c)(viii) read with Section 2(b) of the PC Act, which define “public servant” and “public duty”, respectively, have been impermissibly stretched by the CBI and the learned Special Judge to bring the petitioner within purview of the PC Act. He submits that if the definition of “public servant” is applied in the manner adopted by the CBI, virtually every person employed in a private enterprise would be brought within the ambit of the PC Act.

21. The learned Senior Counsel submits that the challenged provisions are wholly vague, arbitrary and capable of misuse. He



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submits that it is well-settled that penal provisions must be clear and definite and must give adequate warning of the conduct which is prohibited. If the prohibitions of an enactment are not clearly defined, it is void for vagueness. In support, he places reliance on the judgments of the Supreme Court in *Kartar Singh v. State of Punjab*, (1994) 3 SCC 569; *Shreya Singhal v. Union of India*, (2015) 5 SCC 1; and, *A.K. Roy v. Union of India & Ors.*, (1982) 1 SCC 271, and of the U.S. Supreme Court in *McBoyle v. United States*, 283 U.S. 25 (1931).

22. He submits that this concern has also been noticed by the Supreme Court, and the Court has cautioned that a wide understanding of ‘public servant’ may have the effect of obliterating all distinctions between the holder of a private office or a public office, inasmuch as, in the present times, there is hardly any office whose duties cannot ultimately be traced to having a bearing on public interest. In support, he places reliance on the judgment of the Supreme Court in *CBI, Bank Securities and Fraud Cell v. Ramesh Gelli & Ors*, (2016) 3 SCC 788.

23. The learned Senior Counsel submits that insofar as the PC Act is sought to be made applicable to private persons employed with a Private Limited Company, Section 2(c)(viii) read with Section 2(b) of the PC Act deserves to be struck down for being violative of Article 14 and Article 21 of the Constitution of India or, in the alternative, read down to not include private individuals like the petitioner.

24. The learned Senior Counsel submits that the NSE is a private non-government company that works for profit and is managed by its



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Board of Directors. Neither the organizational structure nor the functions of the NSE are public in nature. He submits that the NSE has no government shareholding, and the shareholding of entities like LIC, SBI, IDBI Bank Ltd., General Insurance Corporation, etc. in NSE, also does not alter its position. He submits that equity participation of Public Sector Undertakings in the NSE does not qualify as any financial aid by the Government and does not entitle the Government to control the management of the NSE. In support, he relies upon the judgments in *National Textile Corporation Ltd. v. Nareshkumar Badrikumar Jagad & Ors.*, (2011) 12 SCC 695; *Accountant and Secretarial Services Pvt. Ltd. & Anr. v. Union of India & Ors.*, (1988) 4 SCC 324; and, *Electronics Corporation of India Ltd. & Ors. v. Secretary, Revenue Department, Govt. of Andhra Pradesh & Ors.*, (1999) 4 SCC 458.

25. He further submits that the petitioner's duties and functions in the NSE were confined to the management of NSE's business. By virtue of the Articles of Association of NSE, such duties include payment of costs and expenses for the Company, opening bank accounts, securing contracts, instituting or defending legal proceedings, appointing managers and experts, etc. He submits that the duties of the petitioner are essentially related to the corporate governance of the Company and cannot be elevated to the stature of "public duty" as defined in the PC Act.

26. He submits that the respondents have emphasised on the significance of NSE's functions as a Stock Exchange. However, this cannot determine whether its officers perform "public duty". Relying



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on the judgment of the Kerala High Court in *Karthikeya Varma @ Kartik Varma v. Union of India & Ors.*, 2015 SCC OnLine Ker 14875, he submits that if a body or corporation exercises any function without an obligation under existing laws, it cannot be treated as discharge of public duty.

27. He further submits that what is required for an individual to fall under Section 2(c)(viii) of the PC Act, is that the person occupies an office and by virtue of that office, such person is authorised or required to perform a public duty, that is, a duty in discharge of which the State or the public or the community at large have an interest. Relying upon the judgment of the Supreme Court in *P.V. Narasimha Rao v. State (CBI/SPE)*, (1998) 4 SCC 626, he submits that an “office” is understood in law to mean a position to which certain duties are attached, especially a place of trust, authority or service. Relying on Black’s law Dictionary, he submits that an ‘office’ is an assigned duty or function, commonly suggesting a position of trust or authority.

28. He also points out to the SEBI Master Circular CIR/MRD/DSA/SE/43/2010 dated 31.12.2010 on the Administration of Stock Exchanges, as also to the Regulation 26(2) read with Schedule II, Part-B of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, to submit that the Directors of a Stock Exchange cannot interfere in the day-to-day functioning of the Stock Exchange, and that the role of Directors is determined by the Governing Board of a Stock Exchange.



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29. He submits that the respondents argue that the petitioner is a public servant because the NSE performs a function of public importance, is covered by the RTI Act, and is regulated by the SEBI. He submits that the same does not hold any merit and does not imply any ownership, control or aid by the Government, and is wholly irrelevant in determining whether the petitioner would be liable for prosecution as a “public servant” under the PC Act. In furtherance, he relies on the judgments in *Federal Bank Ltd. v. Sagar Thomas & Ors.*, (2003) 10 SCC 733 and *G. Udayan Dravid & Ors. v. State & Ors.*, (2007) 93 DRJ 624.

30. He submits that where the Parliament intends to treat employees of private companies as public servants, it does so by an express deeming provision, such as by Section 46A of the Banking Regulation Act, 1949. However, there is no such provision in the present case for the officials of the NSE.

31. The learned Senior Counsel then submits that the sanction granted for prosecution is *ex facie* invalid. He submits that it is well settled that the Sanctioning Authority must independently apply its mind to the relevant facts, before granting sanction to prosecute. In furtherance, he relies upon the judgment of the Supreme Court in *Central Bureau of Investigation v. Ashok Kumar Aggarwal*, (2014) 14 SCC 295. He submits that the Board of Directors of the NSE, while granting the sanction to prosecute the petitioner, categorically stated that the NSE’s employees are not “public servant” and that the NSE itself is not a public authority under the PC Act. He submits that having taken this position, it was not open to the Board of Directors of



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the NSE to grant the purported sanction. He further submits that the learned Special Judge erred in taking cognizance against the petitioner despite this caveat by the Board of Directors of the NSE.

32. He further submits that the impugned Sanction Order and the impugned cognizance order also deserve to be quashed, as they are based on the decision of this Court in *National Stock Exchange of India Ltd. v. Central Information Commission & Ors.*, 2010:DHC:2042, which declares NSE to be a public authority under the RTI Act. He submits that a Division Bench of this Court, in an appeal, being LPA 315/2010, titled “*National Stock Exchange of India Ltd. v. Central Information Commission & Ors.*”, has subsequently stayed this judgment, and the stay was made absolute *vide* an order dated 21.08.2012. The appeal remains pending till date.

33. He also submits that the contention of the respondents that the validity of a Sanction Order can only be agitated during trial, is not applicable to the present circumstances where the Sanction Order is *ex facie* illegal. He submits that in terms of Section 19 of the PC Act, sanction for prosecution can be granted only by the “*authority competent to remove him from his office*”. He submits that as per the Memorandum and Articles of Association, the authority competent to remove the petitioner from her office is the shareholders of NSE by way of an ordinary resolution requiring special notice. However, the impugned Sanction Orders are passed by the Board of Directors of the NSE, thereby making them illegal.

34. The learned Senior Counsel also places reliance on the order dated 09.02.2023 passed by this Court in Bail Application No.



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2919/2022, titled “*Chitra Ramkrishna v. Assistant Director, Enforcement Directorate*”, wherein, while granting bail to the petitioner in another case involving offences under the PC Act, this Court observed that the NSE is not a public authority and that the petitioner cannot be treated as a public servant.

35. Lastly, he submits that the reliance placed in the chargesheets on the decision of the Supreme Court in *K.C. Sharma* (supra) is misconceived. He submits that the said decision arose in the context of an employment dispute and did not decide whether the petitioner therein or the Delhi Stock Exchange is a ‘public servant’ or ‘public authority’ under the PC Act.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT- UNION OF INDIA**

36. Mr. Amit Tiwari, learned CGSC appearing for the Union of India, submits that the challenge to the constitutional validity of Section 2(c)(viii) and Section 2(b) of the PC Act is without merit and is an attempt to evade accountability for actions that fall within the purview of the PC Act. He submits that the Statement of Objects and Reasons of the Prevention of Corruption Bill, 1987 shows that the intent of the amendment of the PC Act is to widen the coverage of the anti-corruption laws. The expressions “public servant” and “public duty” must, therefore, be given a broad interpretation, so as to include those who may not be public servants in the traditional sense, but whose actions affect the public at large. He further submits that it is the duty of the Courts that the anti-corruption laws are interpreted and



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worked in such a manner as to strengthen the fight against corruption. In support, he places reliance on the judgment of the Supreme Court in *Subramanian Swamy v. Manmohan Singh & Anr.*, (2012) 3 SCC 64 and of the U.S. Supreme Court in *United States v. Alford*, 274 U.S. 264 (1927).

37. He submits that the Mischief Rule of interpretation ought to be followed in the present case. He submits that the same provides for a purposive interpretation by taking into consideration the defect that the legislation is seeking to remedy.

38. He submits that Section 2(c)(viii) and Section 2(b) of the PC Act are clear and well-defined and are designed to cover a broad spectrum of individuals performing duties that affect public interest, ensuring that those in position of influence and responsibility, are held accountable for their actions. In support, he relies on the judgments of the Supreme Court in *State of Madhya Pradesh & Ors. v. Ram Singh*, (2000) 5 SCC 88; *Government of Andhra Pradesh & Ors. v. P. Venku Reddy*, (2002) 7 SCC 631; *Ramesh Gelli* (supra); *Mansukhbhai Kanjibhai Shah* (supra); and *Aman Bhatia v. State (GNCT of Delhi)*, 2025 INSC 618.

39. He submits that the NSE is a Stock Exchange recognized by the SEBI under Section 4 of the SCR Act. He points out that Section 5 of the SCR Act empowers the Central Government to withdraw such recognition in the interest of trade or in public interest. He submits that this statutory framework itself shows the public character of the functions performed by the NSE and necessitates that the officials of the NSE be accountable under the PC Act.



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40. He further submits that the public interest objectives of the NSE are also highlighted in its Memorandum of Association, which requires the officials of NSE to perform their functions in the interest of the public and with a high standard of integrity, honor, transparency and openness.

41. He submits that the petitioner, being the MD and CEO of NSE at the relevant time, held an important position which significantly impacted the public interest and financial markets. The duties performed by her, therefore, amounted to public duty and brought her within the ambit of “public servant”.

42. He submits that the contention of the petitioner that the NSE works for profit and is not a Government Company, has no implication on the applicability of the definition of “public servant” under Section 2(c)(viii) of the PC Act on the petitioner, since the test is of the nature of the duty performed and not merely the character of the entity.

43. He submits that the Sanction Order, FIR, and the chargesheets are based on comprehensive evidence and factual grounds and, therefore, do not deserve to be quashed.

44. He further submits that the caveat in the Sanction Order to the effect that NSE is not covered by the provisions of the PC Act, has no bearing on classifying the petitioner as a “public servant” in law. In furtherance of his submission, he places reliance on the judgment of the Supreme Court in *Ashok Kumar Aggarwal* (supra).

45. He contends that the prosecution of the petitioner under PC Act is valid, and that the classification of the petitioner as a “public



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servant” is consistent with the scheme and intent of the PC Act. He submits that, therefore, the present Writ Petition deserves to be dismissed, and the impugned chargesheets, Sanction Orders and the order of the learned Special Judge taking cognizance, deserve to be upheld.

**SUBMISSIONS ON BEHALF OF THE LEARNED SPP FOR THE RESPONDENT-CBI**

46. Mr. Anupam S. Sharma, the learned SPP for the CBI, challenges the maintainability of the present petition. He submits that though the petitioner has challenged the constitutional validity of certain provisions of the PC Act, she has also sought quashing of the cognizance order dated 18.07.2023 and the Sanction Orders dated 15.11.2023 and 11.02.2023. He submits that the petitioner cannot be permitted to challenge the said orders under the garb of challenging the constitutional validity of the provisions of the PC Act. He submits that this Court, while exercising the jurisdiction in a Writ Petition challenging constitutional validity of a provision, cannot go into the merits and demerits of a case on merit. Any challenge, either to the order of cognizance or to the Sanction Order, would have to be raised before an appropriate Bench of this Court and in other appropriate proceedings.

47. He further submits that the petitioner has raised several disputed questions of fact and triable issues. Such questions, he submits, will have to be examined by the learned Trial Court at the appropriate stage, and cannot be determined in the present proceedings.



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48. Without prejudice to his objections on maintainability, the learned SPP submits that no case for interference is made out in the present petition. He submits that at the stage of cognizance, the Court is only required to consider whether the allegations made and the material placed on record disclose sufficient grounds for proceeding against the accused. He submits that, in the present case, learned Special Judge has, after perusing the chargesheets, statement of witnesses and the other relevant documents, rightly taken cognizance against the petitioner.

49. He submits that the definition of “public servant” and “public duty” under the PC Act indicate that the aim of the PC Act is to shift the focus from those who were traditionally called public officials to those who perform public duties. The focus of the Act is not on the position held by a person, but on the public duty being performed by such person. He submits that, accordingly, for prosecution under the PC Act, it is not relevant whether NSE is a public authority or not; what is relevant is whether the petitioner was performing a “public duty” and, therefore, fell within the definition of “public servant”. In furtherance, he places reliance on the judgments of the Supreme Court in *State of Gujarat v. Mansukhbhai Kanjibhai Shah*, AIR 2020 SC 2203; *Ramesh Gelli* (supra); *Asian Resurfacing of Road Agency Private Limited & Anr. v. Central Bureau of Investigation*, (2018) 16 SCC 299; and *State through Lokayukta Police, Raichur v. C.N. Manjunath*, (2017) 11 SCC 361, and of the Jharkhand High Court in *Sanjay Kumar Agarwal v. Central Bureau of Investigation, Anti Corruption Bureau*, 2023 SCC OnLine Jhar 394.



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50. He submits that the NSE was established to regulate the Stock Exchange and to bring the Indian Securities Market at par with the global standards. The duties performed by the officials of the NSE have far-reaching impact on the economy of the country and on the members of public who invest in the stock market. Therefore, the officials of NSE perform “public duty” within the meaning of Section 2(b) of the PC Act and would be regarded as “public servants” under Section 2(c) thereof. In support, he places reliance on the judgment of the Supreme Court *Jatya Pal Singh & Ors. v. Union of India & Ors.*, (2013) 6 SCC 452.

51. The learned SPP also relies upon the Memorandum of Association of NSE to highlight that it provides that the object of the NSE, *inter alia*, is to facilitate, promote, assist, regulate and manage, in public interest, dealings in securities of all kinds to support development, and promote and maintain a healthy market in the best interest of the investors, the general public and the economy. He also relies on the letter dated 05.03.2022 issued by the Secretary, Ministry of Finance, which provides that the officials of the NSE perform public duty for protecting common interests of the investors. He further submits that the shareholding of NSE was partly held by the Government controlled entities like LIC, IDBI, GIC, etc. and partly by private entities. Upto 31.03.2015, government controlled entities had approximately 50.32% shareholding in the NSE. The learned SPP submits that this shows that the petitioner was a “public servant” under the PC Act. Placing reliance on the judgment of the Supreme Court in *State of Maharashtra & Ors. v. Brijlal Sadasukh Modani*,



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AIR 2016 SC 1377, he submits even a sprinkle of aid by the government will bring an employee within the definition of “public servant”.

52. He submits that the NSE is regulated by the SEBI, which exercises supervisory and regulatory control over the NSE by its Board of Directors, which is controlled by the government. He submits that under Section 11(4)(c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘SEBI Act’), the Board of Directors of SEBI is empowered to suspend any office-bearer of a Stock Exchange or self-regulatory organization from holding such position. In terms of Regulation 25 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, even appointment of an MD of a Recognised Stock Exchange (like NSE) has to be with prior approval of the Board of SEBI. He submits that in view thereof, the NSE cannot be said to be akin to other private companies, and the office bearers of Stock Exchanges would be well within the scope of Section 2(b) of the PC Act.

53. He submits that a Stock Exchange performs public function and is a statutory body. It is also considered to be ‘State’ within the meaning of Article 12 of the Constitution of India. He places reliance on the judgments of the Supreme Court in *K.C. Sharma v. Delhi Stock Exchange & Ors.* (supra); *Brijlal Sadasukh Modani* (supra); *Binny Ltd. & Anr. v. V. Sadasivan & Ors.*, (2005) 6 SCC 657; *Delhi Stock Exchange Association Ltd. v. Commissioner of Income Tax*,



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*New Delhi*, AIR 1997 SC 2095; and *Ramana Dayaram Shetty v. International Airport Authority of India & Ors.*, AIR 1979 SC 1628.

54. As regards the challenge to the Sanction Orders is concerned, the learned SPP submits that the same are valid since they have been issued by the Competent Authority. He submits that the Board of Directors is competent to remove the petitioner from the NSE while she was acting as MD and CEO. He contends that the petitioner's submission that she could only be removed by the shareholders of NSE and that the Board was incompetent to remove her and issue sanction under Section 19 of the PC Act, is incorrect.

55. The learned SPP submits that the impugned Sanction Orders set out the material facts, the offences alleged, and the material considered by the competent Sanctioning Authority. He submits that the Orders also show due application of mind. Further, as per Section 114(e) of the Indian Evidence Act, 1872, there raises a presumption that the official acts have been regularly performed. Therefore, the Sanction Orders shall be treated as valid and properly issued, unless the contrary is established in accordance with law. In support, he places reliance on the judgments in *Central Bureau of Investigation & Ors. v. Pramila Virendra Kumar Agarwal & Anr.*, (2020) 17 SCC 664; *State of Maharashtra v. Ishwar Piraji Kalpatri & Ors.*, AIR 1996 SC 722; *Santosh Kumar Jha v. Union of India & Ors.*, 2011:DHC:5341; *Parkash Singh Badal & Anr. v. State of Punjab & Ors.*, AIR 2007 SC 1274; *Dinesh Kumar v. Chairman, Airport Authority of India & Anr.*, (2012) 1 SCC 532; *State of Bihar & Ors. v. Rajmangal Ram*, (2014) 11 SCC 388; *Ashok Kumar Aggarwal*



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(supra); and, *Director, Central Bureau of Investigation & Anr. v. Ashok Kumar Aswal & Anr.*, (2015) 16 SCC 163.

### **ANALYSIS AND FINDINGS**

56. We have considered the submissions made by the learned counsels for the parties.

57. Prior to the enactment of the PC Act, the law relating to prevention of corruption was governed by the Prevention of Corruption Act, 1947 (hereinafter referred to as the “1947 Act”). Section 2 of the said Act provided that for the purposes of the said Act, “public servant” would mean a public servant as defined under Section 21 of the IPC. Section 21 of the IPC, in turn, defined “public servant” as follows:

*“21. ‘Public servant’.—The words ‘public servant’ denote a person falling under any of the descriptions hereinafter following, namely:-*

*First.—[Repealed by the Adaptation of Laws Order, 1950.]*

*Second.—Every Commissioned Officer in the Military, Naval or Air Forces of India;*

*Third.—Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;*

*Fourth.—Every officer of a court of justice (including a liquidator, receiver or commissioner) whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the court,*



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*and every person specially authorised by a Court of Justice to perform any of such duties;*

*Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;*

*Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;*

*Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;*

*Eighth.—Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;*

*Ninth.—Every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;*

*Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;*

*Eleventh.—Every person who holds any office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;*

*Twelfth.—Every person—*



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*(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;*

*(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956)."*

58. Finding the above definition to be restrictive, the Prevention of Corruption Bill, 1987 was introduced in the Parliament. During the debate on the Bill, the then Minister of State in the Ministry of Personnel, Public Grievances and Pensions and the Minister of State in the Ministry of Home Affairs, explained one of the salient features of the Bill to be the widening of the definition of the expression "public servant" so as to include, *inter alia*, the office bearers of Registered Cooperative Societies which receive or have received financial aid from the Central or the State Governments, the officials and employees of universities and the examiners appointed by universities or other public authorities for conducting examinations, and the office bearers or employees of educational, scientific, social, cultural and other institutions established, funded or aided by the Central or State Governments.

59. Even the 'Statement of Objects and Reasons' to the PC Act emphasises one of the objects of the Act is to make the existing anti-corruption laws more effective by widening their coverage and by strengthening their provisions. It specifically states that the amendment envisages widening the scope of the definition of the expression "public servant".



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60. In ***P.V. Narasimha Rao*** (supra), the Supreme Court, while considering whether a Member of Parliament or a Member of State Legislature would fall within the definition of “public servant”, as defined in the PC Act, held that although the answers given by the mover of the Bill in Parliament cannot govern the interpretation of a statute, if its provisions are otherwise clear and unambiguous, they serve the purpose of finding the mischief which the provision sought to address and remedy. Further, relying upon the Statement of Objects and Reasons to the PC Act, the Supreme Court held that the Members of Parliament and Members of State Legislature will fall within the definition of “public servant” under the PC Act. The relevant findings from the said judgment are as under:

*“80. It would thus be seen that as per the decisions of this Court the statement of the Minister who had moved the Bill in Parliament can be looked at to ascertain the mischief sought to be remedied by the legislation and the object and purpose for which the legislation is enacted. The statement of the Minister who had moved the Bill in Parliament is not taken into account for the purpose of interpreting the provisions of the enactment. The decision in *Pepper v. Hart* permits reference to the statement of the Minister or other promoter of the Bill as an aid to construction of legislation which is ambiguous or obscure or the literal meaning of which leads to an absurdity provided the statement relied upon clearly discloses the mischief aimed at or the legislative intention lying behind the ambiguous or obscure words and that such a statement of the Minister must be clear and unambiguous. This rule of construction laid in *Pepper v. Hart* has no application in the present case because sub-clause (viii) of Section 2(c) of the 1988 Act*



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*cannot be said to be ambiguous or obscure nor can it be said that the literal meaning of the said clause leads to any absurdity.*

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*82. Having regard to the object of the 1988 Act as indicated in the Statement of Objects and Reasons, namely, to widen the scope of the definition of the expression “public servant”, which is sought to be achieved by introducing the definition of “public duty” in Section 2(b) and the definition of “public servant” in Section 2(c) which enlarges the scope of the existing definition of public servant contained in Section 21 IPC, we do not find any justification for restricting the scope of the wide words used in sub-clause (viii) of Section 2(c) in the 1988 Act on the basis of the statement of the Minister so as to exclude Members of Parliament and Members of the State Legislatures. In our opinion the words used in sub-clause (viii) of Section 2(c) are clear and unambiguous and they cannot be cut down on the basis of the statement made by the Minister while piloting the Bill in Parliament.”*

61. In **Ramesh Gelli** (supra), the Supreme Court, while considering the question whether the Chairman, Director, or an Officer of a Private Bank can be said to be a “public servant” for prosecution for an offence punishable under the PC Act, held as under:

*“15. From the Statement of Objects and Reasons of the PC Bill it is clear that the Act was intended to make the anti-corruption law more effective by widening its coverage. It is also clear that the Bill was introduced to widen the scope of the definition of “public servant”. Before the PC Act, 1988, it was the Prevention of Corruption Act, 1947 and Sections 161 to 165-A in Chapter IX IPC which were governing the field of law relating to prevention of corruption. Parliament repealed the Prevention of Corruption Act,*



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1947 and also omitted Sections 161 to 165-A IPC as provided under Sections 30 and 31 of the PC Act, 1988. Since a new definition of “public servant” is given under the PC Act, 1988, it is not necessary here to reproduce the definition of “public servant” given in Section 21 IPC.

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27. In the light of law laid down by this Court as above, it is clear that object of enactment of the PC Act, 1988, was to make the anti-corruption law more effective and widen its coverage. In view of the definition of “public servant” in Section 46-A of the Banking Regulation Act, 1949 as amended the Managing Director and Executive Director of a banking company operating under the licence issued by Reserve Bank of India, were already public servants, as such they cannot be excluded from the definition of “public servant”. We are of the view that over the general definition of “public servant” given in Section 21 IPC, it is the definition of “public servant” given in the PC Act, 1988, read with Section 46-A of the Banking Regulation Act, which holds the field for the purposes of offences under the said Act. For banking business what cannot be forgotten is Section 46-A of the Banking Regulation Act, 1949 and merely for the reason that Sections 161 to 165-A IPC have been repealed by the PC Act, 1988, relevance of Section 46-A of the Banking Regulation Act, 1949, is not lost.”

62. In his concurring opinion, Justice Ranjan Gogoi, held as under:

“36. While there can be no manner of doubt that in the Objects and Reasons stated for enactment of the Prevention of Corruption Act, 1988 it has been made more than clear that the Act, inter alia, envisages widening of the scope of the definition of “public servant”, nevertheless, the mere performance of public duties by the holder of any office cannot bring



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*the incumbent within the meaning of the expression “public servant” as contained in Section 2(c) of the PC Act. The broad definition of “public duty” contained in Section 2(b) would be capable of encompassing any duty attached to any office inasmuch as in the contemporary scenario there is hardly any office whose duties cannot, in the last resort, be traced to having a bearing on public interest or the interest of the community at large. Such a wide understanding of the definition of “public servant” may have the effect of obliterating all distinctions between the holder of a private office or a public office which, in my considered view, ought to be maintained. Therefore, according to me, it would be more reasonable to understand the expression “public servant” by reference to the office and the duties performed in connection therewith to be of a public character.”*

63. We shall now quote Section 2(c) of the PC Act, which defines “public servant”, and Section 2(b) of the Act, which defines “public duty”, as under:

*“2. Definitions.— In this Act, unless the context otherwise requires,—*

*xxxx*

*(b) “public duty” means a duty in the discharge of which the State, the public or the community at large has an interest;*

*Explanation.—In this clause “State” includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956);*

*(c) “public servant” means—*

*(i) any person in the service or pay of the Government or remunerated by the*



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*Government by fees or commission for the performance of any public duty;*

*(ii) any person in the service or pay of a local authority;*

*(iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);*

*(iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;*

*(v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;*

*(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;*

*(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;*

*(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;*

*(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);*

*(x) any person who is a chairman, member or employee of any Service Commission or*



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*Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;*

*(xi) any person who is a Vice-Chairman or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;*

*(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.*

xxxx

*Explanation 1.—Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.*

*Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.”*

64. As the present petition challenges only Section 2(c)(viii) read with Section 2(b) of the PC Act, we shall confine our discussion to the said provisions.

65. Section 2(c)(viii) of the PC Act provides that any person who holds an ‘office’, by virtue of which he is authorised or required to perform any ‘public duty’, shall be a “public servant”. Therefore, for a person to fall within the ambit of Section 2(c)(viii) of the PC Act, such person must satisfy two conditions: (i) the person must hold an



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‘office’; and (ii) by virtue of such office, he must be authorised or required to perform a ‘public duty’.

66. “Public duty”, in turn, is defined under Section 2(b) of the PC Act to mean a duty in the discharge of which the State, the public or the community at large has an interest.

67. As noted hereinabove, the primary submission of the learned Senior Counsel for the petitioner is that the above definition of “public servant” is extremely vague and, therefore, is liable to be struck down or, in the alternative, read down.

68. While there can be no caveat to the submission of the learned Senior Counsel for the petitioner that, in criminal jurisprudence, vagueness and consequent uncertainty in a penal provision may itself render the provision unreasonable and violative of the Fundamental Rights under Articles 14 and 21 of the Constitution of India, at the same time, it must be kept in mind that certain provisions may not be capable of a precise definition. The difficulty in framing a precise definition, where an infinite variety of situations may arise and cannot be comprehended, cannot be held to be hit by the evil of vagueness and uncertainty. Putting them in a strait-jacket definition may, in fact, rob them of their intended amplitude and rob the executive of the minimal latitude that it must be conferred with in order to make the laws effective, keeping in view its object and purpose.

69. In **A.K. Roy** (supra), a Constitutional Bench of the Supreme Court explained this delicate balance to be maintained by the legislature, as under:

*“61. In making these submissions counsel*



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*seem to us to have overstated their case by adopting an unrealistic attitude. It is true that the vagueness and the consequent uncertainty of a law of preventive detention bears upon the unreasonableness of that law as much as the uncertainty of a punitive law like the Penal Code does. A person cannot be deprived of his liberty by a law which is nebulous and uncertain in its definition and application. But in considering the question whether the expressions aforesaid which are used in Section 3 of the Act are of that character, we must have regard to the consideration whether the concepts embodied in those expressions are at all capable of a precise definition. The fact that some definition or the other can be formulated of an expression does not mean that the definition can necessarily give certainty to that expression. The British Parliament has defined the term 'terrorism' in Section 28 of the Act of 1973 to mean "the use of violence for political ends", which, by definition, includes "any use of violence for the purpose of putting the public or any section of the public in fear". The phrase 'political ends' is itself of an uncertain character and comprehends within its scope a variety of nebulous situations. Similarly, the definitions contained in Section 8(3) of the Jammu & Kashmir Act of 1978 themselves depend upon the meaning of concepts like "overawe the government". The formulation of definitions cannot be a panacea to the evil of vagueness and uncertainty. We do not, of course, suggest that the legislature should not attempt to define or at least to indicate the contours of expressions, by the use of which people are sought to be deprived of their liberty. The impossibility of framing a definition with mathematical precision cannot either justify the use of vague expressions or the total failure to frame any definition at all which can furnish, by its inclusiveness at least, a safe guideline for understanding the meaning of the expressions used by the legislature. But the*



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*point to note is that there are expressions which inherently comprehend such an infinite variety of situations that definitions, instead of lending to them a definite meaning, can only succeed either in robbing them of their intended amplitude or in making it necessary to frame further definitions of the terms defined. Acts prejudicial to the 'defence of India', 'security of India', 'security of the State', and 'relations of India with foreign powers' are concepts of that nature which are difficult to encase within the strait-jacket of a definition. If it is permissible to the legislature to enact laws of preventive detention, a certain amount of minimal latitude has to be conceded to it in order to make those laws effective. That we consider to be a realistic approach to the situation. An administrator acting bona fide, or a court faced with the question as to whether certain acts fall within the mischief of the aforesaid expressions used in Section 3, will be able to find an acceptable answer either way. In other words, though an expression may appear in cold print to be vague and uncertain, it may not be difficult to apply it to life's practical realities. This process undoubtedly involves the possibility of error but then, there is hardly any area of adjudicative process which does not involve that possibility.*

*62. The requirement that crimes must be defined with appropriate definiteness is regarded as a fundamental concept in criminal law and must now be regarded as a pervading theme of our Constitution since the decision in Maneka Gandhi. The underlying principle is that every person is entitled to be informed as to what the State commands or forbids and that the life and liberty of a person cannot be put in peril on an ambiguity. However, even in the domain of criminal law, the processes of which can result in the taking away of life itself, no more than a reasonable degree of certainty has to be accepted as a fact. Neither the criminal law nor the Constitution requires*



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*the application of impossible standards and therefore, what is expected is that the language of the law must contain an adequate warning of the conduct which may fall within the proscribed area, when measured by common understanding. In criminal law, the legislature frequently uses vague expressions like 'bring into hatred or contempt', or 'maintenance of harmony between different religious groups', or 'likely to cause disharmony or... hatred or ill will', or 'annoyance to the public' [see Sections 124-A, 153-A(1)(b), 153-B(1)(c), and 268 of the Penal Code]. These expressions, though they are difficult to define, do not elude a just application to practical situations. The use of language carries with it the inconvenience of the imperfections of language."*

70. We now need to consider whether the definition of “public servant” under Section 2(c)(viii) read with Section 2(b) of the PC Act is so vague and uncertain so as to render it unconstitutional. We do not find the provision to be so.

71. In **Ram Singh** (supra), the Supreme Court, while emphasizing upon the menace of corruption sought to be addressed by the PC Act, observed that the Act was enacted to deal with public servants, not as understood in common parlance but as specifically defined in the Act. The Act was intended to make effective provisions for prevention of bribery and corruption rampant amongst the public servants. It is a social legislation intended to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object.

72. In **P. Venku Reddy** (supra), the Supreme Court emphasised that the PC Act contains a very wide definition of “public servant”. It is



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meant to effectively curb bribery and corruption, not only in government establishments and departments, but also in other semi-governmental authorities, bodies and their departments where the public employees are entrusted with public duties. It was held that the Court is required to adopt a purposive approach while construing the definition of “public servant” under the PC Act, and to give effect to the intention of the legislature. The term “public servant”, therefore, deserves a wider construction. We quote from the judgment as under:

*“9. It cannot be lost sight of that the 1988 Act, as its predecessor, that is, the repealed Act of 1947 on the same subject, was brought into force with the avowed purpose of effective prevention of bribery and corruption. The Act of 1988 which repeals and replaces the Act of 1947 contains a very wide definition of "public servant" in clause (c) of Section 2 of the 1988 Act. The Statement of Objects and Reasons contained in the Bill by which the Act was introduced in the legislature throws light on the intention of the legislature in providing a very comprehensive definition of the words "public servant". Para 3 of the Statement of Objects and Reasons reads:*

*"3. The Bill, inter alia, envisages widening the scope of the definition of the expression 'public servant', incorporation of offences under Sections 161 to 165-A of the Penal Code, 1860, enhancement of penalties provided for these offences and incorporation of a provision that the order of the trial court upholding the grant of sanction for prosecution would be final if it has not already been challenged and the trial has commenced. In order to expedite the proceedings, provisions for day-to-day trial of cases and prohibitory provisions with regard to grant of stay and exercise of powers of revision on interlocutory orders*



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*have also been included."*

10. *Clause 2 of the Notes on Clauses in the Gazette of India, Extraordinary, Part II, Section 2, further clarifies the legislative intent thus:*

*"2. This clause defines the expressions used in the Bill. Clause 2(c) defines 'public servant'. In the existing definition the emphasis is on the authority employing and the authority remunerating. In the proposed definition the emphasis is on public duty. The definition of 'election' is based on the definition of this expression in the Penal Code, 1860."*

11. *Under the repealed Act of 1947 as provided in Section 2 of the 1988 Act, the definition of "public servant" was restricted to "public servants" as defined in Section 21 of the Penal Code, 1860. In order to curb effectively bribery and corruption not only in government establishments and departments but also in other semi-governmental authorities and bodies and their departments where the employees are entrusted with public duty, a comprehensive definition of "public servant" has been given in clause (c) of Section 2 of the 1988 Act.*

12. *In construing the definition of "public servant" in clause (c) of Section 2 of the 1988 Act, the court is required to adopt a purposive approach as would give effect to the intention of the legislature. In that view the Statement of Objects and Reasons contained in the Bill leading to the passing of the Act can be taken assistance of. It gives the background in which the legislation was enacted. The present Act, with a much wider definition of "public servant", was brought in force to purify public administration. When the legislature has used such a comprehensive definition of "public servant" to achieve the purpose of punishing and curbing growing corruption in government and semi-government departments, it would be appropriate not to limit the contents of the definition clause by*



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*construction which would be against the spirit of the statute. The definition of "public servant", therefore, deserves a wide construction. (See State of M.P. v. Shri Ram Singh.)"*

73. In **Mansukhbhai Kanjibhai Shah** (supra), the Supreme Court re-emphasised the above principles while further adding that in case two views are possible, the Court should adopt and accept the one which seeks to eradicate corruption over the one which seeks to perpetuate it. We quote from the Judgment as under:

*"25. However, we are concerned herein with interpreting the provisions of the PC Act. There is no dispute that corruption in India is pervasive. Its impact on the nation is more pronounced, due to the fact that India is still a developing economy. Presently, it can be stated that corruption in India has become an issue which affects all walks of life. In this context, we must state that although anti-corruption laws are fairly stringent in India, the percolation and enforcement of the same are sometimes criticised as being ineffective. Due to this, the constitutional aspirations of economic and social justice are sacrificed on a daily basis. It is in the above context that we need to resolve the issues concerned herein.*

26. In **Subramanian Swamy v. Manmohan Singh**, this Court observed : (SCC p. 100, para 68)

*"68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the rule of law. The magnitude of corruption in our public life is incompatible with the concept of a socialist secular democratic republic. It cannot be disputed that where corruption begins all*



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*rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our Preambular vision. Therefore, the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. That is to say in a situation where two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption to the one which seeks to perpetuate it.*

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*44. As discussed earlier, the object of the PC Act was not only to prevent the social evil of bribery and corruption, but also to make the same applicable to individuals who might conventionally not be considered public servants. The purpose under the PC Act was to shift focus from those who are traditionally called public officials, to those individuals who perform public duties. Keeping the same in mind, as rightly submitted by the learned Senior Counsel for the appellant State, it cannot be stated that a “deemed university” and the officials therein, perform any less or any different a public duty, than those performed by a university simpliciter, and the officials therein.”*

74. Applying the above principles, recently in **Aman Bhatia** (supra), the Supreme Court, while considering the issue as to whether a Stamp Vendor is a public servant for the purposes of the PC Act or not, re-emphasised that the PC Act contains a much wider definition of ‘public servant’ as compared to one defined under the 1947 Act in order to purify public administration and in order to curb bribery and corruption not only in government establishments but also in other



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semi-governmental authorities and bodies and their departments where the employees are entrusted with public duty. It was emphasised that, therefore, the definition of ‘public servant’ deserves a wide and purposive construction as would give effect to the intention of the legislature. We quote from the Judgment as under:

*“12. When the legislature has used such a comprehensive definition of “public servant” to achieve the purpose of punishing and curbing growing corruption in government and semi-government departments, it would be appropriate not to limit the contents of the definition clause by a construction which would be against the spirit of the statute. The definition of “public servant”, therefore, deserves a wide and purposive construction. In construing the definition of “public servant” in Section 2(c) of the PC Act, the Court is required to adopt a purposive approach as would give effect to the intention of the legislature.*

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*39. The interpretation of a definition should not only avoid being repugnant to the context but it should also be interpreted to achieve the purpose which is sought to be served by the statute. A construction which would defeat or may likely defeat the purpose of the Act has to be ignored and not accepted. A definition, like any other word in a statute, has to be read in the light of the context and scheme of the Act.*

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*43. Where the wording of a statutory provision indicates that the legislature has consciously attributed varying degrees of significance to different interpretative elements such as the nature of the relationship or the duty performed, the courts are obliged to adhere to that legislative determination and interpret the provision in a manner that reflects the intended statutory scheme. While interpreting a statute, it is essential not only to*



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*consider the words used but also to examine the Statement of Objects and Reasons, as it provides the background against which the legislation was enacted. The legislature introduced a comprehensive definition of “public servant” with the intent to punish and curb the menace of corruption. In such circumstances, it would be improper to construe the definition in a manner that limits its scope, thereby defeating the very essence and purpose of the statute.*

*44. It is an important rule of interpretation that every interpretation of a statute must be undertaken by considering the statute in its entirety, the prior state of the law, other statutes in pari materia, the general scope and purpose of the legislation, and the mischief that the legislature intended to address.”*

75. Keeping in view the above object of the PC Act, we do not find any vagueness in the definition of “public servant” as defined in Section 2(c)(viii) read with Section 2(b) of the PC Act. As observed hereinabove, the provision is specific and applies to a person who holds an ‘office’ by virtue of which he is empowered to perform a ‘public duty’, that is, a duty in the discharge of which the State, the public or the community at large has an interest. It has two specific preconditions: (i) holding of an office; and (ii) performance of a public duty by virtue of such office. It would have to be determined in each case whether the person, who has been charged under the PC Act, meets the above two preconditions. However, merely because every such ‘office’ has not been mentioned in Section 2(c) of the PC Act, the said provision cannot be termed as vague or uncertain, so as to be violative of Articles 14 or 21 of the Constitution of India.



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76. In *P.V. Narasimha Rao* (supra), the above principle was emphasised, while also considering the term ‘office’. The Supreme Court held as under:

*“59. The clause relevant for our purpose is clause (viii) whereunder “any person who holds an office by virtue of which he is authorised or required to perform any public duty” is to be treated as a public servant under the 1988 Act. The said clause postulates that the person must (i) hold an office and (ii) by virtue of that office (iii) he must be authorised or required to perform (iv) a public duty.*

xxx

*61. We will first examine the question whether a member of Parliament holds an office. The word “office” is normally understood to mean “a position to which certain duties are attached, especially a place of trust, authority or service under constituted authority”. (See: Oxford Shorter English Dictionary, 3rd Edn., p. 1362.) In *McMillan v. Guest* Lord Wright has said:*

*“The word ‘office’ is of indefinite content. Its various meanings cover four columns of the New English Dictionary, but I take as the most relevant for purposes of this case the following: ‘A position or place to which certain duties are attached, especially one of a more or less public character.’ ”*

*In the same case Lord Atkin gave the following meaning:*

*“... an office or employment which was subsisting, permanent, substantive position, which had an existence independent of the person who filled it, which went on and was filled in succession by successive holders.”*

*In *Statesman(P)Ltd. v. H.R.Deb and Mahadeo v. Shantibhai* this Court has adopted the meaning given by Lord Wright when it said:*



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*“An office means no more than a position to which certain duties are attached.”*

62. In *Kanta Kathuria v. Manak Chand Surana Sikri, J.* (as the learned Chief Justice then was) speaking for the majority, while construing the words “holds any office of profit” in Article 19(1)(g), has said that “there must be an office which exists independently of the holder of the office”. It was observed that there is no essential difference between the definitions given by Lord Wright and Lord Atkin.

63. In *White* the Supreme Court of New South Wales has held that a Member of the State Legislature holds an office. That view has been affirmed by the High Court of Australia in *Boston. Isaacs and Rich, JJ.* said:

*“A Member of Parliament is, therefore, in the highest sense, a servant of the State; his duties are those appertaining to the position he fills, a position of no transient or temporary existence, a position forming a recognized place in the constitutional machinery of government. Why, then, does he not hold an ‘office’? In R. v. White it was held, as a matter of course, that he does. That decision is sound. ‘Office’ is defined in the Oxford Dictionary as including: ‘4. A position or place to which certain duties are attached, especially one of a more or less public character; a position of trust, authority, or service under constituted authority.’ And ‘officer’ is defined (inter alia) as ‘2. One who holds an office, post, or place. (a) One who holds a public, civil, or ecclesiastical office; ... a person authoritatively appointed or elected to exercise some function pertaining to public life.’ Clearly a Member of Parliament is a ‘public officer’ in a very real sense, for he has, in the words of Williams, J. in *Faulkner v. Upper Boddington**



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*Overseers 'duties to perform which would constitute in law an office'."*

77. Applying the above principles to the facts of the present case, it now needs to be determined if the petitioner held an 'office' by virtue of which she was authorised or required to perform a 'public duty'.

78. In the present case, the petitioner was working as the Managing Director and CEO of the NSE. The NSE is a 'Recognised Stock Exchange' under Section 4 read with Sections 2(f) and 2(j) of the SCR Act. We quote Sections 2(f), 2(j) and 4 of the SCR Act as under:

***"2. Definitions.***

*In this Act, unless the context otherwise requires,—*

xxx

*(f) "recognised stock exchange" means a stock exchange which is for the time being recognised by the Central Government under section 4;*

xxx

*(j) "stock exchange" means—*

*(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or*

*(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,*

*for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.*

xxx

***4. Grant of recognition to stock exchanges. (1)***

*If the Central Government is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—*

*(a) that the rules and bye-laws of a stock exchange applying for registration are in*



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*conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;*

*(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and*

*(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;*

*it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.*

*(2) The conditions which the Central Government may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—*

*(i) the qualifications for membership of stock exchanges;*

*(ii) the manner in which contracts shall be entered into and enforced as between members;*

*(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and*

*(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.*

*(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office as of the stock exchange is situate, and such recognition shall have effect as from the*



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*date of its publication in the Gazette of India.*

*(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.*

*(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the Central Government."*

79. A reading of the above provisions would show that a Recognised Stock Exchange is not an ordinary business venture, but performs duties in the public interest, including the protection of investors. It is established for the purpose of assisting, regulating and controlling the business of buying, selling, or dealing in securities. Section 5 of the SCR Act empowers the Central Government to withdraw recognition granted to a Stock Exchange '*in the interest of the trade or in the public interest*'. Section 6 requires every Recognised Stock Exchange to furnish to the SEBI such periodical returns relating to its affairs, as may be prescribed. Section 7 provides that every Recognised Stock Exchange shall furnish to the Central Government a copy of its annual report containing such particulars as may be prescribed. Rules restricting voting rights etc., framed by a Recognised Stock Exchange under Section 7A, require the prior approval of the Central Government and publication by the Government in the Official Gazette. Section 8 empowers the Central Government to direct a Recognised Stock Exchange to make rules, to amend the rules already made, or to even make rules, if it is of the



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opinion that it is necessary or expedient to do so. Similarly, Section 9 provides that a previous approval of the SEBI shall be required for making any bye-laws for the regulation and control of contracts by a Recognised Stock Exchange. Section 10 provides for the power of the SEBI to make or amend bye-laws of a Recognised Stock Exchange. Section 11 empowers the Central Government to supersede the governing body of a Recognised Stock Exchange. Section 12 empowers the Central Government to suspend the business of a Recognised Stock Exchange in case of an emergency and, Section 12A of the Act empowers the SEBI to issue directions in the interest of investors in securities and for the interests of the securities markets.

80. The above provisions are being highlighted only to show that the Recognised Stock Exchanges, including the NSE in the present case, perform very vital economic functions in the public interest. It is not an ordinary commercial venture, as is sought to be projected by the learned Senior Counsel for the petitioner. While it may be true that the mere requirement of seeking registration or a licence from the Government by a statutory body, cannot, by itself, be determinative of whether the licensee performs a public function or a public duty, in the present case, given the nature of the functions discharged by the NSE/a Recognised Stock Exchange, there can be no doubt that it does perform a public duty and a public function in which the public at large has an interest. In this regard, we would also take note of the shareholding pattern of the NSE, which is majorly in the hands of Government companies.



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81. In fact, the Memorandum of Association of the NSE also provides its main object as dealing in securities ‘in public interest’.

We quote from the same as under:

*“A. THE MAIN OBJECTS TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION ARE:*

- 1. To facilitate, promote, assist, regulate and manage in the public interest, dealings in securities of all kinds (which shall include all securities defined as such under the Securities Contracts (Regulations) Act, 1956 and all other instruments of any kind including money market instruments) and to provide specialised, advanced, automated and modern facilities for trading, clearing and settlement of securities with a high standard of integrity and honour, and to ensure trading in a transparent fair and open manner with access to investors from areas in or outside India.*
- 2. To initiate facilitate and undertake all steps of all such activities in relation to Stock Exchange, Money Markets, Financial Markets, Securities Markets, Capital Markets, as are required for better investor service and protection, including but not limited to: taking measures for ensuring greater liquidity (both in terms of breadth and depth of securities) for the investor providing easier access to the Exchange, facilitating inter-market dealings and generally to facilitate transactions in securities in a cost effective, expeditious and efficient manner.*
- 3. To support, develop, promote and maintain a healthy market in the best interest of the investor and the general public and the economy and to introduce high standards of professionalism among themselves and with investors and the financial securities, money and capital markets in general.”*



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82. This Court, while dealing with a Writ Petition filed against the Delhi Stock Exchange (in short, 'DSE') and the appeal arising therefrom, in **K.C. Sharma** (supra), considered whether the DSE is a 'State' within the meaning of Article 12 of the Constitution of India and was amenable to writ jurisdiction. Taking note of the provisions of the SCR Act, a Division Bench of this Court held it to be so, *inter alia* observing that the functions carried out by it closely relate to governmental functions and that the Government exercises deep-rooted, pervasive and extensive control over its functioning through the SEBI. It was further observed that the DSE carries out important public/State functions, namely, that of controlling and regulating transactions in securities. The said judgment was approved by the Supreme Court.

83. Recently, a coordinate Division Bench of this Court in **National Stock Exchange of India Ltd. v. Central Information Commission & Ors.**, 2026:DHC:5170-DB, has held that NSE qualifies as a "public authority" under the Right to Information Act, 2005, as the Government exercise deep and pervasive control over its functioning. Further, relying upon the judgment of the Supreme Court in **Binny Ltd.** (supra), it was held that a stock exchange performs a public function.

84. From the above discussion, it is evident that NSE performs a 'public duty'.

85. This now brings us to the question whether the petitioner, as the CEO and the Managing Director of the NSE, held an office by virtue of which she performed a 'public duty'.



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86. The learned Senior Counsel for the petitioner has sought to draw a distinction between the NSE and the petitioner, by contending that even if it is assumed that the NSE performs a public duty, the petitioner, merely by virtue of her position as the Managing Director and CEO of the NSE, could not be said to perform such duty. He submits that the petitioner owes a duty only to the Company, that is, the NSE, and not to the public at large. We are unable to accept the said submissions of the learned Senior Counsel for the petitioner.

87. Clause 158 of the Articles of Association of the NSE spells out the powers of the Board of Directors of the NSE, and reads as under:

*“158. Powers of the Board.*

*(1) The Board shall have power to organize, maintain, control, manage, regulate and facilitate the operations of the Exchange(s) and of securities transactions by trading members of the Exchange subject to the provisions of these Articles and of the SCR Act and the Rules framed there under and the SEBI Act and Rules, Regulations there under or any SEBI directives.*

*(2) Subject to the provisions of these Articles and of the SCR Act and the Rules framed there under and the SEBI Act and Rules there under or any SEBI Directives, the Board shall have power and wide authority to make Rules, Bye-laws and Regulations from time to time for any or all matters relating to the conduct of the business of the Exchange, the business and transactions of trading members between trading members inter se as well as between trading members and persons who are not trading members, and to control, define and regulate all such transactions and to do such acts and things which are necessary for the purposes of the Exchange or of the company.*



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*(3) Without prejudice to the generality of the foregoing, the Board shall have power to make rules, bye-laws and regulations, amongst other purposes, for all or any of the following matters:-*

- (a) Conditions for admission to membership of the Exchange.*
- (b) Conduct of business of the Exchange.*
- (c) Conduct of trading members with regard to the business of the Exchange, including all matters relating to all transactions in securities of all kinds and all contracts which have been made subject to Rules, Bye-Laws, Regulations or Usage of the Exchange.*
- (d) Form and conditions of contracts to be entered into, and the time, mode and manner of performance of contracts between trading members inter se or between trading members and their constituents.*
- (e) Conditions and levy for admission of securities for dealings on the Exchange.*
- (f) Time, place and manner for transacting business on the Exchange.*
- (g) Penalties for disobedience or contravention of the Rules, Bye-Laws and Regulations or of general discipline of Exchange, including expulsion or suspension of the trading members.*
- (h) Declaration of any trading member as defaulter or suspension, or resignation or exclusion from trading membership of the Exchange and of consequences thereof;*
- (i) Scale of commission or brokerage which trading members can charge;*
- (j) Conditions, levy for admission or subscription for admission to or continuance of trading membership of Exchange.*
- (k) Charge payable by trading members for transactions in such scrips as, may be laid down from time to time.*
- (l) Investigations of the financial conditions, business conduct and dealings of trading members*
- (m) settlements of disputes, complaints, claims arising between trading members and persons*



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*who are not trading members inter se as well as between trading members and persons who are not trading members relating to any transaction in securities made subject to the Rules, Byelaws and regulations and usage of the Exchange including settlement by arbitration in accordance with the Rules, Byelaws and regulations and usage of the Exchange in force from time to time.*

*(n) Establishment and functioning of Clearing Houses(s) or other arrangements for clearing;*

*(o) Appointment of Committee or Committees for any purposes of the Exchange*

*(4) The Board shall be empowered to delegate to Executive Committee(s) or to any person, all or any of the powers vested in it, to manage all or any of the affairs of the Exchange.*

*(5) Subject to the provisions of these presents and the SCR Act and the Rules framed thereunder and the SEBI Act and Rules thereunder or any SEBI directives, the Board shall be empowered to vary, amend or repeal or add to Rules, Byelaws and Regulations, framed by it."*

88. The Board is, therefore, empowered to manage, regulate and facilitate the entire operation of the exchange, subject to, *inter alia*, the provisions of the SCR Act, the Rules framed thereunder, as also the SEBI Act. The NSE acts through its officers, including the petitioner. The petitioner, holding the office of the Managing Director and CEO, cannot be wholly separated from the functions performed by the NSE and, therefore, equally performs a function and duty in which the public at large is invested.

89. In ***Mansukhbhai Kanjibhai Shah*** (supra), the Supreme Court, while considering the question as to whether a trustee of a Trust running a Deemed University could be said to be a public servant



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under Section 2(c) of the PC Act, held that the emphasis of the provision is not on the position held by an individual, rather, it is on the public duty performed by him/her. Court held that the legislative intent behind Section 2(c) of the Act was not to provide an exhaustive list of authorities which are covered by the provision, but to provide a general definition of the expression “public servant”. Placing reliance on **Ramesh Gelli** (supra), it was held that the language of Section 2(b) of the PC Act indicates that any duty discharged, wherein the State, the public, or the community at large has an interest, would be called a public duty. Reliance was also placed by the Court on the judgment in **Manish Trivedi v. State of Rajasthan**, (2014) 14 SCC 420, to explain the ambit of the expression “public servant”, by stressing upon the relevance of the term “office”, which envisages public duty to be performed.

90. In any case, whether the petitioner, in the internal management of the NSE, can be said to be performing a public duty, and how far she was in-charge of the day-to-day functioning and general policy decisions of the NSE, including the act/contract complained of in the chargesheet, are matters of evidence. These cannot, therefore, be determined at this stage and/or the chargesheet itself be quashed by determining such mixed questions of facts and law.

91. Similarly, the Sanction Orders issued by the Board of Directors of the NSE were accompanied with the clarification that the question whether the petitioner is a public servant and whether the PC Act applies to the NSE, was not being admitted by the Board of Directors of the NSE. This would make the Sanction Orders conditional only to



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a limited extent of determination by a competent court of the said issues. The Sanction Orders also cannot be set aside only on this ground, as the answer to the same would require consideration by the learned Trial Court on the basis of the evidence led before it.

92. In view of the above, we do not find any merit in the present petition. The same, along with the pending application, is accordingly dismissed.

93. We, however, make it clear that any observation made by us hereinabove, shall not influence the learned Trial Court in deciding the issues raised before it, on the basis of the evidence led and in accordance with law.

94. There shall be no order as to costs.

**NAVIN CHAWLA, J.**

**RAVINDER DUDEJA, J.**

**JULY 9, 2026/rv/sg/Yg**