



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 07.08.2026

Judgment Delivered on: 30.09.2026

CNR No. DLHC010360892026

+ LPA 616/2026, CM APPL. 51925/2026 & CM APPL. 51926/2026

VIJAY BISHNOI

.....Appellant

versus

**COMPETITION COMMISSION
OF INDIA & ORS.**

.....Respondents

Advocates who appeared in this case

For the Appellant : Mr. Harin P. Raval, Senior Advocate,
Mr. Gautam Narayan, Senior
Advocate along with Mr. Sanjiv
Kumar Saxena, Mr. Ramneek
Mishra, Mr. Mukesh Kumar
Tiwari, Ms. Urmi H. Raval, Ms.
Shreya Bansal, Ms. Shrestha
Narayan, Mr. Mukul Yadav and
Ms. Asmita Singh, Advocates

For the Respondents : Mr. Vinay Kumar Garg, Senior
Advocate along with Mr. Shlok
Chandra, Mr. Parikshit Singh Bhati,
Mr. K. S. Rekhi and Ms. Lolita
Crasta, Advocates for CCI.

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA**



JUDGMENT

TEJAS KARIA, J.

CM APPL. 51927/2026 & CM APPL. 51928/2026 (Exemptions)

1. Exemptions are allowed, subject to all just exceptions.
2. The Applications stand disposed of.

LPA 616/2026

3. The present *intra court* Appeal has been preferred assailing the judgment dated 01.07.2026 (“**Impugned Judgment**”) passed in W.P.(C) 15601/2024 (“**Writ Petition**”) filed by the Appellant and Memorandum of Charge No. C-14011/1/2023-Vig. dated 03.10.2023 (“**Memo of Charge**”) issued by Respondent No. 1 – Competition Commission of India (“**CCI**”).
4. By Office Memorandum dated 29.11.2012, the Department of Personnel and Training (“**DoPT**”) provided, *inter alia*, that matters involving a vigilance angle shall be referred to the Central Vigilance Commission (“**CVC**”) for first-stage advice and that upon receipt of such advice, the case shall be placed before the Disciplinary Authority for decision.
5. The Appellant was appointed as Deputy Director (Law) at the CCI on 04.06.2018. On 31.07.2020, Oil and Natural Gas Corporation (“**ONGC**”) filed a complaint before the CCI alleging bid rigging and anti-competitive practices in relation to tenders invited for “*Oil Well Cement*”.
6. Accordingly, Case No. 35/2020, titled as ‘*ONGC v. SDCCL and Others*’ (“**ONGC Case**”), was registered, and investigation was directed *vide* order dated 18.11.2020, with Mr. Kuldeep Kumar, Joint Director General, as Case Investigating Officer.



7. Pursuant thereto, search and seizure operations were conducted at the premises of various cement companies between 22.12.2022 and 24.12.2022 by seven teams comprising officials of the CCI and the office of the Director General of CCI (“**DG**”). The Appellant’s team searched one of the two Chennai premises of *India Cement Limited* (“**ICL**”), whereas Mr. Dheeraj Rohilla and Mr. V. Sriraj were part of another team.
8. Between 22.12.2022 and 23.12.2022, Mr. Dheeraj Rohilla and Mr. V. Sriraj recorded the statements of ICL officials, namely, Mr. Swaminathan and Mr. Parthasarathy, respectively, and obtained their signatures thereon. The duly signed statements, together with the other material seized during the operations, were thereafter deposited with the CCI.
9. On 17.03.2023, the ONGC Case was reassigned to Mr. Amit Tayal, Additional Director General, who was appointed as the new Case Investigating Officer. On 24.04.2023, Mr. Amit Tayal and Mr. V. Sriraj informed the Secretary and the DG of the CCI that the Appellant had allegedly admitted to tampering with the statements recorded on 22.12.2022 and 23.12.2022. Thereafter, the then Secretary of the CCI recorded the aforesaid allegation in a Note dated 25.04.2023.
10. Pursuant to the aforesaid allegations, an order dated 27.04.2023 was issued directing that a preliminary enquiry be conducted. Upon conclusion of the said enquiry, the Appellant was placed under suspension *vide* order dated 19.05.2023 (“**Suspension Order**”).
11. At its special meeting held on 27.06.2023 (“**Special Meeting**”), the CCI, acting as the Disciplinary Authority, approved the initiation of major



penalty proceedings against the Appellant under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (“**Rules**”).

12. Thereafter, on 04.08.2023, the CCI approved the Draft Chargesheet (“**Draft Chargesheet**”), which was forwarded to the Secretary of the CVC for first-stage advice *vide* letter dated 07.08.2023 (“**Letter**”). On 25.09.2023, the CVC rendered its first-stage advice (“**CVC Advice**”), concurring with the CCI’s recommendation to initiate major penalty proceedings against the Appellant.

13. *Vide* internal note dated 29.09.2023, the Draft Chargesheet was placed solely before the Chairperson of the CCI for consideration and approval. On 03.10.2023, the Chairperson directed the issuance of the Memo of Charge. Although the List of Witnesses at Annexure IV to the Memo of Charge formed part of the Draft Chargesheet approved on 04.08.2023, it had not been forwarded to the CVC. Thereafter, the Statement of Imputations forming part of the Memo of Charge was amended *vide* corrigendum dated 17.11.2023 (“**Corrigendum**”).

14. Aggrieved thereby, the Appellant instituted W.P.(C) 1097/2024 before the learned Single Judge. The said petition was dismissed as withdrawn *vide* order dated 25.01.2024, with liberty granted to the Appellant to raise all contentions at the appropriate stage.

15. On 14.02.2024, the Appellant sought production of 132 defence documents from the CCI. By order dated 01.03.2024, the Inquiring Authority allowed production of only 37 of the 132 documents sought. Thereafter, the Inquiring Authority closed the Appellant’s defence *vide* order dated 14.06.2024 (“**Inquiring Order**”).



16. Thereafter, on 17.06.2024, the Appellant instituted W.P.(C) 10135/2024, *inter alia*, assailing the Memo of Charge, the closure of his defence in the disciplinary proceedings, and the order rejecting his objection to the Inquiry Officer. The said writ petition was disposed of as withdrawn *vide* order dated 26.07.2024, with liberty granted to the Appellant to raise his objections and contentions at the appropriate stage of the disciplinary proceedings.

17. Pursuant thereto, the Appellant submitted a representation dated 13.08.2024 (“**Representation**”) to the CCI, contending that the Memo of Charge had not been approved by the competent Disciplinary Authority in accordance with Rule 14(3) of the Rules. The CCI rejected the Representation *vide* order dated 30.09.2024 (“**Rejection Order**”).

18. By order dated 03.10.2024, the Inquiring Authority rejected the Appellant’s request for defence documents founded upon the testimonies of the prosecution witnesses submitted along with the Representation. Thereafter, the Inquiring Authority closed the Appellant’s general examination *vide* order dated 10.10.2024.

19. Aggrieved by the Rejection Order, the Appellant filed the Writ Petition, assailing the Memo of Charge, the Rejection Order, the Suspension Order, the Inquiring Order, and the orders dated 03.10.2024 and 10.10.2024.

20. During the pendency of the Writ Petition, the learned Single Judge, *vide* order dated 09.12.2024 (“**Interim Order**”), directed the Inquiry Officer not to proceed further with the inquiry, observing that the Appellant had raised



issues in the Writ Petition that went to the root of the matter and bore upon the further continuance of the disciplinary proceedings.

21. The Investigation Report dated 18.02.2025 (“**Investigation Report**”) in the ONGC Case, which relied upon the statements of Mr. Parthasarathy and Mr. Swaminathan without objection, was submitted to the CCI. On 26.05.2025, the CCI forwarded copies of the Investigation Report to the parties in the ONGC Case. Subsequently, on 26.11.2025, the CVC Advice was furnished to the Appellant.

22. Thereafter, *vide* the Impugned Judgment, the learned Single Judge disposed of the Writ Petition, holding that the Draft Chargesheet approved by the CCI was, in substance, the same as the Memo of Charge and that, since the CVC had suggested no alteration thereto, no fresh approval of the CCI was required upon receipt of the CVC Advice. The jurisdictional challenge was rejected, the grievances concerning documents were relegated to the Disciplinary Authority, and the Interim Order was vacated.

23. The operative portion of the Impugned Judgement is reproduced as under:

“50. The points for determination are answered as follows:

(i) The writ petition is not liable to be rejected on the ground of res judicata, constructive res judicata, or by reason of the earlier withdrawal of writ proceedings.

(ii) The Commission is the Disciplinary Authority for the Petitioner.

(iii) The Commission approved initiation of major penalty proceedings on 27th June, 2023 and thereafter expressly approved the draft charge-sheet on 4th August, 2023.



(iv) Since the draft charge-sheet approved by the Commission was the same charge-sheet later issued to the Petitioner, and since CVC suggested no alteration in the draft, no fresh approval of the Commission was required after receipt of CVC's first-stage advice.

(v) The Chairperson's direction dated 3rd October, 2023 was an administrative direction to issue the charge-sheet already approved by the Commission. It was not an assumption of the disciplinary power vested in the Commission.

(vi) The challenge to the procedural orders concerning supply of documents, refusal of additional documents and closure of defence is not accepted as a ground to quash the charge memo or interdict the inquiry at this stage. The Petitioner is, however, at liberty to raise those objections before the Disciplinary Authority, which shall be considered in the manner indicated above, before passing any final order.

51. The challenge to the memorandum of charge dated 3rd October, 2023 on the ground of want of approval by the Disciplinary Authority is accordingly rejected."

24. Aggrieved by the Impugned Judgment, the Appellant has preferred the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

25. Mr. Harin P. Raval and Mr. Gautam Narayan, learned Senior Counsel for the Appellant made the following submissions:

25.1. The present Appeal arises from a jurisdictional infirmity in the disciplinary proceedings as the Memo of Charge was issued without the express and recorded approval of the competent Disciplinary Authority, as mandated by Rule 14(3) of the Rules.

25.2. The learned Single Judge erred in proceeding on the unsubstantiated assumption that the Memo of Charge was "substantially the same" as the Draft Chargesheet allegedly



approved by the CCI, although the approved Draft Chargesheet was neither produced before the learned Single Judge nor furnished to the Appellant for comparison.

- 25.3. The Letter does not disclose that Annexure IV to the Memo of Charge, namely, the List of Witnesses, formed part of the material forwarded to the CVC, whereas the Memo of Charge admittedly contains such a List. The finding that the CVC examined the List of Witnesses and left it unaltered is, therefore, contrary to the record. This assumes particular significance in view of the learned Single Judge's recognition in the Impugned Judgment that the addition or deletion of witnesses constitutes a material alteration ordinarily requiring reconsideration by the Disciplinary Authority.
- 25.4. By way of the Short Note dated 06.05.2026 ("**Short Note**") filed in the Writ Petition, the Appellant specifically pointed out that the List of Witnesses was not reflected in the material forwarded to the CVC and that the Draft Chargesheet had not been produced for comparison. Nevertheless, the Impugned Judgment proceeded on a contrary factual premise without addressing this specific submission or calling for the primary record, thereby vitiating the decision-making process.
- 25.5. The Memo of Charge was subsequently altered by the Corrigendum in relation to the Statement of Imputations. The legality of those alterations could not have been determined merely by characterising them as clerical or administrative; it was



necessary to examine whether they modified the factual imputation, the evidentiary foundation, the material relied upon, or the case that the Appellant was required to meet. No record demonstrating the CCI's consideration or approval of such alterations was produced.

- 25.6. The decisions of the CCI taken at the Special Meeting and in relation to the Draft Chargesheet were not established through the complete and duly authenticated institutional record. The Respondents failed to produce before learned Single Judge the original Agenda, records of quorum, voting or concurrence, duly approved minutes, or the document stated to have been approved. The records relied upon were authenticated by the Secretary-in-charge or the Director (Law) and CVO; however, no underlying material demonstrating the conscious approval of the Members of the CCI to the instrument ultimately issued was produced. The "*presumption of regularity*" referred to in the Impugned Judgment is rebuttable and cannot be invoked to establish the contents or approval of a primary document withheld despite a specific application seeking its production.
- 25.7. The learned Single Judge erred in accepting the Respondents' oral submission, as recorded in the Impugned Judgment, that individual signatures of the Members of the CCI are not obtained where a decision is unanimous, despite the absence of any Rule, Regulation, Affidavit, or contemporaneous record establishing such a practice.



An unproved internal practice could not substitute for valid and demonstrable approval by the CCI acting as the Appellant's Disciplinary Authority under Rule 14 of the Rules.

- 25.8. Approval of a draft chargesheet for the purpose of obtaining the CVC's advice could not be construed as an 'umbrella approval' for the finalisation and issuance of the charge memorandum. The alleged approval dated 04.08.2023 expressly related to a Draft Chargesheet proposed to be forwarded for the CVC Advice and formed part of an incomplete consultative process. Upon receipt of the CVC Advice, the matter was required to be placed before the competent Disciplinary Authority for a conscious decision on the disciplinary action to be taken and the charge memorandum proposed to be issued. Admittedly, the CVC Advice was not placed before the CCI prior to the issuance of the Memo of Charge.
- 25.9. The Impugned Judgment engrafts upon Rule 14(3) of the Rules a 'no-change' exception unsupported by any Rule, Office Memorandum, or binding precedent. The requirement of approval by the Disciplinary Authority under Rule 14(3) admits of no such exception, namely, that approval of the final memorandum of charge is unnecessary where the CVC "*suggests no change*". Such a construction is contrary to the principle enunciated in ***Union of India v. B.V. Gopinath***, (2014) 1 SCC 351.
- 25.10. Reliance was placed on ***A.M. Kulshrestha v. Union of India***, (1992) Supp (2) SCC 296, in support of the submission that, where



the CVC's advice is not placed before the Disciplinary Authority, the Chairperson cannot substitute his or her own consideration and decision for that of the competent authority. Once the Disciplinary Authority had decided to seek the CVC's advice, it could not proceed without considering such advice. In the present case, upon receipt of the CVC Advice, the matter was not placed before the CCI but solely before the Chairperson through the internal note dated 29.09.2023 for "*consideration and approval*".

25.11. Section 13 of the Competition Act, 2002 ("**Act**") confers upon the Chairperson only general powers of administrative superintendence, direction, and control; it does not authorise the Chairperson to exercise, bypass, or substitute the disciplinary jurisdiction vested exclusively in the CCI under Rule 14(3) of the Rules. In the absence of express approval by the Disciplinary Authority for the finalisation and issuance of the Memo of Charge, the Chairperson could not have directed its issuance merely on the premise that an earlier draft had allegedly been approved by the CCI and concurred with by the CVC.

25.12. The Respondents' subsequent reliance on the same statements as genuine undermines the factual foundation of the charge of tampering. Although the Memo of Charge alleges tampering with the statements of Mr. Swaminathan and Mr. Parthasarathy, the DG relied upon those very statements in the Investigation Report; the CCI considered the report and the record on 26.05.2025; and



certified copies bearing the CCI's seal were furnished to the opposite parties. These facts, which came to light after judgment had been reserved in the Writ Petition, are sought to be brought on record through CM APPL. 51926/2026 (“**Additional Documents Application**”), filed under Section 151 of the Code of Civil Procedure, 1908 (“**CPC**”), and render the continuation of the proceedings arbitrary and legally unsustainable.

- 25.13. The Impugned Judgment is internally inconsistent inasmuch as: (i) having held the jurisdictional challenge to be maintainable, it nevertheless declined to call for and examine the original record, including the Draft Chargesheet, which alone could establish the relevant jurisdictional facts; (ii) while recognising that an alteration in the List of Witnesses would require reconsideration by the Disciplinary Authority, it proceeded on the premise that the CVC had considered that List, although the same had never been forwarded to it; and (iii) despite the absence of any “*express*” decision of the Members of the CCI either initiating proceedings under Rule 14 of the Rules or approving the draft or final memorandum of charge, learned Single Judge presumed such “*express*” approval on the basis of a statement made on behalf of the Respondents that was unsupported by the record. These inconsistencies independently warrant interference by this Court.
- 25.14. Accordingly, it was submitted that the present Appeal ought to be allowed.



SUBMISSIONS ON BEHALF OF THE CCI

26. Mr. Vinay Kumar Garg, learned Senior Counsel for the CCI made the following submissions:

- 26.1. The present Appeal discloses no jurisdictional infirmity. Learned Single Judge, upon examining the material on record, returned a categorical finding that the CCI, acting as the Disciplinary Authority, approved the initiation of major penalty proceedings on 27.06.2023 and thereafter expressly approved the Draft Chargesheet on 04.08.2023. These findings fully satisfy the requirements of Rule 14(3) of the Rules. The Appellant's characterisation of the same as a 'jurisdictional defect' is, therefore, an attempt to reopen a pure question of fact already determined against him.
- 26.2. The Appellant's grievance that the approved Draft Chargesheet was not produced before learned Single Judge does not survive, since learned Single Judge recorded a categorical finding, on the basis of the material then available, that the Draft Chargesheet approved by the CCI was, in substance, the very document subsequently issued as the Memo of Charge. That finding now stands vindicated by the production made in the present Appeal.
- 26.3. The Appellant's grievance that learned Single Judge failed to deal specifically with the Short Note has been rendered academic by the production of the Draft Chargesheet in the present Appeal, which independently answers the very issue sought to be raised therein.



- 26.4. As regards the specific grievance concerning the List of Witnesses at Annexure IV, its omission from the material forwarded to the CVC does not establish any material alteration to the charge, nor is this position affected by the production of the Draft Chargesheet. The List of Witnesses is a procedural annexure identifying the persons proposed to be examined during the inquiry; it does not alter the imputation of misconduct, the Articles of Charge, or the evidentiary foundation upon which the charge rests, all of which were placed before and considered by the CVC. The Appellant shall have ample opportunity to object to, and cross-examine, any witness during the inquiry proceedings.
- 26.5. The Corrigendum merely effected a clarificatory correction to the Statement of Imputations. It neither altered the substance of the charge nor introduced any new allegation or modified the case that the Appellant was required to meet. The Appellant has neither demonstrated, nor is in a position to demonstrate, any prejudice arising from the said correction. An alteration of this nature does not necessitate fresh approval under Rule 14(3) of the Rules.
- 26.6. Further, the contention that the decisions of the CCI were not “*proved*” through a complete institutional record overlooks the fact that decisions of a multi-member statutory body such as the CCI are ordinarily recorded in the minutes of its meetings and authenticated by the officer competent to do so. Such duly authenticated minutes of a properly convened and quorate meeting



constitute the primary record of the CCI's decision. Separate agenda notings or voting records are not maintained as independent instruments, and their absence does not detract from the evidentiary value of the authenticated minutes placed on record. It is also a well-recognised practice that the individual signatures of every Member are not separately obtained where a decision is unanimous. The absence of such signatures does not, by itself, cast doubt upon the factum of approval, particularly when the official record, including the Draft Chargesheet itself, has now been placed before the Court.

- 26.7. The approval of the Draft Chargesheet was not a mere formality undertaken solely for the purpose of obtaining the CVC's advice; rather, it embodied the CCI's considered decision concerning the charge proposed to be levelled, a fact now further substantiated by the document produced before the Court during the hearing of the present Appeal. Once the CVC concurred with the charge without suggesting any alteration, no purpose would have been served by placing the unchanged document before the CCI for a second formal approval. This does not create a 'no-change exception' unknown to law; it merely recognises that Rule 14(3) of the Rules requires the considered approval of the Disciplinary Authority to the charge, which had already been obtained and remained unaffected by the CVC Advice. In the present case, the CCI's approval preceded the issuance of the Memo of Charge;



consequently, no question of subsequent ratification arises. Reliance was placed, in this regard, upon ***Sunny Abraham v. Union of India and Another***, (2021) 20 SCC 12.

- 26.8. The authorities relied upon by the Appellant are distinguishable on facts. In ***B.V. Gopinath*** (*supra*), the charge memorandum was issued without the Disciplinary Authority having applied its mind to the charges as finally framed. In ***A.M. Kulshrestha*** (*supra*), the CVC Advice was never placed before the Disciplinary Authority. Neither infirmity arises in the present case, as the CCI applied its mind both at the stage of initiating the proceedings and at the stage of approving the Draft Chargesheet, while the CVC concurred, without suggesting any alteration, with the very charge already approved by the CCI.
- 26.9. The Chairperson's direction dated 03.10.2023 was administrative in nature and was issued in exercise of the general powers of superintendence, direction, and control conferred by Section 13 of the Act. It merely gave effect to a charge already approved by the CCI and did not entail the exercise of disciplinary jurisdiction vested in the CCI or the substitution of the Chairperson's decision for that of the CCI. This is precisely the finding recorded by learned Single Judge and warrants no interference. The Additional Documents Application under Section 151 of the CPC, seeking to place the aforesaid material on record, is opposed as belated and, in any event, does not alter the distinct factual foundation of the



tampering charge, which falls within the exclusive province of the Inquiring Authority to determine on evidence.

- 26.10. The manner in which the statements of Mr. Swaminathan and Mr. Parthasarathy were treated in the Investigation Report in the ONGC Case is distinct from the charge against the Appellant, which concerns the process by which those statements came to be recorded and signed. The issue is one of evidence to be adjudicated in the inquiry and furnishes no ground for interdicting the Memo of Charge itself.
- 26.11. The Impugned Judgment suffers from no inconsistency. Learned Single Judge examined the record on the principal jurisdictional issue and returned a clear finding that the requirements of Rule 14(3) of the Rules stood satisfied. That finding is now further reinforced, rather than displaced, by the production of the Draft Chargesheet in the present Appeal. The remaining grievances concerning the supply of documents, refusal of additional documents, and closure of defence pertain, by their very nature, to matters falling for consideration by the Disciplinary Authority and the Inquiring Authority in the first instance and were rightly left open for the Appellant to raise at the appropriate stage.
- 26.12. The charge in the present case concerns an allegation that an officer of the CCI's own legal wing tampered with witness statements during the course of an ongoing investigation into serious anti-competitive conduct. The inquiry ought, therefore, to be permitted



to proceed to its logical conclusion on merits, without further interruption, particularly when the Appellant retains a complete remedy to challenge any adverse final order.

26.13. It is further relevant that the Appellant has approached the Courts at multiple stages of the proceedings, having twice withdrawn writ petitions with liberty to raise his contentions before the Disciplinary Authority and thereafter obtained the Interim Order restraining further progress of the inquiry. Consequently, proceedings pending since mid-2023 have remained substantially stalled. The present Appeal, founded largely upon grounds already considered and rejected by learned Single Judge and now further answered by the production of the Draft Chargesheet itself, ought not to be permitted to occasion further delay in a disciplinary inquiry that the Rules contemplate should proceed expeditiously.

26.14. Accordingly, it was submitted that the present Appeal ought to be dismissed.

ANALYSIS AND FINDINGS

27. We have heard learned Senior Counsel for the Parties and have perused the material placed on record, as also the departmental record produced by the CCI during the arguments of this Appeal.

28. The following issues arise for determination in the present Appeal:

- I. Whether the Memo of Charge is vitiated for want of the express and recorded approval of the CCI, acting as the Disciplinary Authority, as mandated under Rule 14(3) of the Rules and, in particular:



- a. Whether the Draft Chargesheet approved by the CCI was the same document as the Memo of Charge subsequently issued to the Appellant?
 - b. Whether the List of Witnesses at Annexure IV to the Memo of Charge, which was not forwarded to the CVC along with the Draft Chargesheet, and the subsequent amendment of the Statement of Imputations vide the Corrigendum, constituted material alterations requiring a fresh approval by the Disciplinary Authority?
- II. Whether the direction dated 03.10.2023 issued by the Chairperson of the CCI, for issuance of the Memo of Charge, was a valid exercise of the power of general superintendence, direction and control conferred under Section 13 of the Act?
- III. Whether the decision said to have been taken by the CCI at its meeting held on 04.08.2023 stands proved upon the record as it now stands; and what effect the production of that record before this Court has upon the correctness of the Impugned Judgment?
- IV. Whether learned Single Judge correctly declined to interfere with, and correctly relegated to the Disciplinary Authority, the Appellant's grievances concerning supply of defence documents, refusal of additional documents and closure of defence?



ISSUE I(a) and ISSUE III: Whether the Draft Chargesheet approved by the CCI was the same document as the Memo of Charge; and whether the production of that record before this Court affects the correctness of the Impugned Judgment

29. During the hearing of this Appeal, the Respondents produced the departmental file said to contain the Draft Chargesheet approved by the CCI on 04.08.2023. The file has been compiled in two versions, and the manner of its compilation is not, by itself, determinative. The physical file contains the Draft Chargesheet but not the Memo of Charge, while the electronic file contains the Memo of Charge but not the Draft Chargesheet. The file noting records that both form part of the file, and we are satisfied that the two versions are complementary parts of a single record. We have examined the departmental record as a single whole, and our findings rest on the record so read.

30. The record produced by the Respondents establishes the following:

- i. On 27.06.2023, at its Special Meeting, the CCI, acting as the Disciplinary Authority, approved the initiation of major penalty proceedings under Rule 14 of the Rules.
- ii. The minutes of the meeting held on 04.08.2023, recorded in the Letter and forming part of the record, show that the CCI approved the Draft Chargesheet.
- iii. The Draft Chargesheet was forwarded to the CVC on 07.08.2023 as the proposal of the CCI. By its advice dated 25.09.2023, the CVC concurred with the CCI's recommendation to initiate major penalty



proceedings. The CVC Advice suggested no alteration to the Draft Chargesheet.

- iv. The internal file noting records that the Draft Chargesheet and the Memo of Charge form part of the file, and thereby links the approved draft to the charge memorandum later issued.
- v. The Rejection Order, by which the CCI itself rejected the Appellant's plea of want of approval, is consistent with the above, though we rest our finding on the record of 04.08.2023 and not on it.

31. The Appellant places reliance on three features of the record, namely: (i) the Draft Chargesheet is undated and unsigned and bears no endorsement of approval; (ii) the Letter does not bear the signatures of all Members; and (iii) the approved draft was not before the learned Single Judge. We have considered each of them.

32. A draft placed before a statutory body for approval is not ordinarily signed or dated by that body. Approval is evidenced by the decision of the body as recorded in its minutes, and not by an endorsement on the draft. The minutes record that the Draft Chargesheet was approved on 04.08.2023, and the file noting ties that draft to the Memo of Charge. The Appellant has not suggested that any other draft exists, or that any other person authored or approved a different version of the charge. Nor has he pointed to any difference between the Draft Chargesheet and the Memo of Charge in the Articles of Charge, the Statement of Imputations as it stood before the Corrigendum or the list of documents. The Appellant has held the Memo of



Charge since October 2023, and the departmental record is now before this Court. Despite this, no difference between the two documents has been demonstrated.

33. We accept that the CCI is a multi-member statutory body and that the approval required under Rule 14(3) of the Rules is the approval of the CCI acting collectively. That approval is shown by the minutes of a duly convened meeting, authenticated by the officer competent to do so. The Letter is a communication forwarding the Draft Chargesheet and recording the decision already taken. It is not the instrument of decision, and no provision of the Act, the Regulations or the Rules has been shown to us that requires every Member to sign it. The explanation of the Respondents that individual signatures are not separately obtained where a decision is unanimous is consistent with the ordinary transaction of business by such bodies. The Appellant has produced nothing to suggest that any Member dissented, that the meeting lacked the requisite quorum, or that the decision recorded in the minutes was not in fact taken.

34. We are conscious of the settled principle that, where the record evidencing compliance with a mandatory safeguard lies in the exclusive custody of the employer, the employer must produce it and cannot rest on bare assertion. The said principle has been satisfied. The record was produced before this Court, and the Appellant, who sought its production, has had full opportunity to examine and controvert it. The imperfections he points to are of form, and they do not raise any genuine doubt as to the substance of the approval.



35. We accordingly hold that the CCI, acting as the Disciplinary Authority, approved the initiation of major penalty proceedings on 27.06.2023 and the Draft Chargesheet, and that the Memo of Charge is the charge so approved. The observation in Paragraph No. 37 of the Impugned Judgment, made without the Draft Chargesheet before the learned Single Judge, is confirmed by the production of the record in this Appeal. The grievance in the Short Note stands answered on the same footing. Whatever shortcomings there may have been in the Impugned Judgment of the learned Single Judge having not called for the record, they stand cured by its production before this Court, at the Appellant's own instance, and by our examination of it in exercise of our appellate jurisdiction. The conclusion in Paragraph No. 37 of the Impugned Judgment that the Memo of Charge is the same document as the Draft Chargesheet approved on 04.08.2023 stands borne out by the record now produced. The requirement of Rule 14(3) of the Rules, therefore, stands satisfied.

ISSUE I(b): Whether the List of Witnesses and the Corrigendum required fresh approval by the Disciplinary Authority

36. The minutes of the meeting held on 04.08.2023, recorded in the Letter show that the List of Witnesses formed part of the Draft Chargesheet approved on that date. The List was, however, not forwarded to the CVC.

37. The Appellant contended that the List of Witnesses at Annexure IV was added for the first time by the Chairperson on 03.10.2023 and that this amounted to a material alteration after the CCI's approval. The record does not support this contention. Annexure IV forms part of the Draft Chargesheet



contained in the file, and its inclusion cannot be attributed to the Chairperson. This finding is limited to the stage at which the List of Witnesses was included. This ground raised by the Appellant, therefore, fails.

38. Paragraph No. 37 of the Impugned Judgment proceeds on the footing that the CVC examined the List of Witnesses, whereas the record shows that it was not forwarded to the CVC. However, the List of Witnesses is a procedural annexure identifying the persons proposed to be examined in the inquiry. It does not alter the imputation of misconduct, the Articles of Charge or the evidentiary foundation of the charge, all of which were placed before the CVC and on which it tendered its advice. The List of Witnesses was approved by the CCI itself and remained unchanged thereafter. The advice of the CVC is advisory in nature, and the List of Witnesses is not a matter on which the CVC's advice is ordinarily sought. The Appellant will have full opportunity to object to any witness and to cross-examine him in the inquiry, and no prejudice has been shown from the omission of the List from the reference to the CVC. The observation of the learned Single Judge that the addition or deletion of witnesses would ordinarily call for reconsideration by the Disciplinary Authority presupposes an alteration after approval, and none occurred here. The List of Witnesses therefore required no fresh approval.

39. As regards the Corrigendum, it amended the Statement of Imputations after the approval relied upon by the Respondents. The Respondents submit that the amendment was only clarificatory, and the record supports this position. The change was clerical, as it merely corrected an error in expression without altering the substance of the imputation. Therefore, the absence of any record showing



that the amendment was placed before the CCI does not affect its validity, since a correction of this nature did not require separate approval by the CCI.

ISSUE II: Whether the Chairperson's direction dated 03.10.2023 was validly issued under Section 13 of the Act

40. We agree with the learned Single Judge that the direction dated 03.10.2023 was administrative in form. Section 13 of the Act confers upon the Chairperson general powers of superintendence, direction, and control over administrative matters. It does not confer the disciplinary jurisdiction vested in the CCI under Rule 14 of the Rules. Accordingly, where the Chairperson merely directs the issuance of a memorandum already approved by the CCI, there is no encroachment upon the jurisdiction of the CCI.

41. The Appellant relies on the words "*for consideration and approval*" in the internal note dated 29.09.2023. The said note must be read in its context, namely that the CCI had already approved the Draft Chargesheet on 04.08.2023 and the CVC had thereafter concurred. In that setting, the placing of the file before the Chairperson was for the issuance of a charge already approved. The words used do not establish that the Chairperson substituted the Chairperson's own decision for that of the CCI. The direction dated 03.10.2023 gave effect to the CCI's decision, and there is nothing to indicate that it went beyond it.

42. Paragraph No. (v) of the DoPT Office Memorandum dated 29.11.2012 provides that, on receipt of first-stage advice, the case shall be placed before the Disciplinary Authority for decision. The Office Memorandum is an executive instruction and not a rule framed under the proviso to Article 309



of the Constitution, and its breach, without prejudice, would not render a memorandum of charge *non est*. We do not, however, treat it as a dead letter. We agree with the learned Single Judge that the object of placing first-stage advice before the Disciplinary Authority is to enable it to reconsider its proposal in the light of that advice. Where the advice concurs with the proposal and suggests no change, nothing remains for the Disciplinary Authority to reconsider, and a second formal approval of an unaltered document would be an empty formality.

43. The decision in **A.M. Kulshrestha** (*supra*) is distinguishable. In the said decision, the advice of the CVC was never placed before the disciplinary authority, and the decision was taken without its knowledge. In the present case, the CCI itself framed and approved the charge and referred it to the CVC, the CVC concurred without suggesting any change, and the CVC Advice was furnished to the Appellant on 26.11.2025. No prejudice to the Appellant from the CVC Advice not having been placed before the CCI has been shown. The issuance of a memorandum of charge is the act of communicating to the charged officer the articles of charge already approved. Rule 14(4) of the Rules contemplates that the Disciplinary Authority shall deliver, or cause to be delivered, a copy of the Articles of Charge. The CCI could cause this to be done through its Chairperson, who is the head of the Commission, in exercise of the powers under Section 13 of the Act.

44. In view of our finding that Rule 14(3) of the Rules was complied with, the Memo of Charge is not void, and no question of curing or ratifying any defect arises. We therefore do not find it necessary to rest our decision on



Sunny Abraham (*supra*). It is undisputed that the CVC Advice was not placed before the CCI. However, the advice concurred with the charge approved by the CCI and suggested no alteration. We are also conscious that the List of Witnesses at Annexure IV was not forwarded to the CVC. That does not alter the position. The List of Witnesses had already been approved by the CCI on 04.08.2023 as part of the Draft Chargesheet and, being outside the reference made to the CVC, was not a matter on which the CVC's advice could have called for any change. The concurrence of the CVC therefore left nothing for the CCI to reconsider in respect of the List of Witnesses either. Even otherwise, the Office Memorandum being an executive instruction, its non-observance, absent prejudice to the Appellant, would not vitiate the Memo of Charge.

45. The decision in **B.V. Gopinath** (*supra*) is of no assistance to the Appellant. The said decision holds that the approval of the disciplinary authority must relate to the charge as finally issued, and not merely to an earlier decision to proceed. This requirement is met with in the present case. The charge issued on 03.10.2023 is the charge approved by the CCI on 04.08.2023, subject only to a clerical correction by the Corrigendum. The infirmity that arose in **B.V. Gopinath** (*supra*), an approval that did not relate to the charge as issued, does not arise on the facts before us.

46. Accordingly, the Chairperson's direction dated 03.10.2023 constituted a valid administrative direction issued pursuant to Section 13 of the Act.



ISSUE IV: Whether learned Single Judge was right in relegating the Appellant's grievances concerning defence documents and closure of defence to the Disciplinary Authority

47. We concur with the view taken by the learned Single Judge in the Impugned Judgement that the Appellant's grievances concerning the supply of only 37 of the 132 defence documents sought, the refusal to furnish the remaining documents, and the closure of his defence and general examination do not warrant separate adjudication by this Court. Such grievances are ordinarily required to be raised before the Inquiring Authority and the Disciplinary Authority, and determined prior to the passing of any final order. We find no infirmity in the approach adopted by the learned Single Judge in relegating these issues to the appropriate stage of the disciplinary proceedings. The Appellant shall remain at liberty to press the said grievances, which shall be considered on their merits by way of reasoned orders.

48. The submissions founded upon the Investigation Report and the Additional Documents Application pertain to the factual basis of the allegation of tampering and do not bear upon the issue of approval under Rule 14(3) of the Rules. The charge concerns the manner in which the statements of Mr. Swaminathan and Mr. Parthasarathy came to be recorded and signed; whether the charge is established is a matter of evidence to be determined by the Inquiring Authority. We express no opinion on the merits of the said materials. The Appellant shall be at liberty to place them before the Inquiring Authority, which shall consider them on their own merits, uninfluenced by any observation made herein. The Additional Documents Application is disposed of accordingly.



CONCLUSION

49. In view of the foregoing analysis, the Impugned Judgment is affirmed as we are of the considered view that:

- i. The Memo of Charge dated 03.10.2023 was issued with the approval of the CCI acting in its capacity as the Disciplinary Authority, and the requirements of Rule 14(3) of the Rules were duly complied with. The decision taken by the CCI on 04.08.2023 stands established on the record, and the Draft Chargesheet and the Memo of Charge constitute the same document.
- ii. Neither the List of Witnesses at Annexure IV nor the Corrigendum dated 17.11.2023 required fresh approval.
- iii. The learned Single Judge correctly relegated the Appellant's grievances concerning the defence documents and the closure of the defence to the Disciplinary Authority for consideration.

50. Since the disciplinary proceedings have remained stalled since the Interim Order, and the Appellant has remained under suspension since 19.05.2023, it is expedient and in the interest of both Parties that the inquiry proceeds and be brought to a conclusion without further delay in a timebound manner.

51. Accordingly, the disciplinary proceedings shall continue from the stage at which they stood at the relevant time. The Inquiring Authority shall conclude the inquiry, and the Disciplinary Authority shall pass its final order, within six months from the date of this Judgment.



52. The Appeal is, accordingly, dismissed subject to the aforesaid observations. All pending Applications also stand disposed of. There shall be no order as to costs.

53. The original record produced by the CCI is hereby returned.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

SEPTEMBER 30, 2026

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