

ENFORCEMENT DIRECTORATE
GOVERNMENT OF INDIA
Ranchi Zonal Office,
Airport Road, Plot No 1502/B
Hinoo, Jharkhand,
Telephone: 0651-2332737/2332726
Email: adrnzo11-ed@gov.in



प्रवर्तन निदेशालय
भारत सरकार, राँची क्षेत्रीय कार्यालय,
विमान पत्तन मार्ग, प्लॉट नम्बर-1502/B,
हिनू, राँची, झारखण्ड.
दूरभाष संख्या: 0651-2332737/2332726
ईमेल: adrnzo11-ed@gov.in

F.No. ECIR/RNZO/07/2023 / 111

Dated:17.01.2024

To,

Ms. Vandana Dadel,

Principal Secretary to the Government,

Cabinet Secretariat and Vigilance Department,

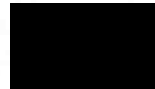
Jharkhand, Ranchi

Subject: - Summonses issued in F.No. RNZO/07/2023 for explanation required in the matter of Vijay Hansda and others; Investigation under PMLA - reg.

Ref.- Your good office letter no. C.S-01/Misc-02/2024/56

Madam,

Kind reference is invited to the above cited letter on the subject matter from your good office wherein you have requested the Investigating Officer under the provisions of PMLA for providing the information of ongoing investigation under the PMLA and as well as basis and reason for issuing summons under section 50 (2) of PMLA to Shri Vaibhav Kumar,



Md Naushad Alam, Shri Raja Mitra, Shri Ram Nivas Yadav and Shri Awadhesh Kumar.

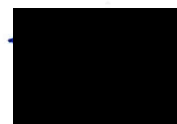
2. At the outset, it is to clarify that above referred summons have not been issued to you personally under section 50 (2) of PMLA but have been issued to above referred persons for compliance. Accordingly, it is not known to us why are you interfering with the compliance of summons by the above referred persons. The provisions of section 50 (2) read with section 50(3) do not allow any other person who has not been issued summons to get involved in the compliance of summons by the person whom the summons have been issued under section 50 (2) of PMLA. It is pertinent to mention here that the Investigating Officer is not legally allowed to share any information about ongoing investigation under the PMLA with your office as you are not authorized under the provisions of PMLA either to intervene in ongoing investigation or to obtain details of ongoing investigation. In this context you are requested to intimate the undersigned under which provision of law, you have been authorized to obtain the details of ongoing investigation under the provisions of PMLA as well as to justify your intervention in ongoing investigation proceedings under the PMLA.

3. Please be advised that you are not legally authorized to issue any circular/administrative order/internal instructions etc in respect of investigation being conducted under the provisions of PMLA. Even otherwise , any such order or administrative instruction is not applicable or binding on the Investigating Officer who derives its powers to investigate offence of money laundering under the provisions of PMLA,



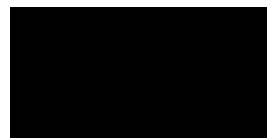
an Act enacted by the Parliament of India. It is to clarify that Central Government alone have been assigned power to either issue direction or make rules for carrying out the provisions of PMLA under section 52 and section 73 of PMLA respectively and Section 73 further provides that rule-making power of central government is subject to approval by the Parliament under section 74 of PMLA. It is amply clear from provisions of section 52 and section 73 of PMLA that the state government has no locus-standi to either issue any direction or frame any rule either to carry out investigation under the provisions of PMLA or to interfere in the scope of provisions of PMLA. Further, a careful reading of section 52 and section 73 of PMLA reveals that even though the Central Government is authorized to issue directions or to frame the rules under these sections, the power of Central Government too is very limited and no order, instruction or direction can be issued so as to require any authority " to decide the particular case in a particular manner " { Section 52 (a) of PMLA}. It is also evident from the provisions of section 73 of PMLA that no rule can be framed to restrict the scope of Section 50 (2) and Section 50 (3) of PMLA , which are the issues under consideration.

4. Under the provisions of Section 50(2) of PMLA, officers as authorized have power to issue summon to any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceedings under the PMLA. Provisions of section 50(3) of PMLA further provide that all the persons so summoned shall be **bound to attend** and shall be bound to state the truth upon any subject in respect of which they are examined or make



statements, and produce such documents as may be required. The power of authorized officer under section 50 (2) and section 50 (3) is not subject to any circular/administrative order/internal instructions issued by the State Government . If person so summoned has been asked to comply the provisions of section 50 (2) read with section 50 (3) in a particular manner by the officers of the state government , it would tantamount to illegal interference with operation of the provisions of section 50 (2) read with section 50 (3) and would be clearly an attempt to influence the ongoing investigation into the offence of money laundering under the PMLA.

5. The unwarranted instructions/directions issued by you to the IO under the PMLA as well as to Shri Ram Niwas Yadav, IAS a person summoned under Section 50 (2) of PMLA are clearly intended to achieve two oblique objectives, one to seek the confidential information about the ongoing sensitive investigation under the PMLA and second to encourage or coerce persons summoned under Section 50 (2) to disobey the provisions of Section 50 (3) as well as to make them submit tailor-made information as approved by the official of the State Government to influence the investigation in particular manner. It is to clarify here that any attempt to support or abet offence of money laundering by any person either by influencing the conduct of person summoned under Section 50 (2) of PMLA or influencing the investigation into the offence of money laundering in a particular manner tantamounts to abetment of such offence by person who's making such illegal attempt\effort. The abetment of offence amounts to an offence punishable under law which may kindly be noted. If any attempt is made to influence investigation by either



coercing or influencing a person summoned under Section 50 (2) of PMLA to give statement or to file document in a particular manner , the authorized officer will not hesitate to file appropriate proceedings against all concerned which may also include filing of appropriate criminal proceedings for impeding lawful investigation, obstructing public servants from discharging their duties and also with respect to abetting or conspiring to abet the offence of disobedience of summons which is/are punishable offence/s under IPC.

6. Therefore, it is sincerely hoped and expected that wiser counsel shall prevail upon you so that you may refrain from taking any illegal action as discussed above thereby leaving no option for the authorized officer under the PMLA to institute appropriate proceedings including criminal proceedings as stated above.

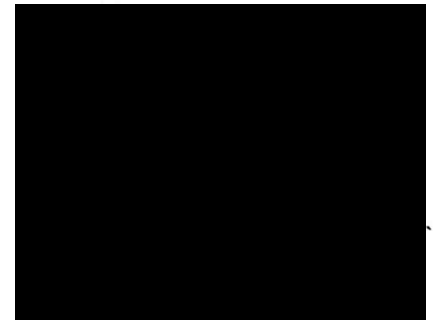
7. Kindly intimate the undersigned the name of authority who has authorized you to address this communication to the Investigating officer under the PMLA to obtain sensitive information about ongoing investigation as well as informing him that person summoned under Section 50 (2) shall submit information and give statement on the instructions of other officers of the state government which is clearly prohibited under the provisions of Section 50 of PMLA. It is amply clear from the content of your communication that you are trying to usurp power of the Central Government under Section 52 as per which the Central Government can issue directions for proper administration of the PMLA as well as power of Central Government and the Parliament under section 73 and 74 of PMLA for framing rules to carry out the provisions of



PMLA .Since the Parliament has not authorized the state government to invoke the powers under section 52 and section 73 of PMLA , direction issued by the State Government and communicated by you is beyond the legal competence of State Government.

8. For afore-stated reasons, the information sought by you cannot be legally submitted to you, you may like to educate the undersigned about the legal provisions which allow you to issue direction for administration of provisions of PMLA as well as to influence the statement/submission of documents by the persons summoned under section 50 (2) of PMLA in a particular manner to influence the ongoing investigation under PMLA. An early response to this communication shall be greatly appreciated.

Yours sincerely,



Copy to:-

The IG of Police (Provision), Jharkhand, Ranchi, in reference to MEMO no 4888/IMC dated 12.12.2023.