



U.S. Department of Justice

July 4, 2026

By ECF

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Gautam S. Adani et al.
Criminal Docket No. 24-433 (NGG)

In its Order dated June 26, the Court directed the Department of Justice to provide the bases for seeking dismissal with prejudice of all charges against all defendants in this case. The Department responds as follows.

I. Judicial Inquisitions Into the Bases for Dismissal with Prejudice Will Tend to Cause Serious Unintended Consequences and Trigger Constitutional Concerns.

The June 26 Order stated that the Department's dismissal motion was "terse, bland, and conclusory." Fair, but there are a host of reasons—both legal and pragmatic—why the Department's dismissal motions are typically terse. Although perhaps not imminently apparent, demanding more detailed explanations threatens a variety of harms to all involved, including the Court, and raises serious constitutional concerns.

A. Judicial Inquisitions Hurt Those Facing Criminal Charges.

Demanding the rationales for dismissal will hurt defendants—not just the defendants here, but untold other defendants in future cases—by potentially chilling the Department from seeking dismissal of criminal charges it determines are not in the interests of justice.

Charges are often dropped because the evidence is weaker than expected, which can happen for any number of reasons, often implicating information that would reveal a cooperating witness's identity, something that is privileged, or something that is sensitive or even classified. Sometimes the evidence has not changed at all but is instead reevaluated—exactly what a prosecutor should be encouraged to do. Sometimes the legal theory isn't as strong as initially believed, either because of developments in the law or reevaluations of existing law. Sometimes a case simply does not merit the time and resources as other cases, but the office does not want to undermine deterrence by publicly suggesting a larger shift in priorities. Sometimes the office might have staffing issues. Sometimes

charges against a set of defendants should be dismissed, but not against other defendants, and the government would have to reveal internal evaluations to differentiate the two. Sometimes dismissal is for some combination of these reasons, or other reasons altogether.

Further, whatever reason is given, defendants in other cases will start claiming—wrongly or rightly—that their case meets those same considerations, too, resulting in a wave of requests for dismissal in other cases, consuming significant Department resources.

Requiring the Department to explain to the Court why a case is not worthy of further resources thus almost certainly makes it less likely the Department seeks dismissal in future cases. If that happens, it will be to the detriment of criminal defendants. From their perspective, at worst, the prosecutors will not seek to dismiss at all, lest they have to expose weaknesses or internal debates to the Court. At best, the defendants’ dismissals are held hostage while the Court conducts an inquisition. Those pending criminal charges impose significant restraints not only on defendants who have appeared and are thus subject to confinement or the restrictions of pretrial release, but also on defendants who have not appeared: those defendants are typically barred from traveling internationally, and they face significant familial and business strains while remaining under a cloud of suspicion. Those are expected and reasonable limitations on a defendant when there is an indictment—but there is no conceivable basis for continuing those restrictions when the Department wishes to dismiss the charges with prejudice, and the defendants agree.

Either way, defendants are the primary ones who suffer when Courts demand explanations for dismissal.

B. Demanding the Reasons for Dropping Charges Will Expose Internal Department Debates, Which Are Almost Always Privileged.

Judicial inquisitions into the bases for dismissal will also expose privileged internal debates. Some Department lawyers may believe a case is worthy of continued pursuit, either in whole or in part; others may disagree. That is natural, and the internal debate is helpful and should be encouraged. But judicial inquisitions will chill those debates. That hurts defendants, as explained above, because it will discourage prosecutors from discussing whether to seek dismissal. But it also injures the Department and violates the separation of powers.

The ability to freely discuss the bases for making prosecutorial decisions—without those grounds being revealed outside the Executive Branch—is so important that it is recognized as an inherent aspect of Article II of the Constitution. The Supreme Court has held that executive privilege is “fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution.” United States v. Nixon, 418 U.S. 683, 708 (1974). Although there is no “absolute, unqualified Presidential privilege” to prevent the disclosure of all privileged information, *id.* at 706, criminal charging and dismissal decisions fall in the heartland of information that the Executive Branch must be able to protect. The deliberative process component of executive privilege encompasses “advisory opinions, recommendations and deliberations comprising part of a process by which government decisions and policies are formulated”—i.e., opinions and statements often made in the course of bringing and dropping criminal prosecutions. Dep’t of the Interior v. Klamath Water Users Protective Ass’n, 532 U.S. 1, 8 (2001).

As the Supreme Court has explained, “the valid need for protection” of such communications is “too plain to require further discussion.” Nixon, 418 U.S. at 705. Forcing prosecutors to disclose

their deliberative rationale could compromise other ongoing investigations or reveal sensitive information. “[T]he Executive’s ability to enforce the law would be seriously impaired ... if the Executive were forced to disclose sensitive information on case investigations and strategy from open enforcement files.” Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege, 8 Op. O.L.C. 101, 117–18 (1984). The Executive Branch accordingly has an Article II right to avoid disclosing “unpublished details of allegations against particular individuals and details that would reveal confidential sources, and investigative techniques and methods.” Response to Congressional Requests for Information Regarding Decisions Made Under the Independent Counsel Act, 10 Op. O.L.C. 68, 77 (1986).

The only thing that can limit this Article II authority is another constitutional provision, not a statute or rule of criminal procedure. “[I]t is entirely clear,” therefore, that the legal reasoning underlying a refusal to prosecute “cannot be the subject of judicial review,” ICC v. Bhd. of Locomotive Eng’rs, 482 U.S. 270, 283 (1987), unless there is a basis to conclude there is a competing constitutional right, such a defendant’s due process rights.

But all of this is lost when a Court launches an inquisition into the internal debates and reasoning of the Department. This would be akin to the Department demanding details about the underlying reasons why judges on an appellate panel denied discretionary relief with only a passing sentence. Those judicial discussions are protected by Article III. A rule of procedure—whether it addresses dismissals or subpoenas—can never trump constitutional privilege, and attempts to do so risk chilling honest discussions.

Relatedly, these judicial inquisitions put certain Department officials in an untenable position. The U.S. Attorney may feel compelled to defend the initial decision to bring a case, even if it was done by a predecessor, because the line attorneys who worked on it are still in the office, or because those attorneys were told by former leadership to bring the case. But the U.S. Attorney also answers to the Office of the Deputy Attorney General, which may view a case in a new and clearer light. When forced to respond to a judicial inquisition, should the U.S. Attorney come in and criticize the case his line attorneys brought, in accordance with the direction of his supervisors? Should he defend it, in accordance with the preferences of the attorneys who brought the case? Oftentimes the only workable solution is a “terse, bland, and conclusory” dismissal.¹

Courts should recognize and accept those “terse” statements as the product of extensive internal review, rather than assuming irregularity and launching judicial inquisitions.

C. Judicial Inquisitions Risk Giving the Impression the Court Is Performing Executive Functions.

Forcing an explanation for dismissal may also reflect poorly upon the Court by drawing it into an exclusively Executive determination.

Rule 48(a) provides that “[t]he government may, with leave of court, dismiss an indictment, information, or complaint.” Fed. R. Crim. P. 48(a). The Supreme Court has held that “[t]he principal object of the ‘leave of court’ requirement” is “to protect a defendant against prosecutorial harassment.”

¹ For that reason, and also because I was the final and sole decisionmaker to seek dismissal of the charges here, I have not asked the U.S. Attorney or any other attorney to sign this submission. Mr. Nocella and his team have been exceedingly professional and supportive throughout this process.

Rinaldi v. United States, 434 U.S. 22, 29 n.15 (1977); see United States v. HSBC Bank USA, N.A., 863 F.3d 125, 140–41 (2d Cir. 2017); see also Blackledge v. Perry, 417 U.S. 21, 25–27 (1974) (discussing prosecutorial vindictiveness as a potential due process violation). In other words, the proper role for the judiciary here is exceedingly narrow and focused on the defendant’s constitutional rights. That makes sense given that, as discussed above, the Executive’s bases for dismissal are privileged under the Constitution, meaning only another constitutional provision can possibly limit it.

Reading a broader “public interest” standard into Rule 48(a) so that the Court can grade or second-guess the prosecutorial discretion of the Executive would be unconstitutional under Article II of the Constitution. “Judicial supervision in this area ... entails systemic costs of particular concern” given that the decision to pursue a prosecution turns on factors only a politically accountable branch can determine, like “the strength of the case, the prosecution’s general deterrence value, the Government’s enforcement priorities, and the case’s relationship to the Government’s overall enforcement plan.” Wayte v. United States, 470 U.S. 598, 607–08 (1985). “The Presidential power of prosecutorial discretion is rooted in Article II, including the Executive Power Clause, the Take Care Clause, the Oath of Office Clause, and the Pardon Clause.” In re Aiken County, 725 F.3d 255, 262 (D.C. Cir. 2013) (Kavanaugh, J.). Under our Constitution, “the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case.” Nixon, 418 U.S. at 693. That includes the “indubitable” power to “direct that the criminal be prosecuted no further.” Aiken County, 725 F.3d at 263 (Kavanaugh, J.); see Trump v. United States, 603 U.S. 593, 620 (2024) (“Investigation and prosecution of crimes is a quintessentially executive function. And the Executive Branch has exclusive authority and absolute discretion to decide which crimes to investigate and prosecute....”) (cleaned up).

Thus, “settled constitutional understandings” provide that “authority over criminal charging decisions resides fundamentally with the Executive, without the involvement of—and without oversight power in—the Judiciary.” United States v. Fokker Servs. B.V., 818 F.3d 733, 741 (D.C. Cir. 2016) (emphasis added). “[T]he Supreme Court has declined to construe Rule 48(a)’s ‘leave of court’ requirement to confer any substantial role for courts in the determination whether to dismiss charges,” and accordingly a court should not deny the government’s motion to dismiss “based on a disagreement with the prosecution’s exercise of charging authority” or with the prosecution’s determination that further proceedings “would not serve the public interest.” Id. at 742-43.

Given all this, respectfully the Court’s June 26 Order incorrectly frames the Rule 48(a) inquiry. It is not a “sunshine” provision requiring that information be provided simply for judicial interest or grading (notably, the June 26 Order does not cite any Second Circuit or Supreme Court case holding to the contrary). The Court cannot inquire into whether the basis for dismissal was “good enough.” That is a determination entrusted exclusively to the Article II Executive. At most, in appropriate cases, the Court can inquire only into whether the ground for dismissal is among one of the very few disallowed grounds—primarily, whether dismissal would affect defendants’ due process rights—but anything further will inevitably draw the Court into an Article II determination it lacks authority to make.

But even that narrow test is narrower still where the defendant does not oppose dismissal. A district court may deny an unopposed motion to dismiss, if at all, only in an extraordinary case where a rogue prosecutor appears to be acting without “the approval of the Justice Department.” In re United States, 345 F.3d 450, 453–54 (7th Cir. 2003). The Second Circuit has likewise indicated that it may inquire into whether “the prosecutor appears motivated by bribery, animus towards the victim, or a

desire to attend a social event rather than [the] trial,” i.e., indications of a prosecutor acting without authority. HSBC Bank, 863 F.3d at 141. That is not a substantive inquiry about the reasons for the Executive’s dismissal, but rather to determine whether the prosecutor “is acting alone rather than at the direction or with the approval of the Justice Department.” United States, 345 F.3d at 454. Of course, that concern does not exist when the dismissal is signed by senior Department leadership.

That ultra-narrow inquiry is further constricted—likely to the point of being foreclosed altogether—where dismissal is both unopposed *and* with prejudice. No game is possibly being played when all charges are dismissed with prejudice. The government isn’t waiting for key defense evidence to grow stale. There can be no cat-and-mouse ploy to keep a defendant constantly under indictment. And there is not even the prospect of *future* related charges being held over the defendants’ heads. In such cases, a Court’s refusal to swiftly grant dismissal imposes far more injury on the defendants than anything the Department has done or could do.

* * *

This explains why the Department typically files short dismissal motions, which Courts typically accept without controversy.² That is even more obvious when dismissal is with prejudice, where there is no conceivable basis on which dismissal could injure the defendant.

II. In a Limited Waiver of Privilege, the Department Will Explain Why the Charges Were Dropped.

As explained above, the rationales for dismissing the charges in this case are protected by privileges of a constitutional dimension. The Department is constitutionally entitled not to provide those bases, especially given that the charges here are sought to be dismissed with prejudice, and there is no conceivable countervailing constitutional interest held by any defendant in this case. Indeed, they all readily consent to dismissal.

The Court’s June 26 Order suggests that granting dismissal based on the as-filed motion could be an abuse of discretion. That is wrong. Judges of this Court have routinely granted dismissals on similar or even shorter motions, as noted above. Further, as explained above, it is an encroachment on the separation of powers for the Court to demand further information about the dismissal, and it is likewise problematic to hold defendants’ dismissals hostage while the Court questions an outcome all parties have agreed is appropriate and from which no party can possibly be harmed. In other words, respectfully, the only risk of committing an abuse of discretion would arise from launching an inquiry into a consent dismissal motion with prejudice, rather than simply granting it.

But because the Court has demanded an explanation, and because the dismissal motion has been pending for far too long, I am hereby granting a limited waiver of the relevant privileges to explain why I moved to dismiss all charges. The waiver extends only to the remarks in this filing and does not in any way extend to or imply any other waivers, either in this case or others.

² E.g., United States v. Al Malik Alshahhi, No. 21-cr-371 (BMC) (E.D.N.Y. Nov. 26, 2025) (Dkt. 397) (“The Department of Justice has determined that it will not commit further resources to the prosecution of the one remaining defendant in this case”); United States v. Sindzingre, No. 2:17-cr-464 (JS) (E.D.N.Y. Mar. 29, 2023) (Dkt. 41) (no rationale given at all for dismissal); United States v. Angwang, 20 Cr. 442 (EK) (E.D.N.Y. Jan. 13, 2023) (Dkt. 138).

I ardently strove for months to avoid criticizing the case publicly, which could inevitably come across as criticism of the line attorneys who worked on the case. Almost all of them have been professionals who should not have their work publicly criticized by Department leadership. And that is a key reason I insisted that we file a “terse, bland, and conclusory” dismissal motion. But the Court apparently views things differently and has demanded that we go down this alternative path.

A. Overlapping Bases for All Charges.

This white-collar case was indicted in late 2024 without first hearing from defense counsel. Before I began in the Office of the Deputy Attorney General in January 2026, I had never heard of any of the defendants in this case. Some of the defense counsel requested a meeting to discuss the case and why it should be dismissed. I made the decision to dismiss these charges after conducting numerous meetings with defense counsel (two of which featured a dozen-plus attorneys) and also separate meetings with only Department counsel, after reviewing hundreds of pages of materials prepared both by defense counsel and by Department counsel in response to questions I raised, and after conducting my own research and analysis.

The charges in this case can be put into two buckets: (a) the securities and related fraud charges against three defendants; and (b) the Foreign Corrupt Practices Act and related charges against the other five defendants. Both buckets share numerous important bases warranting dismissal, any one of which would have been sufficient but taken together made clear the entire case must be dismissed. The decision to seek dismissal was not a close call.

The overlapping bases are:

(1) This is a foreign case. The first two pages of the indictment tell the story: several **Indians** (with maybe a European or two) allegedly tried to bribe other **Indians** by paying the **Indian** government via complex **Indian** rebate programs to get **Indian** contracts to provide **Indian** electricity to **Indians** in **India**. Ctrl-F “India” in the indictment, and it’ll show well over 200 hits. The United States pretending to be the world police can cause diplomatic strife and also wastes resources better spent on domestic concerns. India can better manage its internal systems than can prosecutors in Brooklyn and Washington.

(2) On that topic, India has investigated many of the allegations in this case and in several reports and decisions issued in 2026 has found no actionable misconduct. See attached documents from India, which I reviewed before filing the dismissal motion. So the country with by far the strongest interest here seems to have concluded nothing inappropriate happened.

(3) Not a single penny has ever been lost on the securities at issue. Two of the notes are fully paid back, and the other two notes are currently paid up, with no indication of any change ahead.

(4) The indictment was unsealed in the final days of the prior Administration, apparently as a “name and shame” designed to levy accusations without any realistic prospect of a trial ever occurring. Department leadership at the time was surely aware they were dropping a potential quagmire of a case into the lap of the incoming Administration, and perhaps that was an intentional choice.

(5) There would have been extraordinary proof problems in this case, not least because significant evidence and key witnesses are in India, which—as explained above—has found no actionable misconduct.

(6) The defendants have never appeared and probably never would. They are all foreign nationals who live abroad in locations that offer no reasonable prospect of arrest. That also means that, 18 months after indictment, no proceedings have taken place. There should have been no judicial concern about dismissing a case that has never proceeded past an indictment.

Any of these bases was enough to dismiss all charges. But there's more. As explained below, there were also charge-specific bases for dismissal.

B. Group A: Securities Charges against G. Adani, S. Adani, and Jaain.

Where to begin. The securities charges should never have been brought. They are failed FCPA claims (which could not be brought against these three particular defendants on these facts) that were spun into securities charges.

As explained above, the alleged misconduct in this case occurred almost entirely in India. That raised significant legal risks for the securities charges in particular given the jurisdictional limitations of the relevant securities laws. Setting aside securities traded on a domestic exchange, a transaction can qualify as “domestic” only if “either (1) the purchaser must have incurred irrevocable liability within the United States to take and pay for a security, or the seller must have incurred irrevocable liability within the United States to deliver a security, or (2) legal title to the security must have transferred in the United States.” In re Petrobras Sec., 862 F.3d 250, 262 (2d Cir. 2017) (cleaned up). Neither of those happened here. The alleged bribery scheme was carried out by Indian nationals on behalf of an Indian company listed on the Indian stock exchange to Indian government officials for Indian contracts. The alleged false statements in securities filings were made outside the United States, and the securities were sold in the first instance to purchasers outside the United States. The limited connections to the United States would pose a substantial risk both at trial and on appeal. The cases I relied upon in forming that conclusion include: Morrison v. Nat'l Austl. Bank Ltd., 561 U.S. 247 (2010); In re Petrobras Sec., 862 F.3d 250 (2d Cir. 2017); Parkcentral Glob. Hub Ltd. v. Porsche Auto. Holdings, 763 F.3d 198 (2d Cir. 2014); Absolute Activist Value Master Fund Ltd. v. Ficeto, 677 F.3d 60 (2d Cir. 2012).

Further, the legal theory for fraud here is so broad that it arguably turns any undisclosed corporate misconduct into criminal securities fraud. Of course, “companies do not have a duty to disclose uncharged, unadjudicated wrongdoing.” City of Pontiac Policemen's & Firemen's Ret. Sys. v. UBS AG, 752 F.3d 173, 184 (2d Cir. 2014). And the allegedly false statements here consisted primarily—perhaps exclusively—of platitudes about following laws, not being bribers, and being upstanding. The Second Circuit has agreed that “general statements about reputation, integrity, and compliance with ethical norms are inactionable ‘puffery,’ meaning that they are too general to cause a reasonable investor to reply upon them.” Boston Retirement Sys. v. Telefonaktiebolaget LM Ericsson, 2024 WL 4023842, at *3 (2d Cir. Sept. 3, 2024) (quotations and citations omitted). In fact, in the Boston Retirement System case, the Second Circuit focused in particular on whether a company's participation in a bribery scheme rendered its statements about the efficacy of its

compliance program materially misleading, and held that generalized statements about “the effectiveness of [a company’s] compliance program” are “non-actionable expressions of puffery and corporate optimism that do not give rise to securities violations.” *Id.* at *6.

Also, because the alleged “victims” here were some of the most sophisticated financial entities on Earth, the prosecution would likely have to prove not that any ordinary investor would have found the alleged misrepresentations material, but that these sophisticated investors would have found the alleged misrepresentations material. The financial instruments were first transferred to highly sophisticated foreign-owned underwriters, which in turn sold them to qualified institutional buyers (“QIBs”), which are super-majority foreign-owned and also extremely sophisticated. The QIBs then allegedly resold some portion to sophisticated U.S. investors. It would have been difficult to prove that those ultra-sophisticated investment entities were tricked by what were platitudes in the offering materials, let alone to the point of this being a criminal securities case. And even if those uber-sophisticated investment entities were misled, they ultimately never lost a penny, because the notes have all been repaid (or are still being repaid) in full.

Given all this, the allegations here would be appropriate for a civil resolution at the very most. The prior Administration brought a civil case based on the same facts. That case was settled earlier this year. Again, by that time I had already resolved to dismiss the securities charges no matter what. But given that there were no victims who suffered any losses, the resolution of that civil case made it even more obvious that there was no point in pursuing criminal securities charges for the same conduct. Even if the criminal case were to continue, no victim would stand to recover any restitution, because there were no losses to recover.

The Department should be credited for ending these criminal security charges before having to endure a likely loss on the merits, perhaps after years of trials and appeals (assuming there ever was a trial—an admittedly remote prospect). Again, for all the reasons above, these are the sorts of determinations that the Department should be entitled to keep privileged rather than bare for public inspection.

C. Group B: FCPA Charges Against Gupta, Cabanes, S. Agarwal, Malhotra, and R. Agarwal

Once I determined the security charges should be dropped, I turned to the FCPA charges. Before I could undertake a full review, however, a Department attorney unethically leaked to the media that the Department planned to dismiss the securities charges. Once that story broke, I was contacted by defense counsel for the FCPA defendants, contending they would oppose any dismissal of the securities charges if the FCPA charges were not also dismissed. Their professed opposition played no role in my decision to dismiss either set of the charges; that decision would be made based on the merits, not on whether it would prompt opposition or scrutiny. I continued my review of the FCPA charges and engaged in several meetings with defense counsel to discuss them.

It became clear that the FCPA charges must be dismissed because they do not satisfy the Blanche Memorandum, which was issued by Deputy Attorney General (now also Acting Attorney General) Todd Blanche on June 9, 2025. *See Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)*. The Blanche Memorandum set a Department-wide policy that FCPA prosecutions, including those already pending, focus on “targeting enforcement actions against conduct that directly undermines U.S. national interests.” In particular, the Blanche Memorandum directed prosecutors to focus on cases involving payments to drug cartels and transnational criminal

organizations, cases that safeguarded fair opportunities for U.S. companies, cases that advanced U.S. national security interests, and cases involving serious misconduct. As part of their considerations, “FCPA prosecutors should also consider the likelihood (or lack thereof) that an appropriate foreign law enforcement authority is willing and able to investigate and prosecute the same alleged misconduct.”

But here, the alleged conduct did not involve criminal organizations, did not have any effect on U.S. companies, did not in any way implicate national security, was not egregious, and has been the subject of investigations in India. The alleged “payments” in this case were made by Indian nationals, working for Indian companies, to the Indian government, with no U.S. interests implicated in any way. The FCPA charges here therefore do not plausibly satisfy any of the bases given in the Blanche Memorandum for FCPA charges worthy of proceeding. Under the Blanche Memorandum, the FCPA charges should have been dismissed a year ago.

Further, it is entirely unclear that the prosecution could prove that the alleged payments in this case were not legitimate commercial transactions. The payments could be characterized as customer rebates, which are a common and acceptable commercial practice.

As for the tagalong obstruction charges, the indictment’s theory makes little sense. The indictment (paragraph 76) alleges that some of the defendants who allegedly committed obstruction also hired extremely expensive law firms to conduct thorough investigations that implicated the most high-profile defendants while downplaying the role of lower-profile individuals. Not exactly the most obvious way to commit obstruction, to say the least.

D. Non-Considerations

There have been stories in the media about the Department’s motion to dismiss the securities charges in this case. I assume the Court would never give credence to breathless reporting relying on anonymous sources. But in an abundance of caution, I address them here.

The current or former Department attorneys who unethically fed those stories have suggested that I sought dismissal of the securities charges at least in part because of some promise by those defendants to invest money in the United States. That is false. Before that topic first arose, I had already firmly concluded I would seek dismissal of the securities charges no matter what, because they were so indefensible. To put a finer point on it: I would have sought dismissal of the securities charges regardless of any mentions of investments, regardless of whether the civil case (or any other matter) was settled or otherwise resolved, regardless of whether the other defendants consented, and regardless of what leakers might try to spin up in the media.

Also, even setting that aside, it is risible to suggest that the Managing Partner of Sullivan & Cromwell, who is perhaps the most respected and experienced securities attorney in the country, would propose any kind of improper resolution, let alone one crafted in a meeting with over a dozen attorneys present, including from other law firms. In a pitch to have charges dismissed, it would have been entirely fair to point out that the defendants have been effectively frozen out of the United States and its financial system for 18 months because of the pending indictment, and also that they had publicly and expressly indicated a desire to invest in the United States even before the prior Administration publicly unveiled its name-and-shame indictment. But again, although such a factor would be entirely fair to consider, I had already resolved beforehand to dismiss the securities charges, and accordingly the mention of potential investments could not have played any role.

Some current or former Department attorneys may disagree with the decision to drop these charges. But it is improper and unethical to leak about the case and thereby attempt to affect its disposition before the Court. Whether to drop a prosecution is not a game—it is an important decision that affects people’s lives. The debate should not be fought through the media in a proxy battle designed to influence the Court. In the end, however, the anonymous leakers stepped on their own landmine: the only thing they have achieved was the submission of this public rejoinder explaining in detail the numerous catastrophic flaws with their case.

* * *

The Constitution vests the prosecutorial power in the Executive, not the Judiciary. The Department should be commended for professing that a criminal case is unworthy of further resources, without having to publicly catalogue the reasons why. Thus, despite spending well over a hundred hours reviewing and debating this case, I insisted the dismissal motion be “terse, bland, and conclusory” to protect the interests of the Department, of the line attorneys who worked on the case, of the defendants here and in future cases, and of this Court, too, because providing an explanation of the reasons for dismissal gives the public the misimpression that the Court is authorized to undertake the exclusively Article II task of determining whether this prosecution should continue.

In short, there was absolutely nothing improper with the Department’s as-filed dismissal motion, which has now been pending for six weeks, during which time the defendants have been held in limbo on charges that should have been dropped a year ago—or never brought in the first place. Nor was there anything improper about the underlying decision to dismiss these charges. It would, however, be a grave mistake to rely on media reports citing anonymous sources desperately hoping to give their flawed case one last gasp before it’s buried.

FILED: July 4, 2026

Respectfully submitted,

/s/

R. TRENT MCCOTTER

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³ As explained above, I have not asked the U.S. Attorney or any other attorney to sign this submission, given that (a) the dismissal decision was ultimately mine, and (b) the U.S. Attorney’s office should not unnecessarily be put in the position of criticizing, even indirectly, the work of the line attorneys simply to justify the exercise of the Executive’s prerogative power to dismiss these charges. I thank Mr. Nocella and his team for their professionalism.



COMPETITION COMMISSION OF INDIA

Case No. 36 of 2024

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And

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Member



Order under Section 26(2) of the Competition Act, 2002

1. Information in the present matter was filed by Shri Ravi Sharma (**‘Informant’**), under Section 19(1)(a) of the Competition Act, 2002 (the **‘Act’**), against Adani Enterprises Ltd. (**‘OP-1’**), Adani Green Energy Limited (**‘OP-2’**), Shri Gautam S. Adani (**‘OP-3’**), Shri Sagar R. Adani (**‘OP-4’**), Azure Power India Private Limited (**‘OP-5’**), Solar Energy Corporation of India Ltd. (**‘OP-6’/‘SECI’**), Andhra Pradesh Central Power Distribution Corporation Ltd. (**‘OP-7’**), Andhra Pradesh Eastern Power Distribution Company Limited (**‘OP-8’**), Andhra Pradesh Southern Power Distribution Company Limited (**‘OP-9’**), Government of Andhra Pradesh, Energy Department (**‘OP-10’**), GRIDCO Ltd. (**‘OP-11’**), and Tamil Nadu Generation and Distribution Corporation (**‘OP-12’/‘TANGEDCO’**), alleging contravention of the provisions of the Act.

2. In the Information, OP-1 to OP-4 are stated to be members of the Adani Group. It is stated that OP-1 is their flagship company owned by OP-3. OP-4 is the nephew of OP-3 and is an Executive Director in OP-2. OP-2 is a 100% subsidiary of OP-1 and is in the business of renewable energy. The Informant has stated that OP-1 and OP-2 collectively hold a substantial market share of approx. 16% of India’s total power generation capacity. OP-5 is stated to be a subsidiary of a United States (**‘US’**) based company and is also involved in the business of renewable energy generation. OP-6 is stated to be a company under the Ministry of New and Renewable Energy (**‘MNRE’**), Government of India, whose mission is, *inter alia*, to promote increase of renewable energy in India. OP-7 to OP-12 are stated to be State owned power distribution companies who have signed agreements to purchase power from OP-6.

3. It is stated that on 25.06.2019, OP-6 issued a Request for Selection (**‘RfS’**) document along with standard Power Purchase Agreement (**‘PPA’/‘PPAs’**) and Power Sales Agreement (**‘PSA’/‘PSAs’**) for selection of solar power developers for setting up of 7 GW ISTS connected Solar PV Power Plant linked with setting up of 2 GW (per annum) Solar Manufacturing Plant. Package A of the same included setting up of Solar Manufacturing Plants related to Cell (500 MW) and Modules (500 MW), while Package B included setting up of Solar Manufacturing Plants related to Ingots (500 MW) and Wafers (500 MW). Two Blocks were to be allocated under each package. The successful bidders were assured PPAs up to 2000 MW against 500 MW Solar Manufacturing Plants under Bidding Package A and



up to 1500 MW against 500 MW manufacturing capacity under Package B. It is alleged by the Informant that OP-6 has designed the RfS documents to favor top players like OP-1, OP-2 and OP-5 that if no bidders come forward for any of the bid capacity under aforesaid packages, OP-6 will automatically award remaining capacity to the successful bidders, through the 'Transferred Capacity' namely underbidding/undersubscribed capacity under either of the packages. The maximum ceiling under the RfS was ₹2.93 per kilowatt hour ('KwH') for 25 years. The last date of bid submission was 13.11.2019.

4. It is further stated that the techno-commercial bids were opened on 14.11.2019 and the financial bids were opened on 21.11.2019. 3 bidders qualified *namely*, OP-2, OP-5 and one Navayuga Engineering Co. Ltd. Thereafter, e-Reverse Auction was held on 22.11.2019 and pursuant to the same, Letter of Awards ('LoAs') dated 10.12.2019 were awarded to 2 successful bidders *viz.* OP-2 and OP-5 @ ₹2.92/KwH.
5. As per the Information, the LoA awarded to OP-2 was for cumulative capacity of 2GW towards manufacturing facilities and 8GW towards solar power projects, while the LoA awarded to OP-5 was for 1GW towards manufacturing facilities and 4GW towards solar power projects. It was a part of the Addendum to the LoAs that "*... in the event, for any reason, there is no willing Buying Utility(ies) to enter into a Power Supply Agreement ('PSA') and procure the power from SECI fully or in part, then to the extent of such quantum for which the Buying Utility(ies) are not forthcoming, the PPA shall not be entered into with ... and there shall not be any legal or financial implication to SECI in relation to such quantum including associated quantum of manufacturing facilities. ... Further, ... shall be entitled to sell power generated from solar power plants setup under the scheme to any party or exchange under intimation to SECI for the capacity for which capacity corresponding PSA(s) are not entered into with buying utilities.*"
6. With regard to specific clauses of the RfS and the entire chain of events subsequent to issue of RfS, the Informant has *inter-alia* alleged that: (a) RfS document was designed in a manner to ensure participation of only big players in the market; (b) RfS document was prepared in contravention of the Ministry of Power ('MoP') guidelines in as much that the said guidelines do not allow clubbing of solar power plants with solar manufacturing plants; (c) 'Green Shoe Option' was provided by OP-6 in contravention of MoP guidelines to favour top players like OP-1, OP-2 and OP-5; (d) LoAs and Addendum to LoAs were issued to OP-2 and OP-5; (e)



undertakings were given by OP-2 *vide* letter dated 08.06.2020 and by OP-5 *vide* letter dated 16.07.2020 to OP-6 stating that in case there is no buying utility willing to enter into a PSA with OP-6, they will continue to perform their obligations as per LoAs without creating any binding obligation on OP-6; (f) *Vide* letter dated 02.02.2021 and letter dated 18.02.2021. OP-2 and OP-5 respectively unilaterally reduced the quoted bid price to 2.54 kWh from 2.92 kWh against the spirit of MoP guidelines; (g) *Vide* letters dated 22.07.2021, OP-2 and OP-5 unilaterally gave undertaking for waiver of Basic Customs Duty for the capacity awarded under package 1; (h) Subsequently, OP-6 started signing PSAs with OP-7 onwards; (i) Subsequently, OP-6 signed 42 PPAs with OP-2 and subsidiaries of OP-1 and OP-2 and 24 PPAs with Special Purpose Vehicles of OP-5; (j) OP-5 has not even commenced the basic activities related to awarded project capacity and OP-6 has not cross checked the development of project activities on the part of OP-5; (k) OP-5 sent a letter to OP-6 on 07.12.2022 informing that 2333 MW projects are commercially unavailable due to non-fulfilment of the condition precedent on account of Public Interest Litigation ('PIL') *vide* no 237/2021 and PIL *vide* no 76 of 2022 before Hon'ble High Court of Andhra Pradesh and conditional regulatory approval by Central Electricity Regulatory Commission ('CERC'). Neither any coercive actions have been taken by High Court of Andhra Pradesh against any of the parties nor any stay orders were passed against the Bidding process or against OP-6 as on date. On 19.01.2023, OP-5 and OP-6 met and discussed the letter dated 07.12.2024 and again on 21.12.2024, OP-5 sent a letter to OP-6 with new excuse that their lender's inability to finance 2333 MW projects and confirmed that they will continue with execution of 800 MW projects (package 1) along with 1 GW manufacturing facility; (l) *Vide* letter dated 02.03.2023, OP-5 has shown its intentions that 2333 MW projects capacity which was awarded to them, shall be transferred to other Bidder *i.e.* in present case is OP-2 only; (m) On 06.07.2023, OP-2, OP-5 and OP-6 had a meeting where they decided to transfer the 2333 MW projects capacity which was awarded to OP-5 to OP-2; (n) *Vide* letter dated 12.10.2023, OP-6 checked the final decision of OP-5 to clear their stand to transfer the 2333 MW Projects capacity to OP-2 by 16.10.2023. *Vide* letter dated 16.10.2023, OP-5 informed OP-6 that they are constrained to terminate the PPAs and requested to return the PBG of 116.65 Cr corresponding to 2333MW; (o) OP-6 in a hurried manner without even looking for any other person or interested party, have signed PPA for 1799 MW capacity with OP-2 which again shows that the whole bidding process was just a cover to allocate the entire bidding capacity of 2000 MW solar power plant with 2000 MG manufacturing project to OP-2; (p) On 23.02.2024, OP-6 have issued



addendum to LoA to OP-2 for transferring the entire 2333 MW Projects' capacity; (q) *Vide* letter dated 18.03.2024, OP-6 affirmed to OP-5 regarding termination of 2333 MW PPAs and transferring the same to OP-2; (r) Finally, on 02.05.2024, OP-5 surrendered the remaining capacity of 700 MW which was awarded under package 1 and same has also been reallocated to OP-2.

7. The Informant has stated that in this regard, Department of Justice ('DoJ') and Securities Exchange Commission ('SEC') in the US filed detailed chargesheet/indictment dated 24.10.2024 showing how OP-1 to OP-4, in connivance with OP-5, abused their market dominance and while indulging in anti-competitive practices, acquired many renewable energy generation plants.
8. The Informant has stated that in terms of the US indictment, OP-3, OP-4 and their other business executives allegedly bribed the Indian government to finance lucrative contracts designed to benefit their businesses and finally, through indirect means, also acquired the 2.3 GW solar power project of OP-5 with the help of OP-6. They also defrauded investors by raising capital on the basis of false statements about bribery and corruption, while other OPs attempted to conceal the bribery conspiracy by obstructing the US government's investigation.
9. As per the Informant, beginning in or around the year 2020, affiliates of OP-1 to OP-5, while acting within the scope of their employment as officers and employees, knowingly and wilfully, conspired and agreed with each other, including but not limited to OP-3 and OP-4, to offer, authorise and to pay bribes, influenced through their market position, combination and in anti-competitive practices, to and for their benefit, caused OP-7 to OP-12 to enter into PSA with OP-6, in order for OP-1, OP-2 and OP-5 to obtain and retain business.
10. As per the Informant, since the aforesaid acts were done on Indian soil and directly impact competition therein, the present Information has been filed in larger public interest. Further, since OP-1 to OP-4 in combination with OP-5 have abused their dominant market position and were involved in anti-competitive practices, and since OP-1 and OP-2 collectively account for 16% of all power generated by private sector power plants during Financial Year 2023, the Commission has jurisdiction in the matter.



11. Regarding the RfS issued by OP-6, it is alleged that the same was issued in contravention of the guidelines issued by the MoP to favour top players like OP-1, OP-2 and OP-5. The bidding documents were designed in such a fashion that no other bidder could participate in the bid but OP-1 and OP-2, and OP-5 had participated as only the proxy of OP-1 and OP-2 to re-allocate their project capacity later on to OP-2. As such, OP-1 to OP-6, by way of their conduct, indulged in anti-competitive practices to oust other entities from participating in the bid and created a monopoly. It is alleged that OP-6's dereliction of duty to not cross-check development of 4 GW solar project and 1 GW solar manufacturing project by OP-5 further shows that bidding and award of bid was a mere cover and ultimate aim was to transfer the entire 12 GW capacity to OP-1 to OP-4 for extraneous benefits.
12. Further, it is also alleged that OP-1 and OP-2 who collectively dominate the power generation market with 16% or more market share, through this process not only abused their market dominance but also created a platform where all other interested power generation companies were ousted from competition.
13. Therefore, in light of the above, the Informant has prayed for the following reliefs: (a) Hold and declare that an act of contravention of the abuse of market dominance and anti-competitive practices has taken place due to act and conduct of the OPs; (b) Hold and declare that acts and conduct of the OPs have adverse effect on competition in the market; (c) Issue an order of restraint and impose appropriate penalty; and (d) Pass any other order or relief which is deemed fit in the interest of justice.
14. The Commission considered the Information in its ordinary meeting held on 12.02.2025 and decided to seek certain additional information from the Informant within a period of 04 (four) weeks.
15. However, no such additional information was received. The Commission, *vide* order dated 14.05.2025, in the interest of justice, granted to the Informant, one last opportunity to furnish the additional information sought by the Commission *vide* order dated 12.02.2025, within a period of 04 (four) weeks.
16. Accordingly, the Informant filed an Additional Affidavit in compliance with order dated 12.02.2025, on 06.06.2025.



17. The Commission considered the Additional Affidavit filed by the Informant in its ordinary meeting held on 09.07.2025 and noting the submissions made therein, decided to seek from the Informant, detailed information and supporting evidence in respect of his allegations regarding abuse of dominance by the Adani Group or any Adani Group entity, to be filed within a period of 04 (four) weeks
18. Accordingly, the Informant filed another Additional Affidavit on 24.07.2025.
19. In the above Affidavits, the Informant has stated that the specific conduct amounting to abuse of dominant position by the Adani Group involves OP-2's rapid and large-scale capacity expansion aimed at foreclosing competition through aggressive greenfield growth. The magnitude and pace of its expansion effectively deters market entry or expansion by smaller competitors who cannot keep up without incurring unsustainable losses. As per the Informant, the Adani Group is leveraging its broader ecosystem to gain cost and scale advantages for OP-2 that constitutes exclusionary practices in renewable energy market.
20. It is stated that OP-2's greenfield expansion is supported by advanced resource planning and supply-chain management through affiliated entities such as Adani Infra India Ltd. and Adani Infrastructure Management Services Pvt. Ltd. These Adani entities are leveraging economies of scale in PPAs to reinforce dominant position and discourage competition. It is further stated that OP-2, while positioned as a 'pure-play renewable' entity, benefits from cross-subsidisation through its association with the broader Adani Group, which includes Adani Power, Adani Transmission, and other infrastructure affiliates. It is alleged that OP-2 is not operating in financial isolation but instead draws on financing facilitated through group-level arrangements. It is supported by a capital ecosystem that includes funds from its allied companies, including Adani Power and Adani Transmission. OP-2's access to below-market capital, enabled by group affiliations, lowers its cost of capital significantly compared to other independent green energy developers, giving it an unfair competitive edge.
21. Further, the Informant also stated that OP-2 is not just a dominant entity in renewable energy sector but is also planning vertical expansion into infrastructure critical for energy delivery *i.e.*, transmission and logistics. Adani Group is also gaining control over a critical distribution market *viz.* Mumbai being one of India's largest electricity load centers. With transmission and last-mile distribution under its belt, Adani Group holds substantial gatekeeping power



over what electricity gets wheeled into this high-demand urban region. This enables self-preferencing, where OP-2's green energy is prioritised for grid access, rebate eligibility, or transmission scheduling, while independent or rival producers face delays, technical denials, or financial disincentives. This creates a barrier to entry and deters rival renewable companies from bidding or scaling up.

22. As per the Informant, such control over infrastructure, especially in renewable and thermal power, allows OP-2 to impose discriminatory terms or pricing, limiting competitors' operations, in violation of the provisions of Section 4(2)(b) and 4(2)(e) of the Act. It is stated that Adani Group's conduct qualifies as abuse under Section 4(2) of the Act in the following manner: (a) Imposition of unfair conditions in bidding through alleged cover bidding; (b) Limiting production and market access through capacity hoarding; (c) Exclusionary PPAs and long-term tie-ups with major state utilities; (d) Leveraging vertical dominance from mining to generation and transmission; (e) Creation of artificial entry barriers by monopolising land and transmission infrastructure; (f) Holding of more than 40% cumulative market shares in renewable energy and thermal (conventional and non-conventional) *etc.*
23. Further, as per the Informant, tariff data from SECI auctions during 2019–2020 show highly competitive solar bids as low as INR 2.48/kWh. However, despite the trend of falling tariffs, the structuring of impugned RfS documents and financial dominance allowed entities like OP-2 to capture disproportionate market share by potentially gaming auction mechanisms with higher tariff of INR 2.92/kWh.
24. The Informant has stated that OP-2 is dominant in the market for utility scale renewable energy generation in India which includes large-scale, grid-connected, solar power projects that supply electricity to the national grid. These projects are distinct due to their scale, technology, and operational characteristics. On the basis of its total operational capacity and its year-on-year growth, it is the largest renewable energy company in India. Further, Adani Power holds a large amount of thermal power capacity accounting for more than 25% market share in the country. Thus, if the shares of two are combined, it surges to near about 40% of India's renewable and thermal capacity.
25. Subsequently, the Commission *vide* order dated 03.09.2025, noted that the matter pertains to the generation and distribution of solar power in the country and in view of the same, the Commission decided to seek the views/ comments of MNRE, upon the issues highlighted in



the Information with a request to provide its comments thereupon within a period of 04 (four) weeks.

26. *Vide* letter dated 28.10.2025, MNRE conveyed that OP-6 is a Central Public Sector Enterprise ('CPSE') under the administrative control of the MNRE and has issued the tender for 'Scheme for Setting up of Solar Manufacturing Plant linked with PPAs for Solar PV Power Plant', and forwarded the comments received from OP-6 on the Information.
27. In its comments, OP-6 stated that it has been designated as the Renewable Energy Implementing Agency ('REIA') for implementation of MNRE schemes having an intermediary role. It invites bids under a process of Tariff Based Competitive Bidding ('TBCB') based on the Guidelines floated by the MNRE and the MoP for selection of developers for wind/ solar/ hybrid/ battery projects, enters into PPAs at the discovered tariff with the developers and executes a corresponding PSA with buying entity(ies) for sale of the power purchased from the developers.
28. OP-6 has further stated that in carrying out its role as an intermediary trader, it is bound to follow the regulatory compliances provided under the Electricity Act, 2003 ('EA'). The tariff is discovered in a competitive bid process through a process of TBCB e- reverse auction ('the e-RA').
29. OP-6 stated that as required under Clause 10.4 of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects of the MoP dated 28.07.2023, a conformity certificate declaring that '*the bid documents are in line with the provisions of the corresponding Guidelines*' is submitted to the CERC in the tariff adoption petition filed by OP-6 (as intermediary procurer).
30. It is stated that under the TBCB, all the techno-commercially qualified bidders who participated in the tender are invited for the process of e-RA in line with the terms and conditions of the RfS. Post the completion of e-RA, the successful bidders are selected following the bucket filling approach and by comparing the bids on the basis of the bidding criteria as specified in the RfS, *i.e.* the fixed tariff or the first-year tariff and ranking of bidders starts from the bidder quoting the "lowest tariff (L1)". The tariff so discovered is placed for adoption u/s 63 of the EA within 15 days of discovery thereof.



31. It is further stated that on the basis of the documents submitted, CERC decides the tariff adoption petition along with adopting the trading margin of SECI. While on one hand the tariff discovered under e-RA is adopted by CERC, on the other hand, the PSA executed between SECI and the buying entities (usually the Distribution Companies ('DISCOMS'), are approved by the State Electricity Regulatory Commissions ('SERC') u/s 86 1(b) of the EA.
32. OP-6 has further stated that the position of competition law in India is that it is the prerogative of the procurer to decide the tender conditions/ technical specifications/ conditions and clauses in the tender document as per its requirements. In this regard, it has referred to Case No. 22 of 2018 (*G.P. Konar v Department of Agriculture and Farmers Welfare, Government of Haryana*) wherein the Commission relied on Case No. 69 of 2016 (*Suntec Energy Systems and National Dairy Development Board and Amul Dairy v. National Dairy Development Board*) wherein while dealing with the allegation that a tender condition resulted in making only one manufacturer a preferred supplier, the Commission observed as under:

“A procurer, as a consumer, can stipulate certain technical specifications/ conditions/ clauses in the tender document as per its requirements which by themselves cannot be deemed anticompetitive. It may be noted that the party floating the tender is a consumer and it has the right to decide on the appropriate eligibility conditions based on its requirements.” The Commission also stated that, *“in a market economy, consumers’ choice is considered as sacrosanct and in such an economy, a consumer must be allowed to exercise its choice freely while purchasing goods and services in the market. It is expected that a consumer can decide what the best is for it and will exercise its choice in a manner which would maximise its utility that is derived from the consumption of a good/ service.”*

33. OP-6 has also referred to Case No 38 of 2023 (*Harish Kumar v. S.B. Telecommunications & Ors.*) wherein the Commission held that:

“22. The Commission notes that OP-4 as a procurer has replied to the allegations made by the Informant, as briefly discussed above,



concerning the tender process and is of the view that the allegations are misconceived and a prima facie case is not made out under the provisions of Section 3(3) of the Act which may merit an investigation into the matter. Further, the Commission is also of the view that setting tender terms and conditions is largely within the domain of the procurer and generally does not call for any interference within the provisions of the Act.”

34. OP-6 has stated that the Informant has neither substantiated the nature of the allegations against it nor the contraventions of the Act alleged to have been committed by it. It has stated that a perusal of the Information shows that the Informant is using the terms ‘combination’ and ‘anticompetitive agreements’ without any appreciation of the fact that the scope and ambit of a ‘combination’ is entirely different from an ‘anticompetitive agreement’. With regard to the Informant’s allegation that ‘*Respondent No 1 to 4 in combination with Respondent No 5 and 6 have abused their dominant position market position and involved in anti-competitive (sic) and malpractices.*’, OP-6 has stated that there has been no acquisition by it of any enterprises or any amalgamation/ merger with any other enterprise, more so with the other OPs, so as to trigger Section 5 of the Act. It is stated that OP-6 is a REIA having the role of an intermediary procurer and it is absurd to presume any meeting of mind between an intermediary procurer and a project developer or between an intermediary procurer and the DISCOM which causes or is likely to cause appreciable adverse effect on competition within India.
35. Regarding the applicability of the provisions of Section 4 of the Act, OP-6 has stated that factors test of three needs to be proved, *i.e.* ‘delineation of relevant market’, ‘dominance in the relevant market’ and ‘resultant abuse in the relevant market’. It is stated that the Information levels allegation on OP-6 of abuse of dominant position without delineating any relevant market in which OP-6 is alleged to be dominant so as to attract the rigors of Section 4. Further it is stated that the Information is completely bereft of data/ figures/ statistics to substantiate the dominance of OP-6 or any sort of market power exercised in any relevant market whatsoever. Hence, it is stated that since OP-6 is not in a dominant position in any relevant market, there is no question of abuse thereof.



36. OP-6 has further stated that the Commission has time and again stressed that dominance of an enterprise in the relevant market is something which needs to be established rather than merely relying on hearsay statements/ media reports/ social media content. The Commission has in Case No 22 of 2024 (*InstaAstro Technology Private Limited v Astrotalk Services Private Limited*) held that the dominance of any entity cannot be solely established on the basis of media statements.
37. OP-6 has stated that the facts and circumstances outlined in the Information and the nature of issues/ allegations agitated before the Commission, does not give rise to competition concerns. Hence, no case of contravention of Section 3 or Section 4 of the Act warranting intervention of the Commission is made out and the matter deserves to be closed forthwith u/s 26 (2) of the Act.
38. OP-6 has also given point wise reply to allegations with regard to specific clauses of the RfS document.
39. Regarding the allegation that the RfS document was prepared in contravention of the MoP guidelines in as much that the said guidelines do not allow clubbing of solar power plants with solar manufacturing plants, thus implying that the RfS document was designed in a manner to ensure participation of only big players, OP-6 has stated that the said tender was floated 3 times, after having been annulled twice in 2019. It is stated that this establishes the intent and objective of Government to promote domestic manufacturing and reduce export dependency. It is stated that unlike the Production linked Incentive ('PLI') Scheme offered at present, in the Manufacturing linked Solar Scheme launched during 2018 and 2019, the only incentive offered to the prospective bidders/ developers was by the means of offering Solar Power Plant capacity only corresponding to Solar Manufacturing Plant capacity.
40. In response to the allegation that the 'Green Shoe Option' was provided by OP-6 in contravention of MoP guidelines, OP-6 has stated that MoP guidelines do not provide any specific provision for allotment of Green Shoe option, it also never restricts such allocation. Moreover, the Green Shoe option was included based on the provisions of Scheme guidelines issued by MNRE.



41. With regard to allegations by the Informant with reference to the clauses detailing issue of LoAs and Addendum to LoAs, OP-6 has stated that the details mentioned are factual information only and OP-6 cannot comment on these. It has further stated that due processes were followed and approvals of competent authority(ies) were obtained for issuance of LoAs and Addendum to LoAs to both the successful bidders. Regarding the undertakings given by OP-2 *vide* letter dated 08.06.2020 and by OP-5 *vide* letter dated 16.07.2020, OP-6 has stated that *vide* the said undertakings the developers demonstrated their intent and commitment to set up the Solar Manufacturing Plants even in the absence of PPAs corresponding to setting up of Solar Power Plants by them. These undertakings are completely in line with the objectives of Govt. of India to promote domestic manufacturing.
42. Regarding the allegation by the Informant that *vide* letters dated 02.02.2021 and 18.02.2021, OP-2 and OP-5 reduced the quoted bid price against the spirit of MoP Guidelines and RfS, thus showing the intention of OP-2, OP-5 and OP-6 that the whole bidding process was designed to oust the other bidders and to curtail competition in the market, OP-6 has stated that *vide* the said undertakings, the developers unilaterally reduced their quoted tariffs in order to make power saleable and affordable to prospective buying entity(ies). Reducing the tariff is not at all contrary to any law, rather it is in larger public interest by means of offering lower tariff.
43. OP-6 has further stated that it executed PSAs with all the buying entity(ies) only after receipt of their consent and post approval from the respective SERCs as per the provisions of the Electricity Act, 2003 and that it executed PPAs with both the developers on back-to-back basis as per the provisions of RfS only.
44. With regard to the allegation that OP-5 did not even commence the basic activities related to awarded project capacity and OP-6 has not cross checked the development of project activities on the part of OP-5, OP-6 has stated that it monitors each and every project awarded by them not only on a monthly basis but as and when required.
45. Responding to the allegation that *vide* letter dated 02.03.2023, OP-5 have shown its intention that 2333 MW Projects' capacity which was awarded to them, shall be transferred to other bidder *i.e.* in the present case to OP-2 only, OP-6 has stated that it



had not received any such letter wherein OP-5 expressed its intention to transfer the capacity to OP-2. Further, in response to the Informant's allegation that on 06.07.2023, OP-2, OP-5 and OP-6 had a meeting where they have themselves decided to transfer the 2333 MW Project capacity which was awarded from OP-5 to OP-2, OP-6 has stated that no such decision was taken to transfer the 2333 MW Project from OP-5 to OP-2 in the joint meeting held on 06.07.2023. Rather the meeting was conducted to understand the concern of OP-5.

46. With regard to the allegation that OP-6 in a hurried manner without even looking for any other person or interested party, have signed PPA for 1799 MW capacity with OP-2 which again shows that the whole bidding process was just a cover to allocate the entire bidding capacity of 2000 MW solar power plant with 2000 MW manufacturing project to OP-2, OP-6 has stated that the PPAs for 1799 MW was executed as there was an unexecuted capacity available in the LoA of the developer for which PPAs were to be executed. Moreover, the decision was taken in consultation with the respective buying entity in order to fulfil their Renewable Purchase Obligation ('RPO') as well as to provide free electricity to the farmers and due legal process was also followed while reallocating this capacity.

47. Regarding the allegation that on 02.05.2024, OP-5 has surrendered the remaining capacity of 700 MW which was awarded under Package-I and same has also been reallocated to OP-2, OP-6 has stated that OP-5 surrendered the capacity of 700MW awarded under Package-I. However, the same was not re-allocated to OP-2. Hence, the aforementioned allegation is completely false.

48. On the allegations made by the Informant regarding other clauses of RfS/chain of events, OP-6 has stated that the same is part of factual information only and OP-6 cannot comment on these.

49. The Commission considered the Information, additional affidavits filed by the Informant, and the comments by OP-6 on the Information in its ordinary meeting held on 26.11.2025 and decided to pass an appropriate order in due course.



Analysis of the Commission

50. Regarding the first allegation that the RfS was issued by OP-6 in violation of the guidelines issued by MoP and was designed in a manner to favour OP-2 and OP-5 while ousting others from competition, the Commission observes that the same does not appear to be a competition issue to be covered under the Act. Further, the Informant has not been able to furnish any evidence in support of his allegation that OP-5 was only a cover bidder for OP-2.
51. Regarding the allegation of abuse of dominant position by the Adani Group, the Commission noted that power in India is generated through various sources such as coal, solar, wind, hydro, nuclear, *etc.* Further, in such power generation market, not only private power generation companies but also several major public power generation companies are operating. The Informant has also not placed on record any evidence which may suggest as to why solar power, or public and private power generation companies, ought to be treated as distinct markets.
52. As such and in view of the fact that power generation market in India is comprised of many significant players *viz.* National Thermal Power Corporation, Power Grid Corporation of India Ltd., Tata Power Co. Ltd., Torrent Power and Reliance Power *etc.*, the Adani Group, *prima facie*, does not seem to be a dominant player in the power generation market in India. Even in the '*power generation from renewable sources*' market, other prominent players like Tata Power, JSW Energy and Suzlon Energy are also operating.
53. Further, the Commission observes that allegation against OP-2 of deriving benefits like cross-subsidisation and economies of scale from other Adani Group entities does not substantiate that it is in a dominant position in terms of Section 4 of the Act. Regarding the Informant's other allegations of leveraging, exclusion, creation of entry barriers, bid-rigging discrimination *etc.* no cogent evidence has been produced by the Informant in this regard. As such, there is no clear evidence on record which may establish dominant position or its abuse by OP-2.
54. Further, the alleged conduct *i.e.* offering of bribes to government officials to enable OP-6 to enter into PSAs with buying utilities, in turn allowing OP-2 to enter into PPAs with



OP-6, also does not seem to qualify as an abusive conduct (exclusionary or exploitative), within the meaning of Section 4 of the Act.

55. With regard to the clause-specific allegations made by the Informant, the Commission observes that the Informant has not provided any cogent evidence of the RfS documents being designed in a manner that encourages participation of only big players in the market. It is noted that tender design is made according to specific requirements of the procurer. As stated by OP-6, the tender was floated thrice with an intent to attract participation according to the prevailing incentive scheme at the time. Further, the Informant has not been able to demonstrate how any clause of the RfS referred to in the Information or chain of events described therein is in contravention of the provisions of the Act.
56. Further, there appears to be no anti-competitive conduct in adopting a Green Shoe Option in terms of restriction of participation. The Commission noted that the said issue was also dealt with in a petition related to the same RfS (Petition No. 286/AT/2021) *vide* order dated 02.04.2022, by the CERC, in which it had observed:

“69...As regards objection regarding Green Shoe Option being against the Act and the Guidelines, we have already observed above that Section 63 of the Act does not prescribe the type of bid structure to be adopted by the Central Government. It has been left open to the Central Government to decide the provisions of the Guidelines and bid structure for procurement of power. Accordingly, the said incorporation of Green Shoe Option cannot be held as non-compliance of any specific provision of the Act. In the present case, MNRE, Government of India vide its letter dated 14.8.2019 directed SECI to incorporate ‘Green Shoe Option’ in the bid. The relevant extract of the said letter dated 14.8.2019 is extracted below.

“In refence to the subject RfS, the undersigned is directed to convey to SECI, that in line with discussions with industry stakeholders and further examination in MNRE, the following decision have been taken by MNRE:

.....

viii SECI to provide a “Green-Shoe Option” to successful bidder(s) equivalent to the capacity(ies) won by such successful bidder(s). The above decisions are in line with the approval from Hon’ble Minister (Power & NRE)”

The said provision was reiterated in the letter dated 9.10.2019 issued by MNRE, Government of India as under:



“2. The following has been decided with regard to SECI’s Manufacturing-Linked-PPA Tender:

(d) The earlier instructions to SECI, vide letter no. 336/39/2017-NSM (Part File) dated 14.08.2019, may accordingly be read as under :

.....

vi SECI to provide a “Green-Shoe Option” to successful bidder(s) equivalent to the capacity(ies) won by such successful bidder(s).

3. This issues with the approval from Hon’ble Minister (Power & NRE)”

57. The Commission notes that the aforementioned order of the CERC also dealt with similar issues as raised in the Information such as a) Combining activity of generation with manufacturing of equipment used in generation (CERC observed that *“56...contrary to the submissions made by the objector, there is no bar on linking Solar Manufacturing Plants with PPAs for Solar Power Plants.”*); b) Reduction of quoted bid price by OP-2 and OP-5 (CERC observed that *“68...while any upward revision of tariff after conclusion of the e-reverse auction by the Petitioner shall be against the principle and objective of Guidelines leading to undue benefit to the successful bidders, any downward revision of tariff by the successful bidders benefits the consumers in terms of lower tariff. Therefore, the reduction of tariff by the successful bidders on voluntary basis does not violate the Guidelines.”*).

58. Further, the Commission observed that stipulating capacity generation and financial eligibility criteria in tenders is a standard practice, and the same cannot be faulted with in the impugned RfS merely because the market may be having a large number of smaller players as well. Therefore, under the purview of the Act, the above clauses of the RfS cannot be stated to have been inserted with a view to oust competition.

59. Upon consideration of the facts and circumstances of the present case, the Commission is of the view that there is no *prima-facie* case of contravention of provisions of Sections 3 and 4 of the Act warranting an investigation into the matter. Therefore, the matter is directed to be closed forthwith under Section 26(2) of the Act.



60. The Secretary is directed to communicate the decision of the Commission to the Informant and OP-6, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 16/04/2026



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 10.03.2026

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W.P.(C) 812/2026

RAVI SHARMA, ADVOCATE

.....PETITIONER

Through: Mr. Ravi Sharma, Mr. Aryan Chanda
and Ms. Ayushi, Advs.

versus

UNION OF INDIA, MINISTRY OF NEW AND RENEWABLE
ENERGY, THROUGH-SECRETARY & ORS.

.....RESPONDENTS

Through: Ms. Anushree Bardhan, Ms. Ritika
Singh, Ms. Somya Sahni & Ms.
Rashmi Vaish, Advs. for R2
Mr. Rajiv Nayyar, Sr. Adv. and Mr.
Darpan Wadhwa, Sr. Adv. with Mr.
Mahesh Aggarwal, Mr. Rishi
Aggarwala, Mr. Arshit Anand, Ms.
Vidisha Swamp and Mr. Daksh
Arora, Advs. for R-4 and R-5.
Mr. Aniket Prasoon, Mr. Aman
Sheikh, Ms. Arehita Kashyap, Advs.
for R6 & R7.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

DINESH MEHTA, J. (ORAL)

1. The present petition in the name of Public Interest Litigation (PIL)
has been filed with the following prayers :

*“a. Issue appropriate writ in Mandamus / Certiorari and/ or any
other appropriate Writ setting aside the reallocation of 2.3 GW
portion of the Azure Power India Pvt Ltd to Adani Power vide
PPA dated 26.12.2023 by SECI.*

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b. Issue an appropriate writ directing the appropriate investigative agencies to conduct detailed criminal and/or civil investigation.

c. to direct Union of India and State Governments and its instrumentalities to file periodical Compliance Reports pursuant to various directions issued by this Court”

2. The petitioner submits that he is an advocate and practises before the Delhi High Court and claims to be an Advocate-on-Record in the Supreme court of India. He has alleged that grave irregularities have been committed in the competitive bidding process for solar power projects which has resulted in loss to public exchequer.
3. In a bid to satisfy that he is a vigilant citizen and whistle blower, the petitioner claims to have filed another PIL before the Supreme Court being W.P.(C) No. 848/2023.
4. The petitioner has approached this Court with the grievance that reallocation of 2.333 GW of power generation capacity from Azure Power India Pvt. Ltd. (*hereinafter referred to as 'Azure Power'*) (R-6) to Adani Green Energy Four Ltd. (*hereinafter referred to as 'Adani Green'*) (R-4) vide Power Purchase Agreement (*hereinafter referred to as 'PPA'*) is illegal and contrary to norms and the same has been done in an improper manner.
5. Apprising the Court about the necessary facts, the petitioner submitted that on 25.06.2019, the Request for Selection (*hereinafter referred to as 'RfS'*) was issued for selection of Solar Power Developers for setting up of 6 GW ISTS connected Solar PV power plants linked with 2 GW (per annum) Solar Manufacturing Plant. As per the notice inviting bids, the last date for furnishing bids was 13.11.2019, by which date three bidders including Adani Green (R-4) and Azure Power (R-6), took part in the process.
6. Meanwhile, the quantity appears to have been increased to 7 GW and



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accordingly, Adani Green (R-4) and Azure Power (R-6) succeeded in the bidding and out of 7 GW capacity of Solar PV Power Plant, 4.667 GW was allotted to Adani Green (R-4) and 2.333 GW was allotted to Azure Power (R-6), which was subsequently increased.

7. While contending that the capacity was increased without any fresh tender process, petitioner contended that PPA was entered into with Adani Green (R-4) on 26.12.2023, though as per the conditions of RfS and other terms and conditions of the bidding process, the PPA was to be signed within the period of ninety days from the date of Letter of Acceptance (*hereinafter referred to as 'LoA'*). He highlighted that the LoA came to be signed after a period of ninety days.

8. Petitioner further contended that with respect to tariff, though the price at the initial stage was Rs.2.92/kWh, the power purchase agreement was executed @ Rs. 2.42/kWh plus Rs.0.07 applicable margin (total Rs. 2.49/kWh).

9. The petitioner argued that these illegalities have been committed to favour Adani Green (R-4) and Azure Power (R-6) because of their clout and corrupt measures which were adopted by them which can be discerned from the indictment issued by the United States District Court, Eastern District Of New York and the Jury Report, both of which have been placed on record.

10. Having said so, he invited Court's attention towards the order dated 17.04.2025, more particularly para 25, 26 and 28 thereof which was passed by the Central Electricity Regulatory Commission, New Delhi (*hereinafter referred to as 'CERC'*) in petition No. 202/MP/2024. He zealously pointed out that even CERC has noted in clear terms that there has been irregularity in the process, including the process of reallocation of the capacity and that



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the decision to reallocate the 2.333 GW capacity was not placed for its approval.

11. In a bid to substantiate his argument that even re-allocation from Azure Power (R-6) to Adani Green (R-4) was done surreptitiously, petitioner submitted that as planned, Azure Power (R-6) later on expressed its inability to carry out the work and surrendered its capacity which was then allocated to Adani Green and resultantly, the entire offered capacity for power production and manufacturing of the component was given to a single entity, namely Adani Green (R-4), which otherwise could not have been granted to a single entity. Petitioner argued that the entire exercise is colourable and has been done by way of adopting corrupt practices.

12. On Court's query about involvement of public interest or loss to public exchequer or to the public, if any; the petitioner was not in a position to give any satisfactory answer. He tried to demonstrate that the process of tender has not been transparent.

13. *Per contra* Mr. Rajiv Nayyar, learned Senior Counsel at the outset contended that the petition is not *bona-fide* and the petitioner has not even disclosed the fact that a PIL on the same lines is pending before the Andhra Pradesh High Court.

14. He tried to satisfy the Court that the manner and process adopted in increasing the capacity and re-allocating the capacity from Azure Power to Adani Green was transparent and free from any doubt. However, we do not propose to enter into such arena, hence, we refrain from recording his submissions in this regard.

15. Learned Senior Counsel also contended that the petitioner, who claims to be a public spirited man and purportedly has an experience and



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expertise in the field of Electricity Disputes has not even done minimum research and necessary homework. Therefore, the petition deserves to be dismissed with exemplary cost. He expressed an apprehension that the petition can be a sponsored one or motivated by oblique motives.

16. He also submitted that the re-allocation of the capacity was approved by Andhra Pradesh Electricity Regulatory Commission on 12.04.2024 and therefore, it cannot be alleged that there was an irregularity or infirmity.

17. Heard both the parties.

18. We are of the considered view that when it comes to public interest litigation, the first and foremost aspect to be considered by the Court, before or after being satisfied about the *bona-fide* of the petitioner, is – the element of involvement of public interest. In our opinion, unless a petitioner demonstrates that any loss or injury has been caused to the public or to public exchequer, the Courts should not interfere; that too, at the instance of a so-called public interest litigant. An already finalised process and a contract which was granted two years ago, cannot be interfered with or unsettled simply because there have been some irregularities, as alleged.

19. A look at the factual matrix shows that the bids were accepted with a stipulation that the electricity will be procured @ Rs.2.42/kWh, which rate has been approved by the competent authority namely CERC.

20. The High Court is not a panacea for all diseases or crusader for all the wrongs. In the present era, when the Courts are over-burdened with a number of cases and struggle to attend to the grievance of the individuals who have approached the Courts and find themselves unable to adjudicate the rights of all the affected parties, they cannot afford to undertake the fishing and roving enquiry at the behest of a busybody, especially when no



substantial material is brought on record. Simply because a petitioner claims himself to be *bona-fide* whistle blower, the High Court cannot undertake the exercise of finding fault with the decision and decision-making process in each case. There are enough remedies and fora and machinery provided by and under the law. The petitioner who is an advocate can approach them, if he feels so advised.

21. The Public Interest Litigation jurisdiction is meant to be exercised by the Supreme Court and High Courts essentially for giving a voice to the desolates, deprived, or less privileged class who have no mouthpiece and who form a large section of our society or for that matter, to any section of the society for whom it is not economically viable or otherwise feasible to bring their cause before the Courts. The Court can neither go on a wild chase on the basis of cursory accusation or allegations nor should the Court entertain such petitions, unless the allegations are clear, categoric, and supported by clinching evidence. Judgment of the Supreme Court in the case of **State of Jharkhand vs. Shiv Shankar Sharma and Ors.**, reported in (2022) 19 SCC 626 may be relevant on this aspect.

22. Furthermore, the Supreme Court in the case of **State of Uttaranchal vs. Balwant Singh Chaufal and Ors.** reported in (2010) 3 SCC 402 laid down certain guidelines, one of which is that the Courts should be absolutely satisfied with the substantial public interest involved in the petition before entertaining the petition. It will not be out of place to reproduce the directions laid down in the case of **Balwant Singh Chaufal (supra)**:

“181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:



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(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations."

Emphasis Supplied

23. Furthermore, the petitioner has not been able to show the loss or injury to the public or public exchequer. The price of power per unit, at which the Solar Energy Corporation of India will purchase has been reduced after the reallocation of the capacity. Hence, it cannot be said that public



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exchequer has been made to suffer.

24. The so-called increase of capacity and allocation of Azure Power's capacity to Adani Green may at first blush appear to be an irregularity, but the same cannot be examined at the instance of the petitioner, who has no axe to grind so far as bidding process or competitive bidding is concerned. Such grievance, if at all is to be raised, can be raised by a bidder who had taken part in the bidding process. The loss (if any) has been caused to the competitive bidder or the prospective bidder, for whom the petitioner cannot be allowed to voice and litigate.

25. For the above stated reasons, we are not inclined to enter into the arena of investigation and fishing and roving enquiry, simply because the petitioner smells some irregularity in the process.

26. According to us, the Jury Trial demanded by the U.S. Securities and Exchange Commission, which the petitioner has placed before us (with a contention that it is a Jury Report), does not even indicate any loss to public or public exchequer.

27. We, therefore, refuse to entertain the present PIL. The petition is, therefore, dismissed, however without any cost.

DINESH MEHTA, J

VINOD KUMAR, J

MARCH 10, 2026/ss

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 6214 OF 2025

Jitendra Punamchand Maru

.. Petitioner

Vs.

The Central Bureau of Investigation
& Ors.

.. Respondents

...

Mr. Rajendra Desai a/w Mr. Kunal Bhanage i/by Mr. Akshay Pawar, Advocates for the Petitioner.

Mr. Amit Munde, SPP a/w Mr. Jai Vohra for Respondent No.1-CBI.

Mr. Anil C. Singh, Additional Solicitor General a/w Ms. Neha N. Patil, AOR a/w Mr. Aditya Thakkar, Mr. Krishnakant Deshmukh, Adarsh Vyas, Rama Gupta & Mr. Rajdatt Nagre for Respondent No.2-UoI.

Mr. S. V. Gavand, Additional Public Prosecutor for Respondent No.3-State.

...

**CORAM : SHREE CHANDRASHEKHAR, CJ &
SUMAN SHYAM, J.**

**Reserved on : 23rd March 2026
Pronounced on : 27th March 2026**

ORDER :

The petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India for a direction to the Central Bureau of Investigation (in short, CBI) to register a First Information Report and investigate the matter relating to the offence of bribery as disclosed by him in his letters dated 21st October 2025 and 29th October 2025.

2. On 23rd March 2026, the following order was passed by this Court:-

"On 10th March 2026, we passed the following order:

"Mr. Kunal Bhanage, the learned counsel for the petitioner seeks an adjournment on the ground that the arguing counsel is not available today.

2. This is another petition filed by Jitendra Punamchand Maru, who simply states that he is a citizen of India and his right to set the criminal law in motion has been recognized by law. Except that, the petitioner does not say anything about him.

3. Having regard to the fact that the petitioner has filed this writ petition without making any disclosure as per the Bombay High Court Rules, we hereby direct the petitioner to remain physically present in the Court on the next day.

4. Post this matter on 23rd March 2026 together with Criminal Writ Petition No.5542 of 2025."

2. The petitioner is present in the Court and states that previously he was engaged in the business of sale of plastics. But presently there is no business activity carried out by him. On a Court's query what is the source of information on the basis of which this writ petition has been filed, Mr.Rajendra Desai, the learned counsel for the petitioner, who is present in the Court, states that after the petitioner came to know about a decision rendered by the Eastern District Court of New York, he made an application for obtaining a true attested copy of the said judgment and the present writ petition has been filed.

3. Mr. Anil C. Singh, the learned Additional Solicitor General raises objection to the maintainability of the writ petition. The learned Additional Solicitor General refers to an order passed by the High Court of Delhi in Writ Petition (C) 812/2026 titled "Ravi Sharma, Advocate v. Union of India & Ors." and submits that a similar petition, though labelled as Public Interest Litigation, has been dismissed by the High Court of Delhi, a copy of which has been tendered in the Court.

4. Judgment is reserved."

3. The petitioner states that the Ministry of Renewable Energy formed a body in the name of Solar Energy Corporation of India to explore the possibility of increasing use of renewable energy in India and different State Governments entered into

power purchase agreements for distribution of electricity to the consumers. It was around the year 2020 that an Indian Corporate group entered into a conspiracy with Azure Global Ltd. which also claimed to generate solar power to procure contracts by using unlawful means. He further states that these Corporate groups created a Multi Million Dollar Pension Funds for the purpose of bribing several unknown government officials. The petitioner refers to an order passed by the United States District Court, Eastern Court of New York and states that the Indian Corporate group proposed to pay incentives which was nothing but bribe. The petitioner has also referred to the order dated 24th November 2024 for Jury Trial whereunder a notice was proposed to be given to the defendants who are the Chairman, Executive Director, Managing Director etc. of the Indian Corporate group. However, there is no further information provided by the petitioner as to the continuance of any proceedings in the US Court.

4. Mr. Anil C. Singh, learned Additional Solicitor General raised an objection to maintainability of this writ petition and referred to an order passed by the Delhi High Court by which a similar petition against the same Corporate groups labelled as public interest litigation was dismissed.

5. In the order dated 10th March 2026, the Delhi High Court observed that the Jury Trial demanded by the US Securities and Exchange Commission does not even indicate any loss to public exchequer.

6. To begin with, we may indicate that this writ petition is

similar to Criminal Writ Petition No.5542 of 2025 wherein the petitioner has made a similar adventure seeking lodging of criminal case by the CBI against another Corporate group of India. This writ petition is clearly an abuse of the process of the Court. The petitioner who states that his right to put the criminal justice system in motion is recognized in law has failed to provide any justification for not approaching the Court in the last about one decade when someone had allegedly tried to indulge in some unethical practices. In course of the hearing, the petitioner who was present in the Court stated that previously he was engaged in the business of sale of plastic but, presently, he is not carrying on any business activity. The learned counsel for the petitioner stated that this writ petition has been filed on the basis of the newspaper report which published the order passed by the US Court.

7. In a writ petition of this nature, the High Court is required to examine whether the petitioner is seeking any personal gain or there is a private or oblique motive behind filing of the petition. The registration of a criminal case is a very serious matter and it entails drastic consequences to the proposed accused person. This is the duty of the High Court to examine the relevant materials and bestow its considerations as to whether the prayer if granted would serve any public cause. This is the experience across the High Courts that the writ petitions of this kind or a petition masked as a public interest litigation is filed at the behest of the failed competitors or a rival business house or a disgruntled person.

8. In our opinion, the petitioner has failed to establish his

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This order is corrected by the speaking to minutes order dated 8th April 2026.

Panchal

bona fide. The petitioner has no locus to file this writ petition and he has not approached the Court with clean hands. This writ petition does not serve any public purpose. Rather, a petition like the present one causes serious harms and is likely to cause harm to the reputation and business prospects of any Corporate group.

9. For the aforesaid reasons, we do not find any merit in this writ petition which is, accordingly, dismissed.

[SUMAN SHYAM, J.]

[CHIEF JUSTICE]

PRAVIN
DASHARATH
PANDIT

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by PRAVIN
DASHARATH
PANDIT
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