

A GOVT. OF ANDHRA PRADESH AND ORS. ETC. ETC.

v

P. VENKU REDDY

SEPTEMBER 23, 2002

B [M.B. SHAH AND D.M. DHARMADHIKARI, JJ.]

Prevention of Corruption Act, 1988 :

C Ss.2(c)(iii) and (ix)—Public servant—Supervisor in District Co-operative Bank—Criminal case against under provisions of the Act—Quashed by High court in proceedings u/s.482 Cr.P.C. holding that employee is not a 'public servant' as defined in sub-clause (ix) of clause (c) of s.2—Held, in the expansive definition of 'public servant' in sub-clause (ix) of Clause (c) elected office bearers with President and Secretary of a registered co-operative society concerned are included although such office bearers are not servants in employment thereof—But employees or servants of a co-operative society which is controlled or aided by the Government are covered by sub-clause (iii) of Clause (c) of s.2—Respondent employee is covered within the comprehensive definition of 'public servant' under s.2 (c) (iii)—In construing definition of 'public servant' in clause (c) of s.2 court is required to adopt a purposive approach as would give effect to the intention of legislature—In that view Statement of Objects and Reasons contained in the Bill leading to the passing of the Act can be taken assistance of—Order of High Court set aside—Third court would proceed with the trial of the case against the respondent—Interpretation of Statutes—Intention of Legislature.

F *State of Maharashtra and Anr. v. Prabhakarrao and Anr., J.T. (2002) Suppl. 1 SC 5 and State of Madhya Pradesh v. Shri Ram Singh, AIR (2000) SC 873, relied on.*

G *State of Maharashtra v. Laljit Rajshi Shah and Ors., [2002] SCC 699, distinguished.*

State of Gujarat and Anr. v. Patel Ramjibhai Danabhai and Ors. etc. etc., [1979] 3 SCC 347 and Maharashtra State Board of Secondary and Higher Secondary Education and Anr. v. Paritosh Bhupeshkumar Sheth and Ors., [1984] 4 SCC 27, cited.

H

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 997 A
of 2002.

From the Judgment and Order dated 26.9.2001 of the High Court of
Andhra Pradesh in WA No. 1163/2001.

WITH

Crl. A. 998/2002 @ SLP (Crl.) No. 1166/2002.

Ms. K. Amareshwari, Guntur Prabhakar, S. Udaya Kumar Sagar, Ms.
Bina Madhavan, Prasanth and Ms. Meera C.R. for M/s. Lawyer's Knit & Co.
for the Appellant.

L. Nageshwara Rao and D. Mahesh Babu, for the Respondent.

The following Order of the Court was delivered :

DHARMADHIKARI, J. Special Leave to appeal is granted.

The learned counsel appearing for the parties are heard finally on merits
of the case.

Government of Andhra Pradesh and District Co-operative Central Bank
Limited, Nellore, through its General Manager, have preferred this appeal
challenging the Order dated 26.9.2001 of the Division Bench of High Court
of Andhra Pradesh whereby criminal case instituted against the respondent/
accused, who was working as Supervisor in the District Co-operative Central
Bank Limited, Nellore, for alleged offence of accepting bribe punishable under
provisions of the Prevention of Corruption Act, 1988 [for short 'the 1988 Act']
has been quashed in proceedings under Section 482 of Criminal Procedure
Code [for short 'Cr.P.C.]

The High Court by the impugned Order quashed the criminal case
pending against the respondent no. 1 under the 1988 Act on the sole ground
that the accused is not a 'public servant' as defined in Sub-clause (ix) of
Clause (c) of Section 2 of 'the 1988 Act'. In the opinion of the High Court,
definition contained in Sub-clause (ix) of Clause (c) of Section 2 of 'the 1988
Act' covers only President, Secretary and other office bearers of a registered
co-operative society engaged amongst other businesses in banking. Section
2 of the 1988 Act with relevant Clause (C) and Sub-clauses (iii) and (ix) read
as under :

A "2. Definition.—In this Act, unless the context otherwise requires,—

(a)

(b)

(c) "*public Servant*" means, -

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

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

[Underlining for emphasis by court]

E The learned counsel appearing for the State and the District Co-operative Central Bank Limited, Nellore submit that the definition of 'public servant' in Clause (c) of Section 2 of the 1988 Act is very wide and the respondent\accused who is employed as Supervisor in the District Co-operative Central Bank Limited which is "an authority or a body owned or controlled or aided by the Government" in terms of Sub-clause (iii) of Clause (c) of section 2 of the 1988 Act, clearly falls within the definition of 'public servant'.

G On the other hand, learned counsel appearing for the respondent\accused, who supports the impugned judgment of High Court by placing reliance on the decisions of the Supreme Court in the case of *State of Gujarat and Anrs. v. Patel Ramjibhai Danabhai and Ors etc. etc.*, [1979] 3 SCC 347 and *Maharashtra State Board of Secondary and Higher Secondary Education & Anrs. etc., etc. v. Paritosh Bhupeshkumar Sheth and Ors.*, [1984] 4 SCC 27 contends that on comparative reading of Sub-clauses (iii) & (ix) of Clause (c) of Section 2 of the 1988 Act, the principle of Interpretation '*Generalla speciallibus non derogant*' would apply. There being a special provision in H Sub-clause (ix) which covers only certain holders of offices of the specified

co-operative societies, and does not include other employees of such societies, the general provision contained in Sub-clause (iii) of Clause (c) of Section 2 of the 1988 Act shall have no application. It is argued that the special provision in Sub-clause (ix) shall exclude the general provision in Sub-clause (iii).

After hearing the learned counsel appearing for the parties, our conclusion is that the High Court is clearly in error in relying on Sub-clause (ix) and overlooking Sub-clause (iii) of Clause (c) of section 2 of the 1988 Act for quashing the proceeding on the ground that the respondent/accused is not covered by the definition of 'public servant'.

From the above quoted Sub-clause (ix) of Clause (c) of section 2 of the 1988 Act, it is evident that in the expansive definition of 'public servant', elected office-bearers with President and Secretary of a registered co-operative society which is engaged in trade amongst others in 'baking' and 'receiving or having received any financial aid' from the Central or State Government, are included although such elected office-bearers are not servants in employment of the co-operative societies. But employees or servants of a co-operative society which is controlled or aided by the government, are covered by Sub-clause (iii) of clause (c) of Section 2 of the 1988 Act. Merely because such employees of co-operative societies are not covered by Sub-clause (ix) along with holders of elective offices, High court ought not to have overlooked that the respondent, who is admittedly an employee of a co-operative bank which is controlled and aided by the government, is covered within the comprehensive definition of 'public servant' as contained in Sub-clause (iii) of clause (c) of Section 2 of the 1988 Act. It is not disputed that the respondent/accused is in service of a co-operative Central Bank which is an 'authority or body' controlled and aided by the government.

It cannot be lost sight of that the 1988 Act, as its predecessor that is the repealed Act of 1947 on the same subject, was brought into force with avowed purpose of effective prevention of bribery and corruption. The Act of 1988 which repeals and replaces the Act of 1947 contains a very wide definition of 'public servant' in Clause (c) of section 2 of the 1988 Act. The Statement of objects and Reasons contained in the Bill by which the Act was introduced in the Legislature throws light on the intention of the legislature in providing a very comprehensive definition of word 'public servant'. Paragraph 3 of the statement of Objects and reasons reads:

"The bill, *inter-alia*, envisages widening the scope of the definition

A of the expression 'public servant', incorporation of offences under sections 161 to 165A of the Indian Penal Code, enhancement of penalties provided for these offences and incorporation of a provision that the order of the trial court upholding the grant of sanction for prosecution would be final if it has not already been challenged and the trial has commenced. In order to expedite the proceedings, provisions for day-to-day trial of cases and prohibitory provisions with regard to grant of stay and exercise of powers of revision on interlocutory orders have been included.

B
C Clause 2 of the Notes on Clauses in Gazette of India Extraordinary, Part-II, Sec. 2, further clarifies the legislative intent thus:

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

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

F In construing definition of 'public servant' in Clause (c) of Section 2 of the 1988 Act, the court is required to adopt a purposive approach as would give effect to the intention of legislature. In that view *Statement of Objects and Reasons* contained in the Bill leading to the passing of the Act can be taken of assistance of. It gives the background in which the legislation was enacted. The present Act, with much wider definition of 'public servant', was brought in force to purify public administration. When the legislature has used such comprehensive definition of 'public servant' to achieve the purpose of punishing and crubing growing corruption in government and semi-government departments, it would be appropriate not to limit the contents of definition clause by construction which would be against the spirit of the statute. The definition of 'public servant', therefore, deserves a wide construction. see : *State of Madhya Pradesh v . Shri Ram Singh*, AIR (2000)

SC 873.

A

As a matter of fact, we find that the point arising before us on the definition of 'public servant' that it does include employee of a banking co-operative society which is 'controlled or aided by the government' is clearly covered against the respondent/accused by the judgment in the case of *State of Maharashtra & Anrs. v. Prabhakar Rao and Anr.*, JT (2002) Suppl. 1 SC 5.

B

The other decision relied on behalf of the respondent in the case of *State of Maharashtra v. Laljit Rajshi Shah and Ors.*, [2000] 2 SCC 699 is distinguishable as it was based on interpretation of the definition of 'public servant' as was contained in the repealed Act of 1947 which restricted it to cover only such 'public servants' as are included in Section 21 of Indian Penal Code.

C

The appeals, therefore, succeed and are allowed. The impugned order of the High Court dated 26.9.2001 is hereby set aside. The trial court is directed to proceed with the trial of the case against the respondent with law.

D

R.P.

Appeals allowed.