

A STATE OF MAHARASHTRA & ORS.

v.

BRIJLAL SADASUKH MODANI

(Criminal Appeal No. 1329 of 2009)

B

DECEMBER 15, 2015

[DIPAK MISRA AND ADARSH KUMAR GOEL, JJ.]

C *Prevention of Corruption Act, 1988: s.2(c) – Respondent worked in Osmanabad Janata Sehkari Bank Ltd. – While he was in service, notice was issued by Anti Corruption Bureau requiring him to give details of the properties acquired by him – Respondent replied that the provisions of 1988 Act were not applicable to him – High Court quashed the notices*

D *accepting the plea of respondent that there was no control of the State Government or the Central Government or any other authority on the functioning of the bank and therefore he could not be termed as a public servant as defined under 1988 Act – Whether respondent be treated as a public servant under*

E *the purview of 1988 Act – Held: Any grant or any aid at the time of establishment of the society or in any construction or in any structural concept or any aspect would be aid – High Court was swayed by the concept of Article 12 of the Constitution, the provisions contained in 1949 Act to hold*

F *that multi-state society is not controlled or aided by the Government – In the facts of the case, it is left to be dealt with in the course of trial whether the society concerned was ever been granted any kind of aid or not – Impugned order set aside and issue whether the respondent is a public servant*

G *or not to be gone into during the trial – Constitution of India, 1950 – Art. 12 – Banking Regulations Act, 1949 – Multi-State Cooperative Societies Act, 2002.*

H *S.S. Rana v. Registrar, Coop. Societies & Anr. (2006) 11 SCC 634: 2006 (1) Suppl. SCR 311;*

- Ajay Hasia v. Khalid Mujib Sehravardi* (1981) 1 SCC 722; 1981 (2) SCR 79; *Zoroastrain Coop. Housing Society Ltd. v. District Registrar, Coop. Societies (Urban) & Ors.* (2005) 5 SCC 632; 2005 (3) SCR 592; *State of Maharashtra v. Laljit Rajshi Shah* AIR 2000 SC 937; 2000 (1) SCR 1239; *Ramesh Balkrishna Kulkarni v. State of Maharashtra* (1985) 3 SCC 606; 1985 (2) Suppl. SCR 345; *Federal Bank Ltd. v. Sagar Thomas* (2003) 10 SCC 733; 2003 (4) Suppl. SCR 121; *Govt. of A.P. v. P. Venku Reddy* (2002) 7 SCC 631; 2002 (2) Suppl. SCR 538; *Almitra H. Patel v. Union of India* (2000) 2 SCC 679; 2000 (1) SCR 841; *State of M.P. v. Rameshwar* (2009) 11 SCC 424; 2009 (5) SCR 510; *Samrao Vitthal Cooperative Bank Ltd. & Anr. v. Padubidri Pattabhiram Bhat & Ors.* AIR 1993 Bom. 91; *State of U.P. v. Vishwanath Kapoor & Ors.* 1980 CrLJ 494; *Hanmant Janardhan Patil v. State of Maharashtra* 1993 Mh.LJ 511; *Executive Committee, Vaish Degree College, Shamli & Ors. v. Lakshmi Narain & Ors.* (1976) 2 SCC 58; *S.S. Dhanoa v. Municipal Corporation, Delhi & Ors.* (1981) 3 SCC 431; 1981 (3) SCR 864; *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology* (2002) 5 SCC 111; 2002 (3) SCR 100; *Gayatri De v. Mousumi Cooperative Housing Society Ltd. and others* (2004) 5 SCC 90; 2004 (1) Suppl. SCR 356; *State of Maharashtra v. Laljit Rajshi Shah* (2000) 2 SCC 699; 2000 (1) SCR 1239 – referred to.

Case Law Reference

- 2006 (1) Suppl. SCR 311 referred to. Para 3 H

A	1981 (2) SCR 79	referred to.	Para 3
	2005 (3) SCR 592	referred to.	Para 3
	2000 (1) SCR 1239	referred to.	Para 3
B	1985 (2) Suppl. SCR 345	referred to.	Para 3
	2003 (4) Suppl. SCR 121	referred to.	Para 3
	2002 (2) Suppl. SCR 538	referred to.	Para 4
C	2000 (1) SCR 841	referred to.	Para 7
	2009 (5) SCR 510	referred to.	Para 7
	AIR 1993 Bom. 91	referred to.	Para 8
D	1980 CrLJ 494	referred to.	Para 8
	1993 Mh.LJ 511	referred to.	Para 8
	(1976) 2 SCC 58	referred to.	Para 8
E	1981 (3) SCR 864	referred to.	Para 8
	2002 (3) SCR 100	referred to.	Para 10
	2004 (1) Suppl. SCR 356	referred to.	Para 11
F	2000 (1) SCR 1239	referred to.	Para 19

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal
No. 1329 of 2009

G From the Judgment and Order dated 05.02.2008 of the
High Court of Judicature of Bombay, Bench at Aurangabad in
Criminal Writ Petition No. 729 of 2006]

Shankar Chillarge, Aniruddha P. Mayee for the Appellants.

H

Sudhanshu S. Chaudhari, A. M. Irpatgire, Vatsalya Vigya, A
Naresh Kumar for the Respondent.

The Judgment of the Court was delivered by

DIPAK MISRA, J. 1. The respondent served in different B
capacities in Osmanabad Janata Sehkari Bank Ltd.,
Osmanabad (for short, "the Bank") since 1972. On attaining
the age of 58 years, he stood superannuated in June 2004.
The Managing Committee of the Bank, however, extended C
service of the respondent for a further period of two years and
after completion of one year, he sought leave of the Bank to
be allowed to retire as he was in ill-health and accordingly he
retired in the month of June, 2005. As the factual matrix would
unveil, he was appointed as an Accountant in the Bank in the
year 1972 and was promoted to the post of Manager in 1981 D
and eventually to the post of General Manager, which post he
held till his retirement. Be it stated, while he was in service, he
received a notice signed by the Deputy Superintendent of
Police, Anti Corruption Bureau, Osmanabad requiring him to
give details of the property acquired by him. In response to the E
said letter, the respondent on 15.2.2001 replied that the
provisions of Prevention of Corruption Act, 1988 (for short, "the
1988 Act") was not applicable to him. After his superannuation,
he received two letters from the same investigating authority F
to attend an enquiry so that his statement could be recorded
in respect of his properties and expenditure, to which he
replied. Thereafter, he preferred Criminal Writ Petition No. 729
of 2006 before the High Court of Judicature of Bombay, Bench
at Aurangabad, assailing the notices which were in the realm
of investigation. G.

2. The principal plank of submission in the writ petition
was that he was not a public servant as defined under sub-
section (c) of Section 2 of 1988 Act and he cannot by any
means of interpretation of Section 21 of the Indian Penal Code H

A (IPC) be treated as such. On behalf of the State and the
investigating agency it was contended that the writ petitioner
would come under the definition of public servant as per
Section 2(c) (iii) and (ix) of the 1988 Act. It was also urged that
the Bank is governed by Multi-State Cooperative Societies
B Act, 2002 (for short, "the 2002 Act") inasmuch as it has been
registered as a multi-state cooperative bank on 12.7.2000.
Reliance was also placed on Section 56 of the Banking
Regulations Act, 1949 (hereinafter referred to "the 1949 Act")
C for the purpose of bolstering the stand in view of the amendment
to Section 56, the provisions of the 1949 Act would be
applicable to the cooperative bank. It was also highlighted that
as per the 1949 Act, the Reserve Bank of India has direct
control and supervision over the cooperative banks and the
D same is evincible from Section 35A and 26 of the 1949 Act. In
addition to the aforesaid, emphasis was laid on Section 122
and 123 of the 2002 Act to highlight the power of the Central
Government to issue directions to the multi-state cooperative
banks is in public interest.

E 3. The High Court referred to certain provisions of the
Maharashtra Cooperative Societies Act, 1960 (for short "the
1960 Act"), 2002 Act, 1988 Act and 1949 Act, took note of the
submissions of the learned counsel for the petitioner which
was to the effect that there is no control of the State Government
F or the Central Government or any other authority on the
functioning of the Bank and, therefore, he could not be termed
as a public servant, as is defined under the 1988 Act, and
perused the bye-laws of the Bank on the bedrock of various
G provisions of different Acts which have been referred to
hereinbefore; and thereafter referring to the decisions rendered
in *S.S. Rana v. Registrar, Coop. Societies & Anr.*¹, *Ajay
Hasia v. Khalid Mujib Sehravardi*², *Zoroastrain Coop.*

H ¹ (2006) 11 SCC 634

² (1981) 1 SCC 722

Housing Society Ltd. v. District Registrar, Coop. Societies (Urban) & Ors.³, **State of Maharashtra v. Laljit Rajshi Shah**⁴, **Ramesh Balkrishna Kulkarni v. State of Maharashtra**⁵, **Federal Bank Ltd. v. Sagar Thomas**⁶ came to hold that so far as the Bank is concerned, the Central Government has not purchased any share of the Bank. A B

4. Be it stated, the High Court distinguished the decision rendered in **Govt. of A.P. v. P. Venku Reddy**⁷, and proceeded further to state as follows:-

"We are, therefore, of the opinion that the petitioner who discharged his duties as General Manager could not be termed as a 'public servant' as defined in the Prevention of Corruption Act, 1988. Under the provisions of the Banking Regulation Act 1949 the Central Government or any authority of the Government, the Reserve Bank of India exercise regulatory control over the Bank which is registered under the multi-State Cooperative Societies Act. The said control exercised by these authorities would not be termed as deep and pervasive one. The day to day activities, the internal management are not at all governed and controlled by the Government or its authorities. The Bank is not aided one or funded in any manner by the Government or its authorities. The service conditions of its employees are not regulated by the State or the Central Government or its authorities. Respondent No.3 is, therefore, not competent to initiate action under the provisions of the Prevention of Corruption Act against C D E F

³ (2005) 5 SCC 632 G

⁴ AIR 2000 SC 937

⁵ (1985) 3 SCC 606

⁶ AIR 2003 SC 4325 = (2003) 10 SCC 733

⁷ (2002) 7 SCC 631 H

A the petitioner. The impugned notices issued to the petitioner by the respondent No. 3 are without jurisdiction and null and void. The notices are required to be quashed and set aside.”

B 5. On the basis of the aforesaid analysis, the High Court quashed the two notices issued by the Deputy Superintendent of Police, Anti-Corruption Bureau, Osmanabad. Hence, this appeal, by special leave, by the State of Maharashtra and its functionaries.

C 6. We have heard Mr. Shankar Chillarge, learned counsel for the appellants and Mr. Sudhanshu S. Chaudhari, learned counsel for the respondent.

D 7. It is submitted by Mr. Shankar Chillarge, learned counsel for the State that regard being had to the broad definitions of public servant under Section 2(c)(iii) of the 1988 Act, the respondent should have been treated as a public servant under the purview of the 1988 Act and the High Court has fallen into grave error by treating him not to be one by misconstruing the provision. It is urged by him that if the statutory scheme of the 1949 Act and the 2002 Act is seen, it will be quite clear that he comes within the dictionary clause of the 1988 Act. Learned counsel for the appellants would further submit that purposive
E interpretation should be placed on the provision but the
F excessively narrow construction placed by the High Court is absolutely erroneous and hence, the order impugned deserves to be dislodged. Learned counsel for the State has relied on
G ***Almitra H. Patel v. Union of India***⁸ and ***State of M.P. v. Rameshwar***⁹.

8. Mr. Sudhanshu S. Chaudhari, learned counsel for the respondent, per contra, has submitted that when reply was

H ⁸ (2000) 2 SCC 679

⁹ (2009) 11 SCC 424

given by the respondent in 2001 and the Deputy Superintendent of Police, Anti-Corruption Bureau, kept quiet for five years till 10.11.2006, it is to be presumed that he was satisfied with the explanation and there was no justification to issue further notice. It is his submission that to bring the respondent within the purview of Section 2(c) (iii) and (ix) of the 1988 Act, it is obligatory on the part of the appellants to establish that the respondent is an employee of a body or a cooperative society owned and controlled or aided by the Government as defined in Section 617 of the Companies Act, 1956. Learned counsel would contend that the admitted position is that the bank in question has not received any financial aid either from the Central Government or the State Government and, therefore, the provisions would not apply to him. It is urged by Mr. Chaudhari that the provisions of Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004 would not be attracted to this case inasmuch as the administration of the multi-state cooperative society vests in the general body and by virtue of the powers enumerated under the 1949 Act to be exercised by the Reserve Bank of India would not tantamount to control over the cooperative bank and hence, he cannot be treated as a public servant. To bolster his submissions, he has placed reliance on **Samrao Vitthal Cooperative Bank Ltd. & Anr. v. Padubidri Pattabhram Bhat & Ors.**¹⁰, **State of U.P. v. Vishwanath Kapoor & Ors.**¹¹, **Hanmant Janardhan Patil v. State of Maharashtra**¹², **Executive Committee, Vaish Degree College, Shamli & Ors. v. Lakshmi Narain & Ors.**¹³, **Federal Bank (supra), S.S. Dhanoa v. Municipal Corporation, Delhi & Ors.**¹⁴, and **S.S. Rana (supra)**.

¹⁰ AIR 1993 Bom. 91

¹¹ 1980 CrLJ 494

¹² 1993 Mh.LJ 511

¹³ (1976) 2 SCC 58

¹⁴ (1981) 3 SCC 431

A 9. Firstly, we shall refer to some of the authorities cited at
the Bar. In **Samrao Vitthal Cooperative Bank Ltd.** (supra),
High Court of Bombay was dealing with the issue whether the
appellant Bank was "State" within the meaning of Article 12 of
the Constitution. The Full Bench, after referring to various
B provisions of the Multi-State Cooperative Societies Act, 1984
and the 1960 Act, came to hold as follows:-

C "24. A Multi-State Co-operative Bank cannot be
compared, in the manner of its functioning, with the State
Bank of India at all. As set out earlier, the Central
Government does not have any all pervasive control over
a Multi-State Co-operative Bank. Hence, merely because
banking function is of public importance, this factor itself
is not sufficient to make the appellant bank "State" or
D "other authority" under Article 12.

E 25. In the case of **Narayan v. Maharashtra State Co-**
operative Land Development Bank Ltd., reported in 1991
(1) BomCR 469 the Nagpur Bench of our High Court held
that the Maharashtra State Co-operative Land
Development Bank Limited was "State" or "other
authority" under Art. 12. In doing so, the Nagpur Bench
relied upon the judgment of the learned single Judge in
the present case. The Nagpur Bench relied upon two
F factors only for the purpose of holding that the
Maharashtra State Co-operative Land Development
Bank was "State" within the meaning of Art. 12. It said (at
page 474) that the Maharashtra State Co-operative Land
Development Bank Limited is a creature of the statute
and it is discharging public functions which the State could
G have discharged through its agency. Hence it held that
the Bank was a State. In our opinion, the Division Bench,
over emphasised the fact that the Bank was a creature
of the statute. As the Supreme Court has repeatedly said,
H

the manner in which an organisation is created is not of any direct relevance. What is required to be seen is whether there is pervasive State control over its management and functioning. Moreover, merely because an organisation performs functions of public importance, one cannot hold that the organisation is "State" under Article 12. The only other factor which the Nagpur Bench looked at was the fact that the Bank was regulated by laws enacted by the State. Such regulatory laws as we have said earlier, are enacted to cover a large number of organisations. The laws which regulate the functioning of such organisations are presumably enacted in public interest. This does not mean that any of these organisations, if they perform public functions, automatically become "State" under Article 12. In our view the above decision does not apply tests to determine when an organisation can be considered as "State" under Art. 12 correctly".

10. In *S.S. Rana* (supra), while dealing with the maintainability of a writ petition by an employee working in a Cooperative Bank under the Himachal Pradesh Cooperative Societies Act, 1968, this Court referred to the earlier decisions, namely, *Ajay Hasia* (supra) and *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*¹⁵, opined that the society did not satisfy the tests laid down in the case of *Pradeep Kumar Biswas* (supra) and hence, the High Court was not in error in arriving at the conclusion that the society was not a State under Article 12 of the Constitution.

11. In this regard, it is profitable to refer to *Gayatri De v. Mousumi Cooperative Housing Society Ltd. and others*¹⁶ wherein the Court held as follows:-

¹⁵ (2002) 5 SCC 111

¹⁶ (2004) 5 SCC 90

A “54. In the case of *S.R. Tewari v. Distt. Board, Agra*¹⁷ this
Court held that the powers of statutory authorities are
always subject to the statute which has constituted it and
must be exercised consistently with the statute, and the
courts have, in appropriate cases, the power to declare
B an action of the body illegal or *ultra vires*, even if the
action relates to determination of employment of a
servant.

C 55. We have, in paragraphs supra, considered the
judgments for and against on the question of
maintainability of writ petition. The judgments cited by
the learned Senior Counsel appearing for the
respondents are distinguishable on facts and on law.
D Those cases are not cases covered by the appointment
of a Special Officer to manage the administration of the
Society and its affairs. In the instant case, the Special
Officer was appointed by the High Court to discharge
the functions of the Society, therefore, he should be
E regarded as a public authority and hence, the writ petition
is maintainable.”

The said decision has been distinguished in *S.S. Rana*
case (supra).

F 12. In *P. Venku Reddy* (supra), the assail was to an order
of the Division Bench of the High Court of Andhra Pradesh
where it had quashed the criminal proceeding instituted under
the 1988 Act in respect of a supervisor working in District
Cooperative Central Bank Limited. In that context, the Court
G observed:-

“12. In construing the definition of “public servant” in clause
(c) of Section 2 of the 1988 Act, the court is required to

H ¹⁷ AIR 1964 SC 1680

adopt a purposive approach as would give effect to the intention of the legislature. In that view the *Statement of Objects and Reasons* contained in the Bill leading to the passing of the Act can be taken assistance of. It gives the background in which the legislation was enacted. The present Act, with a much wider definition of “public servant”, was brought in force to purify public administration. When the legislature has used such a comprehensive definition of “public servant” to achieve the purpose of punishing and curbing growing corruption in government and semi-government departments, it would be appropriate not to limit the contents of the definition clause by construction which would be against the spirit of the statute. The definition of “public servant”, therefore, deserves a wide construction. (See *State of M.P. v. Shri Ram Singh*¹⁸.)

13. As a matter of fact, we find that the point arising before us on the definition of “public servant” that it does include an employee of a banking cooperative 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 v. Prabhakarrao*¹⁹.”

13. In *Rameshwar* (supra), the issue that arose before this Court was whether the respondent therein was a public servant for the purposes of the 1988 Act, regard being had to the fact that he was a Director of Indore Premier Cooperative Bank Ltd. On behalf of the State, reliance was placed on Section 87 of the M.P. Cooperative Societies Act, 1960 which provides that Registrar and other officers as well as employees of a cooperative bank or a cooperative society would be deemed to be public servants under the 1988 Act and on that

¹⁸ (2000) 5 SCC 88

¹⁹ (2002) 7 SCC 636

A basis the Court came to hold that the Chairman and the
Executive Officer of the Bank would come within the definition
of "public servant" under Section 2(c)(ix) of the 1988 Act. On a
perusal of the judgment it appears that the Court has been
persuaded by the conferment of status on the officers of the
B bank as public servants and the definition of the "public servant"
under the 1988 Act.

14. As far as State of Madhya Pradesh is concerned,
there is no difficulty as the M.P. Cooperative Societies Act,
C 1960 itself declares the authorities as public servant. The issue
that arises for consideration in the present case is whether a
multi-State society which handles crores of rupees and the
persons who handle such huge amounts of money should be
D 1988 Act on the ground that they do not come under the ambit
and sweep of Article 12 of the Constitution or solely because
of construction placed under Section 2(c)(ix) of the 1988 Act.
That apart, another significant issue also arises for
consideration. Section 2(ix) to make an employee of a
E cooperative society provides certain conditions or conditions
precedent to be satisfied and, therefore, the question would
be, whether the High Court by only stating that it is the admitted
position should have quashed the proceeding. There are
various stages and hence, the thrust of the matter is in a
F corruption case whether exercise of jurisdiction under Section
482 of the Code of Criminal Procedure, 1973 is warrantable.
In this regard, the relevant paragraphs from the Statement of
Objects and Reasons are requisite to be reproduced. It is as
follows:-

G "2. The Prevention of Corruption Act, 1947, was
amended in 1964 based on the recommendations of the
Santhanam Committee. There are provisions in Chapter
IX of the Indian Penal Code to deal with public servants
H and those who abet them by way of criminal misconduct.

There are also provisions in the Criminal Law Amendment Ordinance, 1944, to enable attachment of ill-gotten wealth obtained through corrupt means, including from transferees of such wealth. The Act seeks to incorporate all these provisions with modifications so as to make the provisions more effective in combating corruption among public servants.

3. The bill, inter alia, envisages widening the scope of the definition of the expression 'public servant', incorporation of offences under Sections 161 to 165-A of the 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 also been included."

15. Section 2(c)(ix) on which immense thrust has been given by the learned counsel for the State on the basis of certain authorities of this Court, reads as follows:-

"(ix) any person who is the president, secretary or other office-bearer of a registered cooperative 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);"

A 16. On a perusal of the decisions of this Court, it is manifest
that stress has always been laid on Section 2(c)(ix) of the 1988
Act as a consequence of which the fall out is that the registered
cooperative society must have received financial aid from the
B Central Government or the State Government or any other
institution mentioned therein.

17. The High Court has referred to various provisions of
the 1949 Act and proceeded on the status of cooperative
society and eventually has held that:-

C “So far as the Bank is concerned, the Central
Government has not purchased any share of the Bank. It
is argued by the learned A.P.P. that the power conferred
D on the Reserve Bank of India and the Central Registrar
under the provisions of the Banking Regulation Act are
sufficient proof to arrive at conclusion that the functioning
of the Bank is regulated and controlled by the Reserve
Bank of India. We do not accept the proposition
E advanced by the learned APP. It is settled position that
general regulations under an Act, like the Companies
Act or Cooperative Societies Act, would not render the
activities of a company or a society as subject to control
of the State. Whatever control exercised by the
F Government or its authorities under the provisions of the
Act are meant to ensure proper functioning of the society.
The Government or in this case the Reserve Bank of India
or any other statutory authorities have no role to play in
day-to-day functioning of the societies/banks much less
control over the recruitment of the staff, its service
G conditions etc. Considering the provisions of the different
enactments more particularly the provisions of the
Banking Regulation Act 1949, we are of the view that the
Reserve Bank of India or the Government or its
H authorities do not exercise any direct, deep and pervasive
control over the functioning of the Bank.

18. And again:- A

“... Therefore it would not be reasonable and proper now to relegate the petitioner to alternative forum by asking him to appear before respondent no.3 and agitate the same issues.” B

19. In *Prabhakarrao* (supra) the Court was dealing with the issue whether the High Court was justified in holding that the accused was not a public servant. In the said case, the High Court had placed heavy reliance on the authority of *State of Maharashtra v. Laljit Rajshi Shah*²⁰. In *P. Venku Reddy* (supra), the Court has distinguished the said decision and referred to Section 2 of the 1988 Act and in that context observed thus:- C

“3. Under clause (iii) of Section 2(c), 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 and under clause (ix) the President, Secretary and other office-bearers of a registered cooperative society engaged in agriculture, industry, have been included in the definition of “public servant”. D E

4. The question for consideration is whether the accused in the present case comes within the purview of the aforementioned clauses or any other clause of Section 2(c) of the Prevention of Corruption Act, 1988. For determination of the question, enquiry into facts, relating to the management, control and funding of the society, is necessary to be ascertained.” F G

20. As we notice, the High Court has really been swayed by the concept of Article 12 of the Constitution, the provisions

²⁰ (2000) 2 SCC 699

A contained in the 1949 Act and in a mercurial manner taking
note of the fact that the multi-state society is not controlled or
aided by the Government has arrived at the conclusion. In our
considered opinion, even any grant or any aid at the time of
establishment of the society or in any construction or in any
B structural concept or any aspect would be an aid. We are
inclined to think so as the term 'aid' has not been defined. A
sprinkle of aid to the society will also bring an employee within
the definition of 'public servant'. The concept in entirety has to
be understood in the backdrop of corruption. In **Shri Ram**
C **Singh** (supra), this Court had to say this:-

“Corruption in a civilised society is a disease like cancer,
which if not detected in time, is sure to malignise (*sic*)
D the polity of the country leading to disastrous
consequences. It is termed as a plague which is not only
contagious but if not controlled spreads like a fire in a
jungle. Its virus is compared with HIV leading to AIDS,
being incurable. It has also been termed as royal thievery.
E The socio-political system exposed to such a dreaded
communicable disease is likely to crumble under its own
weight. Corruption is opposed to democracy and social
order, being not only anti-people, but aimed and targeted
F against them. It affects the economy and destroys the
cultural heritage. Unless nipped in the bud at the earliest,
it is likely to cause turbulence — shaking of the socio-
economic-political system in an otherwise healthy,
wealthy, effective and vibrating society.”

21. We share the said perception, and reiterate with
G agony. The ingemination has to be realized with sanctity.
Therefore, we are of the convinced opinion that it was entirely
unnecessary on the part of the High Court to enter into elaborate
deliberation to arrive at the conclusion that the respondent was
H not a public servant. Regard being had to the facts of the case,

we think it would be apposite that it is left to be dealt with in the course of trial whether the society concerned has ever been granted any kind of aid or not. A

22. In view of the aforesaid premises, we allow the appeal, set aside the judgment and order passed by the High Court and direct that the issue i.e. whether the respondent is a public servant or not, shall be gone into during the trial. B

Devika Gujral

Appeal allowed.