

SUPREME COURT OF INDIA

State of Punjab

Vs.

Karnail Singh

CrI.A.No.....of 2008

(Dr. Arijit Pasayat and J.M. Panchal JJ.)

22.09.2008

JUDGMENT

Dr.Arijit Pasayat, J.

1. Leave granted.
2. Challenge in this appeal is to the judgment of the learned Single Judge of the Punjab and Haryana High Court allowing the Criminal revision petition filed by the respondent.
3. Challenge before the High Court was to the order dated 11.5.2004 passed by learned Special Judge, Mansa, framing charges against the respondent for offence punishable under Sections 7 and 13(2) of *Prevention of Corruption Act, 1988* (in short the 'Act'). The respondent was working as a Manager of Punjab Agricultural Development Bank at Budladha. The stand before the High Court was that the writ petitioner was not covered within the definition of "public servant" as the Bank was only a Co-operative Society and not receiving aid of any kind from the Government. An affidavit was filed by the Managing Director, Punjab State Co-operative Agricultural Development Bank Limited to the effect that State Government had invested Rs.50 lakhs as share capital in the Bank and Bank is controlled by the State Government. It was also argued that the Managing Director was an official of the State Government of the designation of Additional Registrar, Cooperative Societies and, therefore, the writ petitioner was a "public servant". The High Court wanted to know the total share capital of the Bank and as to whether it falls within the definition of Government Company as defined under Section 617 of the Companies Act, 1956. After referring to sub-clause (ix) of clause (c) of Section 2 of the Act the High Court came to an abrupt conclusion that the charges had been framed relying on the aforesaid clause, but on the facts it cannot be said that the revision petitioner falls within the definition of "public servant". Accordingly, it allowed the revision petition and Special Judge, Mansa's order dated 11.5.2004 was set aside.

4. In support of the appeal, learned counsel for the appellant submitted that a bare reading of sub-clause (ix) of clause (c) of Section 2 of the Act makes the position clear that the respondent was a "public servant".

5. Learned counsel for the respondent on the other hand submitted that the essential ingredients to cover the respondent within the definition of "Public servant" are absent and, therefore, the High Court was justified in allowing the revision petition. Section 2(c)(ix) reads as follows:

“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.*”

6. The High Court has not analysed the factual position. It is also not known whether the details asked by the High Court like the total share capital of the Bank and as to whether it falls within the definition of Government Company were supplied or not. The effect of the affidavit filed by the Managing Director also was not considered. Learned counsel for the appellant has referred to the provisions of the *Punjab Cooperative Agricultural Development Banks Act, 1957* (in short the `Punjab Act') and various provisions thereof e.g. Section 2(d), 2(f), 2(g) and Section 10 to contend that revision petitioner was a public servant. Needless to say the High Court was required to consider the relevance of the aforesaid provisions and other provisions of Punjab Act.

7. Therefore, we set aside the impugned order of the High Court and remit the matter to it for fresh consideration.

8. The appeal is allowed accordingly.