

A STATE OF PUNJAB  
v.  
KARNAIL SINGH  
(Criminal Appeal No. 1505 of 2008)

B SEPTEMBER 22, 2008

**[DR. ARIJIT PASAYAT AND J.M. PANCHAL, JJ.]**

C *Prevention of Corruption Act, 1988 – ss.7 and 13(2) – Framing of charges against Respondent-Manager of Punjab Agricultural Development Bank under the PC Act – Quashing of, by High Court holding that Respondent did not fall within the definition of “public servant” – Held: High Court did not analyse the factual position and also did not consider relevance of the provisions of Punjab Act of 1957, which Appellant adverted to, to contend that Respondent was a public servant – Consequently, matter remitted to High Court for fresh consideration – Punjab Cooperative Agricultural Development Banks Act, 1957 – ss.2(d), (f), (g) and 10.*

D  
E **Respondent was Manager in the Punjab Agricultural Development Bank. The Trial Court framed charges against him for offences punishable under ss.7 and 13(2) of the Prevention of Corruption Act, 1988. Respondent challenged the judgment by filing criminal revision petition. High Court held that Respondent did not fall within the definition of “public servant” and allowed the petition thereby setting aside the judgment of the Trial Court. Hence the present appeal.**

F  
G **Allowing the appeal and remitting the matter to High Court for fresh consideration, the Court**

**HELD: 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 Govern-**

ment Company were supplied or not. The effect of the affidavit filed by the Managing Director, Punjab State Co-operative Agricultural Development Bank also was not considered. Appellant has referred to the provisions of the Punjab Cooperative Agricultural Development Banks Act, 1957 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. The High Court was required to consider the relevance of the aforesaid provisions and other provisions of the said Punjab Act of 1957. [Para 6] [803-A-C]

CRIMINALAPPELLATE JURISDICTION : Criminal Appeal  
No. 1505 of 2008

From the final Judgment and Order dated 20/7/2006 of the High Court of Punjab and Haryana at Chandigarh in Crl. Revision No. 1320 of 2004

K.K. Khurana, A.A.G., A.K. Mehta and Kuldip Singh for the Appellant.

Gagan Gupta for the Respondent.

The Judgment of the Court was delivered by

**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

A 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  
B Director was an official of the State Government of the desig-  
nation of Additional Registrar, Cooperative Societies and, there-  
fore, 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  
C 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  
D petition and Special Judge, Mansa's order dated 11.5.2004  
was set aside.

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

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

G "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  
H 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.

B.B.B.

Appeal allowed.