

IN THE COURT OF SESSIONS JUDGE, WASHIM.

Order Below Exh. 15

(Dated 11/05/2026)

1. It is the case of the prosecution that the present applicant was working as a clerk in the head office of MSEDCL a State Electric supply company. It is contended that complainant who was also working in MSEDCL did not report the damage of the pole and damage to the pole by the JCB hit and was negligent in performance of his duties. There was Contemplation of domestic inquiry against the complainant. To avoid this, accused demanded some money for ₹ 10,000/- to Complainant.
2. The principle ground contended that present accused was employed on Contractual services and will not fall under the definition of 'public servant' and his duties will not fall under the law 'Public duty', under the Prevention of Corruption Act, 1988 and that there is no evidence of demand and acceptance. Hence, he should be discharged.
3. Heard Both sides. Perused the application and considered the submissions advanced.
4. This is a case of successful trap case, there is verification of demand and successful trap panchnama. Thus, at this stage, I hold that prima-facie there is evidence on record that against the complainant, the accused took money for not prosecuting the Complainant as per law. The taking of administrative action in a Public Office certainly relates to enforcement of Public duties and hence, these actions will fall under the definition of 'Public duty'.

5. Now the question of public servant as the said Person was admittedly working as “contractual employee” in the MSEDCL office as per rules. The admitted fact is that he was working and doing work of MSEDCL office work in their office. In this context one has to consider the legal issues of this case.
6. The main point arises is the interpretation of the context of Public servant. In this regard the purpose of THE PREVENTION OF CORRUPTION ACT, 1988 is of material importance.
7. As is said Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values. Therefore, the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. That is to say in a situation where two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption to the one which seeks to perpetuate it.
8. The interpretation of a definition should not only avoid being repugnant to the context but it should also be interpreted to achieve the purpose which is sought to be served by the statute. A construction which would defeat or may likely defeat the purpose of the Act has to be ignored and not accepted. A definition, like any other word in a statute, has to be read in the light of the context and scheme of the Act. The object of the PC Act was not only to prevent the social evil of bribery and corruption, but also to make the same applicable to individuals who might conventionally not be considered public servants. The

purpose under the 1988 PC Act was to shift focus from those who are traditionally called public officials.

9. Relevant extracts of the definitions under the THE PREVENTION OF CORRUPTION ACT, 1988 (PC Act) are as under -

Definitions -

Sec 2(b) **“public duty”** means

a duty in the discharge of which the State, the public or the community at large has an interest; Explanation.— In this clause “State” includes 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);

Sec 2(c) **“public servant”** means—

(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;

(ii) any person in the service or pay of a local authority;

(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);

10. The definition of “public servant” cannot be understood devoid of the context in which it came to be incorporated and the manner in which it has been subsequently interpreted by this Court as elucidated in the preceding section of this judgment.

The heart of the definition of “public servant” under of the PC Act lies in the expressions “remunerated by the Government” and “for the performance of any public duty”, and not in the mode of remuneration,

11. It cannot be lost sight of the fact that, the repealed Prevention of Corruption Act, 1947 (for short, “the Act 1947”), was enacted with the avowed object and purpose of effectively preventing bribery and corruption. The new PC Act provides for a very wide definition of the term “public servant” in clause (c) of Section 2. The Statement of Objects and Reasons, attached to the Bill by which the PC Act was introduced by the legislature, throws light on the intention of the legislature in providing a very comprehensive definition of the words “public servant”. It gives the background in which the legislation was enacted. The PC Act, which contains a much wider definition of “public servant”, was brought in force to purify the public administration. 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. ... In order to curb 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 servant” was introduced in Section 2(c) of the PC Act. 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 a construction which would be against the spirit of the statute. The definition of “public servant”, therefore, deserves a wide and purposive construction. In construing the definition of “public servant” in Section 2(c) of the PC Act, the Court is required to adopt a purposive approach as would give effect to the intention of the legislature. The law relating to prevention of corruption was essentially made to deal with the public servants, not as understood in common parlance but specifically defined in the Act. The Act was intended to make effective provisions for the prevention of bribery and corruption rampant amongst the public servants. It is a social legislation intended to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object. Indisputably, therefore, the provisions of the Act must receive such construction at the hands of the court as would advance the object and purpose underlying the Act and at any rate not defeat it. If the words of the statute are clear and unambiguous, it is the plainest duty of the court to give effect to the natural meaning of the words used in the provision. The question of construction arises only in the event of an ambiguity or the plain meaning of the words used in the statute would be self-defeating. The court is entitled to ascertain the intention of the legislature to remove the ambiguity by construing the provision of the statute as a whole keeping in view what was the

mischief when the statute was enacted and to remove which the legislature enacted the statute.

12. The definition of “public servant” can be said to have three parts, as they are disjunctive:

1. first, a person who is in the service of the Government;
2. secondly, a person who is in the pay of the Government;
3. thirdly, a person who is remunerated by fees or commission for the performance of any public duty.

13. The expression “remunerated” in the third part has to be read in context and in line with the expressions in the first and the second part i.e., “in the service” and “in the pay”. The three key expressions, “in the service”, “in the pay” and “remunerated” by the Government belong to the same genus and have the same flavour. In the first two parts, a person is rendering his services for the Government which implicitly means discharging a public duty. Whereas, in the third part, even though a person is not rendering his services for the Government but is being remunerated for discharging a public duty.

14. The structure of the definition reduces the emphasis on the strictness of the relationship between the Government and the public servant, while placing greater focus on the performance of a public duty. It is important to note that, the first two parts imply that the individual is rendering services directly for the Government. Whereas, the last part suggests that even where the services are not rendered ‘for’ the Government, the Government may nevertheless remunerate the person for performing a public duty.

15. While interpreting a statute, it is essential not only to consider the words used but also to examine the Statement of Objects and Reasons, as it provides the background against which the legislation was enacted. The legislature introduced a comprehensive definition of “public servant” with the intent to punish and curb the menace of corruption. In such circumstances, it would be improper to construe the definition in a manner that limits its scope, thereby defeating the very essence and purpose of the statute.
16. It is an important rule of interpretation that every interpretation of a statute must be undertaken by considering the statute in its entirety, the prior state of the law, other statutes in pari materia, the general scope and purpose of the legislation, and the mischief that the legislature intended to address.
17. It is the nature of duty which is the determining factor in deciding whether a person qualifies to be a public servant and not the manner of appointment or mode of remuneration. The primary test of qualification for inclusion in the definition of “public servant” in the third part is whether the concerned person is performing any public duty. The commonality across the sub-clauses is that all the persons therein are performing a ‘public’ duty.
18. Once the nature of performance of duties gets crystallized, any person remunerated by the Government for the performance of any public duty or who holds an office by virtue of which he is authorized or required to perform any public duty, is a “public servant” within the meaning of the term defined.

19. A person would be a public servant under Section 2(c)(i) of the PC Act if he is:

1. in the service of the Government; or
2. in the pay of the Government;
3. remunerated by fees or commission for the performance of any public duty.

20. A five-Judge Bench of the Hon'ble Supreme Court of India in *M. Karunanidhi v. Union of India*, reported in (1979) 3 SCC 431, in the context of Section 21, of the IPC, has interpreted the word 'pay' as implying that a person is getting salary, compensation, wages or any amount of money yet a relationship of master-servant need not exist in all cases.

21. The structure of the definition reduces the emphasis on the strictness of the relationship between the Government and the public servant, while placing greater focus on the performance of a public duty.

The last part suggests that even where the services are not rendered 'for' the Government, the Government may nevertheless remunerate the person for performing a public duty.

22. Therefore, a public servant need not be a Government/civil servant, but a Government/civil servant is always a public servant. The offences under the PC Act can be invoked not only against a public servant but also against a person, who by virtue of his office has been discharging 'public duty'.

23. The judgement of *Shailesh Mahimtura Vs State of Maharashtra 2015 ALL MR Cri 90* is not applicable in distinguishable facts of

the present case. The present case is not of honorarium post but a duly monthly paid post.

24. Hence, there is no merit in the contention raised and I pass the following order -

ORDER

1. Application at Exh. 15 is rejected.
2. Accused to remain present for hearing of charge.
3. prosecution to take note.
4. Application disposed off, accordingly.

Place : Washim.
Date: 11/05/2026.

(Anil Subramaniam)
Sessions Judge, Washim.