

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.921 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 1733 of 2013**

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Chandra Kishore Kumar, Son of Shri Narad Kumar, resident of village and P.O.
Barhka Balua, P.S. Patahi, District East Champaran

.... Appellant/s

Versus

1. The State of Bihar through D.G.P., Bihar, Patna
2. Superintendent of Police (Vigilance), North Zone, Muzaffarpur
3. Shri Subhash Sah, Deputy Superintendent of Police, Incharge Vigilance,
Vigilance Investigation Bureau, Zonal Office, Club Road, Mithanpura,
Muzaffarpur
4. Sanjeev Kumar, Son of Late Kapildeo Kumar, resident of village - Mahmada,
P.O. Barhka Balua, P.S. Patahi, District - East Champaran

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Yogendra Mishra, Advocate
For the Respondent/s : Mr. Prabhat Kumar Verma AAG-3
Dr. Anand Kumar, AC to AAG-3

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 15-11-2016**

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned single Bench of this Court on 17th of March, 2016 in C.W.J.C. No.1733 of 2013 and C.W.J.C. No.10682 of 2011 whereby, the contention of the appellant that the appellant is not a public servant, as defined under Section-2(c)(ix) of the Prevention of Corruption Act, 1988, remained unsuccessful.



3. The challenge was that there could not be any criminal investigations against him as he is office bearer of a private cooperative society, thus, not a public servant, as defined in the above Act, thus, the police will not have any right to ask for the information from the appellant.

4. The learned single Bench has recorded a finding that one of the functions of the cooperative society is to receive aid, grant, fund from the NABARD (National Bank for Agriculture and Rural Development) and disburse to its eligible members. It was also submitted that the society, of which the appellant is an office bearer, recommends for extension of loan under KCC (Kisan Credit Card) policy/scheme to its members. The society recommends for insurance of standing crops grown by the farmers/members where-after the financial institution pays the premium and also the value of the insurance policy in case of a claim, therefore, the employees of such a Cooperative Society are public servants.

5. Learned counsel for the appellant relies upon the Supreme Court Judgment, since reported in AIR 1981 SC 1395 (S.S.Dhanoa Vs. Municipal Corporation, Delhi) to contend that the

appellant will not be a public servant as defined under Section 2 (c)(ix) of the Act.

6. The judgment in Dhanoa's case (supra) is prior to enactment of the Prevention of Corruption Act, 1988. The public servant, as defined under the Prevention of Corruption Act, 1988, is wide which includes an office bearer of a registered public society engaged in agricultural, industrial, trade or banking, receiving or having received any financial aid from Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act. The relevant Clause reads as under:

“2(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).”

7. It is admitted before the learned single Bench that the society, of which the appellant is an office bearer, receives financial aid from NABARD which is a Central Government

Undertaking, thus, the appellant would be public servant as defined under Section-2(c)(ix) of the Prevention of Corruption Act, 1988.

8. In view of the said finding, we do not find any error in the order passed by the learned single Bench which may warrant interference by this Court.

9. This Letters Patent Appeal is accordingly dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

K.C.jha/-

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