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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1388 OF 2016

**THE STATE OF MAHARASHTRA
VERSUS
SHANTARAM S/O MADHAV SULTANE**

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**APP for applicant State : Mr.K.S.Patil
Advocate for Respondents : Mr.Tribhuwan Nitin T For R/sole**

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**CORAM : V.L.ACHLIYA,J.
DATE : 12/04/2017**

PER COURT :-

The applicant State has moved this application seeking leave to file appeal against impugned judgment and order of acquittal passed by Special Judge, Vaijapur, Dist.Aurangabad in Special Case No.05/2012 on 25/11/2015.

2] Heard learned APP and counsel representing respondent.

3] The respondent accused was tried for committing offence punishable u/s 7,8,13(1)(d) r/w 13(2) of Prevention of Corruption Act. On conclusion of trial, learned Special Judge, Vaijapur, Dist Aurangabad pleased to acquit the accused. One of the grounds on which respondent accused has been acquitted pertains to status of

accused as a public servant under Section 2(c) of Prevention of Corruption Act. The trial Court has held that the respondent accused who was serving as a Secretary of Taluka Dekh Rekh Sanstha cannot be termed as a public servant.

4] Learned counsel for the respondent opposed the application with contention that the prosecution has failed to prove that the accused can be termed as a public servant within the meaning of Section 2(c) of Prevention of Corruption Act. He submits that there is absolutely no evidence adduced by the prosecution to show cause that the accused can be termed as a public servant within the meaning of Section 2(c) of the Prevention of Corruption Act. He submits that there is no iota of evidence to show that the salary of the respondent-accused was paid from the consolidated funds of the State or any grant or financial assistance is provided to such societies. The District Deputy Registrar of Cooperative Societies who was examined as sanctioning authority has deposed before the Court that the salary of the employees of such society is paid out of 2% of interest received by the society.

5] On the other hand, learned APP submits that the District Supervision i.e. Dekh Rekh society supervises the working of Taluka Supervision Society through which loan is distributed to farmers

which includes the loan made available for distribution to agriculturists. He submits that the funds released by the NABARD for distribution of loan are made available through such Taluka Supervision society. He therefore, submits that accused can very well be termed as public servant within the meaning of Section 2(c) of Prevention of Corruption Act.

6] Having regard to the submissions advanced, I am of the view that arguable case has been made to consider as to whether the accused can be termed as public servant or not within the meaning Section 2(c) of the Prevention of Corruption Act besides the merits of the case. I am therefore, inclined to grant leave to file appeal. Accordingly, application is allowed in terms of prayer clause "C".

7] Appeal be registered and place for admission on **17/4/2017**.

(V.L.ACHLIYA,J.)

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