

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

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**Criminal Appeal No. 1187 OF 2012**

Between:

State rep. by Inspector of Police,  
Anti-Corruption Bureau,  
Hyderabad Range, Hyderabad

... Appellant/  
Complainant

And

Smt.R.Padma

... Respondent/  
Accused Officer

DATE OF JUDGMENT PRONOUNCED: 25.06.2024

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals     | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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**K.SURENDER, J**

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ Criminal Appeal No. 1187 OF 2012**

% Dated 25.06.2024

# State rep. by Inspector of Police,  
Anti-Corruption Bureau,  
Hyderabad Range, Hyderabad

... Appellant/  
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And

\$ Smt.R.Padma

... Respondent/  
Accused Officer

**! Counsel for the Appellant:** Sri Sridhar Chikyala,  
Standing Counsel for ACB

**^ Counsel for the Respondent:** Sri Srinivasa Srikanth

**>HEAD NOTE:**

**? Cases referred**

<sup>1</sup> AIR 1957 SC 13

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No.1187 OF 2012****JUDGMENT:**

1. This appeal is filed by the State aggrieved by the order of acquittal recorded by the I Additional Special Judge for SPE and ACB Cases, City Civil Courts, Hyderabad, in C.C.No.9 of 2009, for the offence under Sections 7 and 13(1)(d) r/w.13(2) of the Prevention of Corruption Act, 1988.

2. Heard the Special Public Prosecutor for ACB.

3. Briefly, the case of the prosecution is that PW1 lodged a complaint with the ACB-DSP, alleging that the respondent-Accused Officer was a labour Contractor, working in the office of the Manager, Alwal Circle, Hyderabad Metropolitan Water Supply and Sewerage Board (for short "HMWS&SB") of Greater Hyderabad Municipal Corporation. She was entrusted with the work of receiving and dispatching the applications concerned with the grant of water tap connections. PW1 was looking after newly constructed house of hisson. On 08.07.2008, he went to submit application seeking water connection and also enclosed DD for Rs.500/- as required. However, the accused refused to take the application for processing, unless Rs.3,000/- was given towards bribe. Aggrieved by the said demand of bribe by the accused, PW1 filed a complaint with the ACB on

15.07.2008. On 16.07.2008, trap was arranged. The trap party went to the HMWS&SB office where she was present and on the demand made by her, the bribe amount of Rs.3,000/- passed on by PW1.

4. After trap, the investigation was handed over to the Inspector who filed charge sheet. Learned Special Judge framed charges for the offence under Sections 7 and 13(1)(d) r/w.13(2) of the Prevention of Corruption Act, 1988 and examined the defacto complainant as PW1 and PWs.2 to 10. On behalf of the prosecution Exs.P1 to P14 were marked.

5. Learned Special Judge, initially, framed Point No.1, which is as follows;

*“(i) Whether the A.O. was the “public servant” within the meaning of Section 2(c ) of the Act and whether the A.O can be prosecuted without obtaining any sanction under Section 19 of the Act?”*

6. Learned Special Judge found that according to the witnesses PWs.3, 5 who are working in the office stated that the accused was pending contract labourers and the HMWS&SB has no authority to remove the accused officer. Further, according to PW4, salary was not paid by the GHMC and it was the consolidated cheque given to the accused who is a labour contractor for providing labour from time to time. PW5 who is another labour contractor stated that in accordance

with the procedure, GHMC would take labourers supplied by them. The Department used to pay Rs.3,500/- for unskilled labour and Rs.4,500/- for skilled labour.

7. The learned Special Judge relied on the Judgment of Honourable Supreme Court in **G.A.Monterio v. State of Ajmeer**<sup>1</sup> wherein it is held that the test to determine whether a person is a 'public servant' within the meaning of section 21 of the IPC and Section 2 (c) of the Prevention of Corruption Act is the ascertainment of the question as to whether that person was in the service or pay of the Government and whether he was entrusted with the performance of public duty. The Honourable Supreme Court held that unless the said two requirements are met, it cannot be said that a person is a public servant. In the present case, no sanction was filed by the prosecution, though it was claimed by PW10-Investigation Officer that they have obtained sanction.

8. The learned Special Judge found that the accused was not a public servant within the meaning of section 2 (c) of the Prevention of Corruption Act and she was not liable for the offence under Section 7 and 13 (1)(d) r/w.13(2) of the Prevention of Corruption Act.

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<sup>1</sup> AIR 1957 SC 13

9. The learned Special Public Prosecutor appearing on behalf the State would submit that since the Labour Contractor would be paid fees by the Department, it has to be considered that she falls within the definition of public servant.

10. The said argument cannot be sustained for the reason of accused entering into a contract with the Department for supply of labour. When Labourers are supplied, in accordance with the services that were rendered by the labour, consolidated payment is made by the Department for the labourers. The Labour Contractor in the present circumstances who provides contract labour on a monetary fixed payment basis, it cannot be said that he is a public servant, within the meaning of Section 2 ( c) of the Prevention of Corruption Act. The accused is not appointed by the State nor any salary is paid to her. Since there is no infirmity in finding that the accused Officer is not a public servant and no sanction was obtained, there is no necessity to delve into the other facts of the case.

11. Accordingly, the appeal filed by the State is dismissed.

As a sequel, miscellaneous applications, if any, pending shall stand closed.

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**K.SURENDER, J**

Date: 25.06.2024  
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**THE HON'BLE SRI JUSTICE K. SURENDER**

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