A STATE OF GUJARAT

v.

MANSUKHBHAI KANJIBHAI SHAH

(Criminal Appeal No. 989 of 2018)

B APRIL 27, 2020

[N. V. RAMANA, MOHAN M. SHANTANAGOUDAR AND AJAY RASTOGI, JJ.]

Prevention of Corruption Act, 1988: s.2(c)(xi) – Deemed
C *University – Whether Deemed University is not covered under the provisions of PC Act – Held: The object of the PC Act is 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 PC Act is to shift focus from those who are traditionally called public officials,*
D *to those individuals who perform public duties – Keeping the same in mind, it cannot be stated that a "Deemed University" and the officials therein, perform any less or any different a public duty, than those performed by a University simpliciter, and the officials therein – Therefore, a "Deemed University" is not excluded from*
E *ambit of term "University" u/s.2(c)(xi) of the PC Act.*

Prevention of Corruption Act, 1988: s.2(c) – Public servant, definition of – Held: The language of s.2(b) of the PC Act indicates that any duty discharged wherein State, the public or community at large has any interest is called a public duty – The first explanation
F *to s.2 further clarifies that any person who falls in any of the categories stated under s.2 is a public servant whether or not appointed by the government – The second explanation further expands the ambit to include every person who* de facto *discharges the functions of a public servant, and that he should not be prevented from being brought under the ambit of public servant due to any*
G *legal infirmities or technicalities.*

Prevention of Corruption Act, 1988: ss.7, 8, 10, 13(1)(b) and 13(2) – Charge sheet against respondent, trustee in a Deemed University specifically disclosing that he allegedly was collecting certain extra amount over the prescribed fees on the pretext of
H *allowing the students to fill up their examination forms – In the*

complaint, it was alleged that the respondent had demanded Rs.20 Lakhs to be paid to the co-accused, failing which the daughter of the complainant would not be permitted to appear in the examination – Held: Plea taken by respondent was that he was a trustee of the "Sumandeep Charitable Trust" and has no connection with the "Sumandeep University" – Courts below failed to analyze the connection between the trust and the University, as well as the relationship of the respondent with the university – Prima facie*, a grave suspicion is made out that the respondent was rendering his service by dealing with the students and the examination aspect of the University – But a detailed appreciation of evidence is called for before one can reach a conclusion as to the exact position of the respondent* vis-à-vis *the University – Jurisdiction of Court with regards to s.227 is limited and should not be exercised by conducting roving enquiries on the aspect of factual inferences – Trial court directed to proceed with the case expeditiously – Code of Criminal Procedure, 1973 – s.227.*

Interpretation of Statutes: Extension of technical definitions used under one statute to the other statute – Held: Technical definitions under one statute should not be imported to another statute which is not in pari materia with the first – The UGC Act and the PC Act are enactments which are completely distinct in their purpose, operation and object – The preamble of the UGC Act states that it is 'an Act to make provision for the co-ordination and determination of standards in Universities, and for that purpose, to establish a University Grants Commission' – On the other hand, the PC Act is an enactment meant to curb the social evil of corruption in the country – As such, the extension of technical definitions used under one Act to the other might not be appropriate, as the two Acts are not in pari materia with one another – Prevention of Corruption Act, 1988 – University Grants Commission Act, 1956.

University Grants Commission Act, 1956 – Per Ajay Rastogi, J. (Supplementing) – Deemed University – "University" under s.2(f) of the UGC Act is established either in the Central Act, a Provincial Act or a State Act – At the same time, such of the institutions for higher education other than the University created under the statutory enactment, after being declared by the Central Government by notification in the Official Gazette, shall be deemed to be

university for the purposes of this Act and all provisions of the UGC Act shall apply to such institutions as if it were a university within the meaning of clause (f) of s.2 of the Act – By introduction of s.2(c)(xi) of the Act, 1988, any person or member of any governing body with whatever designation called of any university has been included in the definition of "public servant" and any university includes all universities regardless of the fact whether it has been established under the statute or declared deemed to be university under s.3 of the UGC Act – No distinction could be carved out between the university and deemed to be university so far it relates to the term 'public servant' as defined under s.2(c) (xi) of the Act1988 – In construing the definition of 'public servant' in clause (c) of s.2 of the Act 1988, the Court is required to adopt an approach as would give effect to the intention of the legislature – The legislature has, intentionally, while extensively defining the term 'public servant' in clause (c) of s.2 of the Act and clause (xi) in particular has specifically intended to explore the word'any' which includes all persons who are directly or indirectly actively participating in managing the affairs of any university in any manner or the form – In this context, the legislature has taken note of 'any' person or member of "any" governing body by whatever designation called of "any" university to be termed as 'public servant' for the purposes of invoking the provisions of Act 1988 –The question for consideration is the term 'any' university in the broader spectrum to curb corruption in the educational institutions as referred to under s.2(c)(xi) of Act 1988 and the legislature in its wisdom has referred to the word "any university" which clearly mandates the university referred to and controlled by its statutory mechanism referred to under s.2(f) and deemed to be university under s.3 of the UGC Act – Prevention of Corruption Act, 1988 – s.2(c)(xi).

Allowing the appeal, the Court

HELD:

Per N. V. Ramana, J. (for himself and for Mohan M. Shantagoudar, J.)

1. The contention of the respondent is that the term "University" needs to be read in accordance with the UGC Act, wherein only those Universities covered under the Section 2(f)

of the UGC Act are covered under the PC Act. Such an interpretation, by importing the technical definition under a different Act may not be feasible herein. It is a settled law that technical definitions under one statute should not be imported to another statute which is not *in pari materia* with the first. The UGC Act and the PC Act are enactments which are completely distinct in their purpose, operation and object. The preamble of the UGC Act states that it is '*an Act to make provision for the co-ordination and determination of standards in Universities, and for that purpose, to establish a University Grants Commission*'. On the other hand, the PC Act is an enactment meant to curb the social evil of corruption in the country. As such, the extension of technical definitions used under one Act to the other might not be appropriate, as the two Acts are not *in pari materia* with one another. The purport of UGC Act cannot be borrowed under the PC Act, and that an independent meaning needs to be provided for the term "University" as occurring under the PC Act. [Paras 31, 33][346-A-C; 347-G]

Bangalore Turf Club Ltd. v. Regional Director, ESI Corporation **(2014) 9 SCC 657 : [2014] 8 SCR 1021;** *Orissa Lift Irrigation Corporation Ltd. v. Rabi Sankar Patro* **(2018) 1 SCC 468 : [2017] 13 SCR 921 – referred to.**

2.1 In Section 2(c) of the PC Act, the emphasis is not on the position held by an individual, rather, it is on the public duty performed by him/her. In this regard, the legislative intention was to not provide an exhaustive list of authorities which are covered, rather a general definition of 'public servant' is provided thereunder. The object of the PC Act is 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 PC Act is to shift focus from those who are traditionally called public officials, to those individuals who perform public duties. Keeping the same in mind, it cannot be stated that a "Deemed University" and the officials therein, perform any less or any different a public duty, than those performed by a University simpliciter, and the officials therein. Therefore, the High Court was incorrect in holding that

A **a "Deemed University" is excluded from the ambit of the term "University" under Section 2(c)(xi) of the PC Act. [Paras 34, 44, 45][348-B; 351-B-D]**

Hira Devi v. District Board, Shahjahanpur **[1952] SCR 1122;** *CBI v. Ramesh Gelli* **(2016) 3 SCC 788 : [2016] 1 SCR 762;** *P.V. Narasimha Rao* v. *State (CBI/SPE)* **(1998) 4 SCC 626 : [1998] 2 SCR 870;** *Manish Trivedi v. State of Rajasthan*, **(2014) 14 SCC 420 : [2013] 12 SCR 205 – referred to.**

Black's Law Dictionary defines "University"; Law Lexicon; **Third Edition of Halsbury's, Volume 13, page 707;** *Words and Phrases, Permanent Edn.* **(West Publishing Company) – referred to.**

2.2 Evidently, the language of Section 2(b) of the PC Act indicates that any duty discharged wherein State, the public or community at large has any interest is called a public duty. The first explanation to Section 2 further clarifies that any person who falls in any of the categories stated under Section 2 is a public servant whether or not appointed by the government. The second explanation further expands the ambit to include every person who *de facto* discharges the functions of a public servant, and that he should not be prevented from being brought under the ambit of public servant due to any legal infirmities or technicalities. In the present case, on a *prima-facie* evaluation of the statements of the Vice-Chancellor), the account officer of Sumandeep Vidhyapith University and other witnesses, it appears that the respondent was the final authority with regard to the grant of admission, collection of fees and donation amount. [Paras 50, 51][354-A-C]

2.3 The charge sheet specifically discloses that the respondent allegedly was collecting certain extra amount over the prescribed fees on the pretext of allowing the students to fill up their examination forms. Therefore, paying the respondent the alleged amount was a condition precedent before filling up the forms, to appear for the examinations. Specifically, in the complaint, it was alleged that the respondent had demanded Rs.20 Lakhs to be paid to the co-accused, failing which the daughter of the complainant would not have been permitted to appear in the

examination. The fact that there were a large number of cheques which were found during the raid is more than sufficient to establish a grave suspicion as to the commission of the alleged offence. The respondent has vehemently stressed upon the fact that he is admittedly a trustee of the "Sumandeep Charitable Trust" and has no connection with the "Sumandeep University". But, it ought to be noted that the courts below have failed to analyze the connection between the trust and the University, as well as the relationship of the respondent with the university. *Prima facie,* a grave suspicion is made out that the respondent was rendering his service by dealing with the students and the examination aspect of the University. But a detailed appreciation of evidence is called for before one can reach a conclusion as to the exact position of the respondent *vis-à-vis* the University. [Paras 52, 53][354-D-H]

3. At this stage, the jurisdiction of this Court, with regards to Section 227 of CrPC, is limited and should not be excercised by conducting roving enquiries on the aspect of factual inferences. This case is not an appropriate one to have exercised the power under Section 227 to discharge the accused-respondent, having regards to the facts and circumstances of the case. The trial court is directed to proceed with the case expeditiously. [Paras 54, 56][355-A; 356-B]

Union of India v. Prafulla Kumar Samal **(1979) 3 SCC 4 : [1979] 2 SCR 229;** *Sajjan Kumar v. Central Bureau of Investigation* **(2010) 9 SCC 368 : [2010] 11 SCR 669;** *Modern Dental College & Research Centre v. State of Madhya Pradesh.* **(2016) 7 SCC 353 : [2016] 3 SCR 579;** *Janet Jeyapaul v. SRM University* **(2015) 16 SCC 530;** *K. Veeraswami v. Union Of India,* **(1991) 3 SCC 655 : [1991] 3 SCR 189 (12);** *State of Madhya Pradesh v. M. V. Narasimhan* **(1975) 2 SCC 377 : [1976] 1 SCR 6 (23);** *M. Narayanan Nambiar v. State of Kerala* **[1963] 2 Suppl. SCR 724;** *Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company* **(2018) 9 SCC 1 : [2018] 7 SCR 1191;** *Subramanian Swamy v. Manmohan Singh* **(2012) 3 SCC 64 : [2012] 3 SCR 52 – referred to.**

Per Ajay Rastogi, J. (Supplementing)

1. The Prevention of Corruption Act, 1947 was amended in 1964 based on the recommendations of the Santhanam Committee. Although, there are provisions in Chapter IX of the Indian Penal Code to deal with public servants and those who abet them by way of criminal misconduct, they were found to be inadequate to deal with the offence of corruption effectively. To make the anti-corruption laws more effective, the Prevention of Corruption Bill was introduced in the Parliament. The object and statement of reasons of the Act, 1988 was intended to make the existing anti-corruption laws more effective by widening their coverage and by strengthening the provisions. The Act 1988 caters to its wide scope by providing for "different paths to liability, some of which are especially suited to, but by no means confined to, those who hold public office." [Paras 4, 5][356-G-H; 357-A-B]

2. The UGC Act was established by an Act of 1956 to make provisions for the coordination and determination of standards of education in universities. "University" has been defined under Section 2(f) of the UGC Act and those who are declared as 'deemed to be university', a declaration has to be notified under Section 3 with restrictions which has been imposed upon the deemed to be university as referred to under Section 23 of the UGC Act. "University" under Section 2(f) of the UGC Act is established either in the Central Act, a Provincial Act or a State Act. At the same time, such of the institutions for higher education other than the University created under the statutory enactment, after being declared by the Central Government by notification in the Official Gazette, shall be deemed to be university for the purposes of this Act and all provisions of the UGC Act shall apply to such institutions as if it were a university within the meaning of clause (f) of Section 2 of the Act. [Paras 8, 9][357-H; 358-A-B, G]

3. It cannot be lost sight of that the Act, 1988, as its predecessor that is the repealed Act of 1947 on the same subject, was brought into force with avowed purpose of effective prevention of bribery and corruption. The Act of 1988 which repeals and replaces the Act of 1947 contains a definition of 'public servant' with wide spectrum in clause (c) of Section 2 of the Act,

1988, so as to purify public administration. The objects and reasons contained in the Bill leading to passing of the Act can be taken assistance of, which gives the background in which the legislation was enacted. When the legislature has introduced such a comprehensive definition of "public servant" to achieve the purpose of punishing and curbing the growing menace of corruption in the society imparting public duty, it would be apposite not to limit the contents of the definition clause by construction which would be against the spirit of the statute. [Para 10][358-H; 359-A-C]

4. By introduction of Section 2(c)(xi) of the Act, 1988, any person or member of any governing body with whatever designation called of any university has been included in the definition of "public servant" and any university includes all universities regardless of the fact whether it has been established under the statute or declared deemed to be university under Section 3 of the UGC Act. It is true that the distinction has been pointed out by the Parliament under the provisions of the UGC Act for consideration and determination of standards of education in universities, no distinction could be carved out between the university and deemed to be university so far it relates to the term 'public servant' as defined under Section 2(c) (xi) of the Act 1988. [Para 11][359-C-E]

5. In construing the definition of 'public servant' in clause (c) of Section 2 of the Act 1988, the Court is required to adopt an approach as would give effect to the intention of the legislature. The legislature has, intentionally, while extensively defining the term 'public servant' in clause (c) of Section 2 of the Act and clause (xi) in particular has specifically intended to explore the word 'any'which includes all persons who are directly or indirectly actively participating in managing the affairs of any university in any manner or the form. In this context, the legislature has taken note of 'any' person or member of "any" governing body by whatever designation called of "any" university to be termed as 'public servant' for the purposes of invoking the provisions of Act 1988. The question for consideration is the term 'any' university in the broader spectrum to curb corruption in the educational institutions as referred to under Section 2(c)(xi) of

Act 1988 and the legislature in its wisdom has referred to the word "any university" which clearly mandates the university referred to and controlled by its statutory mechanism referred to under Section 2(f) and deemed to be university under Section 3 of the UGC Act. [Paras 12, 14][359-E-G; 360-B-C]

Orissa Lift Irrigation Corporation v. Rabi Sankar **(2018) 1 SCC 468 : [2017] 13 SCR 921 – referred to.**

Case Law Reference

Per N. V. Ramana, J.

[2016] 3 SCR 579	**referred to**	**Para 11**
(2015) 16 SCC 530	**referred to**	**Para 11**
[1991] 3 SCR 189	**referred to**	**Para 12**
[1976] 1 SCR 6	**referred to**	**Para 23**
[1963] 2 Suppl. SCR 724	**referred to**	**Para 23**
[2018] 7 SCR 1191	**referred to**	**Para 24**
[2012] 3 SCR 52	**referred to**	**Para 26**
[2014] 8 SCR 1021	**referred to**	**Para 32**
[2017] 13 SCR 921	**referred to**	**Para 32**
[1952] SCR 1122	**referred to**	**Para 35**
[2016] 1 SCR 762	**referred to**	**Para 46**
[1998] 2 SCR 870	**referred to**	**Para 47**
[2013] 12 SCR 205	**referred to**	**Para 48**
[1979] 2 SCR 229	**referred to**	**Para 54**
[2010] 11 SCR 669	**referred to**	**Para 55**

Per Ajay Rastogi, J.

[2017] 13 SCR 921	**referred to**	**Para 13**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 989 of 2018.

From the Judgment and Order dated 02.02.2018 of the High Court of Gujarat at Ahmedabad in Criminal Revision Application (Against Order passed by Subordinate Court) No. 1188 of 2017.

Aman Lekhi, ASG, Mukul Rohatgi, P.S. Narsimha, Huzefa Ahmadi, Sr. Advs., Mahesh Agarwal, Mitul Shelat, Anshuman Srivastava, Nishant Rao, E. C. Agrawala, Aniruddha P. Mayee, A. Rajarajan, Ujjwal Sinha, Ms. Mehak H., Sanjeev Kr. Choudhary, Advs., for the appearing parties.

The Judgments of the Court were delivered by

N. V. RAMANA, J.

1. Corruption is the malignant manifestation of a malady menacing the morality of men. There is a common perception that corruption in India has spread to all corners of public life and is currently choking the constitutional aspirations enshrined in the Preamble. In this context, this case revolves around requiring this Court to facilitate making India corruption free.

2. This Appeal is from the impugned judgment and final order dated 02.02.2018, passed by the High Court of Gujarat at Ahmedabad in Criminal Revision Application (against Order passed by Subordinate Court) No. 1188 of 2017.

3. The respondent herein is allegedly aTrustee of a trust called the Sumandeep Charitable Trust, which established and sponsors 'Sumandeep Vidyapeeth', a deemed University, which is the institution concerned herein.

4. Brief facts necessary for the disposal of the case are that an FIR, being I-ER No. 3 of 2017, dated 28.02.2017 was filed by one Dr.Jasminaben, wife of Dilip bhai Devda, before the Vadodara City A.C.B. Police Station against four accused persons including the present respondent. Broadly, the allegations were that the complainant's elder daughter was admitted to the MBBS Course in the above-mentioned Deemed University in the year 2012. Her daughter's course fee was completely paid up as per the annual fee slab. In the year 2017, her elder daughter while filling up her final examination form, was asked to meet the respondent herein. On meeting, the respondent, in conspiracy with others, had communicated that the complainant's husband had to further pay Rupees Twenty Lakhs for allowing the complainant's daughter to take the examination. Further, it is alleged that the accused-respondent had communicated that they can deposit a cheque and the same would be returned on payment of cash, considering that demonetization had recently taken place. In lieu of the same, cheques were deposited with

A the accused-respondent herein. Thereafter, the complainant, who was unwilling to pay the amount, filed the FIR.

5. After following the necessary procedure, phenolphthalein powder was applied to the currency notes and were delivered to accused Vinod alias Bharatbhai Savant (the alleged companion/agent of B respondent through whom the demand was facilitated). Thereafter, accused Vinod confirmed the receipt of money to the respondent over the telephone. The aforesaid incriminating conversation stood intercepted in an audio video camera set up by the complainant. Further, separate raids were conducted whereupon several undated cheques drawn in the name of the institution worth more than Rs. 100 crores and certain fixed C deposits were recovered.

6. The chargesheet came to be filed on 25.04.2017 against several accused persons, including the present respondent for various offences under Sections 7, 8, 10 and 13 (1)(b) and 13(2) of the Prevention of Corruption Act, 1988 [*hereinafter referred to as the*'**PC Act**'] read D with Section 109 of Indian Penal Code, 1860 [*hereinafter referred to as the*'**IPC**'],.

7. The respondent herein filed a discharge application under Section 227 of CrPC before the District and Sessions Court in Special ACB Case No. 2 of 2017. The District and Sessions Court by an order E dated 29.11.2017, rejected the application.

8. Aggrieved by the rejection of the aforesaid application, the respondent herein filed a criminal revision application, being Criminal Revision Application No. 1188 of 2017, before the High Court of Gujarat, at Ahmedabad. The High Court, by the impugned judgment and order F dated 02.02.2018, allowed the revision and discharged the accused-respondent herein.

9. Aggrieved by the impugned order, the State of Gujarat is in appeal before this Court.

G 10. The senior counsel on behalf of the appellant submitted that the PCAct is a comprehensive statute which was passed to prevent corruption and therefore, should be construed liberally as the legislature intended to include the abovementioned acts, which harm the public at large, within the ambit of the PC Act. The PCAct is a social legislation intended to curb illegal activities of public servants and is designed to be H construed so as to advance its objectives. The Courts, while keeping the

public interest in mind,must ensure that technicalities should not defeat the object sought to be achieved.

11. The counsel further argued that public function need not be the exclusive domain of the State; private institutions such as universities may also perform a public function. The counsel placed reliance upon ***Modern Dental College & Research Centre v. State of Madhya Pradesh***.,(2016) 7 SCC 353 and ***Janet Jeyapaul v. SRM University***., (2015) 16 SCC 530 to state that imparting education to the public is a welfare activity and hence can be called as an activity done forpublic good. Considering the UGC guidelines, the counsel submitted that Deemed Universities effectively discharge the public function of imparting education to the public.

12. Moreover, the counsel placed reliance upon the case of ***K. Veeraswami v. Union Of India***, (1991) 3 SCC 655 to submit that there is no requirement of having a master-servant relationship between the competent authority and the public servant. The PC Act does not define public servant, rather,it provides categories of the same. The counsel further stated that the lack of any authority to grant the sanction cannot result in non-prosecution. In such situations, there is no necessity for obtaining sanction. In any case, the sanction was obtained from the Charity Commissioner out of abundant caution.

13. Lastly, the counsel submitted that the respondent was discharging a public duty. In the present facts, it was a pre-condition to pay the respondent before obtaining an examination pass, although he was never formally assigned this task or role. The counsel therefore concluded that there need not be a requirement of positive command under the law to discharge his public duty. In fact, there may not be any formal requirement of providing remuneration or payment in lieu of the service rendered.

14. On the contrary, the counsel on behalf of the respondent submitted that it is a settled principle of law that a criminal statute has to be construed strictly. In cases where two interpretations are possible, the Courts must lean towards the construction which exempts the subject from penalty rather than the one which imposes the same.

15. The counsel further vehemently argued that the respondent, being a trustee, cannot be termed as a Public Servant. There is no allegation in the charge sheet that the respondent was holding any position

A or post in the institution which was Deemed to be University or that he was engaged by the institution for rendering any service. In light of the above fact, the High Court was correct in discharging the respondent as he does not qualify within the ambit of Section 2 (c)(xi) of the PC Act.

16. Moreover, the counsel argued that the High Court has correctly
B held that the relevant provision as laid down under Section 2 (c)(xi) is inapplicable in the present case as the said Institution was a "deemed to be university". Finally, the counsel argued that no valid or proper sanction was obtained for prosecuting the respondent. The sanction obtained from the Charity Commissioner is not valid as he cannot be considered as a
C Competent Authority, since he does not have the power to remove or appoint a Trustee.

17. Having heard the learned counsel for the parties, the questions to be answered herein are-

i. Whether the respondent-trustee is a 'public servant' covered
D under Section 2(c) of the PC Act?

ii. Whether the accused-respondent can be discharged under Section 227 of CrPC?

18. The first question before us, that is, whether the respondent-who is allegedly a trustee in the Sumandeep Charitable Trust which
E established and sponsors the said University ('Deemed to be University') is a '*public servant*' covered under Section 2(c) of the PC Act, can be broken up into two parts: *first*, whether the 'Deemed University' is covered under the provisions of the Prevention of Corruption Act, 1988, and *secondly*, whether the 'respondent-trustee' can be termed as '*public*
F *servant*' under Section 2(c)(xi) of the PC Act?

19. Before we proceed further, we need to observe the relevant provisions under the PC Act:

2(c.). "public servant" means-

G …

(xi) any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding
H or conducting examinations;

20. Simply speaking, any person, who is a Vice-Chancellor, any member of any governing body, professor, reader, lecturer, any other teacher or employee, by whatever designation called, of any University,is said to be a public servant. Further, the definition *inter alia*, covers any person whose services have been availed of by a University, or any other public authority in connection with holding or conducting examinations.

21. However, the interpretative necessity arises in this case due to the fact that the ambit of the term 'University', as occurring under Section 2(c)(xi) of the PC Act, has not been clearly defined and the question arises as to whether the same covers 'deemed to be University' as well. In this regard, we need to observe certain ground rules on interpretation, concerning the PC Act.

22. There is no gainsaying that nations are built upon trust. It is inevitable that in a democracy one needs to rely on those with power and influence and to trust them of being transparent and fair. There is no doubt that any action which is driven by the self-interest of these powerful individuals, rather than the public interest, destroys that trust. Where this becomes the norm, democracy, the economy and the rule of law, all take a beating, ultimately putting the whole nation at risk. Corrupt societies often spring from the examples set at the highest levels of government, but small-scale corruption can be equally insidious. In this regard, the PC Act was formulated to bring about transparency and honesty in public life, as indicated by its objects and reasons. We need to keep the aforesaid legislative intention in mind while interpreting the provisions of the PC Act.

23. Learned senior counsel for the appellant-State, vehemently contended that the PC Act, being a welfare legislation, cannot be narrowly interpreted, and rather, that a broad interpretation needs to be provided for the same [*refer* ***State of Madhya Pradesh v. M. V. Narasimhan,*** (1975) 2 SCC 377; ***M. Narayanan Nambiar v. State of Kerala***, (1963) Supp. (2) SCR 724].

24. The golden rule of interpretation for any penal legislation is to interpret the same strictly, unless any constitutional considerations are involved, and in cases of ambiguity, the benefit of the same should enure in favour of the accused. Having said so, we need to clarify that strict interpretation does not necessarily mean literal interpretation in all cases, rather the interpretation should have regards to the genuine import of

A the words, taken in their usual sense [*refer* ***Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company***, (2018) 9 SCC 1].

25. However, we are concerned herein with interpreting the provisions of the PC Act. There is no dispute that corruption in India is pervasive. Its impact on the nation is more pronounced, due to the fact B that India is still a developing economy. Presently, it can be stated that corruption in India has become an issue which affects all walks of life. In this context, we must state that although anti-corruption laws are fairly stringent in India, the percolation and enforcement of the same are sometimes criticized as being ineffective. Due to this, the constitutional aspirations of economic and social justice are sacrificed on a daily basis. C It is in the above context that we need to resolve the issues concerned herein.

26. In ***Subramanian Swamy v. Manmohan Singh***, (2012) 3 SCC 64, this Court observed:

D "**68.** Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist, secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption E devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our preambular vision. **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** F **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.**"

(emphasis supplied)

G 27. We shall accordingly have due regard to the aforesaid principles while interpreting the provisions herein. The point of contention relates to whether a deemed University would be included within the ambit of the PC Act, particularly under Section 2(c)(xi) of the same, where the word used is "University". The learned senior counsel for the appellant-State submits that the word "University" as used in Section 2(c)(xi) of H

the Act, must be purposively interpreted. An institution which is "deemed to be a University" under the University Grants Commission Act, 1956 [**UGC Act**] plays the same role in society as a "University". These institutions have the common public duty of granting degrees, which are ultimately qualifications recognized in society. As such, an institution which is "deemed to be University", such as the institution in the present case, is included within the ambit of the term "University" used under the Act.

28. On the other hand, the learned senior counsel for the respondent, supporting the decision of the High Court in the impugned judgment, submits that the term "University" as used in Section 2(c)(xi) of the PC Act, does not include an institution which is "deemed to be a University". The learned senior counsel submitted that the inclusive definition of a "University" under the UGC Actis only for the limited purpose of funding, and an institution which is "deemed to be a University" is not a University for any other purpose. The learned senior counsel submitted that the same is abundantly clear from the provisions of the UGC Act, which makes a distinction between a "University", and an institution "other than a University" which is "deemed to be a University".

29. At this juncture, it would be apposite to look to the holding of the High Court in the impugned judgment on this point:

> "**27.**…However, the fact remains that either as a trustee or in any other capacity, even if applicant is connected with Sumandeep Vidyapith, which is not a regular University getting Government grant in any manner whatsoever and thereby, when there is no dispute that it is only a Deemed University, the submissions recorded herein above on behalf of the applicant makes it clear that such **Deemed University cannot considered as a regular University and thereby, applicant cannot be termed as a public servant and therefore, irrespective of such change report after the complaint, it is clear and obvious that applicant cannot be termed as a public servant**."
>
> **(emphasis supplied)**

30. The counsel for the respondent has contended that the term "University" needs to be read in accordance with the Section 2(f), 3 and 23 of the UGC Act, wherein a "deemed University" is different from a"University",*stricto sensu*. However, we do not subscribe to such contention for the reasons provided below.

A 31. The contention of the respondent is that the term "University" needs to be read in accordance with the UGC Act, wherein only those Universities covered under the Section 2(f) of the UGC Act are covered under the PC Act. Such an interpretation, by importing the technical definition under a different Act may not be feasible herein. It is a settled law that technical definitions under one statute should not be imported to another statute which is not *in pari materia* with the first. The UGC Act and the PC Act are enactments which are completely distinct in their purpose, operation and object. The preamble of the UGC Act states that it is '*an Act to make provision for the co-ordination and determination of standards in Universities, and for that purpose, to establish a University Grants Commission*'. On the other hand, the PC Act is an enactment meant to curb the social evil of corruption in the country. As such, the extension of technical definitions used under one Act to the other might not be appropriate, as the two Acts are not *in pari materia* with one another.

D 32. The above principle of law was recently applied by a 3-Judge Bench of this Court in ***Bangalore Turf Club Ltd. v. Regional Director, ESI Corporation***, (2014) 9 SCC 657, where an argument was advanced by counsel that the interpretation of the term 'shop' under the ESI Act should be determined in light of the definition of the same under the relevant Shops and Commercial Establishments Act. Negativing this contention of the counsel, the Court went on to hold that:

> "**52.** An argument raised by the appellants herein is the issue relating to the "*doctrine of pari materia*". It is contended that since the ESI Act does not define the term "shop", the said definition may be ascertained in the light of the definitions under the relevant Shops and Commercial Establishments Act as enacted by the respective State Legislatures, since the purpose and object of both the enactments are one and the same.
>
> **53.** For the above purpose, it would be necessary to look into the concept of "*doctrine of pari materia*" and further ascertain whether the given statutes are in fact pari materia with the ESI Act. It is settled law that two statutes are said to be in pari materia with each other when they deal with the same subject-matter. The rationale behind this rule is based on the interpretative assumption that words employed in legislations are used in an identical sense. However, this assumption is rebuttable by the

context of the statutes. According to Sutherland in *Statutes and Statutory Construction*, Vol. 2, 3rd Edn.:

> "Statutes are considered to be in pari materia to pertain to the same subject-matter when they relate to the same person or things, or to the same class of persons or things, or have the same purpose or object."

…

> **58. <u>It can be concluded that though the ESI Act, the 1948 Act and the 1961 Act deal with labour and workmen, in essence and spirit they have a different scope and application. The Acts do not appear to have any overlap in their fields of operation and have mutually exclusive schemes.</u>** Therefore, the argument that the Acts are parimateria with each other, must fail.
>
> **59. <u>This Court must also address the issue that arose in the course of the arguments that the word "shop" has been used in the impugned notifications as well as the 1948 Act and the 1961 Act and therefore assistance may be taken from the latter statutes to interpret the notification. This argument, in light of the above discussion, does not appeal to us</u>**…"
>
> **(emphasis supplied)**

It is for the same reasoning that we are of the opinion that the High Court's reliance on the judgment of this Court in ***Orissa Lift Irrigation Corporation Ltd. v. Rabi Sankar Patro***, (2018) 1 SCC 468 was not appropriate, as the same was with reference to enactments relating to administration/regulation of universities, and is unconnected with the objects of the PC Act.

33. This brings us to the conclusion that purport of UGC Act cannot be borrowed under the PC Act, and that an independent meaning needs to be provided for the term "University" as occurring under the PC Act. In India, there are 12,206 Universities under Section 2(f) and 12B of the UGC Act, as of 31.07.2019. While there are about 124 deemed universities across India, as of 23.06.2008. The education sector in India has seen a general rise. There is no dispute that the education sector, which is a very important service sector in the country, has seen various

A scandals. In this context, we need to understand whether a deemed university would be covered within the ambit of the Section 2(c)(xi) of the PC Act.

34. On a perusal of Section 2(c) of the PC Act, we may observe that the emphasis is not on the position held by an individual, rather,it is B on the public duty performed by him/her. In this regard, the legislative intention was to not provide an exhaustive list of authorities which are covered, rather a general definition of 'public servant' is provided thereunder. This provides an important internal evidence as to the definition of the term"University".

C 35. The use of 'any' is critical in our understanding as to the term University. We are aware of the line of authorities, wherein this Court has reduced the impact of term 'any' to not mean 'every' [*See* ***Hira Devi v. District Board, Shahjahanpur***, (1952) S.C.R. 1122]. However, we cannot accept such a view as the context in which the present dispute emanates, differs from the above.

D 36. Our attention was also drawn to the notes on clauses of Prevention of Corruption Bill dated 20.02.1987. Clause 2 of the Notes on Clauses in the Gazette of India, Extraordinary, Part II, Section 2, clarifies the legislative intent, wherein it was commented as under:

E "2. 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.** The definition of 'election' is based on the definition of this expression in the Penal Code, 1860."

F **(emphasis supplied)**

37. Additionally our attention is drawn to the legislative debates which took place prior to the enactment of the PC Act. It was uniform across the party line that the purpose of preventing corruption in educational institutions was emphasised.

G 38. Coming to external aids of interpretation, the word "University" is etymologically derived from the Latin, *universitas magistrorum et scholarium*, which roughly means "community of teachers and scholars". Black's Law dictionary defines "University" as:

H

"An institution of higher learning, consisting of an assemblage of colleges united under one corporate organization and government, affording instruction in the arts and sciences and the learned professions. and conferring degrees. See Com. v. Banks, 198 Pa. 397. 48 Atl. 277." A

39. Law Lexicon, defines the same as: B

"A corporation of teachers or assemblage of learned men or colleges for teaching the higher branches of learning: ;and having power to confer degrees.

University. A place where all kinds of literature are universally taught. (Tomlin's Law Dic.) See also Act VIII of 1904, S.2, Cl. (2)(c). C

A University, of normal type, may be described in popular language as an organization of teachers and learners, settled in a fixed locality, for the purpose of nature study, in which the body of teachers has authority to attest the proficiency of the learners, by bestowing upon them titles, signifying that they also possess the qualifications and are admitted to the rank of those that are learned in the particular branch of knowledge in which they are taught. D

The term 'University' is usually understood to mean a body incorporated for the purpose of learning, with various endowments and privileges. Such bodies were anciently founded by papal bull or charter, later by royal charter or act of Parliament. University is a corporation aggregate-Aggregation of corporations-The corporations are usually colleges or schools." E F

40. Third Edition of Halsbury's, Volume 13, page 707, at para 1441 deals with the term "Universities". According to the same:

"The word "university is not a word of art and, although the institutions to which it refers are readily identifiable, precise definition is difficult. The essential features of a university seems to be that it was incorporated as such by the sovereign power. G

Other attributes of a university appear to be the admission of students from all parts of the world, a plurality of masters, the teaching of one at least of the higher faculties, namely theology, H

A law or philosophy, which in some definitions are regarded as identical, and medicine, provision for residence, and the right to confer degrees, but possession of these attributes will not make an institution a university in the absence of any express intention of the sovereign power to make it one.

B Incorporation was anciently affected by papal bull or charter later by royal charter or Act of Parliament."

41. In *Words and Phrases*, Permanent Edn. (West Publishing Company), the word "Universities" is defined as follows:

"Universities:

C

Bodies politic and corporate have "been known to exist as Far back at last as the time of Cicero, and Gaius traces them even to the laws of Solon of Athens, who lived some 500 years before…. And from time immemorial, as at the present day, this privilege of being a corporation or artificial body of individuals, with power of

D holding their property, rights, and immunities in common as a legally organized body and of transmitting the same in such body by an artificial succession different from the natural succession of the property of individuals has been considered a franchise which could not be lawfully assumed by any associated body without a

E special authority for that purpose from the government or sovereign power."

42. Under the UGC Act, University is defined and recognized under Section 2(f) in the following manner:

"University" means a University established or incorporated by

F or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recoginsed by the Commission in accordance with the regulations made in this behalf under this Act.

43. A 'deemed to be University' is recognized under Section 3 of

G the UGC Act, in the following manner:

Application of Act to institutions for higher studies other than Universities

3. The Central Government may, on the advice of the Commission, declare by notification in the Official Gazette, that any institution

H

for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of section 2.

44. As discussed earlier, 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 PC Act was to shift focus from those who are traditionally called public officials, to those individuals who perform public duties. Keeping the same in mind, as rightly submitted by the learned senior counsel for the appellant-State, it cannot be stated that a "Deemed University" and the officials therein, perform any less or any different a public duty, than those performed by a University simpliciter, and the officials therein.

45. Therefore, for all the above reasons, we are of the opinion that the High Court was incorrect in holding that a "Deemed University" is excluded from the ambit of the term "University" under Section 2(c)(xi) of the PC Act.

46. Having come to the above conclusion, in the present case, the pivotal question is whether the appellant-trustee in the Board of '*Deemed to be University'* is a 'public servant' covered under Section 2(c) of the PC Act. Recently, this Court in the case of ***CBI v. Ramesh Gelli*****,** (2016) 3 SCC 788, dealt with the question as to whether Chairman, Directors and officers of a private bank before its amalgamation with a public sector bank, can be classified as public servants for prosecution under the PC Act. While dealing with the aforesaid proposition of law, the Court analysed the purpose and scope of the PC Act and made the following observations:

"**15.** From the Statement of Objects and Reasons of the PC Bill it is clear that the Act was intended to make the anti-corruption law more effective by widening its coverage. **It is also clear that the Bill was introduced to widen the scope of the definition of "public servant".** Before the PC Act, 1988, it was the Prevention of Corruption Act, 1947 and Sections 161 to 165-A in Chapter IX IPC which were governing the field of law relating to prevention of corruption. Parliament repealed the Prevention of

A Corruption Act, 1947 and also omitted Sections 161 to 165-A IPC as provided under Sections 30 and 31 of the PC Act, 1988. Since a new definition of "public servant" is given under the PC Act, 1988, it is not necessary here to reproduce the definition of "public servant" given in Section 21 IPC.

B …

17. The above definition shows that under sub-clause (*viii*) contained in Section 2(*c*) of the PC Act, 1988, a person who holds an office by virtue of which he is authorised or required to perform any public duty, is a public servant. Now, for the C purposes of the present case this Court is required to examine as to whether the Chairman/Managing Director or Executive Director of a private bank operating under licence issued by RBI under the Banking Regulation Act, 1949, held/holds an office and performed/ performs public duty so as to attract the definition of "public servant" quoted above."

D **(*emphasis supplied*)**

47. This Court in the case of ***P.V. Narasimha Rao* v. *State (CBI/ SPE),*** (1998) 4 SCC 626, has clarified the word "office" in the following manner:

E "**61.** … The word 'office' is normally understood to mean 'a position to which certain duties are attached, especially a place of trust, authority or service under constituted authority'. (See *Oxford Shorter English Dictionary*, 3rd Edn., p. 1362.) In *McMillan* v. *Guest*, (1942) 1 All ER 606 (HL), Lord Wright has said:

F '…The word "office" is of indefinite content. Its various meanings cover four columns of the *New English Dictionary*, but I take as the most relevant for purposes of this case the following:

G "A position or place to which certain duties are attached, especially one of a more or less public character."'

In the same case Lord Atkin gave the following meaning:

'…"an office or employment which was subsisting, permanent, substantive position, which had an existence independent of

H

the person who filled it, which went on and was filled in succession by successive holders."'

In *Statesman (P) Ltd.* v. *H.R. Deb,* AIR 1968 SC1495 and *Mahadeo* v. *Shantibhai,* (1969) 2 SCR 422 this Court has adopted the meaning given by Lord Wright when it said:

'An office means no more than a position to which certain duties are attached.'"

48. This Court in the case of ***Manish Trivedi v. State of Rajasthan***, (2014) 14 SCC 420 further elucidated upon the ambit of the phrase "public servant" by stressing upon the relevance of "office", wherein the emphasis was upon the duties performed. The Court noted therein:

"**19.** The present Act (the 1988 Act) envisages widening of the scope of the definition of the expression "public servant". It was brought in force to purify public administration. The legislature has used a comprehensive definition of "public servant" to achieve the purpose of punishing and curbing corruption among public servants. Hence, it would be inappropriate to limit the contents of the definition clause by a construction which would be against the spirit of the statute. Bearing in mind this principle, when we consider the case of the appellant, we have no doubt that he is a public servant within the meaning of Section 2(c) of the Act. **Clause (viii) of Section 2(c) of the present Act makes any person, who holds an office by virtue of which he is authorised or required to perform any public duty, to be a public servant. The word "office" is of indefinite connotation and, in the present context, it would mean a position or place to which certain duties are attached and has an existence which is independent of the persons who fill it.**"

(***emphasis supplied***)

49. In order to appreciate the amplitude of the word "public servant",the relevance of the term "public duty" cannot be disregarded. "Public duty" is defined under Section 2(b) of the PC Act, which is reproduced below:

2(*b*) '**public duty**' means a duty in the discharge of which the State, the public or the community at large has an interest.

A 50. Evidently, the language of Section 2(b) of the PC Act indicates that any duty discharged wherein State, the public or community at large has any interest is called a public duty. The first explanation to Section 2 further clarifies that any person who falls in any of the categories stated under Section 2 is a public servant whether or not appointed by the government. The second explanation further expands the ambit to include every person who *de facto* discharges the functions of a public servant, and that he should not be prevented from being broughtunder the ambit of public servant due to any legal infirmities or technicalities.

51. In the present case, on a*prima-facie* evaluation of the statements of the Gaurav D. Mehta (the Vice-Chancellor); Mr. Pragnesh kumar Ramesh bhai Trivedi (account officer of Sumandeep Vidhyapith University) and other witnesses it appears that the present respondent was the final authority with regard to the grant of admission, collection of fees and donation amount.

52. The charge sheet specifically discloses that the respondent allegedly was collecting certain extra amount over the prescribed fees on the pretext of allowing the students to fill up their examination forms. Therefore, paying the respondent the alleged amount was a condition precedent before filling up the forms, to appear for the examinations. Specifically, in the complaint, it was alleged that the respondent had demanded an amount of RupeesTwenty Lakhs to be paid to the co-accused Bharat Savant, failing which the daughter of the complainant would not have been permitted to appear in the examination. In our opinion, the fact that there were a large number of cheques which were found during the raid is more than sufficient to establish a grave suspicion as to the commission of the alleged offence.

53. The respondent has vehemently stressed upon the fact that he is admittedly a trustee of the "Sumandeep Charitable Trust" and has no connection with the "Sumandeep University". But, it ought to be noted that the courts below have failed to analyze the connection between the trust and the University,as well as the relationship of the respondent with the university. *Prima facie,* a grave suspicion is made out that the respondent was rendering his service by dealing with the students and the examination aspect of the University. But a detailed appreciation of evidence is called for before one can reach a conclusion as to the exact position of the respondent vis-à-vis the University.

54. At this stage, we may note that the jurisdiction of this Court, with regards to Section 227 of CrPC, is limited and should not be excercised by conducting roving enquiries on the aspect of factual inferences. This Court, in ***Union of India Vs. Prafulla Kumar Samal***, 1979 (3) SCC 4, had an occasion to consider the scope of Section 227 CrPC and it held as under:-

> **"7.** Section 227 of the Code runs thus:
>
> > "If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."
>
> The words "not sufficient ground for proceeding against the accused" clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."

55. Further, in ***Sajjan Kumar v. Central Bureau of Investigation,*** 2010 (9) SCC 368, this Court, *inter alia*, observed :-

> "**21.**On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:
>
> …
>
> (ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly

explained, the court will be fully justified in framing a charge and proceeding with the trial…"

56. Therefore, in line with the aforesaid proposition, this case is not an appropriate one to have exercised the power under Section 227 to discharge the accused-respondent herein, having regards to the facts and circumstances of the case. However, it should be noted that this judgment is rendered for a limited purpose, and we have not expressed any opinion on the merits of the case. The trial court is directed to proceed with the case expeditiously.

57. Accordingly, the impugned judgment of the High Court is set aside. Appeal is allowed.

AJAY RASTOGI, J.

1. I have had the advantage of going through the draft judgment proposed by my esteemed Brother Mr. Justice N.V. Ramana. I entirely agree with the conclusions which my erudite Brother has drawn, based on the remarkable process of reasoning. I would all the same like to add some of my views, not because the judgment requires any further elaboration but looking for the question of law that emerged of considerable importance.

2. The question that emerged for consideration in the present appeal is whether the respondent-trustee in the board of 'deemed to be university' is a 'public servant' covered under Section 2(c) (xi) of the Prevention of Corruption Act, 1988 (hereinafter being referred to as "Act 1988").

3. Zero tolerance towards corruption should be the top-notch priority for ensuring system based and policy driven, transparent and responsive governance. Corruption cannot be annihilated but strategically be dwindled by reducing monopoly and enabling transparency in decision making. However, fortification of social and moral fabric must be an integral component of long-term policy for nation building to accomplish corruption free society.

4. The Prevention of Corruption Act, 1947 was amended in 1964 based on the recommendations of the Santhanam Committee. Although, there are provisions in Chapter IX of the Indian Penal Code to deal with public servants and those who abet them by way of criminal misconduct, they were found to be inadequate to deal with the offence of corruption effectively.

5. To make the anti-corruption laws more effective, the Prevention of Corruption Bill was introduced in the Parliament. The object and statement of reasons of the Act, 1988 was intended to make the existing anti-corruption laws more effective by widening their coverage and by strengthening the provisions. The Act 1988 caters to its wide scope by providing for "different paths to liability, some of which are especially suited to, but by no means confined to, those who hold public office."

6. There are number of judicial precedents dealing with the definition and meaning of corruption. The simplest definition of corruption is, any act or omission by a public servant for securing pecuniary or other material advantage directly or indirectly for himself, his family or friends. It will be apposite to refer the provisions of the Act, 1988 relevant for the purpose ad infra:-

> **(c) "public servant"** means—
>
> (i)-(x)…..
>
> **(xi)** **any person** who is a Vice-Chancellor or **member of any governing body**, professor, reader, lecturer or any their teacher or employee, **by whatever designation called, of any University** and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;
>
> (xii)…"
>
> (Emphasis supplied)

7. It will be relevant to note that prior to the Act, 1988, employees of the university, professors, readers, etc. were not covered within the definition of 'public servant' as it was contained in Section 21 of the Indian Penal Code. Thrust of submission of the learned counsel for the respondent is that respondent herein who is a trustee of deemed to be university which cannot by any stretch of imagination be construed to be a public servant and would not fall within the ambit of Section 2(c) (xi) of the Act, 1988. The High Court although has accepted the contention of the learned counsel for the respondent on the said premise but it needs to be examined in the context in which the term "University" has been referred to under Section 2(c)(xi) of the Act, 1988.

8. The UGC Act was established by an Act of 1956 to make provisions for the coordination and determination of standards of

education in universities. "University" has been defined under Section 2(f) of the UGC Act and those who are declared as 'deemed to be university', a declaration has to be notified under Section 3 with restrictions which has been imposed upon the deemed to be university as referred to under Section 23 of the UGC Act. The relevant Sections of the UGC Act are as infra:-

> **"Section 2(f)** – "University" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognized by the Commission in accordance with the regulations made in this behalf under this Act.
>
> **Section 3** - The Central Government may, on the advice of the Commission, declare by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of Section 2.
>
> **Section 23** – No institution, whether a corporate body or not, other than a University established or incorporated by or under a Central Act, a Provincial Act or a State Act shall be entitled to have the word "University" associated with its name in any manner whatsoever. Provided that nothing in this Section shall, for a period of two years from the commencement of this Act, apply to an institution which, immediately before such commencement, had the word "University" associated with its name."

9. "University" under Section 2(f) of the UGC Act is established either in the Central Act, a Provincial Act or a State Act. At the same time, such of the institutions for higher education other than the University created under the statutory enactment, after being declared by the Central Government by notification in the Official Gazette, shall be deemed to be university for the purposes of this Act and all provisions of the UGC Act shall apply to such institutions as if it were a university within the meaning of clause (f) of Section 2 of the Act.

10. It cannot be lost sight of that the Act, 1988, as its predecessor that is the repealed Act of 1947 on the same subject, was brought into

force with avowed purpose of effective prevention of bribery and corruption. The Act of 1988 which repeals and replaces the Act of 1947 contains a definition of 'public servant' with vide spectrum in clause (c) of Section 2 of the Act, 1988, so as to purify public administration. The objects and reasons contained in the Bill leading to passing of the Act can be taken assistance of, which gives the background in which the legislation was enacted. When the legislature has introduced such a comprehensive definition of "public servant" to achieve the purpose of punishing and curbing the growing menace of corruption in the society imparting public duty, it would be apposite not to limit the contents of the definition clause by construction which would be against the spirit of the statute.

11. By introduction of Section 2(c)(xi) of the Act, 1988, any person or member of any governing body with whatever designation called of any university has been included in the definition of "public servant" and any university includes all universities regardless of the fact whether it has been established under the statute or declared deemed to be university under Section 3 of the UGC Act. It is true that the distinction has been pointed out by the Parliament under the provisions of the UGC Act for consideration and determination of standards of education in universities, but in my view, no distinction could be carved out between the university and deemed to be university so far it relates to the term 'public servant' as defined under Section 2(c) (xi) of the Act 1988.

12. In construing the definition of 'public servant' in clause (c) of Section 2 of the Act 1988, the Court is required to adopt an approach as would give effect to the intention of the legislature. The legislature has, intentionally, while extensively defining the term 'public servant' in clause (c) of Section 2 of the Act and clause (xi) in particular has specifically intended to explore the word 'any' which includes all persons who are directly or indirectly actively participating in managing the affairs of any university in any manner or the form. In this context, the legislature has taken note of 'any' person or member of "any" governing body by whatever designation called of "any" university to be termed as 'public servant' for the purposes of invoking the provisions of Act 1988.

13. Heavy reliance was placed on the judgment in ***Orissa Lift Irrigation Corporation Vs. Rabi Sankar***[1] wherein, the scope and

[1] 2018 (1) SCC 468

A parameters were examined by this Court under which the deemed to be university would regulate its educational fora under the regulations framed by the UGC for the purpose of imparting education by the deemed to be university.

14. But so far as the present case is concerned, the question for B consideration is the term 'any' university in the broader spectrum to curb corruption in the educational institutions as referred to under Section 2(c)(xi) of Act 1988 and the legislature in its wisdom has referred to the word "any university" which clearly mandates the university referred to and controlled by its statutory mechanism referred to under Section 2(f) and deemed to be university under Section 3 of the UGC Act.

C

15. In my considered opinion, the view expressed by the High Court is unsustainable in law and all the questions raised on merits are left open to the respondent to urge during the course of the trial. The appeal is accordingly allowed. The judgment of the High Court of Gujarat dated 2nd February 2018 is hereby set aside. No costs.

Devika Gujral Appeal allowed.