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Court : Kolkata

Decided On : Nov-02-1898

Reported in : (1899)ILR26Cal158

Judge : Stevens and ;Pratt, JJ.

Appellant : Bajoo Singh

Respondent : Queen-empress

Judgement :

Stevens and Pratt, JJ.

1. The petitioner in this case was convicted under Section 186 of the Indian Penal Code of voluntarily obstructing a public servant in the discharge of his public functions. The officer obstructed in the present case was a surveyor employed by the Collector in the khas mehal department, and the functions in which he was obstructed were making a survey of a certain portion of a water-course which was in dispute. It has been contended before us that a distinction must be drawn between the Government in the exercise of its functions as a proprietor of an estate and in that of its duties of general administration, and that looking, to the definition of the word 'Government' in Section 17 of the Indian Penal Code, the surveyor obstructed in the present case was not a servant of the Government. In support of this contention, two cases have, been cited to us, Beg. v. Ramajirav (1875) 12 Bom. H.C., 1.. Chatter Lal v. Thacoor Pershad (1891) I.L.R., 18 Cal.,

518. Neither of these cases is in point. Neither of them deals with the question before us. In each case it was decided that the particular person in question in that case was not a public servant within the definition in Section 21 of the Indian Penal Code. We think that the contention is unfounded. We think that the Collector, acting in the management of a khas mehal, the property of the Government, is as much the Government within the meaning of Section 17 of the Indian Penal Code as when he is exercising any other of the duties of his official position. It seems to us that the 9th clause of Section 21, which contains the definition of the term 'public servant,' is intended to include-officers whose business it is to care for the pecuniary interest of the Government. We think that the Surveyor in the present case was a public servant and that the duty upon which he was engaged, when he was obstructed, was a public duty. We therefore discharge the rule.