


The Prevention of Corruption Act, 1988




Judiciary
Corruption
In
India
भारत में भ्रष्टाचार


ALL INDIA JUDICIARY

THE PREVENTION OF CORRUPTION ACT, 1988



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By
Anoop Upadhyay Sir
(Law)



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The Prevention of Corruption Act, 1988

The Prevention of Corruption Act, 1988
(भ्रष्टाचार निवारण अधिनियम, 1988)

Act No. (क्रमांक) - 49 of 1988



✓ It is an Act of the parliament of India
(यह भारतीय संसद द्वारा पारित केंद्रीय कानून है।)

✓ Enacted to combat corruption in -

✓ Government agencies

✓ Public Sector business in India

(यह सरकारी तंत्र एवं सार्वजनिक क्षेत्र के उपक्रमों में भ्रष्टाचार को कम करने के उद्देश्य से बनाया गया है।)

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HISTORICAL BACKGROUND



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Ancient Period / प्राचीन काल



✓ The corruption in India has an ancient history.

भारत में भ्रष्टाचार का एक प्राचीन इतिहास है।

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- ✓ The author of the Arthashastra made some remarks on government officials of his time which are relevant even today.

अर्थशास्त्र के लेखक ने अपने समय के सरकारी अधिकारियों पर कुछ टिप्पणियां कीं जो आज भी प्रासंगिक हैं।



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- ✓ They states that, 'it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue,' so it is impossible for a government servant not to eat up at least a bit of the king's revenue. वे कहते हैं कि, 'यह असंभव है कि शहद या जहर का स्वाद जीभ की नोक पर न मिले,' इसलिए एक सरकारी कर्मचारी के लिए यह असंभव है कि वह राजा के राजस्व का कम से कम थोड़ा सा न खाए।

शहद



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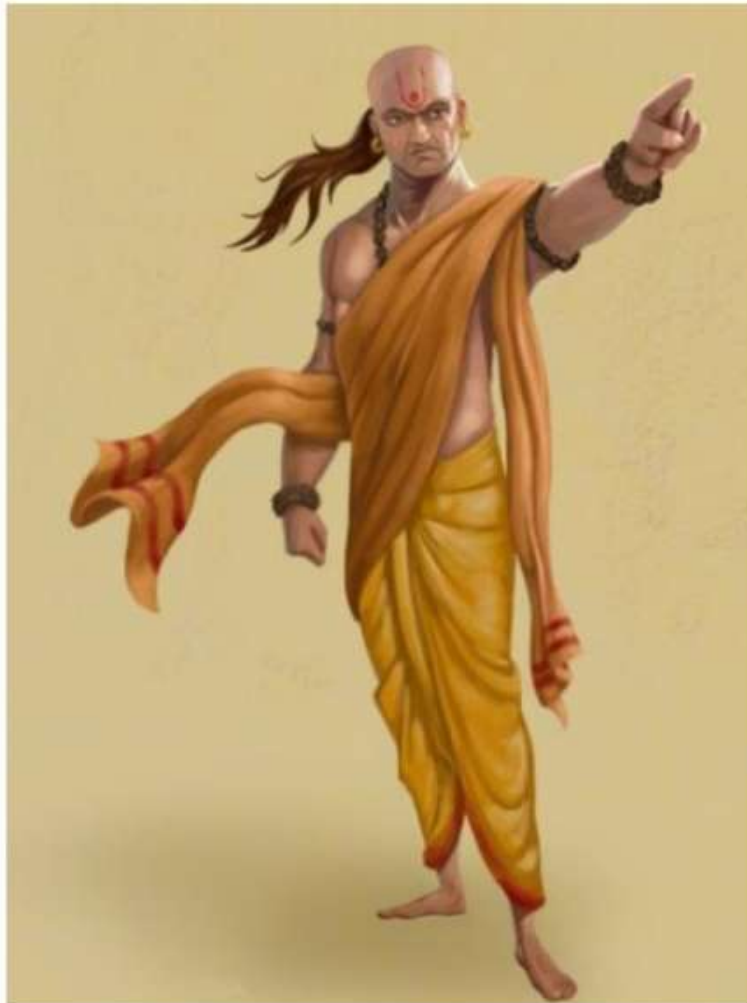


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- ✓ Vishnu and Manu punished people who accepted bribe.
विष्णु और मनु ने रिश्वत लेने वालों को दंडित किया।
- ✓ countless anti-corruption measures and punishments.
प्राचीन भारतीय इतिहास अनगिनत भ्रष्टाचार विरोधी उपायों और दंडों से भरा हुआ है
- ✓ 2000 Two thousand years above, "Kautilya" had written a book in which place the corruption in the deepest part of the hell.
दो हजार साल पहले, "कौटिल्य" ने एक किताब लिखी थी जिसमें भ्रष्टाचार को नरक के सबसे गहरे हिस्से में रखा था।

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The Prevention of Corruption Act, 1988



Before Independence -

५६ ल

लक्ष

अंग्रजों ने भारत के राजा महाराजों को भ्रष्ट करके भारत को गुलाम बनाया।

The British made India a slave by corrupting the kings of India.

After Independence -

Scams (घोटाले)

1947
1648

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1948

- Jeep scam (जीप घोटाला)

↓
V.K. Krishna Menon

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X400 times



1951 - Mudgal case (मुद्रल मामला)

1962 - constitution of Santhanam committee (सन्थानम समिति का गठन)

By Lal bahadur Shastri (लाल बहादुर शास्त्री द्वारा)

To make recommendations for eradicating corruption (भ्रष्टाचार मिटाने के लिए संस्तुति देने के लिए)

Committee said - in the last 16 years the ministers have made a lot of wealth by getting money illegally.

(समिति ने कहा - पिछले 16 वर्षों में मंत्रियों ने अवैध रूप से धन प्राप्त करके बहुत सारी सम्पत्ति बना ली है।)



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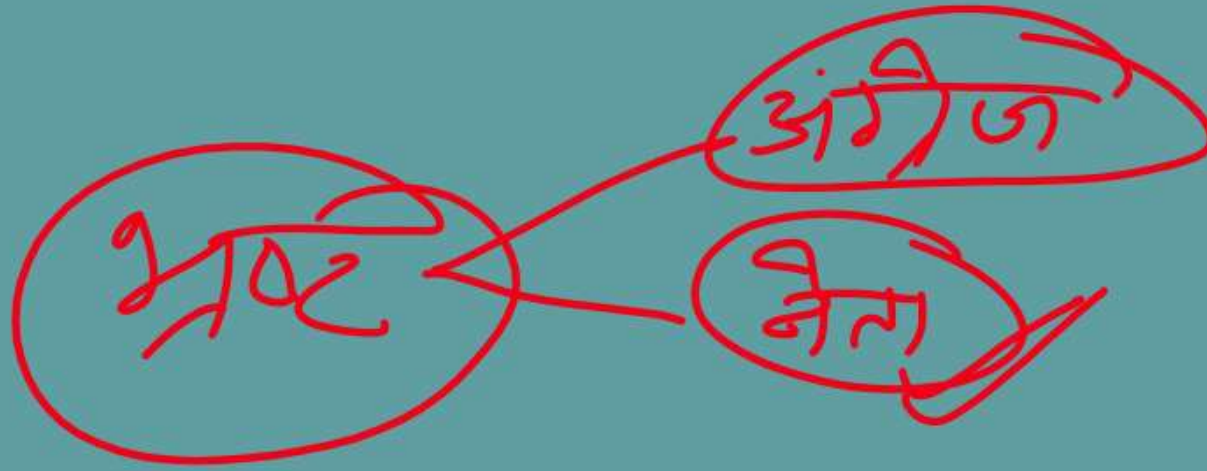


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11.11.19
Essay ⇒ Corruption in
India

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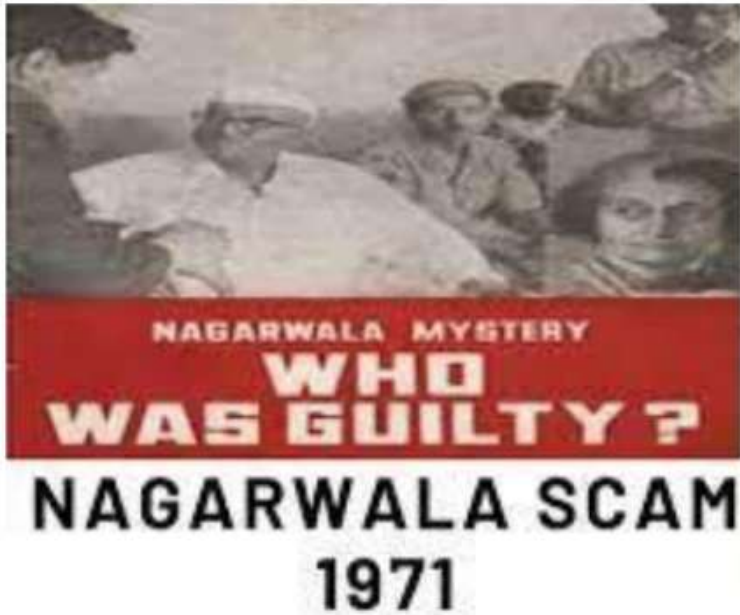
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1971 - Nagarwala Scam
(नागरवाला घोटाला)



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THE BOFORS SAGA

Nov 1989: The Gandhi led Cong govt loses the Lok Sabha polls

Jul 1993: Italian businessman, Ottavio Quattrocchi, accused in the case, leaves India



Jan 1990: Formal case registered into the Bofors scandal by the Central Bureau of Investigation (CBI), Swiss accounts of accused frozen

Oct 1999: CBI files first chargesheet, naming Rajiv Gandhi as one of the accused. Bofors allowed to bid for Indian contracts again

Jul 2013: Quattrocchi dies in Milan. Most accused in the case now dead as the case drags on in the Supreme Court



1986 -

Bofors Scam (बोफोर्स घोटाला)

In this Scam Rajiv Gandhi was accused of brokerage.

(इस घोटाले में राजीव गांधी पर दलाली का आरोप था।)

1988 Act
P. of C. Act, 1988

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1993 - Jharkhand Mukti Morcha bribery
Scandal
(झारखण्ड मुक्ति मोर्चा घूस काण्ड)
↓
P.V. Narasimha Rao पर आरोप लगा।



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1996

Fodder Scam (चारा घोटाला)



Lalu Prasad Yadav - found guilty
(लालू प्रसाद यादव को दोषी पाया गया।)



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2013 - **Augusta Westland** (अगस्ता वेस्टलैण्ड)
↓
Helicopter scam (हेलिकॉप्टर घोटाला)



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In 2013 :-

The Prevention of corruption Act, 1988
(भ्रष्टाचार निवारण अधिनियम, 1988)

Introduced in Parliament for amendment
(संशोधन के लिए ससद में पेश किया गया)

But there is lack of consensus on this amendment.

(लेकिन इस संशोधन पर सहमति नहीं बन पायी।)



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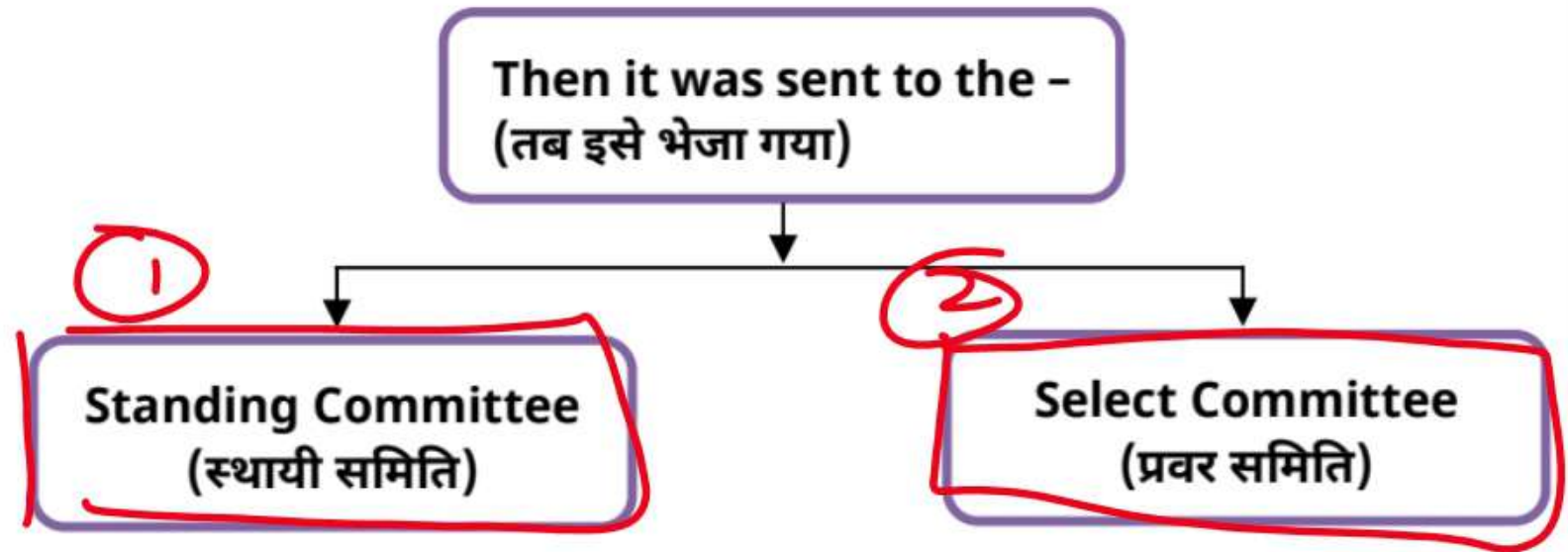


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- * It was also sent to the
↓
✓ Law Commission (विधि आयोग)
↓
For review (समीक्षा के लिए)
- * In 2016 - The law commission submitted its report
(विधि आयोग ने अपनी रिपोर्ट सौंपी)
- * In 2017 - It was brought back to parliament
(इसे पुनः संसद में लाया गया)
↓
Then it was passed (इसे पारित किया गया)
↓

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P. C. Act, 1988 + 2018 (Amendment)

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Named as **Arti-Corruption Amendment Bill 2018**

(**भ्रष्टाचार निरोधक संशोधन विधेयक, 2018 कहा गया**)

In this Bill, the **bride giver** has also brought under its purview

(इस विधेयक में रिश्वत देने वाले को भी इसके दायरे में लाया गया)

Handwritten note: **giver** and **taker** (circled in red) with arrows pointing to the text above.

New Provision -

- ✓ ✓ 1. To check corruption & Protect honest employees.

(भ्रष्टाचार पर लगाम लगाने और ईमानदार कर्मचारियों को संरक्षण देने)

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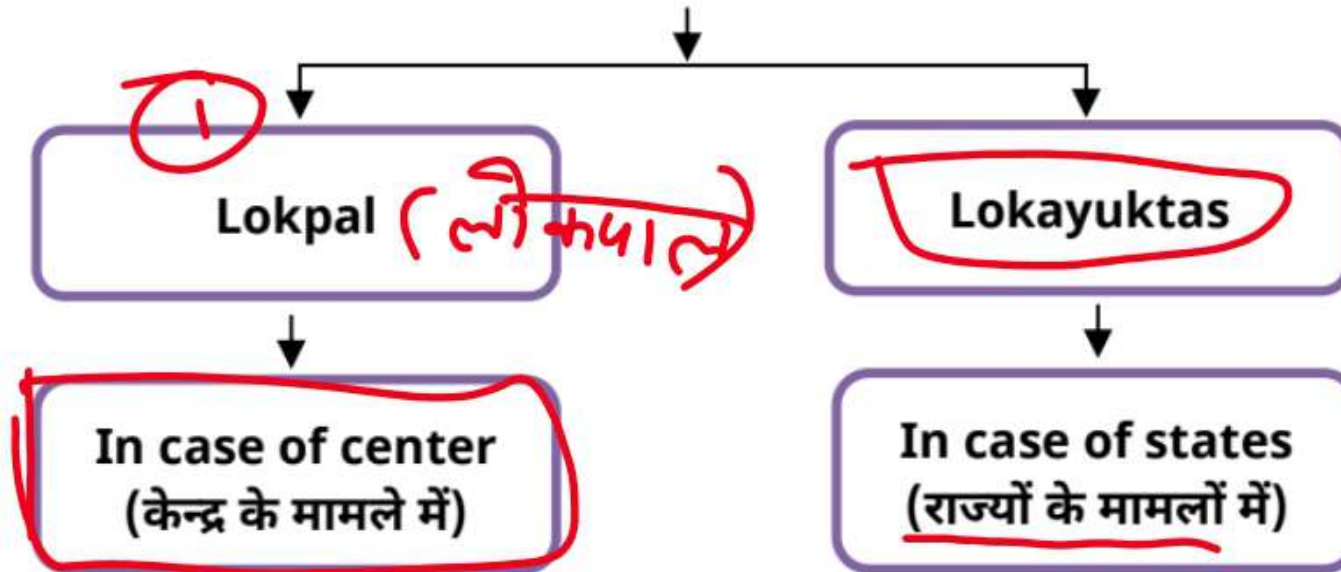
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2. Before running a case of corruption against public Servants, permission has to be taken from-
(लोक सेवकों पर भ्रष्टाचार का मामला चलाने से पहले अनुमति लेनी होगी।)



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3. ✓ The bribe giver will be given 7 days to present his case.

(रिश्वत देने वाले को अपना पक्ष रखने के लिए 7 दिन का समय दिया जाएगा।)

↓
Which can be extended upto 15 days.
(जिसे 15 दिन तक बढ़ाया जा सकता है।)

1. ✓ During investigation, it will also be seen under what circumstances the bribe has been given.

(जाँच के दौरान यह भी देखा जाएगा कि रिश्वत किन परिस्थितियों में दी गई है।)

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Corruption laws in India (भारत में भ्रष्टाचार कानून)



Public Servants in India can be penalized for corruption in following Acts-
(भारत में लोक सेवकों को निम्न कानूनों में दण्डित किया जा सकता है)



Indian Penal Code, 1860 (भारतीय दण्ड संहिताए 1860)

IPCS

Sec. 21 :- definition of "Public Servant"
(लोक सेवक की परिभाषा)

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IPC ✓
Sec. 169 :- Public Servant unlawfully buying or bidding for property
(लोक सेवक द्वारा अवैध रूप से संपत्ति की खरीद या बोली लगाना)

↓
In his own name or **in the name of another.**

(या तो अपने नाम पर या किसी अन्य नाम पर)

✓ **Punishment - [imprisonment - Max 2 year]**

Or

Fine (जुर्माना)

Or

Both (दोनों)

The Property, if purchased - shall be confiscated.

(यदि संपत्ति खरीदी जाती है) - (जब्त कर लिया जाएगा)

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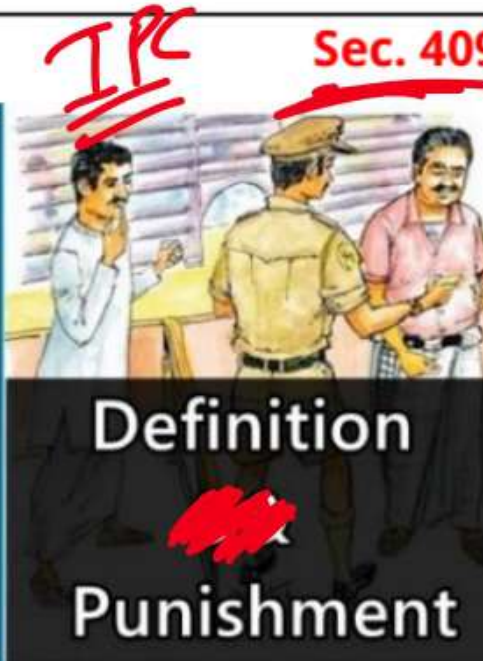


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CRIMINAL BREACH OF TRUST



Sec. 409 :- Criminal Breach of Trust

- ✓ Public Servant
- ✓ Banker
- ✓ Merchant
- ✓ Agent
- ✓ Factor
- ✓ Attorney

C.B.T

अभियुक्ति

अभिमान

Punishment - Life Imprisonment

Or १/

Max 10 years + Fine

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The Prevention of Corruption Act, 1988

CARTOON
Against
Corruption

NATIONAL ANTHEM

KADAM KADAM
BADHAYE JA...
VATAN KO NOCH
KHAYE JA...!



2.

The Prevention of Corruption Act, 1988
(भ्रष्टाचार निवारण अधिनियम, 1988)

3

The Benami Transaction (Prohibition)
Act, 1988
(बेनामी लेनदेन (निषेध) अधिनियम, 1988)

4.

The Prevention of Money Laundering
Act, 2002
(धन-शोधन निवारण अधिनियम, 2002)

5.

The Right to Information Act, 2005
(सूचना का अधिकार अधिनियम, 2005)

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6- Lokpal & Lokayuktas Act, 2013

World
↓
Ranking → India →
↓
Rajasthan → 1st Rank

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International level

India is also a Signatory to the UN convention against corruption (since 2005.)

India - Sign

Base Act

Prevention of Corruption Act, 1988

Total Chapters
(कुल अध्याय)

5

Total Sections
(कुल धाराएँ)

31

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② The three main authorities involved in inquiring, investigating and prosecuting corruption cases are-
भ्रष्टाचार के मामलों की जांच, अन्वेषण और अभियोजन चलाने में शामिल तीन मुख्य प्राधिकरण हैं-

① The Central Vigilance Commission (CVC),
(केंद्रीय सतर्कता आयोग)

② The Central Bureau of Investigation (CBI) and
केंद्रीय जांच ब्यूरो और

③ The state Anti-Corruption Bureau (ACB).
राज्य भ्रष्टाचार निरोधक ब्यूरो

राज्य स्तर

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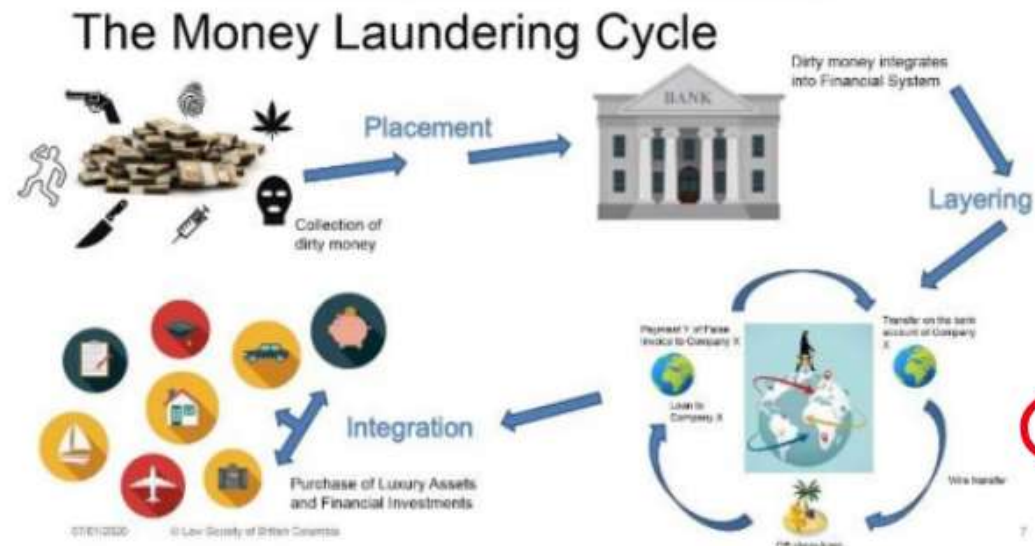
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Cases related to money laundering by public servants are investigated and prosecuted by the -

लोक सेवकों द्वारा मनी लॉन्ड्रिंग से संबंधित मामलों की जांच और मुकदमा चलाया जाता है -

- ① Directorate of Enforcement and प्रवर्तन निदेशालय और
- ② the Financial Intelligence Unit, which are under the Ministry of Finance. वित्तीय खुफिया इकाई, जो वित्त मंत्रालय के अधीन हैं।

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CBI और State
ACB

The CBI and state ACBs investigate cases related to corruption under the Prevention of Corruption Act, 1988 and the Indian Penal Code, 1860.

सीबीआई और राज्य भ्रष्टाचार निरोधक ब्यूरो भ्रष्टाचार निवारण अधिनियम, 1988 और भारतीय दंड संहिता, 1860 के तहत भ्रष्टाचार से संबंधित मामलों की जांच करते हैं।

Investigation

The CBI's jurisdiction is the central government and Union Territories while the state ACBs investigate cases within the states.

सीबीआई के अधिकार क्षेत्र में केंद्र सरकार और केंद्र शासित प्रदेश हैं जबकि राज्य भ्रष्टाचार निरोधक ब्यूरो राज्यों के भीतर मामलों की जांच करते हैं।

P.C. Act, 1988

IPC, 1860

राज्य → ACB

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States can refer cases to the CBI. ✓

राज्य मामले सीबीआई को भेज सकते हैं।

The CVC is a statutory body that supervises corruption cases in government departments.

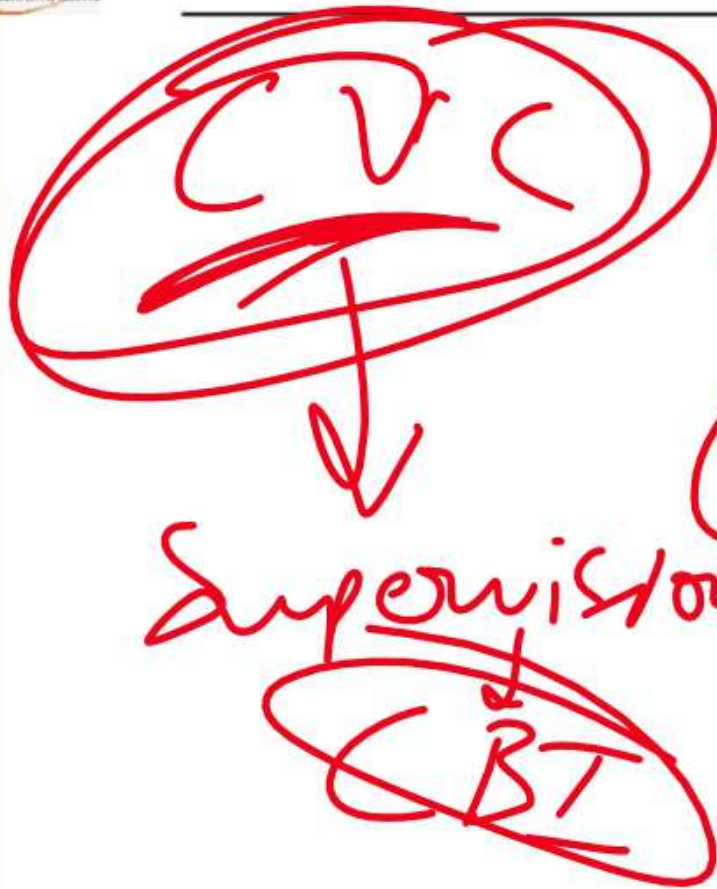
सीवीसी एक वैधानिक निकाय है जो सरकारी विभागों में भ्रष्टाचार के मामलों की निगरानी करता है।

The CBI is under its supervision.

सीबीआई इसके पर्यवेक्षण में है।

The CVC can refer cases either to the Central Vigilance Officer (CVO) in each department or to the CBI. ①

सीवीसी मामलों को या तो प्रत्येक विभाग में केंद्रीय सतर्कता अधिकारी (सीवीओ) या सीबीआई को भेज सकता है।



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The CVC or the CVO recommends the action to be taken against a public servant but the decision to take any disciplinary action against a civil servant rests on the department authority.

सीवीसी या सीवीओ एक लोक सेवक के खिलाफ कार्रवाई की सिफारिश करता है लेकिन एक सिविल सेवक के खिलाफ कोई अनुशासनात्मक कार्रवाई करने का निर्णय विभाग के अधिकार पर निर्भर करता है।

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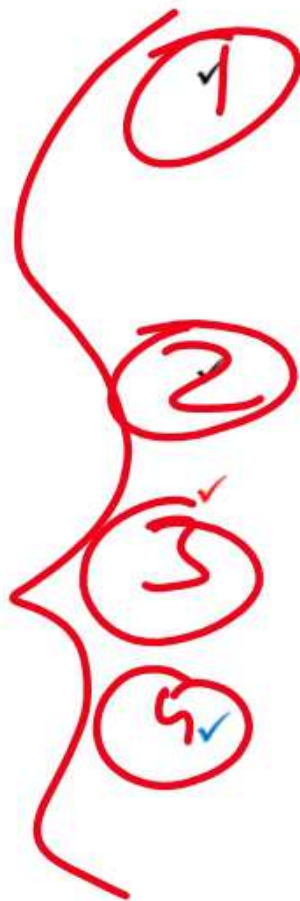
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LOOPHOLES IN Prevention of Corruption ACT, 1988



1 Not applicable to **private sector** whereas private sector has a lot of corruption involved
(निजी क्षेत्र पर लागू नहीं है जबकि निजी क्षेत्र में बहुत अधिक भ्रष्टाचार शामिल है)

2 Delay in prosecuting (मुकदमा चलाने में देरी)

3 The term **"corruption"** remains undefined creating confusion
(भ्रष्टाचार शब्द अपरिभाषित बना हुआ है जिससे भ्रम पैदा हो रहा है।)

4 No provision regarding confiscation of proceeds from bribery
(घूसखोरी से प्राप्त आय की जब्ती के संबंध में कोई प्रावधान नहीं)

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The Prevention of Corruption Act, 1988 → Base Act

Range

C. No.	Chapter Name	Range
✓ 1.	<u>Preliminary</u> / प्रारम्भिक	[1-2]
✓ 2.	<u>Appointment of Special Judges</u> / विशेष न्यायाधीशों की नियुक्ति	[3-6]
✓ 3.	<u>Offences and Penalties</u> / अपराध और शास्तियां	[7-16]
✓ 4.	<u>Investigation</u> / अन्वेषण	[17-18]
4A	<u>Attachment and Forfeiture of Property</u> / सम्पत्ति की कुर्की और समपहरण	[18]
5.	<u>Sanction for Prosecution and other Miscellaneous Provisions</u> / अभियोजन के लिए मंजूरी और अन्य प्रकीर्ण उपबन्ध	[19-31]

Important

imp.

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The Prevention of Corruption Act, 1988

CHAPTER - I

Preliminary/ प्रारम्भिक

Sec 1. Short title and extent (संक्षिप्त नाम और विस्तार) -

(1) This Act may be called the Prevention of Corruption Act, 1988.

इस अधिनियम का संक्षिप्त नाम भ्रष्टाचार निवारण अधिनियम, 1988 है।

imp (2) It extends to the whole of India and it applies also to all citizens of India outside India.

इसका विस्तार सम्पूर्ण भारत पर है और यह भारत के बाहर भारत के समस्त नागरिकों को भी लागू है।

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Sec. 2. Definitions (परिभाषाएं)

2 (a) "election" means any election, by whatever means held under any law for the purpose of selecting Members of Parliament, or of any Legislature, local authority or other public authority;

"निर्वाचन" से संसद् या किसी विधान-मण्डल, स्थानीय प्राधिकरण या अन्य लोक प्राधिकरण के सदस्यों के चयन के प्रयोजन के लिए किसी विधि के अधीन, किसी भी माध्यम से, कराया गया निर्वाचन अभिप्रेत है



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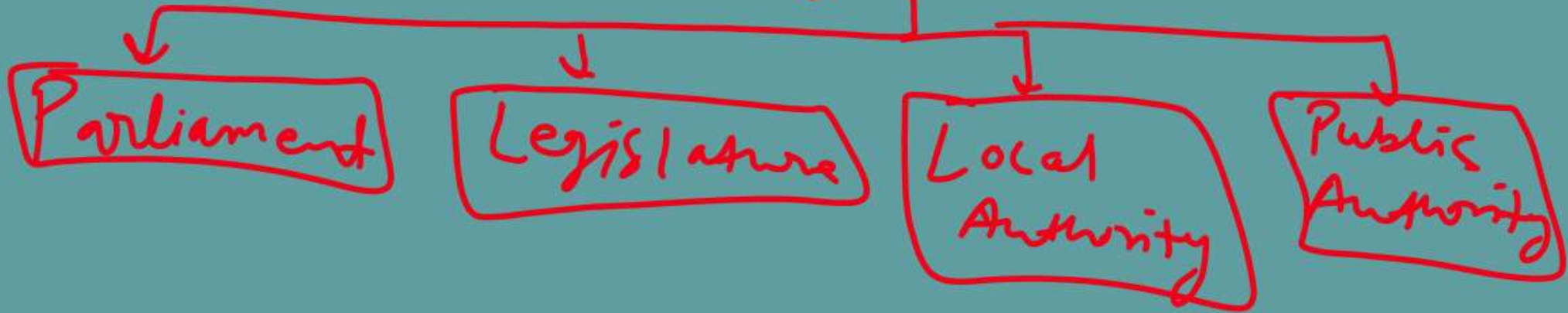


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Sec. 2(a) : Election (निर्वाचन)

↓
incomes — सम्पत्ति है—
↓

Selecting Members of



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The Prevention of Corruption Act, 1988



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2 (aa)

2 (b)

"prescribed" means prescribed by rules made under this Act and the expression "prescribe" shall be construed accordingly
"विहित" से इस अधिनियम के अधीन बनाए गए नियमों द्वारा विहित अभिप्रेत है और तदनुसार "विहित" पद का अर्थ लगाया जाएगा

"public duty" means a duty in the discharge of which the State, the public or the community at large has an interest.

"लोक कर्तव्य" से अभिप्रेत है वह कर्तव्य, जिसके निर्वहन में राज्य, जनता या समस्त समुदाय का हित है।

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Explanation - In this clause "State" includes a corporation established by or under a Central, Provincial or State Act, or an authority or a 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);

इस खण्ड में, "राज्य के अन्तर्गत किसी केन्द्रीय, प्रान्तीय या राज्य अधिनियम द्वारा या उसके अधीन स्थापित निगम या सरकार के स्वामित्व या नियंत्रण के अधीन या सरकार से सहायता प्राप्त कोई प्राधिकरण या निकाय या कम्पनी अधिनियम, 1956 (1956 का 1)1 की धारा 617 में यथापरिभाषित सरकारी कंपनी भी है।

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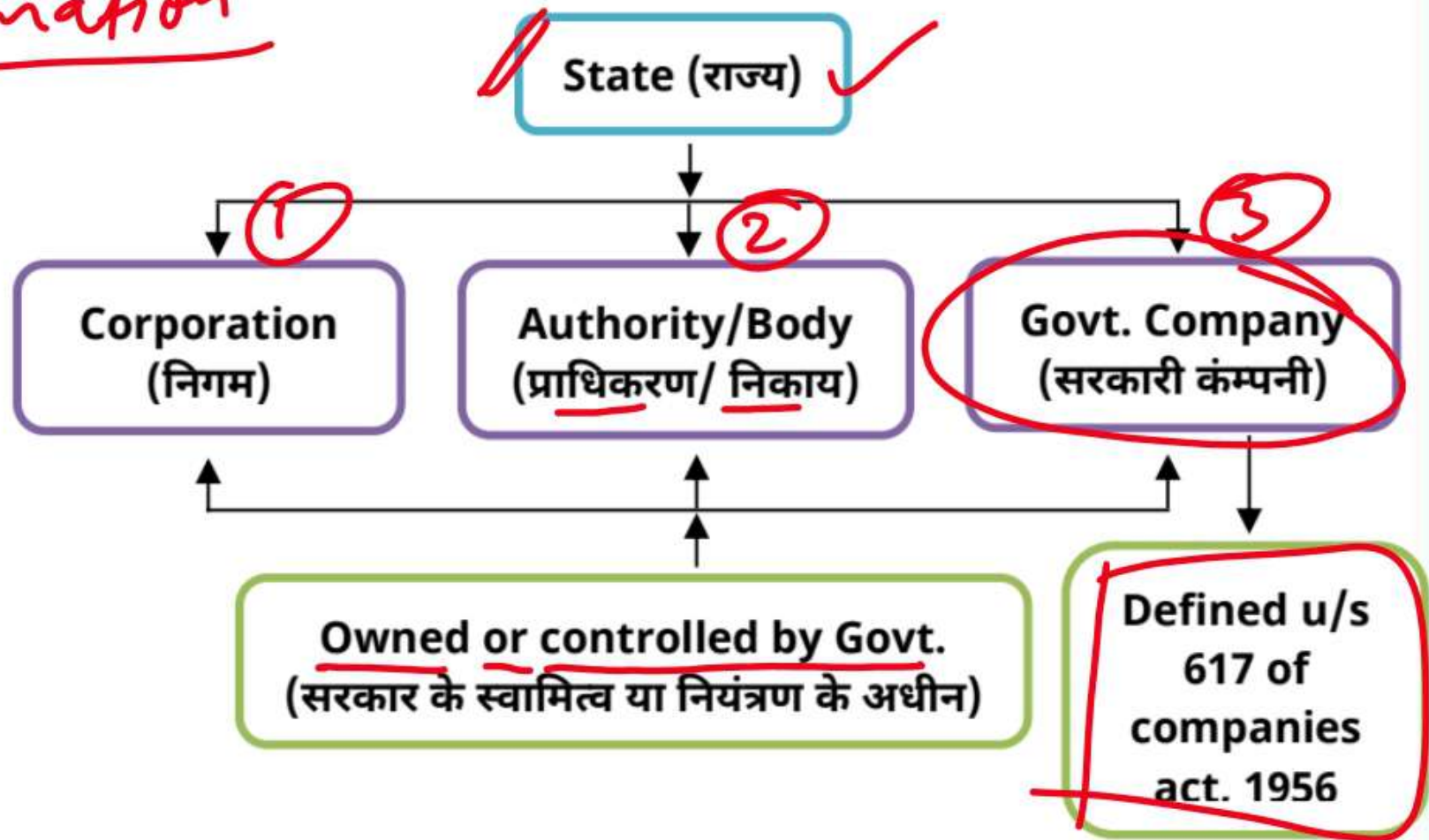
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Explanation



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The Prevention of Corruption Act, 1988

Case Law

^{CBI}
[Central Bureau of Investigation] Bank Securities and Fraud Cell vs. Ramesh Gelli

केंद्रीय अन्वेषण ब्यूरो, बैंक प्रतिभूति और कपट प्रकोष्ठ VS. रमेश गेल्ली

Mere performance of public duties by holder of any office cannot bring the incumbent within the meaning of public servant.

केवल किसी कार्यालय के धारक के द्वारा लोक कर्तव्यों का पालन पदधारी को लोक सेवक के अर्थान्तर्गत नहीं ला सकता।

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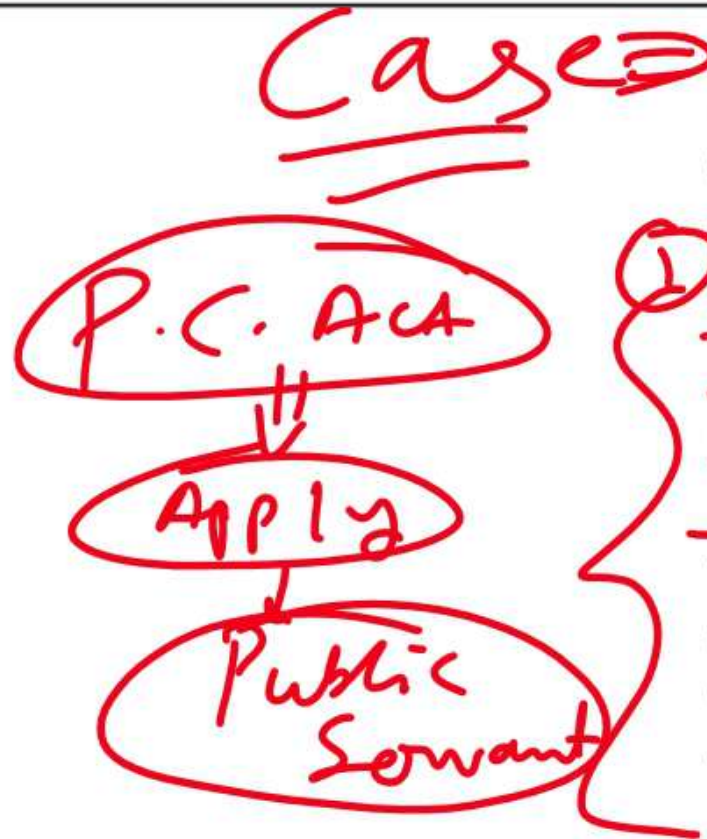


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The Prevention of Corruption Act, 1988



Central Bureau of Investigation, Bank Securities and Fraud Cell vs. Ramesh Gelli
केंद्रीय अन्वेषण ब्यूरो, बैंक प्रतिभूति और कपट प्रकोष्ठ VS. रमेश गेल्ली

1 Chairman/Managing Director or Director of any private bank cannot be excluded from the definition of public servant, against whom a case related to anti-corruption is registered.

2 3
किसी प्राइवेट बैंक के अध्यक्ष/प्रबन्ध निदेशक या निदेशक को लोक सेवक की परिभाषा से अपवर्जित नहीं किया जा सकता, जिसके विरुद्ध भ्रष्टाचार निरोध के सम्बन्ध में मामला पंजीकृत किया जाता है।

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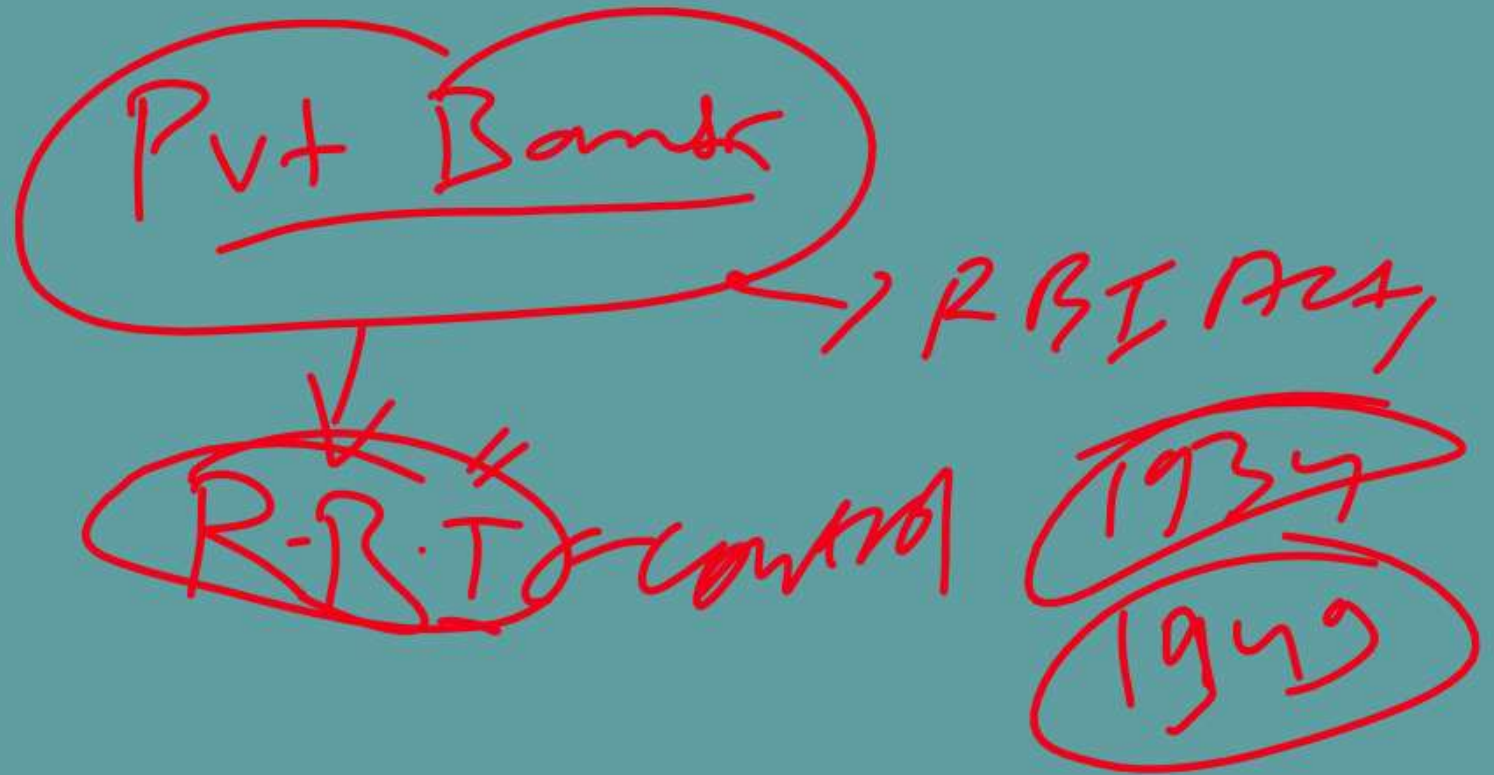
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Sec 2(c) "public servant" means -
"लोक सेवक" से अभिप्रेत है-



(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;

कोई व्यक्ति जो सरकार की सेवा या उसके वेतन पर है या किसी लोक कर्तव्य के पालन के लिए सरकार से फीस या कमीशन रूप में पारिश्रमिक पाता है

(ii) any person in the service or pay of a local authority

कोई व्यक्ति जो किसी लोक प्राधिकरण की सेवा या उसके वेतन पर है।

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Corporation
↓
Establish
↓
govt

(iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a 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);

कोई व्यक्ति जो किसी केन्द्रीय, प्रांतीय या राज्य अधिनियम द्वारा या उसके अधीन स्थापित निगम या सरकार के स्वामित्व या नियंत्रण के अधीन या राधान सरकार से सहायता प्राप्त किसी प्राधिकरण या निकाय या कम्पनी अधिनियम, 1956 (1956 का 1) की धारा 617 में यथापरिभाषित किसी सरकारी कंपनी की सेवा या उसके वेतन पर है।

(iv) any Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

कोई न्यायाधीश, जिसके अन्तर्गत ऐसा कोई व्यक्ति है जो किन्हीं न्यायनिर्णयन कृत्यों का, चाहे स्वयं या किसी व्यक्ति या निकाय के सदस्य के रूप में, निर्वहन करने के लिए विधि द्वारा सशक्त किया गया है।

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(v) any person authorised by a Court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such Court

कोई व्यक्ति जो न्याय प्रशासन के संबंध में किसी कर्तव्य का पालन करने के लिये न्यायालय द्वारा प्राधिकृत किया गया है जिसके अन्तर्गत किसी ऐसे न्यायालय द्वारा नियुक्त किया गया परिसमापक, रिसीवर या आयुक्त भी है

(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a Court of justice or by a competent public authority;

कोई मध्यस्थ या अन्य व्यक्ति जिसको किसी न्यायालय द्वारा या किसी सक्षम लोक प्राधिकरण द्वारा या कोई मामला या विषय, विनिश्चय या रिपोर्ट के लिए निर्देशित किया गया है

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(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

कोई व्यक्ति जो किसी ऐसे पद को धारण करता है जिसके आधार पर वह निर्वाचक सूची तैयार करने, प्रकाशित करने, बनाये रखने या पुनरीक्षित करने अथवा निर्वाचन या निर्वाचन के भाग का संचालन करने के लिये सशक्त है

(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

कोई व्यक्ति जब किसी ऐसे पद को धारण करता है जिसके आधार पर वह किसी लोक कर्तव्य का पालन करने के लिये प्राधिकृत या अपेक्षित है

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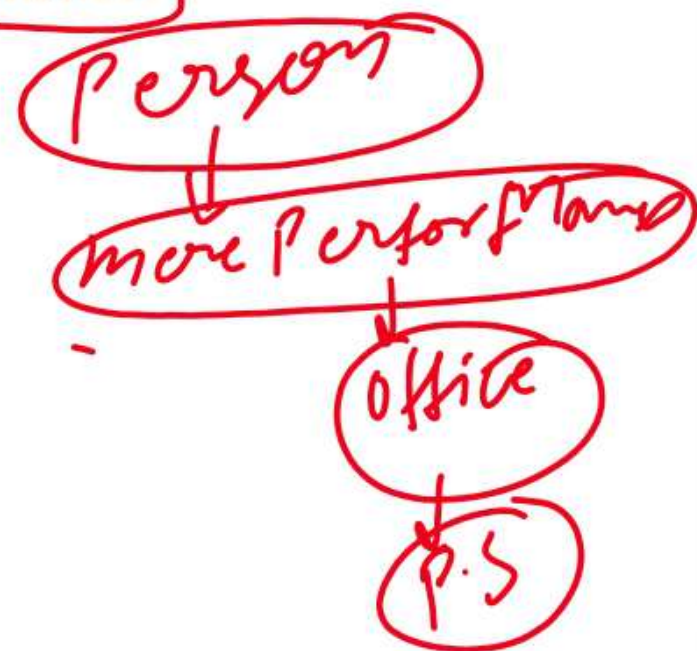
Case :- CBI, Bank Securities & Fraud cell v/s Ramesh Gelli (2016SC)

Performance of public duties by holder any office

Public servant

[yes] No

Mere Performance



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(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)

कोई व्यक्ति जो कृषि, उद्योग, व्यापार या बैंककारी में लगी हुई किसी ऐसी रजिस्ट्रीकृत सोसाइटी का अध्यक्ष, सचिव या अन्य पदधारी है जो केन्द्रीय सरकार या किसी राज्य सरकार या किसी प्रान्तीय या राज्य अधिनियम द्वारा या उसके अधीन स्थापित किसी निगम से या सरकार के स्वामित्व या नियंत्रण के अधीन या सरकार से सहायता प्राप्त किसी प्राधिकरण या निकाय से या कंपनी अधिनियम, 1956 (1956 का 1) की धारा 617 में

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यथापरिभाषित किसी सरकारी कंपनी से कोई वित्तीय सहायता प्राप्त कर रही है या कर चुकी है

(x) ¹ any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board

कोई व्यक्ति जो किसी सेवा आयोग या बोर्ड का, चाहे वह किसी भी नाम से ज्ञात हो, अध्यक्ष, सदस्य या कर्मचारी या ऐसे आयोग या बोर्ड की ओर से किसी परीक्षा का संचालन करने के लिए या उसके द्वारा चयन करने के लिये नियुक्त की गई किसी चयन समिति का सदस्य है

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(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 or conducting examinations;

कोई व्यक्ति जो किसी विश्वविद्यालय का कुलपति, उसके किसी शासी निकाय का सदस्य, आचार्य, उपाचार्य, प्राध्यापक या कोई अन्य शिक्षक या कर्मचारी है, चाहे वह किसी भी पदाभिधान से ज्ञात हो, और कोई व्यक्ति जिसकी सेवाओं का लाभ विश्वविद्यालय द्वारा या किसी अन्य लोक निकाय द्वारा परीक्षाओं के, आयोजन या संचालन के संबंध में किया गया है।

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(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

कोई व्यक्ति जो किसी भी रीति में स्थापित किसी शैक्षणिक, वैज्ञानिक सामाजिक या अन्य संस्था का, जो केन्द्रीय सरकार या किसी राज्य सरकार या किसी स्थानीय या अन्य प्राधिकरण से वित्तीय सहायता प्राप्त कर रही है या कर चुकी है, पदधारी या कर्मचारी है।

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Explanation 1 - Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

उपर्युक्त उपखण्डों में से किसी के अन्तर्गत आने वाले व्यक्ति लोक सेवक हैं चाहे वे सरकार द्वारा नियुक्त किये गये हों या नहीं।

Explanation 2 - Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation. "लोक सेवक" शब्द जहां भी आए हैं, वे उस हर व्यक्ति के संबंध में समझे जाएंगे जो लोक सेवक के ओहदे को वास्तव में धारण किये हों, चाहे उस ओहदे को धारण करने के उसके अधिकार में कैसी ही विधिक त्रुटि हो।

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(d) "undue advantage" means any gratification whatever, other than legal remuneration.

"असम्यक् लाभ" से ऐसा कोई पारितोषण अभिप्रेत है, चाहे जैसा भी हो, विधिक पारिश्रमिक से भिन्न हो।

Explanation (स्पष्टीकरण) - For the purposes of this clause / इस खंड के प्रयोजनों के लिए -

(a) the word "gratification" is not limited to pecuniary gratifications or to gratifications estimable in money;

"पारितोषण" शब्द धनीय पारितोषणों या धन के रूप में प्राक्कलनीय पारितोषणों तक सीमित नहीं है;

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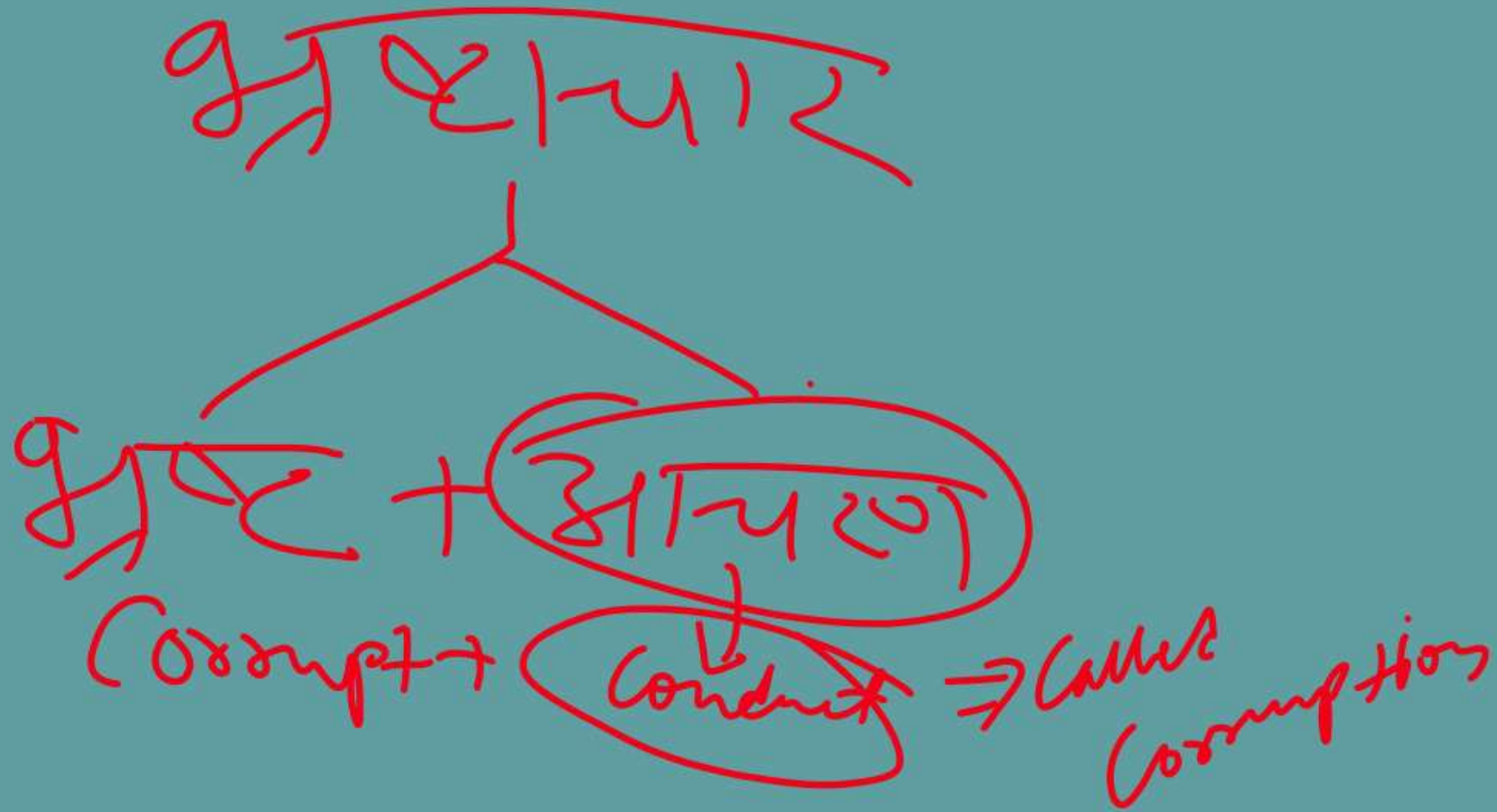
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(b) the expression "legal remuneration" is not restricted to remuneration paid to a public servant, but includes all remuneration which he is permitted by the Government or the organisation, which he serves, to receive.

"विधिक पारिश्रमिक" पद किसी लोक सेवक को संदत्त पारिश्रमिक तक निर्बन्धित नहीं है, किन्तु इसके अंतर्गत ऐसे सभी पारिश्रमिक भी हैं, जिसका सरकार या संगठन द्वारा, जिसकी वह सेवा करता है, प्राप्त करने के लिए अनुज्ञात है।

Income Tax Act, 1961 ⇒ Salary
Legal Rem. ⇒ Salary + Comm + Bonus + Allowance (वर्क)
defined

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CHAPTER II

Appointment of Special Judges / विशेष न्यायाधीशों की नियुक्ति

Sec. 3.

Power to appoint Special Judges (विशेष न्यायाधीश नियुक्त करने की शक्ति) -

(1)

The (Central Government or the State Government) may, by notification in the Official Gazette, appoint as many Special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely:

केन्द्रीय सरकार या राज्य सरकार, राजपत्र में अधिसूचना द्वारा, निम्नलिखित अपराधों के विचारण के लिये इतने विशेष न्यायाधीश नियुक्त कर सकेगी, जितने ऐसे क्षेत्र या क्षेत्रों के लिये या ऐसे मामलों या मामलों के समूह के लिये जो आवश्यक हों, अधिसूचना में विनिर्दिष्ट किये जाएं, अर्थात्

C.G./S.G.
↓
S.J.
↓
Offences
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3(c) (a) (b)

any offence punishable under this Act; and
इस अधिनियम के अधीन दण्डनीय कोई अपराध ; और

any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).

खण्ड (क) में विनिर्दिष्ट अपराधों में से किसी को करने के लिये षड्यंत्र करने या करने का प्रयत्न या कोई दुष्प्रेरण।

Chart

(2)

A person shall not be qualified for appointment as a Special Judge und this Act unless he is or has been a Sessions Judge or an Additional Sessions or an Assistant Sessions Judge under the Code of Criminal Procedure, 19 1974).

कोई व्यक्ति इस अधिनियम के अधीन विशेष न्यायाधीश के रूप में नियुक्त होने के लिये तब तक अर्हित नहीं होगा, जब तक कि वह दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) के अधीन सेशन न्यायाधीश या अपर सेशन न्यायाधीश या सहायक सेशन न्यायाधीश नहीं है या नहीं रहा है।

IPC
107-120
↓ Abetment

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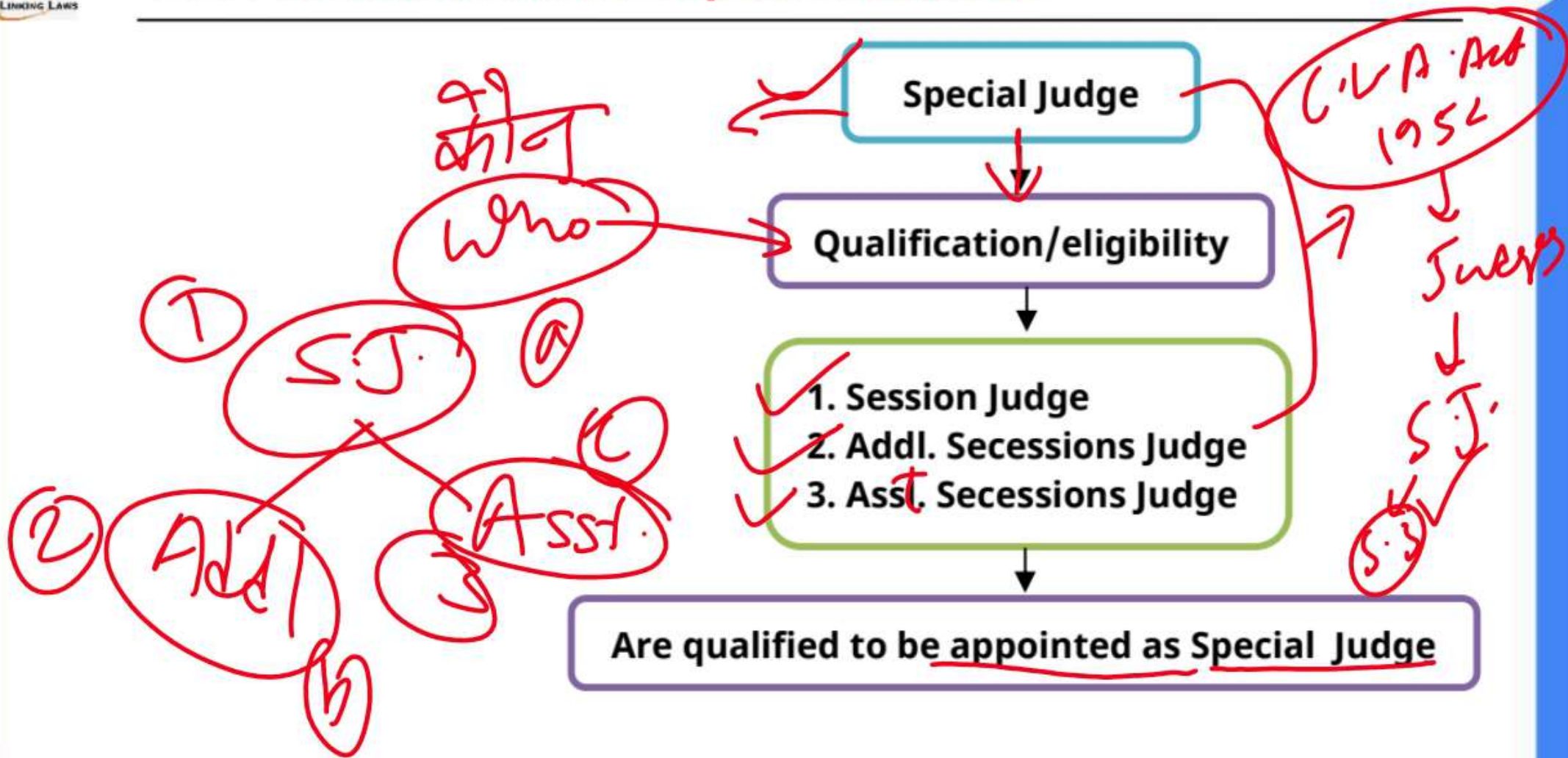
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Sec. 26. 'Special Judge' appointed under criminal law Amendment Act, 1952 shall be deemed to be a special judge appointed u/s 3 of P.C. Act, 1988.

(दण्ड विधि संशोधन अधिनियम, 1952 के अधीन नियुक्त किये गये विशेष न्यायाधीशों को

↓
भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 3 में नियुक्त किया गया विशेष न्यायाधीश माना जाएगा)

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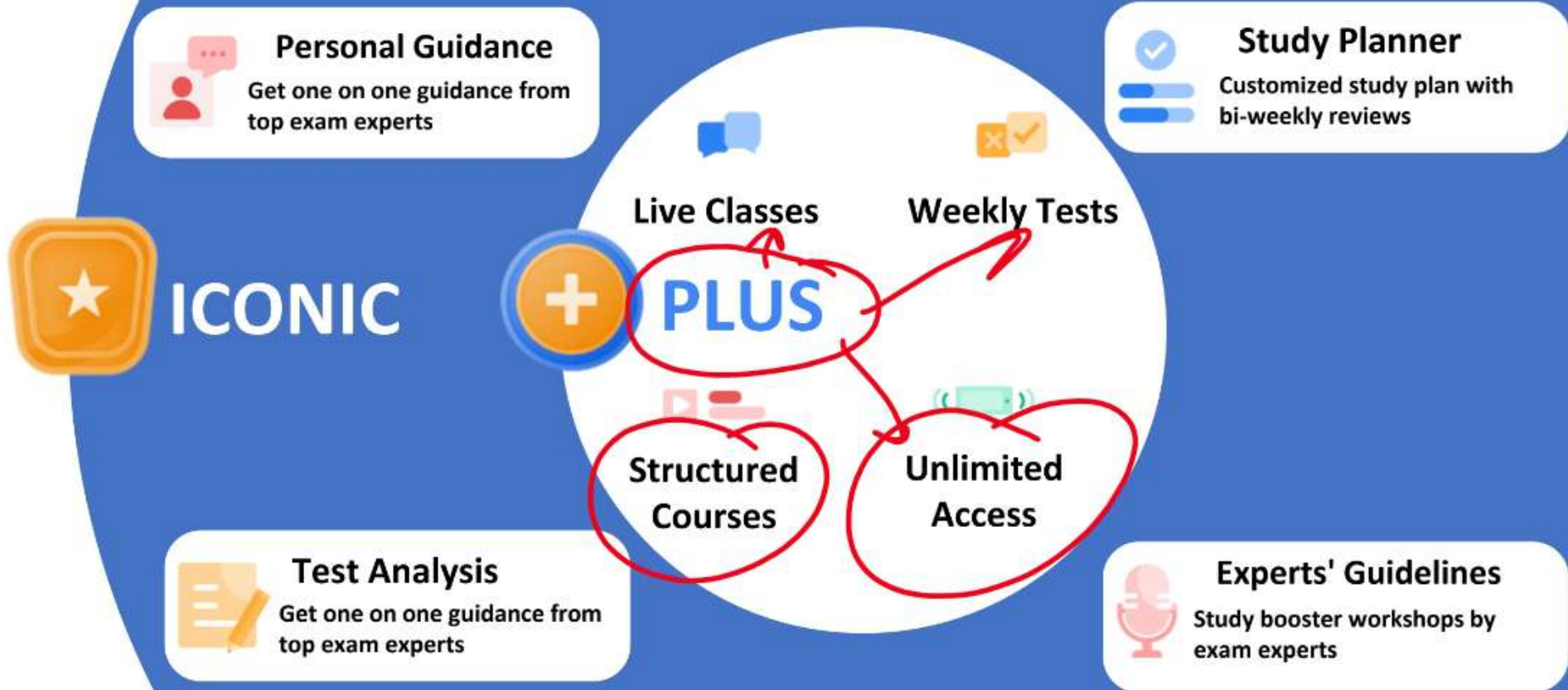


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