
(1909) 02 CAL CK 0003

Calcutta High Court

Case No: None

In Re: Jadab Chandra
Chakravarti

APPELLANT

Vs

RESPONDENT

Date of Decision: Feb. 16, 1909

Citation: (1909) 02 CAL CK 0003

Judgement

1. The Petitioner in this case is a pleader practising in the Munsif's Court at Jalpaiguri. At the end of 1908, in accordance with the rules, he applied for a renewal of his certificate, appending to his application a certificate by the Munsif that he knew nothing against his character. He had, however, been the Defendant in a case tried before the District Judge and that officer had formed an unfavourable opinion of his character. Accordingly he refused to renew the certificate. The Petitioner has obtained this rule on the District Judge to show cause why the certificate should not be renewed.

2. The point is not free from difficulty. Section 7 of the Legal Practitioners Act lays down that a pleader at the end of the year "shall, subject to any rules consistent with this Act, which may from time to time be made in this behalf by the High Court, be entitled to have his certificate renewed." Rule 25 of the rules made under the Act lays down that with his application for renewal the pleader shall file a certificate of character from the presiding officer of the Court in which he practises." If this rule, therefore, is consistent with the Act, it would seem that if the certificate of character is not filed, the pleader is not entitled to renewal.

3. We do not think, however, that the rule can be said to be consistent with the Act, so far as it requires a certificate of character, unless all real meaning is taken away from the expression. The presiding officer, as in the present case, may know nothing about the pleader, and a certificate to the effect that he knows nothing about the pleader can hardly, without straining language, be called a certificate of character. Or the presiding officer may even think the pleader to be not of good character, though his misconduct may not be so bad as to require the intervention of the Court u/s 13 or 14 of the Act. In such a

case also the presiding officer should not, if honest, give a certificate of character.

4. But it could hardly have been the intention of the Legislature that the presiding officer of the Court in which a pleader practises should thus practically have it in his power, without any enquiry, to suspend a pleader for an indefinite time. Sees. 12 to 14 prescribe by what proceedings a pleader may be suspended or dismissed, and we think that rules framed u/s 7 must be consistent with these sections. The present rule can only be regarded as consistent with these sections if the expression "certificate of character" is construed as meaning nothing more than a certificate that the presiding officer of the Court is not aware of any misconduct of the pleader justifying action under sees. 12 to 14. Such a certificate could hardly be regarded as a certificate of character in any ordinary sense of the words, but unless the words are construed in this way we think the rule cannot be lawfully enforced.

5. It is true that in the opinion of the learned District Judge the Petitioner has been guilty of misconduct that justifies action u/s 13. The District Judge considers that the effect of his judgment in the suit brought against the Petitioner was to establish that the Petitioner had embezzled Rs. 5,000. In his judgment, however, all that the District Judge said was that the Petitioner's defence was not genuine, and that he deliberately tried to confuse the Court. This may or may not be regarded as reasonable cause for suspension or dismissal u/s 13, but at present the whole matter is sub judice, as the Petitioner has appealed from the decision of this District Judge, and we understand that the appeal has been admitted. These papers, therefore, will be put up for consideration immediately after the disposal of the appeal. But for the present we think that the Petitioner is entitled to the renewal of his certificate and accordingly we make the rule absolute.