

In Re: Raghubir Saran

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Court : Allahabad

Decided On : May-12-1949

Reported in : 1949CriLJ852

Judge : Wali Ullah, Ag. C.J., ;Sapru and ; Bhargava, JJ.

Appellant : In Re: Raghubir Saran

Judgement :

Wali Ullah, Ag. C.J.

1. I agree that this application should be dismissed. The full facts of the case are set out in the Orders of my learned brothers, Sapru and Bhargava J J , and I gene, rally agree with the reasons given by them.

2. The applicant was removed from practice by an Order of the Special Bench of three Judges in miscellaneous Case No. 243 of 1946 dated 20th December 1946. On 29th July 1947, the present application for re-instatement and permission to practise was made by the applicant. It purports to be an application under Section 12(6), Bar Councils Act.

2a. We have heard Mr. S. N. Verma, the learned Counsel for the applicant, at length. We have also heard Mr. Kunzru on behalf of the Bar Council and Dr. Faruqi, Government Advocate, on behalf of the Advocate-General, who have both opposed the application. Some argument has been addressed to us on the question whether the High Court acting under Section 12(6), Bar Councils Act can

admit fresh evidence and, on the strength of the same, 'review' its previous Order passed under Sub-section (4) i, e., the Order removing the applicant from practice . I have no doubt in my mind that the Word 'review' in Section 12(6) of the Act has been used in a generic sense meaning 'reconsider' or 're-examine,' I do not think it can be reasonably held that the powers of this Court under Section 12(6) of the Act are hedged in by any such restrictions as are contained in C. 47, Civil P. C. Under Sub-section (6) of Section 12, it is left entirely to the discretion of a High Court to pass such suitable Orders in each case as it considers necessary. The conduct and general behaviour of the applicant subsequent to the removal of his name from the rolls by the Order of this Court dated 20th December 1946, to my mind, is the crucial point to be considered in this case. As mentioned already, the interval of time which has elapsed between the applicant's removal from practice. on 20th December 1946 and the presentation of the present application for reinstatement on 29th July 1947, is, on the face of it, very short. In the course of his arguments, learned Counsel invited our attention to a number of cases in which advocates or pleaders have been re-admitted after their names had been struck off the rolls, but it is not necessary to refer to any of them beyond observing that the general principle underlying the decision in each one of the cases has always been that the subsequent conduct of the applicant is to be carefully considered and the Court must be satisfied that the Order of expulsion has had the salutary effect of awakening in the petitioner a higher sense of honour and duty than he evinced when disciplinary action was taken. Courts have always taken care to see that in the interval between removal from practice and fresh application for re-admission, the conduct of the petitioner has been such that notwithstanding his prior delinquency, he might be safely entrusted with the affairs of clients and be received once again as a member of an honourable profession without detriment to the profession or the disparagement of the colleagues with whom he must work and without impairing the dignity of the Courts. In order to ensure all this, Courts have always insisted that sufficient time must elapse before re-admission. A number of cases are referred to in *In re Abiruddin Ahmad*, S8 Cal. 309 : S I. C. 1108). In one case the comparatively short period of two years was deemed sufficient. In two cases 3 years were considered enough, but in the Majority of cases the lapse of five, seven, ten and even twelve years was insisted

upon. Obviously, the period must naturally depend upon the nature of the offence and the evidence regarding the petitioner's conduct and activities after his name was struck off the rolls. Reference may be made here to the cases of, (1) In the matter of an advocate reported in A. i. R. (24) 1937 Bom. 48 : I. L. B. (1937) Bom 99, (2) In re Sri Ram Gautama, a. i. e. (86) 1949 b. p. 83 (P.B.), (8) In the matter of U, an advocate A. I. R. (26) 1939 Bang. 142 : 1939 Bang. L. E. 213 SB, (4) In the matter of N, an advocate : AIR1936 Cal158 In re U, ex-Lower Grade Pleader, Kama, A. I.R. (27) 1940 Rang. 32 : 41 Cr. L. J. 272) and (6) In the matter of K. J., a Vakil, Madras, A.I.R. (26) 1939 Mad. 906; (41 Cr, L. J. 163 S.B.). It should, however, be made clear that striking the name of a practitioner off the rolls does not mean perpetual disability. The decision of the Court in each case must depend upon its own particular facts and circumstances. In the present case, the applicant exhibited undue haste in rushing to the Court with an application for reinstatement. During the course of the hearing of the application, he appears to have secured a number of certificates from advocates practising at Meerut, but there are no affidavits to prove the truth of those certificates, There is no certificate from any judicial officer supporting the application for re-instatement.

3. After an anxious consideration of the whole matter, I have reached the conclusion that the present application is thoroughly misconceived and has no merits and that it must be dismissed.

Sapru, J.

3a. The applicant in this case is one Mr. Raghubir Saran. He was enrolled as a vakild of this Court in August 1917 and, after practising at Boorkee for a year, shifted to Meerut. He was selected for the Provincial Judicial Service and appointed Munsif in the Agra Province in 1923. In 1926 the Indian Bar Council Act (Act xxxviii [38] of 1926) which raised the status of Vakils to that of Advocates came into existence. He took advantage, as he was indeed entitled to, of the provisions of that Act and while still in service got himself enrolled as an advocate under it in 1928. Between 1928 and 1938 nothing particular happened. In September 1938, Mr. Raghubir Saran found himself posted as an Additional Civil Judge at Banaras for the purpose of disposing of certain arrears. He attracted the

attention of the Anti-corruption Department as some suspicion fell upon him of taking bribes. In pursuance of their information that he was a corrupt officer, the officials of the Anti-corruption Department arranged a trap for him and a bribe was offered to him in connection with three cases, of which one was actually being heard in his Court. The trap proved successful. He was suspended the day following the acceptance of the bribe in one of the cases in which it had been arranged to offer him one and prosecution was Ordered under Section 161, Penal Code. This case ultimately came to be tried by the District Magistrate of Mirzapur and resulted in his conviction. He was sentenced to a period of 2 years' E. I. and also to pay a fine of Rs. 1,000. On the very date, i. e., 23rd June 1941, on which the judgment was pronounced, he was dismissed from the Provincial Judicial Service by a notification of the Provincial Government.

4. Against his conviction and sentence under B. 161, Penal Code, he appealed to the Sessions Judge at Mirzapur. This appeal was ultimately transferred &uo; motu to the Court of the Sessions Judge at Allahabad. On Mr. Raghbir Saran's application, the appeal which he had filed against his conviction and sentence was transferred by Allsop J. to the High Court. This appeal was dismissed by the then Chief Justice and Hamilton J. on 23rd January 1942. Thereafter, the applicant was sent to Jail at Meerut but was released under the provisions of the U. P, Prisoners' Release on Probation Act (Act VHI [8] of 1938) on 22nd October 1942. He was directed to spend period of probation under the supervision of a pleader, Mr. Rameshwar Dayal. The period of his probation expired on 12th September 1943. On regaining his freedom, the applicant applied for a return of his enrolment certificate as an advocate. He had deposited this certificate, he was in service, in the High Court. This enrolment certificate was duly returned to him in March 1944, but it was not until October 1944 that the applicant resumed his practice as an advocate at Meerut. It was in September 1946, i. e. nearly after a year, that he received a notice from the High Court, under Section 10, Bar Councils Act, informing him that a Tribunal had been constituted to report on the question whether his conduct amounted to misconduct as an advocate. He appeared before the Tribunal which, however was not able to finish its work before May 1946, on which date a finding that he was guilty of misconduct was recorded by it and sent to the High Court. It was on 20th December 1946 that a Bench of this Court came

to the conclusion in Miscellaneous case No. 243 of 1946 that the finding of the Bar Council that Mr. Raghubir Saran had been guilty of misconduct was correct and his name was by its Order struck off the roll of the advocates of this Court. On 29th July 1947; i. e. nearly seven months after the Order removing his name from the roll of Advocates of this Court was passed, Mr. Raghubir Saran applied for a review of the previous Order of this Court. This application for review was sent by him through the District Magistrate and Chairman of the Discharged Prisoners Aid Society Meerut, District Meerut, and was received by this Court on 20th August 1947.. This 'Full Bench has been constituted to dispose of this application for review. The matter, therefore, before us is whether Mr. Raghubir Saran shown any good grounds for reviewing the Order removing his name from the roll of Advocates of this Court passed on 20th December 1946.

5. Before recording my conclusion on the merits of this review application, I propose to state my views on the point which was raised by Mr. Kunzru, viz., that it is not open to this 'Court, after the passing of the Bar Councils Act, to review an Order passed under that Act, except in accordance with the principle and procedure laid down for review of cases under the Code of Civil Procedure. The relevant subsection which gives this Court power of review is Sub-section. (6) of Section 12, Bar Councils Act. It is reproduced below:

The High Court may, of its own motion or on application made to it in this behalf, review any Order passed under Sub-section (4) or sub-a. (5) and maintain, vary or rescind the same, as it thinks fit.

Sub-sections (4) and (6) deal with the procedure which the High Court is expected to follow after the report of the Tribunal of the Bar Council has been received. It is to be noted that Sub-section (i) also lays down that it is competent to the High Court either to pass such final Orders in the case as it thinks fit or to refer it back for further inquiry to the Tribunal through the Bar Council or to the District Court, as the case may be, and, upon receipt of the finding after such further inquiry, deal with the case in the manner provided in Sub-section (3) and pass final Orders thereon. Sub-section (5) authorises the High Court in passing final Orders to pass such Order as regards the payment of the costs of the inquiry and of the hearing in

the High Court as it thinks fit. Reference may also be made to the other sub-sections of Section 12 which I reproduce below:

(1) The High Court shall make rules to proscribe the procedure to be followed by Tribunals and by District Courts, respectively, in the conduct of inquiries under Section 10.

(2) The finding of a Tribunal on an inquiry referred to the Bar Council under Section 10 shall be forwarded to the High Court through the Bar Council, and the finding of a District Court on such an inquiry shall be forwarded direct to the High Court which shall cause a copy thereof to be sent to the Bar Council.

(3) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned and to the Bar Council and to the Advocate-General, and shall afford the advocate concerned and the Bar Council and the Advocate-General an opportunity of being heard before Orders are passed in the case.

(7) When any Advocate is reprimanded or suspended under this Act, a record of the punishment shall be entered against his name in the roll of Advocates of the High Court, and when an Advocate is removed from practice his name shall forthwith be struck off the roll; and the certificate of any advocate so suspended or removed shall be recalled.

As the Bar Council was allowed to be represented by counsel at the time when the Original Order removing Mr. Raghubir Saran's name from the roll of advocates of this Court was passed on 20th December 1946, we have considered it only right and proper to give an opportunity to Mr. Kunzru to appear for the Bar Council. We have also had in this case the assistance of Dr. Paruqi, Government Advocate, who has been holding the brief of the Advocate-General. Mr. Kunzru has argued that this case relates to an Order of removal of an advocate enrolled under the Bar Councils Act and his contention is that the power of review which we possess is co-extensive with the power of review which Courts possess under C. 47, B. I, Civil P. C. The power of review which we enjoy under the Bar Councils Act is neither more nor less, so Mr. Kunzru urges, than that which we possess under the

Code of Civil Procedure, If this argument is correct, then we cannot review our Orders unless the requirements of C. 47, Rule 1 are complied with. Order 47, Rule 1 is quoted below: 'Any person considering himself aggrieved

(a) by a decree or Order from which an appeal is allowed but from which no appeal has been preferred.

(b) by a decree Or Order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes.

and who, from the discovery of new and Important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or Order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or Order made against him may apply for a review of judgment to the Court which passed the decree or made the Order.

It is to be noted that under this Order a party aggrieved by a decree or Order specified in clause (a), (b) and (c) has a right given to him to apply for a review on the ground of (a) the discovery of new and important matter Or evidence which, after the exercise of due diligence, was not within his knowledge or (b) could not be produced by him at the time when the decree was passed or Order made, The other grounds on which he oan apply for a review under this Order are some mistake Or error apparent on the face of the record, or the existence of any other sufficient reason. It is argued that the Word 'discovery' clearly indicates that the new and important matter or evidence on the basis of which the review is sought must have been in existence at the time when the decree was passed or Order made. It is urged that it cannot be said that the applicant has discovered, i.e. found out, some matter, which after the exercise of due diligenoe was not within his knowledge Or could not be produced by him at the time when the decree was passed Or Order made. The matter upon which the applicant relies was either one which was discussed and discarded by the High Court at the time when the Order was passed Or is one which did not exist at the time the Order was passed and

has come into existence since then. In this circumstance, Mr. Kunzru argues that it cannot be said that the applicant has satisfied the conditions laid down for a review. It was further urged by him that there is no question in this case of any mistake or error apparent on the face of the record. As for any other sufficient reason, the position is that the sufficient reason must be, according to the rules of construction, similar in nature to the reasons laid down for a review. It was thus argued by Mr. Kunzru that the essential condition which the applicant must satisfy before the review is granted is that something existed which was unknown at the time the Order was passed and which has since been discovered. The contention is that it is not open to the Court to review an Order, under the Bar Councils Act, on the ground of the happening of some subsequent event. The subsequent events upon which it is sought to have the Order reviewed by the applicant are certain certificates of character given to him during the course of the bearing in this case. It was further submitted that the Courts possessed a more general power of review before the passing of the Bar Councils Act under those clauses of the Letters Patent which gave them disciplinary authority over advocates and pleaders than they do after it. After a careful consideration, I have no hesitation in saying that I am unable to accept these arguments as sound. There is no reference in Section 12(6), Bar Councils Act to the Code of Civil Procedure as defining the character of the review which the Court is entitled to entertain. Had the Legislature intended to limit the powers of reviewing Orders, passed under its disciplinary jurisdiction, varying, modifying or rescinding its previous Orders, it could have added some such words after review 'as review contemplated by C. 47, E. 1 of the Code of Civil Procedure.' The view which Courts of law have taken in dealing with application for varying, modifying or rescinding, Orders striking off names from the roll of advocates of the Court is that they have power in suitable cases, where sufficient time has elapsed for estimating the effect upon the character of the practitioner concerned of the Order of removal or suspension, to vary, modify or rescind the Order. I may refer in this connection to certain cases of the Indian High Courts.

6. In *In re U, ex-lower Grade Pleader, Kama*, A. I. E. (27) 1940 Rang. 82:U.I Cr. t. j. 272) a pleader, who was a Vice-Chairman of the District Council, was convicted of an offence under Section 161, Penal Code in respect of a bribe. On 26th January

1988, he was declared by the Court that he was not fit to be a member of the legal profession and his name was accordingly struck off the roll. Within seven months of his having been removed from the roll of the Court, he made a fresh application. It was objected to on the ground that it was highly improper on his part to pester the Courts with prayers for reviewing a decision which was arrived at with care and comparatively recently. Roberts C. J. who delivered the judgment of the Bench stated that:

When persons are struck off the roll, it is always said that the door is not irrevocably shut behind them, and that after years of industry, straightforwardness of life, and conduct which Shows repentance and the determination to amend, they may ultimately find their way back to the honourable profession which they once disgraced. That lenity of outlook results from the consideration that it is impossible to shut out from a man of education, who has once borne a good character, the hope that he may rise again. But it does not mean that persons who have been properly removed from the roll should come again and again with repeated applications within months, or even within a few short years, after the event.

I may say that I respectfully agree with the view taken in this case.

7. In the case, *In the matter of an advocate*, A. I.R. (24) 1937 Bom. 48; I. L. R. (1937) Bom. 99, an advocate was struck off the roll on a petition presented by the Government Pleader in December 1929. The first question which Rangnekar Ag. L. J. had to consider was whether the Court had jurisdiction to reinstate a pleader after he had been struck off the roll. He answered that question in the affirmative. He observed:

It is clear from the authorities that the Court has and must have the power to reinstate a pleader even though the Court, for professional misconduct, had struck him off the roll. I need only refer to *King v. Greenwood* (1760) 1 W. Bl. 222 in which it was held that the striking off the roll was not to be understood as a perpetual disability, but was sometimes only meant as a punishment, and might be considered in the light of a suspension only if the Court saw good cause. In *In re PyU*, (1845) 1 N. P. G. 330, Cockburn, C. J., observed that both on principle and

precedents sentences of exclusion from either branch of the profession need not necessarily be exclusion for ever.

Rangnekar Ag. G. J, then addressed himself to the question whether a person against whom disciplinary jurisdiction (action ?) had been taken should be reinstated and readmitted to the profession. The test which he found the authorities to lay down is:

Whether the sentence of exclusion has had the salutary effect of awakening in the delinquent a higher sense of honour and duty, and whether, during the period between his expulsion and the date of the application for reinstatement, the applicant's conduct has been such as to satisfy the Court that he might be safely entrusted with the affairs of clients and readmitted to an honourable profession without that profession suffering degradation; per Cockburn, O. J., in *In re Pyke*, (1845) 1 N. P. C. 330.

8. In other words, in the language of Rangnekar Ag. G. J.:

what the Court has to see is whether the applicant has, since he was 'expelled, honestly endeavoured to rehabilitate his character so that if restored to the bar, he will be upright and honest in his dealings.

In the matter of N. advocate : AIR1936 Cal158 , the learned judges who decided that case quoted with approval the following words of Lord Mansfield in *Ex parte Brounsall*, (1778) 2 Cowp. Rep. 829:

This application is not in the nature of a second trial or a new punishment. But the question is whether after the conduct of this man, it is proper that he should continue a member of the profession which he stands free of all suspicion, It is not by way of punishment, but the Courts in such cases, exercise their discretion, whether a man whom they have formerly admitted is a proper person to be continued on the roll or not.

The question before the Bench hearing that case was whether a criminal case is per se evidence of his misconduct. That Bench came to the conclusion that prima facie no doubt a criminal case was per se evidence of an advocate's misconduct,

but a conviction, e. g., of an offence under Section 124-A, would not necessarily involve the removal or suspension of a legal practitioner for the Court must ascertain and take into consideration the facts on which the conviction was based.

9. In *Ghhajju Ram v. Neki* A.I.R. (9) 1922 P. C. 112 : 3 Lab. 127, their Lordships of the Judicial Committee of the Privy Council observed that, in construing the words 'any other sufficient reason,' the interpretation that has to be placed is that they mean 'a reason sufficient on grounds at least analogous to those specified immediately previously.' It was urged that the Word 'analogous' is somewhat wider than *eiusdem generis*. It is unnecessary to go into the niceties of the distinction as, in my opinion, the Word 'review' in S. 1a (6), Bar Councils Act has a wide import. The Dictionary meaning of the Word 'review' is 'to examine, to revise,, to examine critically, to see again, to retrace, to inspect, to submit to a critical examination something previously done.' The etymological meaning of the Word places no such restriction-as learned Counsel for the Bar Council, Mr. Kunzru, would have us put upon it.

10. In *In the matter of K, J., a Vakil,, Madras* (A.I.R. (26) 1939 Mad. 906 : 41 Cr. L.J. 163 Section 6 it was held that though the act of professional misconduct committed by the petitioner was a grave one and it was not possible to allow him to continue practising in an honourable profession, yet that does not mean that the Court is precluded from reinstating him when adequate punishment has been imposed and he has shown that he has rehabilitated himself in such a manner that he is fitted to be admitted into the profession again.

11. The view taken in *In re Sri Ram Gautama* A. 1. R. (36) 1949 E. p. 83 (w. B.) is similar to the one which found favour with the Madras High Court in *In the matter of K. J., a Vakil, Madras* A. 1. R. (26) 1939 Mad. 906 : I. L. Rule 1940 Mad. 81 : 41 Cr. L, J. 163 F. B.

12. My purpose in referring to the above authorities is to indicate that the power which the High Court enjoys of varying, modifying or rescinding Orders passed in its disciplinary jurisdiction under the Bar Councils Act is a power which it possessed before the Bar Councils Act and which has not been taken away by the language used by S.12, Bar Councils Act. I may also refer to the view which was

taken by Hears L. J. in an unreported case, In the matter of an advocate, decided on 18th May 1925. In that case, an advocate had been removed by this Court for professional misconduct as on his own admission he had been acting as the agent for accepting bribes for his uncle who was a Subordinate Judge in these Provinces. In 1925 he applied to this Court for enrolment as an advocate and in support of his application he produced testimonials of good character from certain eminent lawyers who had had opportunities of watching his demeanour as a paikar in a big case subsequent to his removal from the roll of advocates of this Court. In that case Mears C. J. observed:

Some of the seven dishonest Judges who have been removed from the service, have made application even begging to be restored to a Judicial post, but more commonly asking to be allowed to practise at the bar. That matter was recently considered by the whole of the Judges and it was unanimously decided that under no conditions whatever, should any Judge ever be recommended to be restored to his position or permitted to practise as a Pleader, Vakil or Barrister. In my opinion there can be only one rule in this matter: the security of the administration of law in this province, and that is that if a lawyer is proved, as this vakil was proved, to be a man negotiating with litigants, negotiating with a Judge, agreeing the amount of the bribe to be given to the Judge, extracting it from the client, handing it over to the Judge, such a man can never under any circumstance be allowed to resume his practise of the law.

Undoubtedly bribery is the gravest offence of which any judicial officer can be convicted. It denotes an inherent defect of character in a person who is charged with the high responsibility of administration of justice. By accepting bribes, a Judge defeats justice and destroys the confidence which the Public reposes in Courts of justice. Corruption is something, the evils of which are far and wide. It is impossible to take anything but the strictest view of the conduct of judicial officers or for the matter of that of other officers or Advocates who either accept bribes or offer bribes. They constitute an absolute disgrace to society, betray a most reprehensible degree of acquisitiveness and display a callous disregard of all ethical principles. They are obviously unfit for the legal or of any other learned profession. The point, however, I am driving at is that the power of redeeming

one's past should not be completely denied to any one however heinous his offence may have been. If after years of honest work a man builds up among his fellowmen a reputation for integrity, a chance should not be denied to him by any rigid inflexible and unalterable rule of coming back to a profession which is indispensable for the administration of justice and which rightly demands of all those, who practise it, a virtuous conduct in all those matters which enable the common man to feel that justice is done in our Courts of justice. The slightest departure from the path of rectitude should without doubt entail in the case of an officer engaged in the - administration of justice heavy consequences. This is vital for the purity of administration of justice. Nevertheless, bearing these principles in mind, I am not prepared to deny that human nature is capable of improvement beyond recognition, In case where the Court has clear and reliable evidence of a man's transformation into quite a different person, the possibility of his re-entry into the profession of law should not be ruled out. I, therefore, think that the attitude of the Courts towards those against whom they had to take disciplinary action has been more correctly and also perhaps more temperately stated in the cases to which I have invited attention than it was by Mears C. J., in the case of the advocate with whose application he was dealing. Conditions in this country have to some extent changed since the decision by Mears C. J. and there is no reason to assume that with time a more vigilant Public opinion than existed in 1925 will not grow up. The standard expected of legal practitioners on the roll of this Court, in my opinion, could roughly correspond to those which are demanded of those who have the honour and privilege of practising as advocates or solicitors in Courts in Britain, Scotland or the Dominions of Canada and Australia or other democratically governed States. I can find no warrant for the proposition that a man must be deemed to be for ever unfit for the legal profession, even if he shows by his subsequent conduct lasting for a period sufficient to enable Courts to judge whether there has been a real and not a mere superficial change in his outlook on life that he is a changed man. The capacity to redeem one's past should not irrevocably be denied to any one. '

13. The view was pressed by Mr. Eunzra that inasmuch as initially when an advocate is enrolled, this Court is bound to consult the Bar Council, it should, as a matter of law and practice, also consult it when, after removing a man's name from

the roll of Advocates, it allows him to be re-entered in that roll. Speaking for myself, I may say that I have genuine sympathy with this view. The legal profession should, as far as possible be an autonomous profession. It should be left to it to determine its professional standards. There is no reason to apprehend that when the members of the bar are invested with more autonomy over the control of their own domestic affairs, they will not rise to the occasion. In fact, it may be that it is only by the exercise of greater self-governing powers that they will be able to improve and improvement is certainly very much needed of the ethical standard of one of the most honourable professions in our society. The function of Courts of law however is to administer the law as it is and not as it should be. It has been ruled by this Court that on a proper construction of the Bar Councils Act in regard to the quantum of the action to be taken against any member of the bar for professional misconduct the Bar Council has no say, It is the High Court and High Court alone which has the sole power to decide the nature of the action to be taken against any member of the bar. That being so, I do not think that without a revision of the Act, we can -seek the advice of the Bar Council on the question whether we should review an Order that we thought suitable at the time the Order was passed. We have, as a matter of courtesy to the Bar Council, allowed Mr. Kunzru to place his point of view of that professional body before us. That is as far as -we could go. I have said that in regard to the wider question of the powers that the Bar Council should enjoy, my personal sympathies are with him. This does not mean that I am entitled to give an interpretation to the statute which it will not bear.

14. Unquestionably, the Order passed by the Bench was the only Order which it could pass and should have passed at the time that it was made., Mr. Raghubir Saran who was holding a responsible position as a judicial officer had been guilty of an offence which involved the gravest moral turpitude and which unfitted him by reason of the complete lack of appreciation of moral values which his conduct displayed for the membership of the legal profession. He had been dealt with comparatively leniently in the matter of punishment both by this Court and the executive Government which released him on probation after a few months of prison life under the First Offenders' Probation Act. Immediately on the expiry of his term of imprisonment, he applied for a return of his certificate of enrolment. This certificate was handed over to him in March 1944 with the warning that his

case had been referred to the Bar Council. That he was not in any immediate economic need to start the profession is evident from the fact that he waited until October 1944 to resume his practice, for reasons which do not entirely reflect on the efficiency of the High Court office, the constitution of the Tribunal was delayed till September 1945. Actually it was not till May 1946 that the Tribunal was able to record its finding and it was on 20th December 1946 that he was removed from the roll of Advocates by this Court. During this interval of 18 months or so, he went on practising as if nothing had happened. I do not say that he was not entitled, as a matter of law, having got back his certificate, to resume his practice. It strikes me, however, that his action in resuming his practice is somewhat indicative of a lack of sense of proportion. He does not seem to have realised that his first and primary duty was to get a verdict from this Court and Bar Council as to his fitness for the profession. This Court came to the conclusion that he was unfit for the membership of this profession on 20th December 1946. Within seven months of that Order he came to this Court with an application which we are now disposing of after a lapse of a year and three months. The certificates and I propose to say something about their admissibility in evidence which were not filed in the form of affidavits by those who are supposed to have given to him related to a period when his case was under consideration by this Court. It was only during the course of arguments that it struck Mr. Raghubir Saran after certain observations were made by the Bench, that perhaps the correct thing for him to do was to furnish some evidence of the estimation in which he was held by those who knew him before arguments were over and judgment was pronounced. To those certificates as also to the new certificates, I can attach no importance as they are not legally admissible in evidence. We have a general affidavit by him that they were given to him by persons who are supposed to have signed them. That may or may not be so. It may be that the gentlemen mentioned by him gave him the old as also the new certificates; but it was incumbent on him, in my opinion, to obtain from them these certificates in the form of affidavits sworn to by them. That would have given an opportunity to the Government Advocate to test the sources of information and the credibility of the persons who have given these certificates. I have failed to discover any section of the Evidence Act which enables a Court to take into consideration testimonials given by persons who have not pledged their

Word to the veracity of the statements made by them. It may be that Mr. Raghubir Saran was misled by the past practice which, I am informed, was prevalent in this Court in this matter. The law, as I understand it, is that those certificates cannot be accepted as evidence of the facts deposed to in them. It is unnecessary to cite any authorities. I refer to the various sections of the Evidence Act in support of this proposition, I am bound to say that Mr. Raghubir Saran was in far too great a hurry a hurry which I regard as both indecent and betraying a lack of moral sense in pestering this Court with a review application of an Order passed by it after full consideration only seven months before. In similar circumstances, the Rangoon High Court refused to entertain an application for reinstatement of an advocate who had been removed from the roll of advocates of that Court for misconduct of the nature of bribery. Had some years elapsed after his removal from the roll of advocates of this Court, had evidence of an unimpeachable character either oral or in the shape of affidavits by those who were giving testimonials been forthcoming of a character which left no doubt that he is completely a transformed man, a man who has by future conduct shown that he can be regarded as a valuable member of society and had by his own application shown that he has freed himself from the obsession that he was merely the victim of a trap, I should have been, speaking for myself, disposed to consider his application with some sympathy. The position that this Court has to face is that it finds that there is no true repentance on the part of Mr. Raghubir Saran, There is no frank acknowledgment in his affidavit and I have read it carefully of the fact that there was a lapse of a most - reprehensible kind on his part from the path of rectitude. Repentance is impossible without a realisation in one's mental processes that one has been guilty of sin.

15. Had there been a frank confession on his part of his guilt, and a recognition of the justice of the Order passed against him it might have been possible to argue that there has been an awakening of conscience in Mr. Raghubir Saran. I do not say that I would have regarded even this only, after the lapse of seven months, as at all adequate to convince me that Mr. Raghubir Saran was a person fit to be a member of the legal profession. As it is, nothing can be said for Mr. Raghubir Saran. He was responsible by his own conduct which involved the deepest moral turpitude for his removal from an honourable profession. It is for him to show that

he has been leading for several years, to the knowledge of trustworthy persons who have opportunities of coming into contact with him, a straightforward life inspired by a due sense of ethical principles before he can be thought of as being worthy of re-admission in the profession. What Mr. Raghubir Saran is asking us to do is to review a just Order on no material whatever. Finally, I regret to note that there is not the slightest indication anywhere that he has any appreciation of the magnitude of the offence of which he w&b; guilty.

16. Even on the assumption that the testimonials which he has recently filed can be looked into for determining whether there has been any such change in his moral standards as to fit him for membership of an honourable profession, I am of the opinion that they are not of such a positive and definite nature as to justify a revision of the Order after a lapse of merely seven months. I must not be understood to say that seven months would, in any circumstances, have been held to be sufficient to justify a review of the Order passed by this Court on 20th December-1946. Sufficient period does not mean seven months, one year or two years. It means a period stretching over a number of years depending in each case upon the gravity of the offence. In no case, which was cited before us, was any period less than two years regarded as sufficient to justify a review. From a moral point of view, heinous as the offences of bribery and perjury are, bribery, in the case of a judicial officer is even more reprehensible. There are no extenuating circumstances which would or could have justified Mr. Raghubir Saran's conduct. He was not a young officer who had fallen into evil ways. He was a Judge of 16 years standing and during that period he ought to have come to realise what everyone realises that bribery and corruption were the most serious offences that any judicial officer could commit. Where, then, is the guarantee that, if he is admitted to the profession, he will maintain the high standards and the noble traditions that are required of those who practise at the bar. In approaching a case like this, the Court cannot be guided by mere considerations that failure to revoke our Order would involve continued unemployment in the case of a comparatively older person with specialised knowledge of law. I have said enough to indicate that the doctorenter the profession has not been permanently barred against Mr. Raghubir Saran. At the same time, Mr. Raghubir Saran must understand that it will be futile on his part to pester this Court with frivolous applications for a review

of the Order. If he wants to have the feeling that the stigma which the Order of this Court involves has been removed, he must wait and prove by his conduct that he is worthy of re-admission to the roll of advocates of this Court.

17. For the reasons given above, I concur in the Orders of the learned Acting Chief Justice and Bhargava J. in dismissing this application.

18. Bhargava J. This is an application by Shri Raghbir Saran, who was an advocate of this Court and whose name was struck off the rolls of advocates, in view of an Order, made by this Court, on 20th December 1916, removing him from practice, as he was found guilty of misconduct, under Sub-section (I) of Section 10, Bar Council Act (XXXVIII [38] of 1926). His prayer is that he may be granted pardon and permitted to resume practice as an Advocate.

19. Shri Raghbir Saran: the applicant, was enrolled as a vakil of this Court in August 1917 and he commenced practice at Roorkee. In the following year he shifted to Meerut and started practice there. A few years later, in 1923, he was appointed a Munsif in the United Provinces Civil (Judicial) Service. While in service, in the year 1923, he got himself enrolled as an advocate and deposited his enrolment certificate in this Court.

20. In 1940, while Shri Raghbir Saran was posted at Banaras as an Additional Civil Judge he was arrested and, in due course, prosecuted on a charge of bribery. On 23rd June 1941, he was convicted of an offence punishable under 8.161, Penal Code and was sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 1000, In view of his conviction, which was eventually upheld by this Court on 23rd January 1942, he was dismissed from service by the United Provinces Government.

21. He was in jail until 22nd October 1942, when he was released on probation on a licence issued under the United Provinces Prisoners release and Probation Act (viii [8] 1938). The period of probation expired on 12th September 1948.

22. Thereafter, on 28th September 1943, the applicant made an application to this Court asking for the return of his certificate of enrolment. On 10th February 1944,

the Court referred the applicant's case for inquiry to the Bar Council constituted for this Court, under Section 10(a), Bar Councils Act, and by the same Order directed that the certificate be returned to the applicant with the remark that his case had been referred to the Bar Council. A Committee of the Bar Council, described as a Tribunal, was constituted on 21st February 1944, for making the inquiry.

23. On 16th March 1941, the certificate of enrolment was returned to the applicant and he was informed about the reference. The consent of the members of the Tribunal was also obtained; but no intimation about the reference was given to the Bar Council until 11th September 1945.

24. The inquiry was held by the Tribunal and, on 1st May 1946, the Tribunal found the applicant guilty of misconduct 'involving moral turpitude, or of such conduct which would reasonably be regarded as disgraceful or dishonourable.' The Tribunal further observed:

He was engaged in the administration of justice and was, by his unworthy conduct, polluting it...his conduct was of such a nature as to call for action against him in his capacity as an advocate also.

This Court accepted the finding of the Tribunal and came to the following conclusion:

The offence which he committed was committed while he was holding a very responsible position in the actual administration of justice and when he had been serving as a judicial officer for some sixteen years or more. This is not a case of mistake made by a young man who has been tempted and led astray. It was a case of acceptance of a bribe by an officer whose guiding rule in life should have been to be entirely impartial and governed by no extraneous considerations. The very fact that the offence of which he was convicted related to the administration of justice is one which seems to us to render it impossible to permit him to have any connection in future with the administration of justice. . . . that his own conduct in connection with the administration of justice has shown that he is not a fit person to be allowed to remain on the rolls of Advocates of this Court.

Accordingly on 20th December 1946, the Court removed him from practice.

25. Then, on 29th July 1947, the applicant submitted the application, which is now under consideration, through the District Magistrate of Meerut, who was also the Chairman of the Discharged Prisoners Aid Society at Meerut. In the application the facts narrated above were recited and it was alleged that the applicant 'was made a victim of a conspiracy and the machinations of the agents of those influential parties' whose cases were pending in his Court; that in pursuance of that conspiracy he was prosecuted by the Anti-Corruption Department and convicted; and 'that the alleged charge against him was on the basis of a trap and the main case in which the money was said to have been offered was not a genuine one.' It was further; alleged that the applicant was remorseful, repented and atoned for his lapse, if any, and determined to lead an honest and respectable life 'and that he was' a first offender and a discharged prisoner and by his antecedents, character and subsequent good conduct' was entitled to be reclaimed having regard to the aims and objects of the Discharged Prisoners Aid Society and to all help for forming an honest living and being provided with suitable employment, It was also alleged that he had no other source of forming a livelihood and had to maintain himself and a large family.

26. The learned Counsel for the applicant has pressed the application as one under Section 12(6) of the Bar Councils Act for review of the Order, dated 20th December 1946, removing the applicant from practice, and has contended that, as the applicant has sufficiently atoned for his misconduct and had been leading an honest life, the Order may be rescinded and he may be reinstated as an advocate.

27. The application is opposed on behalf of the Bar Council as well as on behalf of the Advocate-General, by the Government Advocate on the ground that there is no ground whatsoever for granting a review or for reinstating the applicant. Mr. Gopi Nath Kurizcu, who represents the Bar Council, has further contended that, under the Bar Councils Act, the Court has no power to reinstate an advocate. As regards Section 12(6) of the Act he has urged that it only enables the Court to review its Order to see whether it was right or wrong, having regard to the materials already on the record and that it does not empower the Court to admit additional

evidence and if the Court decides to accept it a fresh reference to the Bar Council would be necessary. Be has also pointed out that as an advocate cannot be enrolled Cr punished without reference to the Bar Council, the applicant cannot be reinstated without reference to the Bar Council.

28. I first take up the question whether the power of review exercisable by this Court under Sub-section (6) of Section 12 of the Bar Councils Act is restricted in any manner as suggested by the learned Counsel representing the Bar Council. The sub-section empowers the Court to 'review any Order passed under Sub-section (4) or subsection (5)' of the same section 'of its own motion or on application made to it in this behalf' and to 'maintain, vary or rescind the same, as it thinks fit.' The Order under sub-Section U) is the final Order which the Court passes on receipt of the finding of the tribunal constituted under Section 11 of the Act and after hearing the advocate concerned the Bar Council and the Advocate General and the Order under sub.clause () is the Order about costs of the inquiry and of the hearing in the High Court. Therefore, tha subsection does not in any manner restrict the power of the Court to review any Order of the nature Specified therein; and it is left entirely to the "feCrstfcn of the Court to pass suitable Orders in each case, as it thinks fit. In other words, even after an Order reprimanding, superseding Cr removing from practice any advocate found guilty of professional Cr other misconduct has been passed it is open to this Court to review the Order, and after reconsideration, to maintain, vary Cr rescined the same, as it thinks fit.

28a. In this connection, reference has been made to the provisions relating to review contained in 0.47, Civil P. C, 1908, and it has been urged that the power of review under 8,12 (6), Bar Councils Act, 1926, may also be exercised in the circumstances and on the grounds mentioned in 0. 47 of the Code, If the legislature intended to impose limitations on the powers of this Court under Section 12(6) of the Act similar to those contained in 0. 47 of the Code necessary provision must have been made therein. On the other hand, the absence of any limitation goes to show that the Word 'review' in Section 12(6) of the Act baB been used in its wider and general sense to mean 're. consider' Cr 're-examine.' There is, therefore, no reason to read in the section the restrictions which are not there.

29. The main, if not the sole ground, on which an Order made under Sub-section (4) of 8. 12 of the Bar Councils Act can be reviewed is the advocate's conduct subsequent to the date of the Order. It would be impossible to record a finding on the issue of subsequent conduct on the materials already on the record and without admitting fresh evidences, Therefore, the-argument that in exercising the power of review the Court must confine to the materials on the record and cannot admit additional evidence has no force, and the evidence of subsequent conduct offered by the applicant can be admitted and considered by the Court.

30. The argument that, if the Court decides to admit fresh evidence, a reference should again be made to the Bar Council is also without any force. Reference to the Bar Council has to be made for the purpose of inquiry into the complaint made against any advocate, under subsection (2) of 8. 10, Bar Councils Act. The matter may have to be referred back for further inquiry in certain circumstances as provided in subsection (1) of Section 12. Once the Bar Council has, after inquiry, recorded a finding and that finding, has been considered by the Court and a final Order passed under a. 12 (4) of the Act the Bar Council ceases to have jurisdiction over the matter.

31. Sub-section (6) of Section 12 of the Bar Councils Act does not lay down that in any case thereunder a further reference to the Bar Council would be necessary; and the reason seems to be obvious. If the Court considers the evidence, on the record sufficient to arrive at a finding of 'guilty' or 'not guilty' and records a finding, it may never be necessary to review the finding. If it ever becomes necessary to do so, it will be on the ground that certain evidence on the record, has not been considered at all or certain new material has been discovered. Such cases will, however, be rare; and it will be possible to make suitable Orders having regard to the fact and circumstances of each case. The cases in which the Court will be called upon to review the Order about costs will also be rare. The Court will, therefore, be mainly called upon to review the Order of punishment under Sub-section (1) of Section 10 of the Act; and as the Bar Council has nothing to do with the question of punishment there will be no question of making a reference to the Bar Council. The present case is of the nature just mentioned ; hence, in order to consider the fresh evidence of subsequent conduct no reference to the Bar

Council is necessary.

32. It is true that a person cannot be enrolled as an advocate and an advocate cannot be punished without reference to the Bar Council ; but this does not mean that the case should be referred again to the Bar Council when the Order awarding punishment is under review. As the Order was passed after notice to the Bar Council and to the Advocate-General, it should be sufficient if the notice of the review proceedings is given to the Bar Council and to the Advocate General, A notice of the application, which is under consideration, has been given to the Bar Council and it has got the opportunity to show cause why the Order may not be reviewed. The learned counsel representing the Bar Council in the course of his able arguments has put forward all possible objections to the application.

33. It follows, therefore, that the power of review exercisable by this Court under Section 12(6), Bar Councils Act is not in any manner restricted.

34. The next point for consideration is whether under the Bar Councils Act an advocate, who has been removed from practice, can or cannot be reinstated. The provisions of Sub-section (6), Bar Councils Act, as already stated, empower this Court on review, to maintain, vary or rescind the Order reprimanding, suspending or removing from practice any advocate. If the Order removing an advocate from practice for a prescribed period is varied or rescinded it would mean his reinstatement. For instance, in the case before us if the Order under review is rescinded the applicant will have to be permitted to resume practice. Therefore, under the Bar Councils Act this Court has got power to reinstate an advocate if a case is made out for rescinding the Order removing him from practice.

35. Mr. Kunzru has further argued that in such cases a convention should be established so that if the Bar Council opposes the reinstatement of any advocate, who has been found guilty of professional or other misconduct and his name has been removed from the rolls of advocates he should not be reinstated. No attempt ever seems to have been made to establish such a convention. On the other hand, both here and in England the rule or the convention has been that the door should not be irrevocably closed against such a person and to reinstate him if he is able

to satisfy the Court that he has reformed himself and has been leading an honest and upright life.

36. In re Brandreth, (1891) 60 Q. B. D. 501 : 64 L. T. 789, LCrd Coleridge C. J. observed at page 604:

I think there should be no occasion on which it is absolutely, as a point of law, impossible for a man to redeem his character.

In the same case Mathew J., observed at the same page: I repeat what I said in 1883, that the Court has power even when it is proved clearly that there has been an offence against the criminal law, but where the atonement of a long period of good conduct has been offered, to restore a solicitor to the position of confidence forfeited by his misconduct.

And, on being satisfied that the applicant had redeemed his character and atoned for his misconduct, he was reinstated.

37. In re Pylce, (1866) 8 L. J. Q. B. 121 at p. 220, Cockburn C. J., observed as follows: both on principle and precedent... sentences of exclusion from either branch of the profession need not necessarily be exclusions for ever. And when we find that a gentleman has suffered twenty years exclusion, and that the sentence, however right, has had the salutary effect of awakening in him a higher sense of honour and duty, we should not be inexorable'That would depend on how far ... in the interval his conduct had been so irreproachable that notwithstanding a delinquency in early life he might be safely entrusted with the affairs of clients, and admitted to an honourable profession without that profession suffering degradation.

I will now refer to the cases of this Court. A vakil of this Court was found guilty of professional misconduct and on 12th February 1917, his name was removed from the Rolls of Vakils. On 18th May 1925, he made an application that as he had suffered a good deal and atoned for his misconduct the Order removing his name from the rolls might be rescinded. His application came up for consideration before a Division Bench of this Court consisting of Sir Girard Mears C. J. and Mukerji

J. In his judgment the learned Chief Justice pointed out that the proposition that the striking of a man off the rolls was not necessarily final and irrevocable and that the said principle had always been acted upon. Mukerji J. was also of the same opinion. He observed: "no Order removing a man's name from the list of vakils should operate as a bar to his making a fresh application, should be in a position to establish that he has improved morally in such a way as to be entitled to practise again."

While dealing with the application for reinstatement by a pleader a Full Bench of this Court consisting of Sir Shah Mohammad Sulaiman C. J., Sir Lai Gopal Mukerji and J. D. Young JJ. observed:

Although the previous misconduct of Mr. ... was of a serious character and the gravity of it should in no way be minimised, we think that in view of his subsequent good behaviour we can now take a lenient view and show indulgence to a practitioner who has thrown himself entirely on the mercy of the Court. We trust that he will in future do his utmost to maintain the high standard and the noble traditions of the profession and take scrupulous care to refrain from doing anything which may be considered objectionable.

In another case a vakil of this Court was convicted and sentenced to five years' rigorous imprisonment by the Sessions Judge of Gorakhpur for Criminal conspiracy to forge and fabricate evidence, abetting the forgery of documents and using them dishonestly. When the question came up before this Court whether any action should be taken against him under the Legal Practitioners Act, it was held by a Full Bench consisting of Sir Lai Gopal Mukerji, Thakur and Bajpai JJ, that, as after his release from jail the vakil had led an honourable life and had been eking out a living by being associated with a law press and by assisting in bringing out a legal journal, there was no reason to take any action against him. It was further observed that:

Had Mr. ... been disbarred on the basis of his conviction, the Bench would not have hesitated in reinstating him on his application.

38. Coming to the cases of other High Courts, In re K. J. A. Vakil, Madras, A.I.R. (26) 1939 Mad. 906 : 11 Cr. L. J. 163 S. B.), we find the following observations:

The Act of professional misconduct committed by the petitioner was ft very grave one and it was not possible to allow him to continue practising in an honourable profession. But that does not mean that the Court ia precluded from rsinstating'him when adequate punishment has been imposed and he haa shown that he baa rehabilitated hirnseli in such a manner that he is fitted to be admitted into his profession again.

The following observations of the Rangoon High Court, In re U, ex-lower Grade Pleader, Kama, A. I E (27) 1940 Hang. 82 : 41 Cr. L. J. 272) are more pertinent:

When persons are struck off the roll, it is always said that the doCr is not irrevocably shut behind them, and that after years of industry, straightforwardness of life, and conduct which shows repentance and the determination to amend, they may ultimately find their way back to the honourable profession which they once disgraced. That lenity of outlook results from tha consideration that it is impposible to shut out from a man of education, who has once bCrne a good character, the hope that he may rise again.

In re An Advocate, I. L, B. (1937) Bom. 99 : A. I. & (24) 1937 Bom. 48), it was observed:

What the Court haa to see is whether the applicant has, sines he was expelled, honestly endeavoured to rehabilitate his character so that, if restored to the bar, he will be upright and honest in his dealings.

The relevant case law on the subject has besn reviewed in a recent case reported in In re Sri Ram Gautama, (A.I.R. (36) 1949 P&H; 83), in which we find the follownig observations at page 84:

The principles propounded in these authorities have been followed not only by the Courts in England, Australia Cr Amerioa but also by the Courts in this country and it haa been held that the High Court has power, when a legal practitioner has been dismissed for roisoonduat of any description, to readmit him after a lapse of time if

he satisfies the Court that he has in the interval conducted himself honourably and that no objection remain as to his character and capacity.

Therefore, it is not necessary to set up a convention of the nature suggested and thereby to fetter the discretion of the Court.

39. Now, I will deal with the question whether the applicant has made out a case for granting a review and for varying or rescinding the Order, dated 20th December 1946, by which he was removed from practice. As we have already seen, the applicant has set out a number of grounds for rescinding the Order in his application, but his learned Counsel has pressed before us only one ground, viz., that the applicant has been remorseful and repentant and he has sufficiently suffered and atoned for his misconduct; consequently, he may be reinstated as an advocate and allowed to earn a living by honest means and lead an honourable life. If established, this would certainly be a good ground for review.

40. Section 12(6), Bar Councils Act does not prescribe any particular period which should elapse before an application for review can be made; but as an Order reprimanding, suspending or removing from practice an Advocate can be reviewed mainly on the ground of his subsequent good behaviour and conduct, the application for review should ordinarily be made after a reasonable time has elapsed since the Order was made. The reason is obvious: The applicant has to show that he has had sufficient opportunity to redeem his character, to atone for his misconduct and to repent for his misdeed. And, in order to regain the lost confidence also it is essential that those who have occasion to deal or come into contact with him have had ample opportunity to form and express an opinion about his conduct, character and integrity subsequent to the passing of the Order.

40a. In re an Advocate I. L. E. (1937) Bom. 99 : A.I.R. (24) 1937 Bom. 48, Tyabji J. had, if I may say so with respect, rightly pointed out:

To ensure adequate atonement and amelioration the Courts require sufficient time to elapse before readmission. In the earliest case referred to in In re Abiruddin Ahmad, 38 Cal. 309 : 8 I. C. 1108), the comparatively short period of two years was deemed sufficient, in two cases three years; but in the Majority of cases the

lapse of five, seven and ten and even twelve years was insisted upon. The period must naturally depend upon the nature of the offence and the evidence regarding the petitioner's conduct and activities after his name was struck off the roll.

The views of the Rangoon High Court are to be found in *In the matter of U*, an Advocate A.I.R. (36) 1939 Bang. 142 : 1939 Bang. L, B. 213 S, is *In that case*, while dealing with an application for reinstatement filed by an advocate the learned Judges observed:

We should be wanting in the discharge of our duty if we were to convey the impression that an Advocate found guilty of 'an offence like bribery or attempted bribery could in any circumstances suffer so slight a penalty as suspension for four years.

They further observed:

We are far from saying in any case that the door is inevitably and permanently shut to persons who are disbarred: they may after the lapse of a suitable period of time, provided their conduct has been uniformly satisfactory, ultimately reach reinstatement. But reinstatement is not a matter of course and it is not something which can be hoped for within a brief period of time.

The present application was filed about seven months after the Order sought to be reviewed. Having regard to the nature of misconduct of which the applicant was found guilty, I am inclined to think that he did not allow sufficient 'time to elapse and acted with undue haste. He did not and in fact could not furnish the material on which the Court could act. He attached copies of certain certificates to his application; but all those certificates with the exception of two had already been considered by this Court when the Order of removal was passed. The two new certificates which were dated 17th and 18th February 1917, respectively, referred to the period before the Order of removal and were practically useless. Until the commencement of the hearing of the application on 7th March 1949, there was nothing whatsoever on the record to show that the applicant had reformed himself or that he had regained the confidence, which he had forfeited on account of his conviction.

41. On 17th March 1949, the applicant filed 19 certificates along with an affidavit that the -certificates had been given to him and signed by the gentlemen, who purported to have given them. The learned Counsel representing the Bar Council as well as the learned Government-Advocate have contended that the certificates have not been proved according to law and are inadmissible in evidence. As far as the question of proof is concerned, I am of the opinion that the certificates have been duly proved by the applicant's affidavit, which must be accepted in the absence of any counter affidavit. The Certificates are also admissible, in evidence; and they can be considered in cases of this nature. But, I would not attach any value to the certificates secured during the course of the hearing of the application in order to get over a fatal defect and which appear to have been issued by the persons concerned in view of the entreaties made to them by the applicant, out of sympathy for him. Moreover, most of the certificates are of a general character and they have reference to the period while he was practising at Meerut between October 1916 and December 1946. During that period he knew that the case of professional misconduct was pending against him. The certificates are of the members of the Bar, who hardly had any occasion to come into close contact with him after 1946. There is one certificate from a person, who is his neighbour; but it might have been prompted by neighbourly feeling.

42. It seems to me that the applicant never settled down to normal life and soon after the Order of removal was passed against him he started running about to secure his reinstatement. In the beginning, he secured the recommendations from the District Probation Officer and the Secretary of the Discharged Prisoners Aid Society of Meerut. The recommendation of the Probation Officer appears to be based on the materials supplied by the applicant as he could not have known about the precedents cited by him and the action taken in those cases by this Court. The same remark applies to the recommendation of the Secretary of the Discharged Prisoners Aid Society. The learned Government Advocate has urged that it may be presumed that the applicant had made use of the office report on his application which was in the nature of a special pleading for him. It is unnecessary to express any opinion on this point, as on the materials placed before us it is not possible to record a finding in favour of the applicant.

43. The applicant's learned Counsel asked us to take into consideration the punishment, humiliation and suffering which the applicant had undergone since 1940 and the fact that he had repented for his misconduct. It, however, appears from the allegations in the application that the applicant does not admit having committed any offence and he thinks that he was made the victim of the machinations of others. In these circumstances, there could be no occasion for him to realise that he had committed any wrong and to repent the same; nor could there be any question of atonement for any misconduct. In any case, what we have to see in this case is whether the applicant has availed in the interval to redeem his character, and the mere fact that he has undergone punishment and suffering is not very material in that connection.

44. The applicant had committed a grave offence involving moral turpitude and, if I may repeat what was stated by this Court in the Order removing him from practice, he had by his own conduct in connection with the administration of justice shown that he was not a fit person to be allowed to remain on the rolls of advocates of this Court. The nature and the gravity of the offence has to be considered not only when action is taken against an advocate but also when the question of his reinstatement is under consideration. Therefore, adequate atonement and amelioration extending over a sufficiently long period must be established by cogent and convincing evidence. The applicant did not allow sufficient time to elapse before filing the application, nor did he furnish proper material for consideration by the Court at proper stage, which goes to show that he failed to realise the gravity of the offence committed by him. Hence, it is not possible to hold that the applicant has sufficiently atoned for his misconduct or has had opportunity to regain the confidence which he had forfeited as a result of his conviction.

45. I would, therefore, dismiss this application and, as he was ill-advised in rushing to Court so soon after the Order of removal was passed, allow the applicant to present another application in due course of time, supported by evidence showing that he was sufficiently atoned for his misconduct, has redeemed his character and has been leading an honourable life.

46. The application is dismissed. The learned Government Advocates will be entitled to costs at the rate of bs. 160 per day for the days on which the case was actually heard.

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