

In Re: Muhammad Abdul Hal

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Court : Allahabad

Decided On : Aug-09-1906

Reported in : (1907)ILR29All61

Judge : George Knox, J.

Appellant : In Re: Muhammad Abdul Hal

Judgement :

George Knox, J.

1. On the 15th of May 1906 the Collector and Magistrate of Bijnor directed a Deputy Magistrate subordinate to him to charge a certain pleader under Section 14 with improper conduct and to adjudicate on the charge. The improper conduct in another portion of the order is set out as consisting of tempting and enticing two subordinates of the Collector's office to act contrary to their duty in allowing him, the pleader, to examine the treasury account-book. The pleader concerned applied to this Court under 'Section 15 of the Indian High Courts' Act' and asked this Court to direct the Collector of Bijnor not to make any inquiry. The learned Counsel who appears for the pleader concerned contends that Section 14 of the Legal Practitioners' Act, 1879, empowers Courts subordinate to this Court only to hold inquiry into case which fall within Clauses (a) and (b) of Section 13 of the said Act. Clause (f) of the same section, which contains the words 'for any other reasonable cause,' must, he argued, be interpreted, so far as Section 14 is

concerned, as 'for some cause amounting to misconduct in the discharge of his professional duties' and it did not empower such Court to hold inquiry for any cause under Section 13 falling outside Clauses (a) and (6) of Section 13, and misconduct in the discharge of professional duty. In support of his argument he referred this Court to the case of In the matter of Purna Chunder Pal, Mukhtar (1899) I.L.R., 27 Calc., 1023, and particularly to that portion of the judgment of Mr. Justice Hill which is to be found at page 1041: 'Section 14 deals with that power and provides that, if a pleader or mukhtar practising in any subordinate Court is charged in such Court with 'taking instructions as aforesaid' or 'with any such misconduct as aforesaid,' the presiding officer shall send him a copy of the charge and also a notice that, on a day to be appointed therein, such charge will be taken into consideration and then follow directions as to the procedure to be adopted in the matter. The taking of instructions and misconduct here referred to relate to Clauses (a) and (b) respectively of Section 13--see In the, matter of Southekal Krishna Rao (1887) I.L.R., 15 Calc., 152--and it is only in such cases that a subordinate Court is authorized to proceed under Section 14.' The view taken by Hill, J., undoubtedly supports the argument put forward by the learned Counsel, but with the greatest respect to that learned Judge, it appears to me that sufficient weight was not attached to the important change which was introduced into Section 13 of Act XVIII of 1879 by Act No. XI of 1896. At any rate I find no specific allusion to the change by which the various offences enumerated in Section 36 of Act No, XVIII of 1879 were removed from the place where they originally stood in the Act and so placed as to precede Section 14, or it may be that, as the misconduct which was then before the Judge was misconduct which, had taken place in 1891 or some earlier date, it was held that the case was one which fell within the law as contained in the earlier Act. I find that this point was specially considered by Ghosh, J., who came to the conclusion that it was extremely doubtful whether such misconduct, namely, misconduct antecedent to enrollment of the mukhtar as mukhtar was 'any other reasonable 'cause,' within the meaning of Section 13, and he doubted that the Legislature ever intended to provide for such a case. Still, as will be seen from the whole tenor of his judgment, he considered that the words 'any such misconduct as aforesaid' in Section 14 of the Act as amended did apply to all the provisions contained in the amended Section

13. Anyhow the case upon which Hill, J., relied, namely, In the matter of Southekal Krishna Rao (1887) I.L.R., 15 Calc., 152 was a case in 1887 antecedent to the change which was made in Section 13. If I were to adopt the construction which the learned Counsel for the pleader wishes me to adopt, I should be practically holding that offences falling within Clauses (v) to (f) are not misconduct into which subordinate Courts can hold inquiry. Although I do not base my judgment on the inconvenience which would be caused to subordinate Courts, I base my judgment on the inconvenience which would be caused to legal practitioners, and also to this Court, were this Court the only Court that could hold inquiry into the cases falling under Clauses (c), (d), (e) and (f) which had been committed or which were said to have been committed before a subordinate Court. Looking to the difference between Sections 13 and 14 as they originally stood, and Sections 13 and 14 as they now stand, I find myself compelled to hold that the words 'any such misconduct as aforesaid' relate to all the cases set out in Section 13. In reply my attention was called to the case--In the matter of a Pleader (1902) I.L.R., 26 Mad., 448, in which the writing of an anonymous letter by a pleader containing allegations which were intended to prejudice the mind of an officer in connection with a matter which he was investigating was held by the Madras High Court to be 'other reasonable cause' within the meaning of Clause (f) of Section 13. In so holding that High Court added that they accepted the interpretation of Clause (f) of Section 13 of the Legal Practitioners' Act of 1879 which was adopted by the Calcutta High Court in In the matter of Purna Chunder Pal, Mukhtar. Holding therefore, as I do, that the subordinate Court has jurisdiction to take action under Section 14 of Act No. XVIII of 1879, I find no cause for interfering. I dismiss the application.