

In Re: Muhhtar of Banares

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SooperKanoon Citation : sooperkanoon.com/478373

Court : Allahabad

Decided On : Jul-18-1929

Reported in : AIR1929All655

Appellant : In Re: Muhhtar of Banares

Judgement :

1. This case has been initiated against Babu Manni Lal, a mukhtar, practising in the criminal Courts at Banares on a reference by the District Magistrate of Benares under Section 14, Legal Practitioners Act (Act 18 of 1879). Notice was duly served upon Babu Manni Lal to show cause why he should not be either suspended or disbarred for misconduct in the discharge of his professional duties. A preliminary objection has been raised by Mr. Saila Nath Mukherji, the learned advocate for the mukhtar that the reference to this Court is not competent.

2. Certain enquiries appear to have been made in the Court of a Magistrate of the First Class as regards the conduct of the mukhtar on the complaint of one Ambar Misra. He submitted a report to the District Magistrate and the latter officer has made this reference by his order dated 14th May 1929. Certain provisions contained in Section 14, Legal Practitioners Act have escaped the notice of the learned District Magistrate. That section provides that:

every report made to the High Court under this section shall... when made by a Magistrate subordinate to the Magistrate of the District be made through the Magistrate of the District and the Sessions Judge.

3. The report in the present case has been made through the Magistrate of the District alone and not also through the Sessions Judge. Section 14 further provides:

every such report shall be accompanied by the opinion of each Judge, Magistrate or revenue authority through whom or which it is made.

4. We have not got before us any opinion of the learned Sessions Judge of Benares. We are entitled to have the benefit of his opinion. For a proper reference to this Court, the formalities required by Section 14 ought to be fulfilled and in the absence of those formalities being strictly complied with, the reference is no valid reference. We must, therefore, uphold the preliminary objection.

5. We are of opinion that the reference made to the Court is not in accordance with law. Accordingly we return the reference to the learned District Magistrate to enable him to make a proper submission thereof to this Court through the proper channel.