

In Re: a Pleader

In Re: a Pleader

SooperKanoon Citation : sooperkanoon.com/780955

Court : Chennai

Decided On : Apr-12-1943

Reported in : (1943)2MLJ126

Appellant : In Re: a Pleader

Judgement :

Alfred Henry Lionel Leach, C.J.

1. The respondent is a pleader who practised at Gudiwada in the Kistna District. He was convicted under Rule 38(5) of the Defence of India Rules for having violated Rule 38(1)(a) and (c) read with Rule 34(6)(c) and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 100. In default of payment of the fine he was ordered to undergo rigorous imprisonment for a further period of two months. His offences were that during the grave disturbances which took place in India in August of last year he distributed pamphlets to public officers calling upon them to resign their posts and to take an active part in the movement which resulted in these disturbances. He pleaded guilty to the charges.

2. The case falls within the decisions of this Court in In the matter of a second grade Pleader : (1923)45MLJ684 In the matter of K.M., first grade pleader (1923) 92 I.C. 214 and In the matter of a Pleader, Madura : AIR1943 Mad475 which was decided by a Full Bench of this Court on the 24th March last. On behalf of the respondent it has however been contended that inasmuch as he had not taken out his sanad for the year 1943 his case does not come within Section 13 of the Legal

Practitioners Act, 1879. That section gives the High Court power to suspend or dismiss for professional misconduct, a pleader holding a certificate. It is said that inasmuch as he had not renewed his sanad he was no longer a legal practitioner. That argument cannot be accepted. The respondent was registered as a legal practitioner under Rule 9 of the rules framed under the Act. As a pleader he is required to renew his sanad each year and while he remains on the register he is entitled to the issue of a sanad subject to good conduct. This very question was raised in a case decided on the 14th March, 1924, by a Full Bench of this Court consisting of Coutts Trotter, C.J., Rame-sam and Odgers, JJ.--P. Dis. No. 1047 of 1924. The judgment is before us and it was there expressly held that it, was a matter of no moment that the pleader had not renewed his sanad. The Act applied to a holder of a certificate, although he had not taken the necessary steps to have it renewed for the year in which his conduct was called into question. That decision is binding on us and we may add that we are in full agreement with it. A solicitor in England is in the same position as a pleader here. He has to take out a certificate each year entitling him to practise, but he can be struck off the rolls even if he has not renewed his certificate.

3. The observations of Coutts Trotter, J., as he then was, in In the matter of a second grade pleader¹ and In the matter of K.M., first grade pleader² apply with full force here. The conduct of the respondent has been such that the Court cannot allow him to continue to be a member of the legal profession. His name will be struck off the register of pleaders and his sanad will not be renewed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com