

In Re: Second-grade Pleader

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SooperKanoon Citation : sooperkanoon.com/782861

Court : Chennai

Decided On : Mar-19-1900

Reported in : (1901)ILR24Mad83

Judge : Arnold White, C.J. and ;Benson, J.

Appellant : In Re: Second-grade Pleader

Judgement :

1. In this case the District Judge, under proceedings, dated 30th December 1899, framed two charges against the petitioner under Section 14 of the Legal Practitioners Act. The charges related to two distinct matters. The proceedings directed that the charges would be heard on 24th January 1900. On the day on which the charges were framed (30th December 1899), the Judge passed an order suspending the petitioner from practice as from 1st January 1900, pending the disposal of the charges framed against him.

2. In passing this order the District Judge overlooked the provisions of Section 40 of the Act. That section provides as follows: Notwithstanding any thing hereinbefore contained 'no pleader, mukhtar or revenue agent shall be suspended or dismissed under this Act unless he has been allowed an opportunity of defending himself before the authority suspending or dismissing him.' This section governs the provisions of Section 14 which gives to a Judge a power of suspension pending the investigation and the orders of the High Court. In In the matter of Southekul Kishan Row L.R. 14 IndAp 154 the Privy Council considered

the effect of Section 40 of the Act, and they pointed out (see page 158) that any proceedings instituted under the Act are subject to the provisions of Section 40.

3. As regards the first charge framed against the petitioner it is not suggested that he was given any opportunity of defending himself before the order of suspension pending investigation was made. As regards the second charge it would seem that on 7th September 1899, in Appeal Suit No. 42 of 1899 the District Judge, whilst remanding the suit to the District Munsif for further evidence, made the following observation: 'The conduct of their vakil (the petitioner) ought to be carefully watched by the Court.'

4. On 5th October 1899, the petitioner wrote a letter of explanation to the District Munsif with reference to the observation above referred to, and supported his explanation by an affidavit.

5. The explanation and the affidavit were forwarded to the District Judge.

6. We do not think that an observation made by a Judge in the course of a judgment reflecting in general terms upon the conduct of a pleader can be said to be 'an opportunity of defending himself' within the meaning of Section 40. But, however this may be, it is quite clear that no 'opportunity of defending himself' was given with reference to the first charge.

7. The order of 30th December 1899, suspending the petitioner from practice was irregular and must be set aside.