

In Re: L., a First Grade Pleader, Rajam

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Court : Chennai

Decided On : Mar-18-1937

Reported in : AIR1937Mad672; 172Ind.Cas.136

Judge : King, J.

Appellant : In Re: L., a First Grade Pleader, Rajam

Judgement :

ORDER

King, J.

1. This is a petition filed on behalf of Mr. L., a First Grade Pleader, who has hitherto been practising in the Court of the District Munsif of Rajam. In accordance with the usual custom his sanad has been sent to the High Court for renewal for the year 1937, and the High Court on January 18 last, passed an order in its administrative capacity under Rule 14 of the rules framed under the Legal Practitioners Act, XVIII of 1879 deferring the renewal of his sanad. On receipt of this order, the District Munsif naturally refused to allow Mr. L. to continue to practice in his Court until his sanad was renewed. The reasons for the issue of the order are as follows: It appears that in February 1936, a client of Mr. L. filed a complaint against him accusing him of professional misconduct in connection with an execution petition which the client: wished him to conduct on his behalf, That complaint was to the District Munsif of Rajam who in June 1936, without having

examined any witnesses or made any detailed enquiry into the complaint omitted to take any further steps on the ground that the complainant himself did not appear and the Pleader whom he had engaged for the purpose reported no instructions. The District Munsif appears to have reported these facts to the District Judge who then asked the High Court whether he should enquire into the subject-matter of the petition or not. The High Court ordered that the District Judge should direct the District Munsif, Rajam, to fix an early date for the enquiry into the subject-matter of the petition, record his finding and report it to the High Court through the District Judge with his finding thereon, and in connection with this order the High Court also, as I have already said, deferred the renewal of the certificate. The question for my decision is whether this order deferring the renewal of the certificate has been rightly passed under the powers contained in Rule 11 of the rules framed under the Legal Practitioners Act. The important part of Rule 14 reads as follows

In every case in which a report is received under Section 14, Legal Practitioners Act, or the High Court, after perusal of the records, considers that the proceedings of a Subordinate Court shall be revised under Section 15 of the Act, the Registrar shall set the case down for hearing by a Bench of three Judges, and shall give reasonable notice to the pleader and to the person (if any) on whose complaint proceedings were instituted, of the day on which the report or order will be considered and such pleader and complainant may appear in person or by counsel or vakil to show cause against or support the report or order. Pending a final decision on a charge of professional misconduct against a pleader the High Court may defer renewal of his certificate.

2. It is, therefore, necessary to consider the relevant sections, in the Legal Practitioner Act. Section 14 contemplates a case in which a subordinate judicial officer has enquired into a charge of professional misconduct, has found the charge established and has considered that the Pleader should be suspended or dismissed in consequence. The section then goes on to say:

If that is his opinion, he shall record his finding and the ground thereof, and shall report the same to the High Court.

3. Obviously, this is not a case in which such a report has been sent under Section 14. The only report, as I have already said, from the District Judge was one asking for instructions as to what he should do. Section 15 says:

The High Court, in any case in which a pleader or mukhtar has been acquitted under Section 14 otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

4. It seems to me that the High Court here has purported to take action under Section 15, and this is a case in which in the opinion of the Court the proceedings should not have been dropped merely because the complainant who initiated them was not diligent enough to pursue them. But this is not the usual type of case which falls under Section 15. That section obviously applies in most cases to proceedings in which an adjudication has already been made by a subordinate Judicial Officer, and the High Court is of opinion after calling for the record and studying the papers that that adjudication is prima facie wrong. Taking it, however, that it is by virtue of Section 15 that the High Court has seen fit to call for further enquiry in this matter, we must now go back to Rule 14 and we find therein that even if proceedings of a Subordinate Court are to be revised under Section 15 of the Act, the next step is for the Registrar to set the case down for hearing by a Bench of three Judges and to give a reasonable notice to the Pleader and to the complainant of the day on which the report will be considered. It is only after that portion of the rule that we get the final clause that the High Court may defer renewal of the certificate. It seems to me obvious that the second portion of Rule II can apply only to a case in which the material is already on record for the Bench of three Judges to come to some conclusion.

5. In the present case, of course, there has been no posting of the enquiry before any Bench of three Judges. There is no material upon which the Bench could adjudicate. All that the High Court has done is to call upon the District Munsif to enquire into the facts and to supply in due course, through the District Judge, the material upon which the High Court can finally adjudicate. It is, therefore, to my mind incompetent for the High Court until a case is ready to be actually set down for hearing by a Bench to pass any order deferring renewal of the certificate of the

Person against whom complaint is made. That interpretation of the rule is, I think, in obvious accord with the general intention of the Legislature in passing the Act. Section 7 of the Act shows that when any Pleader submits his sanad for renewal, he has a right to expect that that sanad shall be renewed. The words of the section are:

At the expiration of such period the holder of the certificate if he desires to continue to practice, shall subject to any rules consistent with this Act which may, from time to time, be made, by the High Court in this behalf be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court from time to time appoints in this behalf.

6. Section 14 permits a District Judge to suspend from practice any Pleader or Mukhtar charged before him under that section. But that is only pending the investigation and the order of the High Court, and the section specifically provides that it is not unless the District Judge finds the charge established and considers that the Pleader should be suspended or dismissed that he is under any obligation to submit any report to the High Court. It seems to me clear, therefore, that the District Judge cannot under Section 14 suspend any Pleader from practice until he has recorded his finding that he ought to be suspended or dismissed. The suspension of a Pleader from practice pending, an investigation which has not yet been begun is in fact to impose upon him a punishment, before there is even a prima -facie case of his guilt and it cannot possibly have been the intention of the Legislature that any such injustice should be committed. I am accordingly of opinion that the order of the High Court passed administratively under Rule 14 is one which the High Court was not empowered under the provisions of that rule' itself to pass. The words 'pending a final decision on a charge of professional misconduct' are not wide enough to cover a case in which the enquiry has not yet begun. It must refer only to a final decision by the. High Court upon materials already enquired into and adjudicated upon by some subordinate judicial authority and it must apply only to a case in which prima facie, there is reason to believe the Pleader concerned to Le guilty of professional misconduct. I accordingly set aside the order of the High Court passed on January 18, 1957, and in consequence, the

order of the District Munsif of Rajam, so Car as it relates to the present petitioner.

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