

In Re: P, a Pleader

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Court : Kolkata

Decided On : Mar-18-1936

Reported in : AIR1936Cal372

Appellant : In Re: P, a Pleader

Judgement :

ORDER

1. This is a rule upon Babu Probhat Chandra Bhattacharya, a pleader of Rangpur to show cause why he should not be suspended or dismissed under Section 13 (f), Legal Practitioners Act. The facts on which the rule was issued by this Court are these: Babu Probhat Chandra took Moulvi Md. Shafiuzzaman as a probationer for one year from March 1933 to 1934. The said probationer accepted the whole time appointment of a teacher in the Kailash Ranjan High English School in Rangpur from 1st August 1933. On 10th December 1934, the pleader granted the following certificate to the probationer: I Probhat Chandra Bhattacharya, a pleader practising in the District Courts of Rangpur certify that M. Shafiuzzaman has duly and faithfully served me as a probationer for the period required by the rules and in my opinion he is a fit and proper person to be admitted as a pleader in the District Courts of Rangpur subordinate to the High Court. The rules referred to in the certificate are the revised rules for the training of legal practitioners in the subordinate Courts framed by this Court under Section 6, Legal Practitioners Act. These rules came into force on 1st January 1930. Rule 6 of these rules lays down that during the period of probation the probationer shall work with the pleader in and

outside Court and such work shall be that of assisting the pleader in his professional work as a pleader. By Rule 10 the pleader who takes a probationer is permitted to charge a fee of Rs. 50 for his remuneration for the training he gives to the probationer. By Rule 12 the probationer has got to file with the District Judge a certificate in the prescribed form on the completion of the period of probation. The certificate which was given by the Pleader Probhat Babu to M. Shafiuzzaman on 10th December 1934 was given in pursuance of the rule in the prescribed form.

2. The question is whether the statements in this certificate bring him under Section 13 (f), Legal Practitioners Act. The pleader does not deny that the probationer accepted the whole-time appointment of a teacher in the High School mentioned above from 1st August 1933, and that he granted the certificate. He however says that he had no knowledge during the period of probation that the probationer was acting as a teacher since August 1933. He admits that the probationer is his neighbour and lives in the Rangpur town which is about 2 to 3 minutes' walk from his home. He also admits that the probationer used to come to his house almost every morning and that he used to call him to his house whenever he required his assistance. If he required the assistance of the probationer in his house in connexion with his professional work why did he not ask him to assist him in Court? His explanation is that he did not require the assistance of the probationer as his practice was confined to ex parte cases, Small Cause Court suits, rent suits and execution matters. But if for such a practice assistance was required in his house I cannot imagine why similar assistance would not have been availed of by him while he was conducting Small Cause Court suits and rent suits in Court if such assistance was in fact available to him. I am of opinion that the probationer was not assisting the pleader in Court not because the pleader did not require his assistance but because his assistance was not available during Court hours, as he was working somewhere else during this period. I cannot believe that the probationer who is a neighbour of the pleader and who used to come to him almost every morning to his house never told him that he was working somewhere else and that the pleader was ignorant of the fact that the probationer was employed elsewhere.

3. Again in the certificate it is stated that the probationer duly served him as a probationer. By Rule 6 the probationer is to work with him in and outside Court. Admittedly he did not serve him in Court. Why did he then state that the probationer duly served him. The word 'duly' means in accordance with the rules framed by this Court. The pleader does not say and it is not open to him to say that he did not know the rules. He however says that the rules framed by this Court regarding qualifications of pleader, etc., not having duly defined the duty of a pleader in relation to a probationer, he could not realize how he failed in this connection. But he took him as a probationer under the rules framed for the training of legal practitioners in Subordinate Courts and he was entitled to get remuneration for the training given. It was his duty to give him training in Court also. In his explanation he says that he did not consider it necessary for the probationer to work with him in Court as he had already acted as a pleader for two years at Muzzfarpur. He was not entitled to take this view of his duty as in spite of the practice of the probationer as a pleader in a different province he was required to enrol himself as a probationer for the purpose of being trained as a legal practitioner in this province. His certificate unmistakably shows that he certified that the probationer served him duly under the rules, i.e., in and outside Court. This statement is highly misleading if not false. From the facts and circumstances of the case it is clear that the pleader knew full well that the probationer was acting as a whole-time teacher in the local High School during the major part of the period of probation and in spite of this knowledge he intentionally gave the probationer a false or at any rate a misleading certificate about the training of the probationer in order to enable the latter to get permission to practise as a pleader. It must be remembered that the certificate of the pleader who takes a probationer for training is taken as a proof that the probationer has been trained as required by this Court.

4. If therefore a pleader intentionally gives a certificate which contains false statements or statements which are misleading he brings himself under Section 13 (f), Legal Practitioners Act. The next question is how the pleader is to be dealt with. Although we take a serious view of the matter, nevertheless having regard to the fact that the rules relating to the training of probationers have been recently introduced, we think that the ends of justice will be sufficiently met if he be

suspended for a week. The pleader is accordingly suspended for a week from the date on which this order is communicated to him by the District Judge.

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