

In Re: Atul Chandra Guha

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SooperKanoon Citation : sooperkanoon.com/885244

Court : Kolkata

Decided On : Apr-04-1917

Reported in : 42Ind.Cas.619

Judge : Asutosh Mookerjee and ;Beachcroft, JJ.

Appellant : In Re: Atul Chandra Guha

Judgement :

1. This is an application of a novel character which invites us to set v aside in. exercise of the powers of superintendence conferred upon this Court by Section 107 of the Government of India Act, 1915, an order under Section 33 of the Bengal Civil Courts Act, 1887. The petitioner was Naib Nazir of the Court of the Munsif of Habiganj, and was dismissed by the District Judge of Sylhet on the ground that he had accepted a bribe. He appealed to the Chief Commissioner of Assam who declined to interfere. He now comes up to this Court and invites us to interfere on the ground that the order of the District Judge was made without any opportunity afforded to him to prove his innocence. We are of opinion that an order under Section 33 of the Bengal Civil Courts Act is not an order which can be set aside by this Court under Section 107 of the Government of India Act, 1915. That section confers on each of the High Courts superintendence over all Courts for the time being subject to its appellate jurisdiction. The question, consequently, arises, whether the District Judge, when he exercises the power vested in him under Section 33 of the Bengal Civil Courts Act, is a Court subject to the appellate jurisdiction of this Court. In our opinion, the answer must be in the negative, as the

order is made by the District Judge in his administrative capacity. Under Section 30 he has authority to appoint ministerial officers in his Court and to remove or suspend them Under Section 31 he has also authority to take similar action in respect of officers in subordinate Courts. Section 33 then provides that the District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officers to whom Sections 31 or 32 applies, and may, on appeal or otherwise, reverse, or modify any order made under either of those sections by any Court under his administrative control. It is manifest from the very phraseology used by the Legislature in Section 33 that the order is made by the District Judge in his administrative capacity. An order so made is not clothed with a judicial character, merely because it is based on evidence taken by the Judge. It is also clear that the order is subject only to the control of the Local Government. In our opinion, this application cannot be entertained by this Court and must be refused on that ground.