

MANU/BH/0106/1960

Equivalent Citation: AIR1960Pat307

**IN THE HIGH COURT OF PATNA
SPECIAL BENCH**

Misc. Judl. Case No. 649 of 1959

Decided On: 24.02.1960

Appellants:**In Re: Badri Narain**

Hon'ble Judges/Coram:

S.C. Mishra, H.K. Chaudhuri and Tarkeshwar Nath, JJ.

Counsels:

For Appellant/Petitioner/Plaintiff: S.N. Sahay, R.N. Sinha and Sheo Kumar Singh, Adv.

For Respondents/Defendant: G.P. Shahi, Adv.

JUDGMENT

1. The petitioner, Badri Narain, was enrolled as a Pleader on 14-4-1925, and he set up his practice in the Courts at Arrah. He continued in practice there up till 31-12-1950. It is alleged in the petition that his wife fell ill about that time which grew so serious and caused him so much mental worry that he found it difficult to continue his practice. Accordingly, he did not apply for the renewal of his pleader's licence for a number of years after 1950, and he desired to find some other suitable job for the support of himself and his family. He failed, however, to find any suitable job, and ultimately made an application before the District Judge of Shahabad who forwarded it to the High Court by letter dated 23-5-1958. By letter No. 7760 dated 19-8-1958, the Registrar of this Court intimated to the petitioner that the High Court had refused to renew his licence. The present petition was accordingly filed by him under Section 7 read with Section 13 of the Legal Practitioners Act on 31-8-1959.

2. The petitioner has stated that he apprehends that the High Court has refused the renewal of licence to him on account of an incident which happened in course of his practice in the year 1950. In that year he was prevailed upon by one Sheodeep Babu of the Arrah Bar, a senior colleague of the petitioner, that he should grant a certificate to one Dhurandhar Singh saying that a sum of Rs. 4000 to 5000 had been paid to Sri Indradeo Narain, Pleader, by Dhurandhar Singh on behalf of judgment debtor in Execution Case No. 3 of 1947 pending in the Court of the Subordinate Judge I, Arrah, and Sri Indradeo Narain handed over that amount to a certain person standing there.

It may be stated that there were three such statements made by different pleaders, one being the petitioner, and the other two being Shri Brijbanshi Sahay and Sri S. Azimuddin Ahmad. The decree-holder, however, made an application that he had not received any amount in respect of the decree, which was put into execution in Execution Case No. 3 of 1947, and accordingly Miscellaneous Case No. 44 of 1950 was started. The petitioner was examined in that case, and therein he stated as follows in his examination-in-chief :

"I joined bar in 1925. This certificate is in my pen and bears my signature. Proves the certificate Ext. B-2. The content of this certificate is entirely false. Volunteers as explanation :

I wrote this certificate under very hard pressure. Though understanding was given to me that I shall not be examined and this is simply to put pressures upon Indradeo Narain, Pleader, to get the case compromised and to save B. Dhurandhar Singh from criminal prosecution. I know nothing about this case."

It appears that he was declared hostile thereafter. The certificate of the payment in question runs as follows :

"I saw B. Dhurandhar Singh paying a big amount which might be between 4000 and 5000 to B. Inderdeo Narain Pleader, No. 2 who was paying this to a man near him."

It bears date 3-5-1952. The petitioner has taken the stand in this petition that the certificate was granted by him reluctantly and under pressure of Sheodeep Babu, Pleader, as stated before, and further stated that this was intended to be shown to Sri Indradeo Narain, "for the adversary of Dhurandhar Singh who was standing between the two and preventing amicable settlement and thereby make him reasonably come down and help the settlement". That certificate was, however, produced in Miscellaneous Case No. 44 of 1950 of the Court of the 1st Subordinate Judge, Arrah, and notice was issued to the petitioner to appear, and there he deposed frankly regarding the truth of the matter.

He has accordingly stated that in view of the exceptional circumstances in which the statement was made and in view of the fact that the petitioner remained out of practice from 1951 to 1958. the remissness on his part in the matter of grant of certificate, referred to above, may be condoned and that his application for renewal of licence may be favourably considered and he may be allowed to practice as a pleader in view of his clean record as pleader from 1925 to 1950.

3. It may be mentioned that the statement made by the petitioner in. Miscellaneous Case No. 44 of 1950 repudiating the previous statement made by him to the effect that a sum of Rs. 4000 to 5,000 had been paid by Dhurandhar Singh to Sri Indradeo Narain was not acted upon by the learned Subordinate Judge and the original statement, referred to above, was relied upon as true. An appeal was, however, preferred against that to this Court, which was numbered as Miscellaneous Appeal 322 of 1952. and which was disposed of by a Division Bench of this Court consisting of Sinha and Dayal JJ. on 28-2-1957.

Their Lordships allowed the appeal by the decree-holder, set aside the judgment of the Court below and held that, in fact, nothing was paid to Sri Indradeo Narain, Pleader, as alleged in the aforesaid statement by the petitioner and also by Sri Brijbanshi Sahay and Sri S. Azimuddin Ahmad, While coming to that conclusion their Lordships made serious strictures on the conduct of the petitioner as also of the two other pleaders, who had made similar statements supporting the factum of payment on behalf of the judgment debtor by Dhurandhar Singh to Sri Indradeo Narain. The remark made by C.P. Sinha, J. runs as follows :

"The conduct of the lawyers, Sri Brajbansi Sahay, Sri M. Azimuddin Ahmad and Sri Badri Narayan, to say the least, was very reprehensible, and I should

have taken very strong action against these pleaders; but, I am told, Sri Brajbansi Sahay is dead, Sri Azimuddin Ahmad has left this country, and Sri Badri Narayan has ceased to be a practitioner at the Bar, and he has not got his license renewed for the last several years."

Dayal, J., made the following observation :

"In my judgment, the conduct of the lawyers examined on behalf of the opposite party in this case is highly reprehensible but I propose to take no action in the matter, as Azimuddin Ahmad, pleader, has gone to Pakistan, Brijbansi Sahay is dead and Badri Narayan has ceased to be a practising lawyer and has not renewed his licence for the last four or five years."

There can be no doubt, therefore, that the petitioner made a deliberately false statement when he granted the certificate to Dhurandhar Singh saying that he was present at the time when Dhurandhar Singh paid a sum between Rs. 4000 and Rs, 5000 to Sri Indradeo Narain. Pleader. No attempt has been made in this petition to show that the strictures were not amply deserved by the petitioner and the two other gentlemen, one of whom is dead and the other who has migrated to Pakistan,

The only question, therefore, for consideration pressed by Mr. S.N. Sahay on behalf of the petitioner is that the conduct of the petitioner may be considered as a breach of professional duty and show of weakness on account of the pressure put upon him by a senior colleague of his, in whose words he had complete faith; and that it should be accepted as true that he had granted the certificate in the bona fide belief that the same would not be used in a legal proceeding and also in the belief that it would help in effecting a settlement between the decree holder and the judgment debtor in the aforesaid execution case.

It is necessary to scan this argument further to find out whether the explanation offered on behalf of the petitioner is true or false. Put at the lowest, as I have stated above, this shows not only gross dereliction of duty on the part of the petitioner, but something more. Being a member of the Bar, of whom high personal rectitude is required, he went to the extent of misusing his position to lend support, at any rate, to a scheme to coerce another member of the Bar to use his influence in a certain manner. There is nothing on the record to show: as to whether Sri Indradeo Narain really stood against any particular negotiation between the decree holder and the judgment debtor for a compromise.

But, even if he did that, it might well be that he thought it proper that the decree holder should not be duped into some kind of settlement, which. would be prejudicial to his interest. In any case. I the act of the petitioner in being a party to a scheme to coerce another member of the Bar as aforesaid, can well be characterised as a conspiracy against him and must be looked upon as a highly reprehensible act and unworthy of the position of a member of the Bar. Mr. Sahay has contended that in any case the fact that the petitioner has been out of practice for eight years or so should be held to be sufficient punishment for the petitioner, and even if he had been in practice, in the normal course he would have been debarred for a year or so, and that fact may be kept in mind in considering the present petition for renewal of the licence after, a lapse of more than eight years.

In our opinion, however, it is difficult to accept the argument of Mr. Sahay regarding the conduct of the petitioner. If the petitioner had been in practice, it is difficult to say that any punishment less than debaring him from practice permanently would

have been inflicted in the circumstances, and there is no reason to take a different view just because the petitioner, for one reason or another, has thought it fit not to apply for renewal of the licence for eight years or so. We are satisfied, therefore, that there is no reason to alter the decision of this Court taken on the administrative side to refuse the prayer of the petitioner for renewal of his license to practise as a pleader, and, accordingly, the petition must be rejected.

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