MANU/BH/0137/1921

Equivalent Citation: 64Ind. Cas.636, 64Ind. Cas.636

IN THE HIGH COURT OF PATNA
FULL BENCH

Decided On: 28.11.1921

Appellants:**In Re: Sudhansu Bala Hazra**

Hon'ble Judges/Coram:
Thomas Fredrick Dawson Miller , C.J. and B.K. Mullick and Jwala Prasad , JJ.

JUDGMENT

Thomas Fredrick Dawson Miller, C.J.

1. This is an application by Miss Sudhansu Bala Hazra for enrolment as a Pleader in the District Court of Patna, a Court subordinate to this High Court. She holds a decree of Bachelor of Law conferred by the Calcutta University this year, and is qualified in all respects for enrolment unless she is debarred by the disability of sex. The application was originally made to the District Judge and forwarded to the High Court according to practice. The matter is, strictly speaking, one for an administrative order, but as it is one which raises a question of considerable public importance, viz., whether under the Legal Practitioners Act and the rules framed thereunder women can be enrolled as Pleaders, I thought it desirable to give the applicant an opportunity of appearing before the Court by Counsel in order to argue the legal points which arise in connection with the application, before coming to any decision thereon.

2. Section 6 of the Legal Practitioners Act enables the High Court to make rules consistent with the Act as to (inter alia) "the qualifications, admission and certificates of proper persons to be Pleaders in the subordinate Courts." By Section 7 on admission of any person as a Pleader a certificate signed by the proper officer shall be issued to such person authorising him to practice up to the end of the current year as a Pleader, and provision is made whereby if he desires to continue to practice he may have his certificate renewed. From a perusal of these sections as well as Section 8 it appears that the persons referred to are males and not females, as the pronouns he, his and him are invariably used. On turning to the rules made under Section 6 of the Act, the same phenomenon appears, the persons referred to being always described by words appropriate only to those of the male sex. This is only what might be expected from the fact that since 1793, when the qualifications of Pleaders were first established on a regular basis by Regulation VII of that year, no female has ever been admitted to the roll of Pleaders in the subordinate Courts or elsewhere, and it is not suggested that earlier records would disclose any different state of affairs. The petitioner, however, claims that by reason of Section 22 of the General Clauses Act, 1868, since repealed and reenacted by Clause 13 of the Act of 1897, a radical change has been effected so as to confer upon women a privilege which they have not hitherto been regarded as capable of exercising under any of the Acts or Regulations dealing with the subject. Section 13 of the General Clauses Act, 1897, provides as follows : "In all Acts of the Governor-General in Council and Regulations, unless there is anything repugnant in the subject or context--(1) words importing the masculine gender shall be taken to include females. " The earlier Act of 1868 by Section 2 provided : "in this. Act and in all Acts made by the Governor General of

India in Council after this Act shall have come into operation, unless there is something repugnant in the subject or context--words importing the masculine gender shall be taken to include females." Conceding that the General Clauses Act applies not only to the Legal Practitioners Act itself but also to the rules made there under, which have the force of law, the question for determination is whether there is something repugnant in the subject which excludes the operation of the sections mentioned in the General Clauses Act. The learned Counsel for the petitioner has, with great gallantry and considerable vigour, spurned the idea that there is anything repugnant in the conception of a Bar composed partly at least of lady Pleaders whose forensic ability, he assures us, would in many cases compare favourably with that of many of those upon whom alone hitherto the privilege of enrolment has been conferred. I am quite prepared to concede this part of his argument. The repugnancy, however, which we have to consider is not one arising out of policy, which is a matter for the Legislature alone. The question is not whether women would make good Pleaders, but whether it appears, either from the context or the subject dealt with in the enactment, that it was the intention of the Legislature to confine the .privilege of enrolment as a Pleader to men only, In other words, can it be said that the Legal Practitioners Act and the rules made there under contemplated the possibility of the enrolment of women Pleaders? Regulation VII of 1793, the earliest enactment on the subject, confined the office of public Pleaders or Vakils to men of character and education verged in Muhammadan and Hindu Law, who were to be of the Muhammadan or Hindu persuasion and selected from the students of the Muhammadan and Hindu Colleges at Calcutta and Benares respectively. It also appears from the preamble that even before that time when apparently no special qualifications appear to have been necessary, those who followed the business of a Vakil were men. In 1814 and again in 1846 important enactments were passed relating to the qualifications of Pleaders and their control, appointment and removal. By Regulation XXVII of 1814, Section 111, the Sadder Dewanny Adawlut and the several Provincial Courts were empowered to appoint to the office of Vakil in their respective Courts such a number of persons being natives of India and duly qualified for the situation as may from time to time appear to them to be necessary." Through, out the Regulation the words his, him and be are invariably used in connection with the persons so appointed. Act I of 1846 by Section 4 threw open the office of Pleader in the Courts of the East India Company "to all persons of whatever nation or religion provided that no person shall be admitted as a Pleader in any of these Courts unless he has obtained a certificate in such manner as shall be directed by the Sudder Courts that he is of good character and duly qualified for the office." The language of the different Sections of these two enactments leaves no room for doubt that the exclusion of women from the office of Pleader or Vakil was intended. Act XX of 1865 authorised and required the new High Courts to make rules for the admission of proper persons to be Pleaders, and again the language used is applicable to men only to the exclusion of women. The interpretation clause contained in that Act provided that unless there was something repugnant or inconsistent in the subject or context, words importing the singular number should include the plural and vice versa, but it did not, as was the case in other Acts passed at about the same time provided that words importing the masculine gender should include females (of Act XLV of 1860, Section 8, Act X of 1865. Section 3, and Act XI of 1865, Section 1.) It would appear, therefore, that from very early times even before 1793 no women had been admitted to the office of Pleader and that at least down to 1865 the Legislature had on several occasions dealt with the subject in terms which leave no doubt as to its intention to exclude them.

3. The question then arises whether, in view of the General Clauses Act, the Legal

Practitioners Act of 1879, which consolidated and to some extent amended the law, the Legislature, by the use of words similar to those employed in previous enactments dealing with the same subject, intended to effect a far-reaching change in the policy hitherto pursued and to confer upon women the privilege of enrolment as Pleaders, a privilege which from the earliest times had been denied them. I am unable to accept the view that it was the intention of the Legislature to bring about a change of such magnitude by the language employed in the Legal Practitioners Act. It appears to me rather that by the date when that enactment was passed, the word Pleader had by inveterate usage acquired a definite meaning connecting a male person, which obviated the necessity of emphasising the sex of the persons included under the term. It was, in my opinion, never intended by the General Clauses Act to effect radical changes in the law but rather to set at rest ambiguities arising in the construction of Statutes where such existed, and to avoid multiplicity of words. Had it been the intention of the Legislature by the Act of 1879 to alter the existing law, it would not, if I may borrow an expression from the judgment of Lord Loreburn, L.C., in Nairn v. St. Andrews University (1909) A.C. 147 : 78 L.J.P.C. 54 : 100 L.T. 96 : 53 S.J. 161 : 25 T.L.R. 160, have brought about a constitutional change so momentous and far reaching by so furtive a process.

4. Emphasis was placed upon the fact that in the Legal Practitioners Act of 1879 the word "persons" is used in describing the class from which Pleaders may be appointed, whereas in the Regulation of 1793 the word used was "men" holding the prescribed qualifications. This argument loses much of its force when it is remembered that from 1814 onwards, when it was manifestly the, intention to exclude females, the enactments relating to the appointment of Pleaders always used the word persons in referring to the class eligible for enrolment and the Act of 1879 merely retained the former phraseology. It is, moreover, a recognised canon of the construction of Statutes that there is a presumption that the Legislature does not intend to make any substantial alteration in the law beyond what it explicitly declares either in express terms or by necessary implication (see Maxwell, Interpretation of Statutes, 6th Edition, p. 149). Many cases might be quoted where the use of the word "persons" in Acts of Parliament has been construed by the Courts in a limited sense and even in a different sense in different parts of the same enactment. Nairn v. St, Andrews University (1909) A.C. 147 : 78 L.J.P.C. 54 : 100 L.T. 96 : 53 S.J. 161 : 25 T.L.R. 160 is a striking instance. In that case the Franchise Act of 1868 relating to Scotland by Section 27 gave every person whose name was for the time being on the register of the general council of certain Scottish Universities the right to vote in the election of a member of Parliament for such Universities. The 8th section defined the members of the general council as "all persons on whom the University to which such general council belongs has after examination conferred" certain specified degrees "or any other degree that may hereafter be instituted." At that date women were not admitted to graduation in any of the Scottish Universities, but they were afterwards admitted under the Universities (Scotland) Act of 1889 (52 and 53 Vic. C. 35). The appellants were five ladies who had graduated at the Universities of Edinburgh and St. Andrews and were qualified to be put on the register of voters under the Act of 1868, unless their sex was a bar. It was contended that they were persons within the meaning of the Act of 1868. The case in their favour was in some respect even stronger than the present, as the Act in other sections dealing with county and borough franchise and which created new franchises, used the term man instead of person. The House of Lords rejected the contention and dismissed the appeal. The basis of that decision was that women had never been regarded from earliest times as capable of exercising the franchise and, therefore, although the word persons would prima facie include women, the Legislature must be regarded as having used

the word in a limited sense in the light of existing circumstances. It is a dangerous assumption," said Lord Loreburn, L.C., "to suppose that the Legislature foresees every possible result that may ensue from the unguarded use of a single word or that the language used in Statutes is so precisely accurate that you can pick out from various Acts this and that expression, and skillfully piecing them together lay the foundation for some remote inference."

5. In the present case it is tot shown that women ever acted as Pleaders in the Courts of this country. On the contrary, the enactments referred to show that they have been invariably excluded not by any direct prohibition, but inferentially by words appropriate only to the male sex, as though the matter were one well-settled by inveterate usage and requiring no express legislation. It seems to me impossible to hold that the Legislature in 1879, by employing the language of previous enactments, passed at a time when the question could not have arisen, intended to convey any different meaning from that which had always been understood.

6. It has been contended that certain anomalies must necessarily arise if by our decision we reject this petition. By Section 36 of the Legal Practitioners Act certain Courts and officers may frame and publish lists of persons proved to their or his satisfaction habitually to act as touts, and by Clause (2) of the section "no person's name shall be included on any such list until he shall have had an opportunity of showing cause against such inclusion." It is argued that it would logically follow that if the word "persons" in Section 6 means male persons only, it should have the same meaning in Section 36 and, therefore, no woman could be included in the list of touts. The argument assumes that the question of sex was in such a case one of vital importance, whereas it is obvious that in framing Section 36 the intention of the Legislature was simply to prevent touting, and it is hardly conceivable to me that the question of sex could have had the slightest importance in the intention of the Legislature, if the unlikely event should arise of a female perpetrating the mischief aimed at. There is nothing inherently improbable in supposing that the section was meant to prevent touting irrespective altogether of the sex of the tout. The short answer to the argument is that there is nothing repugnant in the subject to prevent the application of the General Clauses Act to Section 36. In that section the subject is the prevention of touting, whereas in the 6th section the subject is the admission of proper persons to be Pleaders.

7. The case of Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J. Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179 was referred to, not as an authority in the petitioner's favour, which it clearly is not, but in order to distinguish it from the present case, In that case it was held that by the Common Law of England women could not be Attorneys or Solicitors and, therefore, in passing the Solicitors Act of 1343 the Legislature did not intend to remove the disability by a mere interpretation clause, which provided that every word importing the masculine gender only shall extend and be applied to a female as well as a male," unless there be something in the subject or context repugnant to such construction." It was pointed out that there was in this country no such disability arising from the Common Law as was the case in Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J. Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179. But the Common Law, as pointed : out by Lord Loreburn, L.C., in Nairn v. St. Andrews University (1909) A.C. 147 : 78 L.J.P.C. 54 : 100 L.T. 96 : 53 S.J. 161 : 25 T.L.R. 160, is founded solely upon inveterate usage. The inveterate usage in this country as in England has been to exclude women from admission as Pleaders and although there may have been no express prohibition such as that founded upon the dictum of Lord Coke referred to in Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J.

Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179, the inveterate usage has been similar in both countries, and I agree with the opinion expressed by Mukerji, J., in Regina Guha, In the matter of 35 Ind. Cas. 925 : 44 C. 290 : 24 C.L. J.382 : C.W.N. 74 that the case of Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J. Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179 furnishes valuable aid as to the mode in which the problem should be approached, In Regina Guha's case 35 Ind. Cas. 925 : 44 C. 290 : 24 C.L. J.382 : C.W.N. 74 exactly the, same question arose as is presented in this case and a Full Bench of the Calcutta High Court, consisting of the Chief Justice and four other Judges, decided that it was not the intention of the Legislature in the Legal Practitioners Act to reverse the established policy or to introduce a fundamental change in long-established principles of law, and that to read the sections of the Act relating to the admission of Pleaders as including females was repugnant to the subject. I agree with the conclusions arrived at in that case and am of opinion that the present application should be refused.

B.K. Mullick, J.

8. I agree that the framers of the Legal Practitioners Act of 1879 intended that women should not be admitted to practice as Pleaders. It was not merely a lapse or an omission, a failure to realize the exact import of the words used in the Statute and of the bearing upon them of the then current General Clauses Act (Act I, 1858), but in my opinion it was a deliberate reimposition of the disability which had hitherto been imposed upon the female sex. I readily concede that there was no intention to proclaim the inferiority of the sex either in attainments, intellect or character, for even then women had begun to avail themselves of the advantages of western education and to prove that they were in no way less qualified than many men : and if it were permissible to speculate upon the reasons of the Legislature, all that can be hazarded is that having regard to the previous history of the relations of the sexes and the general position of women in the country, the Legislature was of opinion that it would be repugnant to ideas of decorum to permit women to join in what I may call the rough and tumble of the forensic arena. At any rate whatever may have, been the reasons which guided the Legislature, the fact that no women had been admitted to practice as a Pleader during the 65 years which had elapsed since the Regulation of 1814, is a contemporary exposition of the Statute which cannot be disregarded. I cannot, therefore, read the word person in Act XVIII of 1879 as applicable both to men and women.

9. There is, however, one other matter to which I think it necessary to draw attention, From the colas framed by the High Court under the Legal Practitioners Act it is clear that proceedings relating to the admission of Pleader are administrative and not judicial. The note to Rule 19 states this in clear language, Then Rule 20 directs the District Judge to send the application and ether papers to the High Court, who under Rules 22 and 23 may after making inquiries, if any, refuse the application without assigning any reason.

10. Rules 24 and 25 direct the Registrar of the Court to enter the name of the applicant, if admitted by the Court, in the appropriate register and to sign a certificate and to cause the same to be delivered to the applicant through the District Judge, By Rule 7 (IV) of the General Rules framed by the High Court under the authority of the Letters Patent the Court has delegated to the Judge in the English Department the duty of passing orders on all applications connected with the admission and enrolment of Pleaders under Act XVIII of 1879, but Rule 7(V) empowers him to refer the matter to a greater number of Judges if the importance of the subject in his

opinion requires it.

11. In the present case it appears that the Judge in the English Department has laid the matter before the Chief Justice, who has constituted the present Bench so that the petitioner might be beard through Counsel. It is clear, however, that though we have had the assistance of Mr. Manuk's able argument, the proceedings are still administrative, The Legal Practitioners Act does not appear to contain any provisions for a judicial hearing, but it has been found convenient in this case to adopt the procedure applicable to Full Benches.

12. I have no doubt that we have authority to dispose of the application and that it should be rejected.

Jwala Prasad, J.

13. The only question that arises for our consideration is whether under the Legal Practitioners Act (XVIII of 1879), women can be enrolled as Pleaders of the Courts subordinate to the High Court.

14. Section 6 of the Act empowers the High Court to make rules consistent with the Act as to the qualifications, admissions and certificates of proper persons to be Pleaders of subordinate Courts.

15. The word "person" no doubt would include men and women. In Section 7 and the subsequent sections of the Act, the pronouns used for a person as a Pleader or Mukhtear are "he," "his" and "him," indicating thereby male persons only. It is said that these words importing the masculine gender should be taken to include females by virtue of Section 2, Clause 1 of the General Clauses Act of 1868, which runs as follows:-- "In this Act and in all Acts made by the Governor General of India in Council after these Acts shall have come in operation--unless there be something repugnant in the subject or context--words importing the masculine gender shall be taken to include females."

16. The above clause in the Act is expressly stated to apply to the General Clauses Act and to all Acts made by the Governor-General of India in Council. It is more than doubtful whether the aforesaid clause will apply to the rules framed under Section 6 of the Act.

17. The rules framed by the High Court under that section have also employed the pronouns importing masculine gender and have not given any interpretation clause to the effect that the words importing masculine gender shall include females, nor have they expressly stated that females shall be entitled to be admitted or enrolled as Pleaders.

18. Assuming that females could be proper persons to be Pleaders under the Legal Practitioners Act, the rules framed by the High Court have made no provision for them to be enrolled and admitted as such. Without such a rule, therefore, a woman cannot be enrolled as a Pleader, for Section 6 of the Act has expressly made the High Court the sole authority to make rules for determining "proper persons" to be admitted as Pleaders.

19. The applicant has obtained the degree of Bachelor of Law as well as of Arts in the Calcutta University. The University Act (Act II of 1857) as well as Act VIII of 1904 empower the University to examine and confer degrees on persons and students

showing the required proficiency in the different branches of learning. The University was further empowered to frame rules and regulations for the purpose of determining suitable candidates for any University examination, An express regulation was framed entitling the female candidates to be admitted to the examinations. But for this regulation no female candidate could obtain the degree, although the Act, itself did include females in the general expressions "persons," "students" and "candidates."

20. The Patna University Regulations also expressly provided for admission of females to the University Examination and degrees : so have the other Universities. The Bombay University set out in the beginning of their regulations the following interpretation clause : "the pronoun 'he' and its derivatives are used to denote either sex, the male or the female," thus extending the privileges of the regulations to females.

21. Therefore, even if the Legal Practitioners Act did contemplate the inclusion of females as proper persons to be admitted as Pleaders, no female can be admitted as such unless the rules of the High Court expressly provide for it. Therefore, under the existing rules of the High Court no female can be admitted as Pleader.

22. The question as to whether the Legal Practitioners Act did intend females to be Pleaders by the use of the general word "person" in Section 6 and by the application of the General Clauses Act, in order to interpret the pronouns importing masculine gender as including females in the subsequent sections of the Act, does not really arise in the present case. But as the question has been debated with great zeal, ability and learning at the Bar, I venture to give my opinion upon it.

23. I must confess that the question raised is as difficult as it is important. No doubt, the interpretation Act, known as the General Clauses Act, does apply to the Legal Practitioners Act, Unquestionably the pronouns importing masculine gender do include females in Chapter VII of the Act and would also include females wherever the words "importing masculine gender" have been used in the Chapter relating to the admission and enrolment of Pleaders "unless there be something repugnant in the subject or context." These words occur both in Section 2, Clause 1, of the General Clauses Act of 1868 and in Section 13 of the General Clauses Act of 1897.

24. After the constitution of the British Courts, the profession of Pleaders was for the first time recognized in Regulation VII of 1793. No doubt, legal profession did exist long prior to that, both in the Hindu and the Muhammadan Courts in India, but no definite data have been placed before us to determine with absolute certainty whether women were recognized as legal practitioners in the Hindu and the Muhammadan Courts in this country. Justice Sir Asutosh Mukarjee tried to investigate the matter with his ususal thoroughness, but failed to discover any instance of women having been so recognized [Vide Regina Guha, In the matter of (3).]

25. On the other hand, it has not been shown that prior to 1793 there was any legal disability imposed upon females being law officers either under the Hindu Law or the Muhammadan Law. Sir Asutosh Mukerjee observes that there are indications of women being allowed to bold legal positions under the Muhammadan Law.

26. It is not disputed that Regulation VII of 1793 expressly recognized male persona only eligible for being admitted as Pleaders, inasmuch as men only were found following up "the business of Vakil to obtain a livelihood" as stated in the preamble to the Regulation.

27. The subsequent legislations on the subject, no doubt, were directed to the removal of communal and religious bars in the way of persons to be admitted as Pleaders, but the privilege which was conferred upon men , only in 1793 was not expressly extended to females. Perhaps there was no demand for such an extension, Men were found to be carrying on the profession of Pleader in 1793 and Regulation VII of that year gave them a legal status. No woman was carrying on the profession of Pleader at that time and there was, therefore, no necessity of any, legal recognition of women as Pleaders.

28. It is said that the word "person" instead of "man" in the subsequent Acts has the effect of conferring such a right upon females without express legislation. The word "person," to my mind, used in the Legal Practitioners Act is wide enough to include females, as unquestionably it does in most of the provisions of the Act, such as Chapter VII. In Girhar Narain, In re14 C. 556 : 12 Ind. Jur. 22 : 7 Ind. Dec. 368 Norris, J., observes: "l am altogether unable to give the words 'any person' in Section 32 the narrow construction sought to be placed upon them." The word "person" would, therefore, include ordinarily females in Section 6 of the Act, unless they were expressly excluded from being legal practitioners. All the pronouns used in the subsequent sections of the Legal Practitioners Act would seem to apply to females by virtue of the General Clauses Act "unless there be something repugnant in the subject or context" to admit them to practice as Pleaders.

29. In the case of Nairn v. St, Andrews University (1909) A.C. 147 : 78 L.J.P.C. 54 : 100 L.T. 96 : 53 S.J. 161 : 25 T.L.R. 160 reliance was placed upon the dictum of Lord Coke as showing that women were under disqualification and the disability of women to the privilege claimed therein was taken for granted.

30. The decision in the case of Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J. Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179 was based upon the disability imposed upon females under the Common Law of the country. It has, however, not been shown that there was any legal disability imposed at any time upon the females of this country to carry on the profession of law. In the case of Girhar Narain, In re, 14 C. 556 : 12 Ind. Jur. 22 : 7 Ind. Dec 368 it was further held that Act X.VIII of 1879 is an amending as well as a consolidating Act, In this view it may be urged that the use of the word "person" had the effect of conferring upon women the right to be admitted and enrolled as Pleaders. But in face of the aforesaid authorities: Nairn v. St. Andrews University (1909) A.C. 147: 78 L.J.P.C. 54 : 100 L.T. 96 : 53 S.J. 161 : 25 T.L.R. 160 and Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J. Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179, it is difficult to accept this view and to hold that such an important right would be conferred in such an indirect way.

31. There is, therefore, a good deal to be said in favour of the view that the men were given the privilege and status of Pleaders by Statute : women could also obtain the same only by legislation.

32. A question similar to the one in the present case arose in the Calcutta High Court in the case of Regina Guha, In the matter of (3) in 1916, and it was held by a Special Bench of that Court that as the law now stands, women are not entitled to be enrolled as Pleaders of Courts subordinate to the High Court, and that the rules of the High Court were made in accordance with and for the purpose of carrying out the intention of the Legal Practitioners Act, and consequently did not entitle a woman to be enrolled as Pleader, and that if a change of policy is desirable, the proper remedy is legislation, and not alteration in law in the disguise of judicial exposition of the

existing law.

33. In England, the Legislation has solved this question and has removed the disqualification of sex and thereby has admitted females to the legal profession. Consequently it has been urged that females will now be entitled to practice in the Indian Courts, inasmuch as the Legal Practitioners Act does not apply to them, and they will be entitled to plead in the Courts of India as Barristers. This may be an argument for an amendment of the Legal Practitioners Act, but we are chiefly concerned with the construction of the Act as it at present stands.

34. A recent instance has been brought to our notice where a lady (Miss Sorabjee) has been enrolled as a Vakil of the Allahabad High Court. This was done by a decision of the English meeting of the Court consisting of the Chief Justice and the Judges present in Allahabad, under Rule 15 of Chapter XV of the Allahabad High Court Rules. In matters of practice, however, we generally follow the traditions of the Calcutta High Court and we do not think we can deviate from the decision of that Court passed on the 29th of August 1916 in Regina Guha's case 35 Ind. Cas. 925 : 44 C. 290 : 24 C.L. J.382 : C.W.N. 74 only a few months after the creation of our High Court.

35. No doubt, the recent admission of Miss Sorabjee in the Allahabad High Court might create some anomaly, inasmuch as ladies enrolled as Vakils in the Allahabad High Court may claim to practice in occasional cases in the Courts subordinate to this Court under Section 4 of the Legal Practitioners Act, although no lady will be permitted to be enrolled in our own High Court. This again is a very good ground for changing the present law.

36. An appeal has also been made to us on the ground of intelligence and capacity of women to be fit compeers of men in the forensic arena and that the rapid advancement of the country in the matter of education amongst females requires that their rights in all the spheres of life, including the profession of Pleader, should be recognized as being equal with men. This is quite true. As a matter of fact, new professions are now gradually being opened to them, such as medicine, etc. A similar argument was advanced in the case of Bebb v. Law Society (1914) 1 Ch. 286 : 83 L.J. Ch. 363 : 110 L.T. 353 : 58 S.J. 153 : 30 T.L.R. 179, and 1 would answer it in the words of Cozens Hardy, M.R., at page 294 of the report: We have been asked to bold," says his Lordship, "what I for one quite assent to that in point of intelligence and education and competency women--and in particular the applicant here who is a distinguished Oxford student (Calcutta University students)--are at least equal to a great many and, possibly, far better than many of the candidates who will some up for examination, but that is really not for us to consider. Our duty is to consider and, so far as we can, to ascertain what the law is, and I disclaim absolutely any right to legislate in a matter of this kind, In my opinion, that is for Parliament (Legislation of this country)." The words within the bracket are mine.