

IN THE HIGH COURT OF PATNA

SPECIAL BENCH

Civil Reference No. 2 of 1952

Decided On: 30.11.1953

Appellants:In Re: Shri Gauri Shankar Prasad

Legal Practitioners Act, 1879- Sec.14- proceeding initiated against pleader for having taken instructions believing to be Karinda- not authorized by party- no vakalatnama executed in favour of pleader by the party (Para-1)

Pleader received vakalatnama from one Rajendra Prasad believing to be Karinda of client- pleader should not have said that he received from client- pleader guilty of having received instructions neither from client nor his recognized agent- pleader guilty of improper conduct- recommendation of Ld. Subordinate Judge to suspend pleader for three months accepted- Ld. District Judge to record his opinion before forwarding report as per provisions of the act required. (Para-3,4,5)

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Appellants:**In Re: Shri Gauri Shankar Prasad**

Hon'ble Judges/Coram:

Das, Jugal Kishore Narayan and Jamuar, JJ.

Counsels:

For Appellant/Petitioner/Plaintiff: Govt. Adv.

For Respondents/Defendant: B.N. Mitter, Krishna Prakash Sinha and Ramakant Verma, Advs.

ORDER

1. This is a report under Section 14, Legal Practitioners Act in respect of one Shri Gauri Shankar Prasad, a practising pleader of Chapra.

The facts are not in dispute. Shri Gauri Shankar Prasad joined the district Bar in March, 1947. On 19-12-1949, he filed an application for return of certain documents and a vakalatnama. On the vakalatnama, an endorsement was made to the effect that it was received from one Parasnath Tewari, the client, himself. On the strength of the vakalatnama filed by the learned pleader, the documents were returned to him.

It subsequently transpired in a sessions case where the pleader gave evidence, that he did not know Parasnath Tewari at all and had not received any vakalatnama from him. The pleader, it appears, had received the vakalatnama from one Rajendra Prasad who, the pleader stated, was a 'karinda' of Parasnath Tewari. It was proved that Parasnath Tewari did not execute any vakalatnama in favour of the pleader; Rajendra Prasad was not his 'karinda' and the documents which the learned pleader had taken back were not made over to Parasnath Tewari.'

In these circumstances, a proceeding was started against the Pleader for having taken instructions from a person who was neither the recognised agent of a party within the meaning of the Code of Civil Procedure nor a servant, relative or friend authorised by the party to give instructions; and also for having been guilty of grossly improper conduct in the discharge of his professional duty.

2. As I have said above, the facts are not in dispute. If the learned pleader received the vakalatnama from Rajendra Prasad, whom he believed to be a 'karinda' of Parasnath Tewari, he should not have said in the vakalatnama that he had received it from Paras Nath Tewari himself. The learned 2nd Subordinate Judge of Chapra who held the enquiry against the pleader, has found that the pleader was guilty of both the charges brought against him; namely he was guilty of having received instructions from a person who was neither a party nor the recognised agent of a party nor a servant, friend or relative duly authorised to give instructions on behalf of

the party; he has also found that the pleader was guilty of grossly Improper conduct in having endorsed on the vakalatnama that he received it from parasnath Tewari, though he did not know the man at all.

3. We are satisfied that the charges brought against the pleader have been proved. Mr. B. N. Mitter, appearing on behalf of the pleader, has suggested that we should deal with his client leniently. He has pointed out that the pleader joined the Bar in 1947 and the unhappy incident, out of which the charges against the pleader have arisen, took place within about two years, namely, on 3-12-1949. He has further submitted that in these hard days the pleader should be dealt with leniently and let off with a severe warning.

4. The learned Subordinate Judge has recommended that the ends of justice will be met if the pleader, who is a very junior practitioner, is suspended for a period of three months only. Having regard to all the circumstances of this case, we do not think that the pleader can be let off with a mere warning. We would accordingly accept the recommendation of the learned Subordinate Judge and suspend the pleader for a period of three months only with effect from this date. It is stated at the Bar that the Pleader is present in Court today, and we have intimated order to him.

5. Before we part with this case, we must point out that the learned District Judge, who forwarded the report of the 2nd Subordinate Judge, did not fully comply with the provisions of Section 14 Legal Practitioners Act. That section requires that, when a report is made by the District Judge, he should record his opinion before forwarding it to this Court.
