

SECTION III-A
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2581 OF 2005
WITH
CIVIL APPEAL NO. 2633 OF 2005

CHANDER PRAKASH TYAGI

....APPELLANT

VERSUS

SHRI BENARSI DAS (DIED) BY LRS.& ORS.

.....RESPONDENTS

OFFICE REPORT

The matters above-mentioned were listed before the Hon'ble Court on 28th August, 2014 when the Hon'ble Court was pleased to pass the following order:-

Disciplinary Committee of the Bar Council of U.P had by an order dated 06.06.2000 dismissed the complaint alleging professional misconduct against the appellant herein. Aggrieved by the said order, the respondent-complainant had preferred an appeal before the Disciplinary Committee of the Bar Council of India which was allowed by an order dated 30.06.2002 passed by the Committee setting aside the order passed by the Committee setting aside the order passed by the Disciplinary Committee of Bar Council of U.P. and suspending the appellant from practice for a period of one year from the date of the communication of the said order. The present appeal filed under Section 38 of the Advocates Act, 1961 seeks to challenge the said appellate order.

Appearing for the appellant, Mr. Sushil Kumar Jain argued that the appellant is a senior citizen who is today nearly 64 years of age and who has already suffered suspension ordered by the Disciplinary Committee of the Bar Council of India for a period of four months. It was argued by Mr. Jain that the appellant had suffered suspension from practice as a lawyer between 30.11.2002 when he received an intimation about the appellate order of the Bar Council of India to 14.06.2003 when he filed a review petition

against the said order. The second interval for which the appellant suffered suspension was between 20.01.2005 to 12.04.2005 during which period there was no interim stay from this Court in the present proceedings. It was contended by Mr. Jain that the appellant has in addition faced the ignominy and harassment resulting from the disciplinary proceedings for a considerable length of time which calls for a lenient view in the matter, assuming that the finding recorded by the Disciplinary Committee was otherwise legally sound, calling for no interference.

There is in our view no doubt that the period of one year stipulated by the Disciplinary Committee of the Bar Council of India was to commence from the date of the communication of the order passed by it. The record does not however indicate that the order passed by the Bar Council of India was intimated to the concerned. Mr. Jain, therefore sought time to file an affidavit indicating the date when the order passed by the Bar Council of India was communicated to the appellant. The affidavit may also indicated the period during which the appellant had the benefit of a stay order against the suspension of his licence to enable this Court to examine whether he has really suffered the suspension for a period of four months as argued by Mr. Jain. We also deem it proper to direct the District and Sessions Judge, Saharanpur to submit a report as to whether the order passed by the Disciplinary Committee of the Bar Council of India was communicated to him. If so, the date on which such communication was received and whether any follow up action was taken by the District and Sessions Judge to ensure that the appellant was not allowed to practice law in the Courts at Saharanpur for the period stipulated in the order. Copies of Notification/Circular/Order, if any, issued by the District Judge, Courts at Saharanpur about the disqualification/suspension ordered by the Bar Council of India may also be enclosed by the District Judge with his report. The District Judge may further indicates whether the appellant has between the date of order of suspension passed by the Disciplinary Committee of the Bar Council

of India and 11.04.2005 when this Court stayed the operation of the said order appeared before the Courts at Saharanpur or filed any vakalatnama or conducted any proceedings.

Post on 12.11.2014.

The needful shall be done in the meantime.

The appellant shall remain present in person on the said date.

Accordingly, copy of the above-mentioned order was issued to District & Session Judge, Saharanpur and also to the appellant. A report from Additional District & Session Judge, Saharanpur addressed to the District & Session Judge, Saharanpur received on 11th November, 2014 and the same is in Hindi language (Copy of report is enclosed herewith).

It is submitted that no separate report has been received from the District & Session Judge, Saharanpur so far.

The matters above-mentioned are listed before the Hon'ble Court with this office report.

DATED THIS THE 4TH DAY OF FEBRUARY, 2015

ASSISTANT REGISTRAR

Copy To:

Ms. Sonal Jain, Advocate
Mr. M. Qamaruddin, Advocate
Mr. A. K. Prasad, Advocate

ASSISTANT REGISTRAR