

ITEM NO.101

COURT NO.3

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2581/2005

CHANDER PRAKASH TYAGI

Appellant(s)

VERSUS

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

Respondent(s)

(with appln. for exem. From filing O.T. and office report)

WITH

C.A. No. 2633/2005

(With Interim Relief and Office Report)

Date : 28/08/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE R. BANUMATHIFor Appellant(s) Mr. Sushil Kumar Jain, Sr. Adv.
Mr. Sonal Jain, Adv.
Mr. Rajiv M. Brahma, Adv.
Ms. Megha Sethi, Adv.For Respondent(s) Mr. Ardhendumauli Kumar Prasad, Adv.
Ms. Pankhuri Bhardwaj, Adv.
Mr. Aviral Sjukla, Adv.

Mr. Abhishek, Adv.
Mr. M. Qamaruddin, Adv.UPON hearing the counsel the Court made the following
O R D E RDisciplinary 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 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 indicate 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 indicate 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.

(Shashi Sareen)
Court Master

(Veena Khara)
Court Master