

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8964 OF 2003

VIKRAM VERMA . . . APPELLANT(s)

Versus

TEJ PRAKASH KOHLI AND ANOTHER . RESPONDENT(s)

O R D E R

We have heard Mr. R.D. Upadhyay, learned counsel for the appellant and Mr. Sandeep Singh, learned counsel for the respondent No. 1 - advocate.

2. In the complaint filed by the appellant against the respondent No. 1 under Section 35 of the Advocates Act, 1961 (for short "1961 Act"), two allegations were made namely; (1) that the respondent No. 1- advocate deliberately concealed the fact in his application for registration as an advocate that no criminal case was pending against him nor he was arrested or convicted although he had been convicted under Sections 147/148/149, 323 and 325 of Indian Penal Code, 1861 (IPC) and (2) that the respondent No. 1- advocate has been carrying on business in his office premises.

2

3. The allegations were denied by the respondent No. 1 - advocate. In his response, he though admitted the factum of his conviction under the above offences but submitted that his conviction was not for the offences involving moral turpitude and no punishment has been awarded for the above offences as he was released under Section 4 of the Probation of Offenders Act, 1958 (for short "1958 Act"). He denied that he was carrying on business at all.

4. After recording the evidence and hearing the parties, the Disciplinary Committee of the Bar Council of India to which the complaint got transferred from the U.P. State Bar Council under Section 36B of 1961 Act, held that the conviction of the respondent No. 1 - advocate did not involve moral turpitude. It was also held that the evidence did not establish that the respondent No. 1- advocate was carrying on the business from his office premises after enrollment.

5. Section 24A of the 1961 Act reads as follows:

"24A. Disqualification for enrollment. - (1) No person shall be admitted as an advocate on a State roll -

(a) if he is convicted of an offence involving moral turpitude;

(b) if he is convicted of an offence under
3

the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955);

(c) if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude.

Explanation - In this clause, the expression "State" shall have the meaning assigned to it under Article 12 of the Constitution:]

Provided that the disqualification for enrollment as aforesaid shall cease to have effect after a period of two years has elapsed since his [release or dismissal or, as the case may be, removal].

(2) Nothing contained in sub-section (1) shall apply to a person who having been found guilty is dealt with under the provisions of the Probation of Offenders Act, 1958 (20 of 1958)].

6. Clauses (a) and (b) of sub-section (1) of Section 24A of 1961 Act are not attracted to the present case as there is no allegation against the respondent No. 1- advocate which may fall under these two clauses.

7. Section 24A(1)(a) of 1961 Act prohibits admission of a person as an advocate on State roll if he is

convicted of an offence involving moral turpitude.

Respondent No. 1 - advocate has been convicted for the

offences which do not involve moral turpitude.

More-

over sub-section (2) of Section 24A of 1961 Act
4

provides that sub-section (1) shall not apply to a

person who has been found guilty but has been dealt

with under the provisions of 1958 Act. That the

respondent No. 1- advocate was given benefit of Section

4 of the 1958 Act is apparent from the impugned order.

There is no challenge to the correctness of this

statement recorded in the impugned order.

Thus, we do

not find that Section 24A of 1961 Act is at all be

attracted.

8. The finding recorded by the Disciplinary

Committee of the Bar Council of India that the evidence

did not show that the respondent No.1 - advocate was

carrying on the business after enrollment does not

suffer from any factual or legal flaw.

9. Thus, there is no merit in the appeal and it is

dismissed with no order as to costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI

JANUARY 11, 2012.

VIKRAM VERMA

Appellant (s)

VERSUS

TEJ PRAKASH KOHLI & ANR.

Respondent(s)

(With appln(s) for permission to file documents and office report)

Date: 11/01/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE H.L. GOKHALE

For Appellant(s) Mr. R.D. Upadhyay, Adv.
Mr. J.P. Tripathi, Adv.
Ms. Asha Upadhyay, Adv.

For Respondent(s) Mr. Sandeep Singh, Adv. for
6

Mr. Pahlad Singh Sharma, Adv.

Mr. Ardhendumauli Kumar Prasad , Adv
Mr. N.K. Ampastha, Adv.
Ms. Antima Ashok Bazaz, Adv.

UPON hearing counsel the Court made the following

O R D E R

Appeal is dismissed in terms of signed order with no
order as to costs.

(Pardeep Kumar)
Court Master

(Renu Diwan)
Court Master

[SIGNED ORDER IS PLACED ON THE FILE]