

Dr. D.N. Kesarbani vs U.P. Medical Council, Through The ... on 10 March, 1953

Equivalent citations: AIR1953ALL580, AIR 1953 ALLAHABAD 580

JUDGMENT

Sapru, J.

1. This application has been presented under Art. 226 of the Constitution to this Court by Dr. D. N. Kesarbani, Medical Officer of Government Tuberculosis Clinic at Allahabad, for various reliefs, and more particularly for a writ of prohibition commanding the opposite party from taking any steps towards erasing his name from the register of Medical Practitioners of this province.

2. The facts which have given rise to this application may be stated shortly. Dr. Kesarbani had his early education at the Gurukul Kangri University at Hardwar. He had a bright career at that institution which is one of the best well-known private institutions in this country. For various reasons, it was the policy of this institution not to have affiliated itself to any university or incorporated as a university by an Act of the legislature. It has played, as has been testified to by educationists of eminence, an important part in the cultural and national life of this country. He graduated himself in medicine from the Gurukul Kangri University in 1928 and was able to obtain a first class. That degree, as is well known, is not regarded as a qualification for registration as a medical practitioner. The medical degree at Gurukul is called 'Ayurved Alankar'. Mr. A. P. Pandey has invited our attention to the course of study prescribed for this degree and has also placed before us certain question papers set for candidates for the medical degree at the University. Statements by doctors of eminence have been placed before us to the effect that the standard of education in modern medicine of the Gurukul Kangri University is of a fairly good character. On this part of the case, we may refer to the testimony of a physician of international reputation, Sir R. N. Chopra. He is an M.D., Sc.D. (Cantab) and an F.R.C.P. (London). He is a physician of the highest eminence and in the affidavit which he has sworn he states that he believes and bona fide believes that the Gurukul Kangri University has a well integrated course in both systems of medicine, Indian and Scientific, without supplanting the latter.

3. Another physician, Dr. Kul Bhushan, who also holds good qualifications says that the standard of education in modern medicine of the students of the Gurukul Kangri University is of fairly good quality.

4. An ex-Principal of the institution, Dr. Radha Krishna has also filed an affidavit to the effect that the syllabus and curriculum of the college in modern medicine can be compared with those of other Medical Colleges in India. He also states that ample opportunity is provided for practical training in various laboratories and there is enough scope for learning bed-side medicine; besides the hospital

has a large number of out-door patients.

5. We have referred to the statements in the form of affidavits of these well-known persons in order to indicate that the Gurukul Medical Degree is not a degree in what may be called pure Ayurvedic. Along with instruction in ancient system of pharmacopoeia, instruction in modern systems of medicine is also imparted. Whether the standard reached by the Gurukul Kangri University is equivalent to that of Indian Universities conferring medical degrees is a question which is not relevant for our purposes. The bearing of these remarks will be evident later. We may also quote from the report of the Ayurvedic and Unani system Re-organisation Committee in 1950. That committee writes that a scrutiny of the list of examiners for the last three years showed that greater stress was laid in Gurukul Kangri on Allopathic studies than on Ayurvedic studies.

6. We have considered it necessary at this stage to refer to these matters as one of the questions we have had to consider is whether any misrepresentation was made by Dr. Kesarbani to the University of Rome when he applied for certain exemptions for admission to the Medical Faculty of the Royal University of Rome for the M.D. degree. We shall refer to this aspect a little later in our judgment. We may also mention that the Registrar of the Gurukul Kangri University in his affidavit has stated that the subjects taught in the Gurukul Medical College include anatomy with histology; physiology; Pharmacology and therapeutics; hygiene and public health; medical jurisprudence and toxicology; children's diseases; mental diseases; clinical medicine; pathology and bacteriology; general medicine; general, regional and operative surgery; midwifery and gynaecology. According to the Registrar, the curriculum and the text books compare quite favourably with those prescribed for the M.B.B.S. examinations of the various Medical Colleges in India. The standard is equally high and among the examiners have been eminent professors or examiners in other Medical Colleges of India.

The standard of knowledge in basic sciences, i.e., in Chemistry, Physics and Biology of the University students was in no way inferior to that of Intermediate in Science in the officially recognised universities. Moreover, it was compulsory for every student to be well conversant with three languages, i.e., Sanskrit, English and Hindi. From these facts the Registrar draws the inference that a graduate of the Gurukul Medical College gets a proper education in pre-medical basic medical and professional medical subjects in the most modern way. We do not think it necessary to record any conclusion on the question whether the standard reached by the Gurukul Kangri University in its medical examinations is as high as that of the universities created by the Acts of the State legislatures in India.

We are satisfied, however, that it would be incorrect to describe the Gurukul Kangri University as one which imparts education only in an 'obsolete indigenous system'. On the question of the efficiency in education imparted by the Gurukul Kangri University, opinions may well differ. But as to the fact that along with instruction in ancient system of pharmacopoeia, instruction in modern system of medicine is imparted there can be no doubt whatever. We have felt it incumbent on us to make these remarks because we find that in a letter which was written by the Medical Council to the Royal University of Rome an assertion was made that Dr. Kesarbani had misrepresented to them the real nature of the education that he had received at Gurukul. That education was described as being an education in the old Ayurvedic system (obsolete indigenous system) and not in modern scientific

system as is being imparted in recognised Medical Colleges in India.

7. We have said that Dr. Kesarbani graduated in 1928 from the Gurukul Kangri University. Between 1928 and 1930, he worked in several hospitals in Bombay and acquired practical experience for a period of about three years. In 1931, he moved to Dehra Dun and built up a good reputation in that city. In 1938 he decided to leave for Europe, having secured a scholarship for that purpose. He decided that he would have his education in Italy and went to that country armed with letters from Professor Benoy Kumar Sarkar of Bengal Institute of Sociology, Calcutta. Dr. Sarkar gave him a letter addressed to one Professor Formichi, Vice-President of the Royal Academy of Italy. In this letter Dr. Sarkar introduced Dr. Kesarbani as a doctor who had studied modern and old systems of medicine in the private educational institution, the Gurukul University Kangri at Hardwar in the United Provinces. He mentioned also that it was known to him that this was one of the leading national universities in India and enjoys high esteem among the nationalists. That letter mentioned that Dr. Kesarbani had graduated from there in 1928 and since then had been doing some research work. That letter also stated that at that time he was practising medicine at Dehra Dun. A reference is made in that letter to the fact that one Dr. Balram had been given certain exemptions by the University of Munich in Germany for his doctorate in medicine.

In his opinion, Dr. Kesarbani's qualifications were not inferior to those of Dr. Balram. In view of that fact, he hoped that there would be no difficulty in his admission and that he would be allowed to take his doctorate examination from the University of Rome. There was no scope for a brilliant student like him in this country as he was a graduate of a national university. Dr. Sarkar added that he (Prof. Formichi) knew very well the prevailing conditions in this country. On receiving this letter of introduction, Prof. Formichi gave a letter of introduction to Dr. Spano, Administrative Director of the University, asking him to obtain for Dr. Kesarbani the facility he was asking for and added that he would be much displeased if he, 'having to face too many difficulties there, proceeds to Munich where they had made golden bridges for his admission.' On the strength of his qualifications as also perhaps of the recommendations which he had brought with him, the University of Rome gave to Dr. Kesarbani an exemption of 4½ years. The M.D. of Rome is a six years' course but he was allowed to take it in one and a half year. He had, however, to appear in four rigid examinations and he got through them creditably. In his final examination, he was able to secure distinction and, in fact his marks were in the average 88 per cent marks. Finally, the University of Rome conferred upon him the degree of Doctor of Medicine and Surgery. The degree qualified him for practice outside Italy.

At the time that he went to Italy, this country was not at war with it. An Italian degree used to be recognised for purposes of registration of medical practitioners. In 1939 the war broke out & he continued to stay in Italy & Germany. From 1939 to 1942 he studied medicine and surgery in the University of Munich, passed all the examinations comprising twelve subjects and got an M.D. with distinction. From 1942 to 1947 he worked as Lecturer and was Incharge M.O. of Chest diseases ward of the University Hospital. Later in that country he was taken as a panel practitioner in the town of Holzkirchen. He was also appointed Doctor-in-charge for civil personnel in the American Air-Field. Finally, when political conditions were favourable for his return, Dr. Kesarbani came back to this country in 1947. Even before reaching India, he took the precaution of writing a letter to the Chief

Minister of Uttar Pradesh intimating to him his intention of return and giving him a synopsis of his qualifications.

A short time after his return in 1947 he saw an advertisement by the Public Service Commission of U. P. for the post of the Medical Superintendent, Bhowali Sanatorium, Naini Tal. He applied, was interviewed by the Public Service Commission and finally selected by that Commission. On the 3rd March 1948, Dr. Kesarbani took charge of the Ehowali Sanatorium. It may be mentioned that he was registered as a medical practitioner by the Medical Council under Section 13, U. P. Medical Act, 1917. On 19-12-1947 he was entitled to be so registered as he had a degree of the University of Rome which was within the meaning of the Indian Medical Act a Royal University of Italy.

No objection of any character was made at that time to his registration. It may be mentioned that there was a perfect disclosure on Dr. Kesarbani's part of all the requirements for registration. He gave the Medical Council to understand that he had his preparatory medical education at Gurukul, that after Gurukul he practised for a number of years at Bombay and Dehra Dun and that he was able to obtain an M.D. degree of the Royal University of Rome. The Medical Council with every relevant fact in its possession came to the conclusion that he was entitled to registration and he was so registered.

8. Suddenly something happened which made the Medical Council change its mind. On 29-4-1948 the Registrar of the Medical Council wrote to the applicant a letter asking him to answer three questions. Those questions were;

"1. When did you leave India for foreign countries?

2. The qualifications with date which you secured in India before going abroad.
Please mention the names of the institutions where studied?

3. The qualifications with dates which you secured outside India and the period of studies and the name of the institutions which you attended to obtain these qualifications?" He replied to this letter in August and sent along with it his certificates in original.

9. The Medical Council, however, chose to take steps which, we think, were of an ill-advised nature. The Registrar of the Medical Council wrote to the Rector of the Royal University of Rome that Dr. Kesarbani had made incorrect and false representations. He further added that the training he had received was in a university not recognised by the Government of India but was in the old Ayurvedic system (obsolete indigenous system) and not in modern scientific system as was being imparted in recognised Medical Colleges in India. The letter went on to suggest that they did not seem to be fully aware of the fact that Dr. Kesarbani was trained in the Ayurvedic system in a private college and an unrecognised university. The Registrar further added that he required the information as objections had been raised to his registration with the Council on the ground of insufficient training. Reminders were sent on 29-12-1948, 1-1-1949 and 22-1-1949 on behalf of the Medical Council to the University of Rome requesting them to expedite a reply to their communication dated 26-11-1948.

On 28-1-1949 the Rector of the Rome University wrote to the Registrar, Medical Council, that Dr. Kesarbani had applied to be admitted in the 6th year course of medicine and surgery on presentation of the following documents:

1. High School Certificate from the residential University of Gurukul at Hardwar dated the 24th April 1924.
2. Diploma Certificate with examinations and marks obtained at the Faculty of Medicine at the same University, signed by Vigishwar, Secretary and Vishwanath, Vice-Chancellor. The Council was at first disposed only to give him credit for four complete years as some of the subjects required, at the Italian University had not been included in his course of study; but at the meeting of the Council held on 24-1-1939 after having received new information and clarifications, permitted the aforesaid student to enter the sixth year course -with the obligation of passing four examinations before being allowed to take his Diploma Examination. It was added that his inscription, meaning thereby admission, was, however, subordinated to the presentation of a document proving that the student had attended a two years course of preparation for the study of Medicine before his entering the Faculty of Medicine of Gurukul University. On 27-2-1939 the Chancellor and Vice-Rector of the Gurukul University informed the University of Rome that the applicant before them had, before entering the Gurukul University course for medicine, completed a two years course in pre-medical subjects.

They had before them another letter from one Dr. S. K. Mehta informing them that the applicant had served in the Emergency Hospital, Bombay, of which he was in charge from May 1929 to 1931, showing great professional capacity and a thorough knowledge of the Ayurvedic cures. It was on the basis of this information that the applicant has been admitted to the sixth year course. According to him, he had passed the examination, obtaining in medicine and surgery 88 per cent of the marks. He had, however, not been able to succeed at the examination of the university of Milan. For that reason he would not be permitted to practise the medical profession in Italy. The Director went on to add that the applicant had been admitted to the 6th year course on account of inexact information and documents forwarded by the authorities in India. They added that it was because this inexact information and the documents forwarded by the authorities in India that the authorities of that university were able to realise that the Ayurvedic system had fallen into disuse and that the Gurukul Kangri University was not legally recognised by the Government of India. There is towards the end of the letter a request that it is desirable that all possible information should be sent regarding the organisation of university studies as conducted in India.

Now Dr. Mehta's letter had made it clear that Dr. Kesarbani was an authority in Ayurvedic cures. There was no inexactness in the letters which were sent by the Chancellor and the Vice-Rector of the University of Gurukul. It is true that Gurukul is not a recognised university in the sense that it owes its inception to no Act of legislature. It is, however, a well recognised institution whose good work has been highly praised by scholars and educationists of eminence. It is well-known that it constituted an experiment along new lines in education. Its reluctance to accept official help was due

to the nature of the Government that was operating in this country before 1947. Gurukul was not an obscure institution. It could be classed with well-known institutions such as the Shanti Niketan of Rabindra Nath Tagore. The standard reached by the medical students at that university may or may not have been comparable with that reached by the students of medical institutions of Indian Universities, but it would be a travesty of truth to describe the courses of study at Gurukul Medical Faculty as purely or even mainly confined to indigenous methods.

We have referred on this point to the eminent authority of Dr. Chopra. We may say that Mr. Ramsay Macdonald who was at one time the Prime Minister of England wrote in 1916 about Gurukul in the following terms:

"The Gurukul is the most momentous thing in Indian education that has been done since Macaulay sat down to put his opinion into minute in 1835."

We may also remark that the President of our Republic, Dr. Rajendra Prasad, spoke about Gurukul in the following terms:

"The present Government is Gurukul's own and the Government also considers the Gurukul as its own; hence the Gurukul should form a part of the Government educational system. But at the same time I realise that in the making of every country independent educational institutions have a place of their own. It is such institutions that can bring about a revolution in education; therefore, if the Gurukul Kangri would desire to preserve its independent identity, the Government shall have no objection. The Government shall give it all kinds of help and prompted by this feeling I announce a grant of Rs. one lac to the Gurukul Kangri on behalf of the Government of India."

We may also invite attention to the observation of the Universities Commission which was presided over by Dr. Radha Krishnan, now Vice-President of the Indian Republic:

'Gurukul Kangri: The institution with its branches has about 1500 students, of whom 100 are of the College grade. Vedic research, Ayurvedic research and advanced work in ancient Indian Literature and History have been its specialities. Non-recognition of its degrees and diplomas had stood in the way of its popularity, but now after half a century of conscientious work it is being' recognised as a real centre of learning."

10. We have mentioned all this in order to indicate unmistakably that Dr. Kesarbani did not receive his medical education in India in an unknown and obscure institution but at a well-recognised institution which did not, however, for reasons into which it is unnecessary to enter, receive or desire to receive Governmental aid. Subsequent to this letter, the Medical Council sent for Dr. Kesarbani on 18-3-1949. He was asked to answer certain questions. He wanted to place certain documents before the President but the latter did not consider it necessary to give him time for that purpose. On the basis of that interview the Council wrote to the Rector of the Royal University of Rome pointing out that the University of Rome had given Dr. Kesarbani exemption of nearly 41/2

years on an inexact information. The Council further found that Dr. Kesarbani had not pursued a regular course of studies in any recognised medical college before proceeding to Italy and obtained exemption by supplying incorrect information. They pointed out that even though Dr. Kesarbani had not passed a college education which would be regarded as good for purposes of registration in Italy, he could practise in this country as the degree which he possessed was a registrable degree. They felt that they were not in a position to erase his name from their register and they invoked the assistance of the University of Rome for that purpose. If the University of Rome could cancel the M. D. Degree awarded to him on the ground that he had by supplying incorrect information obtained exemptions, it would be easy for them to erase his name from the medical register.

11. We are surprised that a responsible body created by the legislature for the maintenance of professional standards should have acted in this irresponsible manner without giving any adequate opportunity to Dr. Kesarbani to explain his case. Without caring to ascertain in an unbiased manner the case which Dr. Kesarbani had to put up, this statutory body chose to write to the University of Rome and went out of its way to suggest that action should be taken against him for the cancellation of the degree for which he had worked and toiled hard in Rome. Reluctant as we are to interfere with the autonomy of domestic tribunals and educational institutions which have to maintain standards, we can well understand Dr. Kesarbani's misgivings regarding what this body will do when his case comes up before it for consideration. This aspect of the matter cannot be ignored by us. For nearly 9 months the Medical Council received no reply from the University of Rome. On 20-3-1951 the Rector of the University of Rome wrote to the President of the Medical Council informing them that the degree which had been conferred on Dr. Kesarbani had, in pursuance of their letter, been cancelled. This ended the chapter so far as the degree of M. D. is concerned. We understand that Dr. Kesarbani has made an appeal to the Rector of the University of Rome against the order of the University authorities cancelling the degree and that that appeal is still pending before the Rector.

12. To continue with the story, the Medical Council on receiving the information that the M. D. degree had been taken from Dr. Kesarbani invited the attention of Government to the effect) that Dr. Kesarbani was not a qualified medical practitioner and wrote to them suggesting that he should be removed from government services. In their letter of 18-1-1950 to the Secretary to Government, U. P., Medical (B) Department, Lucknow, the line taken was that the admission of Dr. Kesarbani to the final year of M. D. class of the University of Rome was obtained by conveying inexact information and that Dr. Kesarbani had not obtained a regular and proper training in basic medical subjects and had not been suitably trained. In their opinion, therefore, he was not a fit person to remain in Government service in a premier institution of the status of Bhowali Sanatorium. The Medical Council was directed by Government to get into touch with Dr. Kesarbani and give him an opportunity to explain the case which had been formulated by the Council. A letter was accordingly addressed by the Medical Council and he was required to send his reply within ten days. Thereafter there followed a long correspondence with Dr. Kesarbani and the Medical Council into which it is unnecessary to enter. But we may, however, make a pointed reference to the letter dated 29-4-1951 in which Dr. Kesarbani asked the Registrar of the Medical Council to be good enough to send to him the correspondence that had taken place between the University of Rome and the Medical Council.

The Registrar, Medical Council, on 4-5-1951 had the correspondence, including the letter of 31-3-1949, sent to Dr. Kesarbani. The present position is that Dr. Kesarbani has been asked to show cause as to why his name should not be erased from the Medical Register since his M.D. (Rome) degree has been annulled by the Rome University and he no longer holds the medical qualification necessary for registration under the U. P. Medical Act. A letter to this effect was sent on 17-4-1951 and it was followed by letters dated November 5, 17, 22 and December 5, 1951. It is against this threatened action that Dr. Kesarbani has come up to this Court under its writ jurisdiction.

13. We have already pointed out that there are good reasons why Dr. Kesarbani apprehends that he will not get a fair, just and impartial hearing before the Medical Council. It is at the instance and on the initiative of the Medical Council that his M. D. degree was cancelled by the University of Rome. We can well understand, therefore, his hesitation in appearing before a body which he has reason to apprehend is not likely to adopt a fair and impartial attitudes towards the case put forward by him. Apart from this, the question of law raised in this case requires some consideration. The question is whether the Medical Council has any power to cancel a Registration on any ground other than that mentioned in Section 25, U. P. Medical Act. It is conceded by the learned Standing Counsel that the only section under which action can be taken against him is Section 25, U. p. Medical Act. Section 26 of the Act can have no application to the facts of Dr. Kesarbani's case as it is limited to cases of infamous conduct in any professional respect. There is no question of infamous conduct in any professional respect so far as Dr. Kesarbani is concerned.

Section 25 of the Act runs as follows: "Any entry in the register of medical practitioners, which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased under an order in writing of the Council after notice has been given to the person concerned and his objections, if any, have been considered." It is only in cases where an entry in the register has been made fraudulently or incorrectly that the Medical Council can take action against any registered medical practitioner under Section 25. No doubt the satisfaction that is required is of the Council. But it is obvious that the fraud or mistake has reference to the time When the initial entry was made.

14. On this part of the case, we may refer to the case of -- 'Ex Parte, Partridge', (1887) 19 QBD 467 (A). That was a case of a person who obtained a diploma as licentiate in dental surgery from the Royal College of Surgeons, Dublin in 1878, and whose name was subsequently entered in respect of that qualification in the Dentists Register kept in accordance with the provisions of the Dentists Act, 1878, (41 and 42 Vict. c. 33). The Council of the Royal College withdrew that diploma in July 1885 for the reason that the dentist had been advertising his profession. One of the conditions on which the diploma was granted by the Royal College of Surgeons, Dublin, was that the dentist would not endeavour to attract business by advertisement or by any practice considered by the College to be unbecoming. It was further laid down that if this condition was not observed, the diploma would be cancelled by the President of the Council. A declaration to the effect that he would observe that condition having been made by the dentist, the diploma was conferred on him. Later, it was discovered that he had been advertising himself and on that basis the General Council of Medical Education and Registration erased his name from the Dentists Register under the Dentists Act, 1878.

15. Now, we may point out that we have compared the provisions of the U. P. Medical Act, 1917, with those of the Dentists Act, 1878. We find that Section 7 of that Act corresponds with Section 17, Medical Act, Section 11 with Section 33, Section 12 with Section 17 and Section 13 with Sections 25 and 26. It is unnecessary to notice other sections of the two Acts. On an application for a mandamus to the General Council of the Medical Education and Registration to restore the name of the dentist to the register of Dentists, Mathew J. observed that in a case such as the present the Medical Council possessed no further powers of dealing with the register than those conferred in the various sections of the Act. He held that the mere fact that the diploma had been cancelled by the Medical authority was not a ground upon which the General Council was justified in disqualifying the applicant or exposing him to the penalties imposed by the Act upon unqualified practitioners. The matter went up to the Court of appeal and we may quote in this connection the remarks of Lord Esher, M. R.:

"It seems to me that these provisions go to show that the power of erasure by the Council is in the nature of a judicial power, and must be confined to the matters into which they are authorised to inquire for the purpose of exercising such power. It may be that the local or more limited Medical authority may strike a man off their register for a breach of an undertaking on which he obtained his qualification.....The Dentists' register is a novel institution, the creature of the Act of 1878, and it seems to me that there can be no power of dealing with the register so created except those which are given by the Act." Lindley L. J. was more specific. He observed: "The effect of our decision is that it will not be competent for the General Council, without exercising their jurisdiction under Section 13, (Section 13 corresponds with Sections 25 and 26 of the Medical Act), and simply because a licentiate of a local medical authority has been struck off the register of that authority, to erase his name from the Dentists register..... Section 13 authorises the Council to erase the names of convicted persons and those guilty of infamous or disgraceful conduct in a professional respect. There is no provision which enables the Council to remove the name of a person once on the register simply because he has been struck off the register of licentiates of the body which originally licensed him."

16. Now, admittedly, there is no question here of infamous or disgraceful conduct in a professional respect so far as Dr. Kesarbani is concerned. We may point out that in the case of -- 'Allinson v. General Medical Council', (1894) 1 QB 750 (B), Lopes L. J. made the following observation when dealing with infamous conduct in a professional respect:

"The Master of the Rolls has adopted a definition which, with his assistance and that of my brother Davey, I prepared. I will read it again: 'If it is shown that a medical man in the pursuit of his profession has done something with regard to it which would be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency', then it is open to the General Medical Council to say that he has been guilty of 'infamous conduct in a professional respect'. That is at any rate evidence of 'infamous conduct' within the meaning of Section 29. I do not propound it as an exhaustive definition, but I think it is strictly and properly applicable to the present case."

In the case before him the applicant had been guilty of infamous conduct in a professional respect. There is no suggestion that Dr. Kesarbani has been guilty in the pursuit of his profession of conduct which can be regarded as disgraceful or infamous by the profession he belongs to. Indeed, according to the medical council he does not belong to the medical profession at all. That being the position, the only section which can apply is Section 25 of the Act and it strikes us that we can read in Section 25 no provision which would enable the Council to remove the name of a person simply because he has been struck off the register of graduates of the body which originally granted the degree. That being so, the clear view to which we are driven is that the Council is acting without jurisdiction. On this basis, we think that this is a proper case in which a writ of prohibition should issue restraining the Council from proceeding further with any steps to erase the name of Dr. Kesarbani from the register of medical practitioners and we order accordingly. The proceedings instituted on that basis are hereby quashed. It is unnecessary to pass any orders with regard to the other reliefs claimed by the applicant as our order in regard to prohibition will enable the applicant to get the substance of the reliefs that he claims. The applicant will be entitled to his costs which we assess at Rs. 500/-.