

In Re: Bhola Nath Srivastava vs Unknown on 27 July, 1951

Equivalent citations: AIR1952ALL417

JUDGMENT

Sapru, J.

1. This is an application by one Shri Bhola Nath Srivastava, B.Sc., LL.B., for admission to the Roll of Advocates of this Court. In his application he states that after parsing the LL. B. Examination from the Allahabad University in 1940 and after undergoing training for one year under the late Shri Durga Charan Singh, who was a well-known advocate of this Court, he got himself enrolled as a lawyer in the Chief Court of the Banaras State and that he had been practising in the Courts of that State, including its Chief Court, till its merger in 1950. Mr. Harnandan Prasad who appears for the Bar Council has raised an objection on behalf of that body that the applicant is not qualified for admission to the Roll of Advocates of this Court, inasmuch as he was 'not an advocate of any High Court such as is contemplated by proviso 2 to Rule 1 of the Rules framed under Section 9 of the Act. There is force in Mr. Harnandan Prasad's contention. We cannot look upon the Banaras Chief Court as a High Court or a Chief Court within the meaning of the Bar Councils Act.

2. The second ground on which it is urged that the applicant is entitled to be admitted to the Roll of Advocates of this Court is that he is a graduate in law as also in Science of the Allahabad University and that after taking his law decree he underwent a year's training under Shri Durga Charan Singh who was a prominent advocate of this Court at one time. He has supplied us with the original certificate given to him by Shri Durga Charan Singh. From that certificate it is quite clear that he underwent the required training for one year under Shri Durga Charan Singh and that Shri Durga Charan Singh was entirely satisfied with his work. Rule 3 (a) of the Rules framed under Section 15, Clauses (c) and (d) Bar Councils Act lays down a further condition which, it is urged, has, however, not been satisfied. We quote the rule below :

"3 (a) Every candidate undergoing training shall keep a regular record of the work done by him from day to day during the period of training and shall submit the same with the certificate of the Advocate under whom he has been receiving training, along with his application or enrolment."

3. It is urged that though the applicant has supplied evidence of the fact that he has received training, he has not submitted along with his certificate the diary of the work done by him from day to day during the period of training. We note that in para. 4 of the supplementary affidavit filed by the applicant it is stated that during the period that the applicant was attached to the late Shri Durga Charan Singh he used to maintain a regular diary under his direction and supervision and that on the basis of the work so done he approved him to be a fit and proper person to be enrolled as an advocate. There is, in our opinion, no reason to doubt the accuracy of this statement. Had the late Shri Durga Charan Singh not satisfied himself that the applicant had been maintaining the diary

which he was required to maintain under the rule referred to by us, he would not have given him the certificate, the genuineness of which is beyond all dispute. We think it will be taking a very technical view to hold that in a case where the diary is lost for some reason beyond the control of the applicant, the statement of the applicant that the diary was kept by him, if verifiable from other circumstances, should not be accepted as conclusive proof of the fact that the diary was actually maintained by him. But before we can pass final orders in regard to enrolment, we think it only fair that the Bar Council should have an opportunity of examining the matter in the light of our observations for we are informed by Mr. Harnandan Prasad that the case regarding the applicant's eligibility for admission to the Roll of Advocates of this Court was not put before the Bar Council in the way in which it has been put before us. For these reasons we defer passing Orders in this case till the Bar Council has considered afresh the sufficiency or otherwise of the certificate.

4. We may say that the applicant has been practising for 9 years in the Banaras State and had there been no merger it would not have occurred to him to have himself enrolled in this Court. This explains why he was negligent so far as the actual preservation of the diary which he has lost is concerned.