

## In Re: Hotchand Sunderdas Batria vs Unknown on 12 July, 1951

**Equivalent citations: AIR1951ALL856**

### JUDGMENT

Sapru, J.

1. Sarvasri Hotchand Sunderdas, Sadhuram Chetumal Shivnani, Rupchandra C. Hingorani and Deoo Chandumal were advocates of the Sind Chief Court. On account of the conditions created by the partition, they had to leave Sind and they desire to practise as advocates of this Court. Applications were made by them for enrolment as advocates and, in the usual course, these applications were dealt with by the Bar Council. The Bar Council has raised an objection to their enrolment as advocates to the effect that they do not satisfy all the requirements which are needed in the case of a person desiring to be enrolled as an advocate of this Court, more specially the Bar Council's case is that, inasmuch as they do not possess a degree in Articles, Science or Commerce of any University established by law in India, they are not eligible for enrolment as advocates of this court. The question, therefore, for consideration is whether the objection raised by the Bar Council has any force.

2. The qualifications needed for admission to the Roll of Advocates of this Court have been laid down by the rules framed Under section 9, Bar Councils' Act. Rule 1, Bar Councils' Act lays down that :

"Any Barrister of England or Ireland, any member of the Faculty of Advocates in Scotland and any graduate in Law of any University established by law in India, who is a graduate in Arts, Science or Commerce of any such University, and who in each case has further undergone a course of training for one year as provided by the Bar Council under the rules made Under section 15 of the Act, may present an application for his admission to the Roll of Advocates of the Court-"

There are certain exceptions to the general rule quoted above which are to be found in the provisos to it. The proviso with which we are directly concerned in this case is the second proviso, namely, "that an advocate of any other High Court of not less than two years' standing who is a graduate in Law as referred to in R. 1 and who is otherwise eligible under the rules may be admitted as an advocate upon his undertaking in his application to have his name removed from the Roll of Advocates of that court within three months from the date of his admission to the Allahabad High Court. In the event of such undertaking not being carried out, the Court may direct that the advocate's name be removed from the roll."

3. It will be noticed that the proviso just quoted lays down the requirements to be satisfied by an applicant who happens to be an advocate of any High Court other than this Court of not less than

two years' standing. It will be observed that one such essential qualification is that the applicant must be a graduate in law 'as referred to in R. 1.' The applicants have practised for more than two years in the Sind Chief Court. They possess a law degree of the Bombay University. The point which has been urged by the Bar Council against the admission of the applicants to the Roll of Advocates of this Court is that they do not possess a degree in Articles, Science or Commerce and that inasmuch as this qualification is absent in their case, they do not satisfy the requirements of R. 1 which lays down that applicants must possess not only a degree in Law, but must also be graduates in Articles, Science or Commerce of any University established by law in India. The words "graduate in law" in the proviso mentioned above are followed by the expressions "as referred to in R. 1" and "who is otherwise eligible under the rules." We understand the words "as referred to in R. 1" to mean that the University of which they are graduates must be a "University established by law in India." In our opinion, these words have no reference to the other qualification stated in that rule, namely, that the applicant must be a graduate in Articles, Science or Commerce of such University. If the intention was to make it obligatory on an applicant who was an advocate of any other High Court of not less than 2 years' standing to be a graduate in Law as also a graduate in Arts, Science or Commerce, the rule would have made a specific mention of such a requirement. The fact that the qualification that the applicant must possess a law degree is specifically mentioned but the other qualification that he must in addition possess a degree in Articles, Science or Commerce is not mentioned at all goes to show that the words "as referred to in R. 1" have no relevance to the question whether the applicant is a graduate in Articles, Science or Commerce of any Indian University or not. Any other interpretation would lead to absurd results. If the words "referred to in R. 1" are taken to mean that the applicant must comply with all the requirements of R. 1, then the position is that an advocate of any other High Court of not less than two years' standing will not be eligible for enrolment unless he further undergoes a course of training for one year as provided by the Bar Council under the rules made Under section 15, Bar Councils' Act. To interpret the words "otherwise eligible under the rules" in the second proviso to R. 1 as having reference to all the requirements of R. 1 would be to make the conditions for admission as advocates Under the proviso completely nugatory. In our opinion, the second proviso was intended to provide an exception in the case of a person who happens to be an advocate of not less than two years' standing of any other High Court, provided he is a graduate in Law as referred to in R. 1, namely, a graduate of a University established by law in India. As has already been stated, there is a distinct and separate reference in R. 1 to the fact that he must be a graduate in Articles, Science or Commerce of any Indian University. Therefore, the words "as referred to in R. 1" can only mean that the applicant must be a graduate in law of an Indian University and cannot also be taken to mean that he must also be a graduate in Articles, Science or Commerce of such University.

4. An argument has been advanced by learned counsel for the Bar Council that we must attach some importance to the words "otherwise eligible under the rules." According to him, the qualifications for eligibility have been laid down by R. 1 and it is with reference to all the qualifications laid down in that rule that we must test the eligibility of the applicants. We think that the words "otherwise eligible under the rules" have reference to eligibility under some rule other than the Substantive part of R. 1. We may, in this connection, refer to Proviso 6 which lays down :

"That a graduate of a University situate in a State, the High Court and the Bar Council of which State do not admit to their rolls graduates of any of the Universities situate in Uttar Pradesh will not be eligible for enrolment as an advocate of the Allahabad High. Court."

This is one instance which would be covered by the expression "who is otherwise eligible under the rules." We think that the interpretation which learned counsel for the Bar Council desired this Court to place on the rule is in all the circumstances of this case a narrow one and we are not prepared to agree with it.

5. For the reasons given above, we hold that each of the applicants is qualified for enrolment as an advocate of this court. We disallow the objection of the Bar Council.