
(1986) 04 RAJ CK 0060

In the Rajasthan High Court

Case No : Civil Spl. (Writ) Appeal No. 159 of 1986

Giriraj Prasad Sharma

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 23-04-1986

Acts Referred:

Advocates Act, 1961 — Section 49

Citation : (1987) 1 WLN 107

Hon'ble Judges : V.S. Dave, J;Inder Sen Israni, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Mr. Giriraj Prasad Sharma, is present in court. He is identified by Shri A.K. Bhargava, learned Counsel for the petitioner(Advocate) who has initially filed this appeal. Appellant has filed an application before this court that he does not want to press this appeal and the subject matter of writ petition, he wants to withdraw the same. This case came up before us on 21-4-1986 also on which date Shri Bhargava, who as mentioned above, initially, was the counsel, sought to argue the appeal after getting the case listed in supplementary cause-list which we permitted despite heavy cause-list. Thereafter Mr. B.K. Pathak, appeared and gave out that he wants to withdraw the petition and it was after this application was filed that this court was placed in a situation where one counsel intended to argue the case on merits, while the another expressed the desire to withdraw. We thought it proper to direct the presence of the appellant in person, the appellant is present before us today. We permit the withdrawal but at the same time we will like to express our dis-pleasure at the manner in which the case is being conducted. It is the Rule, framed u/s 49 of the Advocates Act, that when there is already a lawyer, the lawyer who subsequently wants to put an appearance, should seek the consent of the first lawyer. This was not done. The Rule was not to be followed in breach but has been enacted to be observed. This sort of the conduct of learned Counsel precisely places the court in dilemma as to

whether case should be heard on merits or not and party in person has to be called for ascertaining. We would like to observe that when power is filed at a subsequent stage then it should either be after withdrawal of power of certain counsel or after obtaining his consent. Else it is clearly a breach of rules of professional etiquettes and conduct.

2. In view of the fact that appellant is present in person and confirms that he has filed the application for withdrawal along with an affidavit, we permit the same. This appeal stands dismissed as withdrawn.