

(1888) 12 PRI CK 0003

In the Privy Council

In Re: R. E. Twidale

Date of Decision : 19-12-1888

Acts Referred:

Citation : (1889) 16 ILRPC 636

Hon'ble Judges : Fitzgerald, Hobhouse, R. Couch, JJ.

Judgement

Hobhouse, J. 1. Since this case was argued their Lordships have considered the matter very carefully and they have been furnished with a copy of the shorthand notes of the proceedings on Mr. Tayler's petition; and they find, with some regret, that they are unable to accede to Mr. Twidale's request. 2. Mr. Twidale is a vakil of high standing and reputation in the Calcutta High Court; but he has not been admitted as a Solicitor anywhere, in England or in India. He now applies to be admitted to practise here as an Agent, and the question is whether the Orders in Council admit of such an application being granted. No doubt, there is some ambiguity about them because in general terms they refer to "Proctors, Solicitors, or Agents." There are four sections of the Order relating to the subject, and in the first and fourth of those sections all those terms are mentioned; but the two sections which show what is the mode, of admission, and the classes to be admitted, are the second and third; and those only apply to Solicitors or others practising in London, and to Solicitors admitted by the High Courts in India or the Colonies respectively. The question is whether those rules 2 and 3 are exhaustive of the classes to be admitted, or, as was argued by Mr. Doyne, they only specified what should be done in the case of those two classes, and left an undefined class called "Agents," who were to be admitted at the discretion of the Committee. Mr. Tayler's case, which has been cited, is exactly in point. Mr. Tayler also was a vakil of the Calcutta High Court, and he had not been admitted as a Solicitor anywhere. He applied for leave to practise at this bar. His Counsel, Sir Roundell Palmer (Lord Selborne) put the case very much as Mr. Doyne has done. Lord Cairns, on behalf of the Committee, said in that case "the qualifications are in the Schedule." That means in the Orders I suppose; it is a mistake of the shorthand-writer. "The third appears to be the only one upon which any claim can be made. The third applies to Solicitors practising in India."

Then Sir Roundell Palmer said "yes, I see there are affirmative words which do not embrace this case: I do not perceive that there are any negative words which would exclude it. Well that is precisely the argument which Mr. Doyne put at the bar here. The answer to this is, "Lord Cairns: There was an obvious reason for specifying the classes which are here specified. I do not say what may or may not be done hereafter, with regard to the very wide class of vakils who are under very different jurisdictions, but certainly they are not included at present in the Order." That (as will be seen) is exactly in point. 3. Their Lordships collect that the Committee on that occasion, as on this, were by no means disinclined to grant the petition, if it were within their power. But it has been expressly decided that it is not within their power, and their Lordships now must follow that decision, and refuse the application.