

(1901) 06 CAL CK 0008
In the Calcutta High Court
In Re: Rudra Narain Roy

Date of Decision : 07-06-1901

Acts Referred:

Specific Relief Act, 1877 — Section 45

Citation : (1901) ILR (Cal) 479

Hon'ble Judges : Stanley, J

Bench : Single Bench

Judgement

Stanley, J.—This matter comes before me on a ``obtained by the petitioner, Rudra Narain Roy, calling on the Board of Examiners for Pleadership and Mukhtearship to shew cause, why the Board should not allow him to appear at the meaning examination for mukhtearship, and to appear at any other similar future examinations to be held by the Board, upon his fulfilling the conditions necessary under the law to qualify him to appear at such examinations.

2. It appears from the petition that the petitioner applied for liberty to present himself for the examination for mukhtearship last year, supporting his application with certificates of good character and of having passed publicly an examination at the "University, which under the rules are necessary before he can offer himself as a candidate.

3. In the petition he states that in 1891, he was tried before the Chief Presidency Magistrate on a charge of having personated one Hemanga Chunder Kinla at the examination of that year. The charge was heard and after hearing evidence the Chief Presidency Magistrate was not satisfied as to the identity of the accused with the person, who was said to have been personated, and he was discharged. Though this does not amount to an acquittal of the charge, it shews there was not sufficient evidence to satisfy the Magistrate of the guilt of the accused.

4. Subsequently in 1893 he sent in certificates to the Board and offered himself as a candidate at the examination for mukhtearship. The Board then investigated his case and exercising no doubt a wise and proper discretion came to the conclusion that he was not a fit and proper person to be accepted as a candidate.

5. A number of years have passed since then and the Board is, with the exception of one member, changed. On the application of the petitioner to be examined last year, the present Board considered that they were entitled to rely on the decision of the previous Board and that they would not be justified in investigating a matter, which had already been disposed of, and consequently they refused to entertain the application or to examine the certificates of character presented to them by the petitioner and refused to allow him to be examined.

6. Considering himself aggrieved by this order the petitioner has applied to this Court u/s 45 of the Specific Relief Act, praying for the relief mentioned in the Rule.

7. If the present Board of Examiners had gone into the question of the present fitness of the candidate and had, in the exercise of their discretion decided that he was not a fit and proper person to be admitted as mukhtear, I certainly should not have entertained the application, for it is for the Board and not for the Court to determine the fitness of candidate for that post.

8. His present fitness as it appears to me from the evidence has not been considered by the Board. This was not, in my judgment, right. Before the Board debars a person from presenting himself as a candidate, they ought to examine into his fitness at the present time.

9. It may be that a man's moral character in 1893 was such as fully to justify a refusal to accept him as a candidate in 1893, and yet in 1901 he may be of a reformed and estimable character. It is not consistent with justice, I think, to debar a man, who has once gone astray, of the opportunity of establishing that he is a reformed character and fitted for a post of honor or emolument. Therefore I think this application is one that is sustainable. I do not in any way judge the question of the petitioner's fitness; this is a matter for the Board. I therefore guard myself from its being supposed that I am in any way usurping the duties of the Board.

10. The order will be that the applicant be at liberty to present to the Board the certificates required by the 6th Rule of "the Rules and Regulations for examination, etc., for pleadership and mukhtearship of candidates, &c," and I shall ask that the Board consider those certificates, and, if satisfied that the candidate possesses the qualifications prescribed by the rules, he be allowed to present himself for examination.

11. Under the circumstances and as the Counsel on behalf of the Board withdrew the technical objection, which was raised as to the form of the Rule, I shall make no order as to costs.