

(1999) 12 AHC CK 0031
In the Allahabad High Court
Case No : C.M.W.P. No. 24249 of 1991

Natthi Ram

APPELLANT

Vs

District Judge, Dehradun and others

RESPONDENT

Date of Decision : 08-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Evidence Act, 1872 — Section 114

Legal Practitioners Act, 1879 — Section 13, 22, 3, 36, 36(1)

Citation : (2000) 1 AWC 641 : (2000) 1 UPLBEC 904

Hon'ble Judges : Lakshmi Bihari, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : Manoj Mishra and Ranjeet Saxena, for the Appellant; S.C., Kiran Kumar Arora., for the Respondent

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—The petitioner has come up with a prayer to quash Order No-76/91 dated 4.9.1991 passed by the respondent No. 1 (the District & Sessions Judge. Dehradun) u/s 36 of the Legal Practitioners Act, 1879 (hereinafter referred to as the Act) as contained in Annexure-7 to this writ petition recording a finding that he is satisfied that the petitioner habitually acts as a tout and accordingly his name may be included in the list of touts, if any, maintained previously and if no such list has yet been prepared, a list as contemplated shall be now prepared including his name as tout at Serial No. 1 thereof and further exercising his powers under sub-section (4) thereof excluding him from the precincts of the District Court. Dehradun.

1.1. The aforesaid order reads thus :

"On receipt of the resolution dated 16th July, 1991 from Bar Association. Dehradun. requesting me to declare Sri Nathi Ram s/o Sri Jhandoo Lal r/o Jhanda Mohalla. Dehradun, as "tout", an enquiry in pursuance of Section 36(2A) of the Legal Practitioners Act. 1879, was directed to be made by me by Sri S. M. Goel. 1st Addl. Sessions Judge, Dehradun. The Enquiry Officer, after affording an

opportunity to Sri Nathi Ram to make a representation and after hearing him has submitted a report today. The Enquiry Officer is of the considered opinion that Sri Nathi Ram aforesaid be declared as a tout and his name should be published as a tout under the provisions of Section 36 of the Act.

I have considered the report of the Enquiry Officer and found that the resolution of the Bar Association, which was passed unanimously, is a valid and strong evidence of the general repute of Sri Nathi Ram. Sri Nathi Ram, who was afforded due opportunity, has not been able to rebut the evidence furnished against him in the form of resolution of the Bar Association. The resolution of the Bar Association categorically speaks of the fact that Sri Nathi Ram is a tout. Taking into consideration the un rebutted resolution of the Bar Association and the report of the Enquiry Officer, I am satisfied that Sri Nathi Ram habitually acts as a tout. Accordingly his name may be included in the list of touts, if any maintained previously. If no such list has yet been prepared, a list as contemplated u/s 36 of the Act shall be now prepared and in this list name of Nathi Ram aforesaid shall be included as tout at serial No. 1.

In exercise of the powers conferred under sub-section (4) of Section 36 of the Act I hereby exclude from the precincts of the Court Sri Nathi Ram whose name is included in the list of touts.

Let a copy of this order be sent to Sri Nathi Ram s/o Sir Jhandoo Lal r/o Jhanda Mohalla. Dehradun, for his information and compliance.

A copy of this order shall also be sent to the District Magistrate, Dehradun and the subordinate courts as well as the Bar Association, Dehradun, for Information.

This order be also pasted on the notice board of the new and old buildings of this Judgeship for general information."

2. The Relevant Facts :

2.1. According to the petitioner he had appeared on 27.7.1991 before the respondent No. 1 and was apprised of the Resolution dated 16.7.1991 of the Bar Association, Dehradun, resolving that as he is a tout, he be declared as such. In this regard he vide his application dated 30.7.1991 filed before respondent No. 1 prayed to rescind that resolution on the ground that he is husband and brother-in-law of Mala Verma and Monika Verma. Advocates who practice on the criminal side and for taking it back on the ground that for dropping them he has to go to civil court off and on; that the decision of the Bar is ex parte and baseless, which does not disclose that Mala Verma, Advocate is his wife ; that even though his wife is member of the Bar Association neither she or he were disclosed of any reason or given any notice. Respondent No. 1 entrusted enquiry to respondent No. 3 under subsection (2A) of Section 36 who sent a show cause notice dated 14.8.91 as contained in Annexure-2 to the petitioner calling upon him as to why he should not be so declared, and to produce any defence and to give list of evidence, both oral and documentary, and that in the event of his non-

appearance it would be deemed that he has nothing to say in rebuttal. A similar notice was sent to Mala Verma who is claimed by the petitioner to be his wife. Smt. Mala Verma filed her show cause claiming to be wife of the petitioner before respondent No. 3 as contained in Annexure-6 praying to rescind the resolution for the reasons mentioned therein. The petitioner also filed his show cause, as contained in Annexure-5 praying to rescind the show cause for the reasons mentioned therein. It appears that thereafter respondent No. 2 sent his enquiry report on the basis of which the Impugned order was passed.

2.2. In the counter-affidavit of respondent No. 2 it has been denied that the petitioner is husband of Smt. Mala Verma and brother-in-law of Km. Monika Verma, Advocates, and stated inter alia that since the petitioner is not a member of the Bar, hence no notice of the specially convened Meeting held on 16.7.91 in regard to his being a "tout" was required to be given to him in which it was unanimously decided to get him declared "tout" : that the petitioner was afforded an opportunity by respondent No. 2 before he was declared as a tout : and that the order dated 4.9.1991 is self speaking and does not call for any interference, which was passed after respondent No. 1 was fully satisfied.

2.3. The petitioner had filed a rejoinder to the aforesaid counter-affidavit.

The Submissions :

3. With reference to the statements made in Paragraphs 11 and 12 of the writ petition Sri Ranjit Saxena, learned counsel for the petitioner, submitted that the learned District Judge has wrongly mentioned in his order that an opportunity of hearing was afforded to the petitioner who overlooked the fact that such an opportunity was not given by the Enquiring Officer respondent No 3. In support of the facts stated in Paragraphs 11 and 12, Mr. Saxena pointed out that no counter-affidavit has been filed by respondent No. 1 or 3 and despite opportunity being granted to the learned standing counsel, who has entered appearance on their behalf (respondent Nos. 1 and 3), the records of the proceedings have not been produced before us to show that they had in fact afforded opportunity of hearing to the petitioner, muchless due opportunity. In order to repudiate the correctness of the Resolution, his wife has also filed her show cause before respondent No. 3. Respondent No. 1 has not applied his mind to the glaring fact that even though from the resolution it was clear that it was passed by majority of the members but respondent No. 1 has erroneously observed that It was passed unanimously.

4. Sri P. K. Bisarla, learned standing counsel takes up a stand before us that despite repeated communication, the District Judge, Dehradun, informed him that the original records are being traced out and no sooner they are traced out, they will be sent. He, however, very fairly takes up a stand before us on the basis of the Xerox copy of the record as made available to him that from them, it does not appear in positive terms that an opportunity of hearing was given to the petitioner but having regard to the recital of the fact in the impugned order that

due opportunity was given to the petitioner, we may presume that such an opportunity was afforded to the petitioner and thus there is no substance in the grievance projected by Mr. Saxena and the writ petition be dismissed.

5. Sri Arora, learned counsel appearing on behalf of respondent No. 2, the Bar Association, Dehradun, at whose Resolution the petitioner was declared as a tout under the Act, adopting the submissions made by Sri P. K. Bisaria, contended that the statements made in Paragraphs 11 and 12 of the writ petition had been countered in paragraphs 13 and 14 of the counter-affidavit specifically stating that it is wrong to allege that the petitioner was not afforded any opportunity of hearing before the order impugned in the present writ petition was passed which fact has been denied by the petitioner in his rejoinder and thus there is no substance in the arguments of Sri Saxena, which be rejected. This apart under proviso to sub-section (2A) of Section 36 of the Act It was not necessary for the learned District and Sessions Judge, Dehradun to give further opportunity of hearing to the petitioner as due opportunity was already given to him by respondent No. 3. It is not the specific case of the petitioner anywhere in the writ petition that after the conclusion of the enquiry by respondent No. 3 he appeared before respondent No. 1 and had expressed his desire to be heard in the matter. The respondent No. 1 had before him the Resolution of the Bar adopted by majority of the members which under the Explanation attached to sub-section (1) of Section 36 was evidence of the general repute of the petitioner, which was correctly held to have not been rebutted by the petitioner before respondent No 3. Thus, the petitioner is not entitled to the exercise of discretionary relief under Article 226 of the Constitution of India.

The Question :

6. In the backdrop aforementioned the moot question requires to be answered by us is as to whether a person who is to be declared as a tout under the provisions of the Act by the District Judge he was required to give an opportunity of hearing to that person?

Our Findings :

7. Section 3 of the Act, which contains interpretation clause, has defined the word "tout" as follows :

"tout" means a person :

(a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business ; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business ; or

(b) who for the purpose of such procurement frequents the precincts of civil or criminal courts or of revenue offices, or railway stations, landing stages, lodging places or other places of public resort."

8. Section 36 of the Act reads thus :

"36. Power to frame and publish lists of touts.--(1) Every High Court. District Judge. Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue Officer, not being below the rank of a Collector of a district, and the Chief Judge of every Presidency. Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, or to the satisfaction of any subordinate Court as provided in sub-section (2A) by evidence of general repute or otherwise habitually to act as touts, and may, from time to time alter and amend such lists.

Explanation.--The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practice as legal practitioners in any Court or revenue-office, shall be evidence of the general repute of such person for the purposes of this sub-section.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(2A) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry into the conduct of such persons and, after giving each such an opportunity of showing cause as provided in subsection (2), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be tout : and that authority may include the name of any such person in the list of touts framed and published by that authority :

Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard.

(3) A copy of every such list shall be kept hung up in every Court to which the same relates,

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of Section 13, clause (e) and Section 22, clause (d).

(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

9. Sub-section (6) of the Act is penal in character. Under proviso to sub-section (2A) of Section 36 of the Act, it has been clearly provided that before entering

the name of the person in the list of touts if he has appeared, then he has to be given an opportunity of hearing if he desires to be heard. Unless a person is made aware of the submission of the Report adverse to him, how he will express his desire to be heard in the matter? It will be also fair and proper for the authority to give an opportunity to the Bar Association, if its resolution in a given case is not accepted by the Enquiry Officer or is not going to be accepted by the Authority concerned. The doctrine of fair play requires it. We are of the view that adherence to the principles of natural justice has been included by the Legislature and any violation of It will render the order passed as being violative of principles of natural Justice.

10. Despite opportunity being granted to the respondent No. 1 vide order dated 10.9.1991, no counter has been filed by him. By the said order, notice by Registered Post was directed to be sent to respondent No. 3 apart from effecting personal service. From office note dated 8.9.99 It appears that respondent No. 3 has received Dasti summon. Respondent No. 3, however, has also not filed any counter-affidavit to rebut the correctness of the statements made in Paragraphs 10 to 12 of the writ petition, which are as under :

"10. That respondent No. 3, Sri S. M. Goyal Ist, Additional Sessions Judge, Dehradun did not find any specific evidence or instance by which it can be proved that the petitioner is a tout.

11. That no opportunity of hearing was given by Sri S. M. Goyal, respondent No. 3. Moreover, the copy of the order or report submitted to Sri S. M. Goyal. Ist Additional Sessions Judge, Dehradun, was never sent to the petitioner nor the same was sent to the petitioner's wife Smt. Mala Verma who also personally met respondent No. 3 and asked him to give a report which has to be filed in a case of the petitioner. No copy was given by respondent No. 3 inspite of the various request made by the petitioner's wife as well as petitioner.

12. That on 5.9.1991 the petitioner was in receipt of an order passed by respondent No. 1, District and Sessions Judge, Dehradun, wrongly mentioning that an opportunity of hearing was given to the petitioner. Moreover not a single Instance could be mentioned by the Bar Association of civil court, Dehradun, or by Sri S. M. Goyal, Ist Additional Session Judge, Dehradun, neither the respondent No. 1 has got report of single instance so as to declare the petitioner as a tout u/s 36(2-A) of the Legal Practitioners Act, 1879. Inspite of this the respondent No. 1, District Judge, Dehradun, passed an order by which he did not apply his mind and gave no reasoning but just relied on the resolution of the Bar Association, Dehradun. The respondent No. 1 has no Jurisdiction to pass this order unless he is himself satisfied that there is a case or instance against the petitioner by which it can be proved that he has committed such act so as to bring him under provisions of Section 36(2A) of the legal Practitioners Act, 1879. The copy of the impugned order passed on 4.9.1991 No. 76 of 1991 by the District and Sessions Judge. Dehradun respondent No. 1 is being filed herewith and is marked as Annexure-7 to this writ petition."

11. Now we come to the relevant pleadings set up in paragraphs 12 to 14 of the counter-affidavit of Dehradun Bar Association, which read thus :

"12. That the contents of paragraph 10 of the petition are wrong hence vehemently denied. It is wrong to allege that the respondent No. 1 did not find any evidence or instance by which it can be proved that the petitioner is a tout. Under law, the resolution of the Bar Association, Dehradun, being a representative body of 700 respectable members of the society is sufficient evidence of the fact of the petitioner being a tout warranting his declaration as such. It is wrong as well as vehemently denied that Shri S. M. Goel, respondent No. 1 was under any kind of pressure from the side of advocates and it is surprising that such pressures could either be used over or the respondent No. 1 could be pursued or persuaded and even his decision could be effected by such alleged pressures. As a matter of fact after passing of the resolution dated 16.7.1991 the Bar Association, Dehradun, or its members remained silent and left the decision of the case to the respondent No. 1.

13. That the contents of paragraph 11 of the petition are denied to the extent that the petitioner was not afforded any opportunity of hearing before the order impugned in the present writ petition was made. Not only a notice was issued to the petitioner and Smt. Mala Verma but they also filed their respective replies to the said notices.

Since the copy of order appointing Sri S. M. Goel, Ist Additional District Judge, Dehradun, as the Inquiry Officer did not effect any right of the petitioner the same was not required to be served upon him. Rest of the contents of paragraph under reply are being denied for want of information.

14. That the contents of paragraph 12 of the petition are not admitted as stated therein. It is wrong to allege that the petitioner was not afforded any opportunity of hearing before the order Impugned in the present writ petition was passed. It is further wrong to allege that there was no material on record warranting declaration of the petitioner as a tout. The order dated 4.9.1991 is self-speaking and does not call for any interference by this Hon''ble Court. It is further wrong to allege that the respondent No. 1 has no jurisdiction to pass the order dated 4.9.1991. However, it is submitted that the order was passed after respondent No. 1 was fully satisfied that the petitioner is a tout and his declaration as such was necessary in the interest of justice. No fundamental right of the petitioner is being Infringed by the order dated 4.9.1991 and as such the petitioner''s petition under Article 226/227 of the Constitution of India is misconceived.

As regards the dispute regarding teachers and the advocates is concerned it is submitted that two teachers along with two rank outsiders severely beat two practising advocates being members of the Bar Association, Dehradun and caused them serious injuries. The police authorities when informed of the incident did not care to register a proper F.I.R. against the erring and guilty. The advocates insisted that a proper report be entered and the case be registered

and proper and necessary action be taken against the persons who are found guilty. However, since the police authorities were trying to protect the guilty and grossly failed to perform their duties the Bar Association, Dehradun, was left with no other choice but to observe strike between 26th , August, 1991 to 29th August, 1991. In between efforts of amicable settlement were made. However, the teachers and the police authorities double crossed the advocates and as such the matter was prolonged upto 29.8.1991. On 30.8.1991 one Shri Govind Bhasker had died and in his sympathy a condolence meeting was held and a reference was made to Additional District Judge. Since cremation was to be done on the same day the lawyers abstained from work on 30.8.1991. 31.8.1991 was Saturday. 2nd September, 1991 was a holiday on account of Janamastmi. On 3rd and 4th September, 1991 the lawyers abstained from work on account of said double cross of the police authorities and the teachers. On 5.9.1991 the Bar Association was informed that the guilty were enlarged on bail by the police authorities. As a consequence thereof the strike was called off 7and the work resumed. It is further wrong to allege that the members of the Bar Association, Garhwal, did not permit the Hon''ble Administrative Judge to leave the premises or forced him to run away and that he had moved to Dehradun immediately. The allegations are per se false and are denied. In any case the Bar Association, Garhwal, has nothing to do with the Bar Association Dehradun. The order dated. 6.9.1991 passed by this Hon''ble Court was obtained by concealment of material facts. However, the same has no bearing or relevance for the purpose of disposal of the present writ petition. The allegations as contained in paragraph under reply are false and mischievous and have been incorporation to lend colour to an otherwise baseless case."

12. The petitioner in Paragraph 10 of his rejoinder-affidavit has stated as follows :

"10.The fact is that no opportunity was given by the Ist Addl. District Judge. Moreover the impugned order passed by the learned District Judge himself who has not admittedly afforded any opportunity to the petitioner. It is very interesting to see that the report of Sri S. M. Goel, Ist Addl. District Judge has not been supplied to the petitioner nor his findings were ever put in the knowledge of the petitioner. In this way it is very clear that the respondent No. 2 is personally interested in the matter to harass the petitioner so that Smt. Mala Verma wife of petitioner may face harassment in the Bar. It is further submitted that practicing as an advocate of a lady in the civil court Dehradun, is not easily possible and if the wife of petitioner has cared to do so and the petitioner if goes to meet her, the members of Bar have no business to have any objection, more so there is not even a single member of the Bar to establish that the petitioner was guilty of toutism. As such in the present case the act of learned District Judge, Dehradun, in declaring the petitioner as a tout vide order dated 4.9.91 is wholly illegal and is not sustainable in the eyes of law."

12.1. In Paragraph 13 of his rejoinder he has specifically dealt with the statements made in Paragraphs 12, 13 and 14 of the counter-affidavit, by

making following statements :

"13. That the contents of paras 12. 13 and 14 of the counter-affidavit are incorrect. It is submitted with great respect that as many as 700 members of Bar Association are on record but not even a half or 1/3 were available at the time of alleged meeting which in fact never took place with the agenda of declaring the petitioner as a tout. It is further submitted that Sri S. N. Goel, respondent No. 3 has never given any report. It is also submitted that if any meeting took place as alleged by respondent No. 2 then in that meeting the members of Bar were not sufficient and the same was only as a show piece. It is further submitted with great respect that the members of civil court Bar Association, Dehradun, are trying to harass the petitioner for no fault of his own and in the present case it is very clear that the record has proved that the petitioner is not guilty of any toutist for want of any evidence. Only resolution of some members of Bar is not sufficient evidence for passing the impugned order, declaring the petitioner as a tout."

13. A bare perusal of the aforementioned statements leaves no manner of doubt that the stand taken by the Dehradun Bar Association has been repudiated as incorrect by the petitioner in his rejoinder.

14. This writ petition was heard in part by us firstly on 9.9.1999. On 10.9.99 Sri Bisarla came up with a prayer for adjournment to enable him to produce the record which was granted. On 21.9.1999 Sri P. K. Bisaria, learned standing counsel had shown as some documents purported to be X-rox copy of the record which were permitted to be looked by Sri Saxena as well as Sri Arora. Those documents prima facie failed to show us that the statements made in Paragraphs 11 and 12 of the writ petition, quoted as above, atleast in regard to non giving of any opportunity of hearing to the petitioner by respondent No. 1/3 is incorrect. However, we adjourned the further hearing of the case with a direction to the District Judge, Dehradun, to produce the entire records in original and directed the office to serve a copy of our order dated 21.9.1999 on Sri Bisaria. From the endorsement on the record it appears that a copy of the order was received by Sri Bisarla on 21.9.99. He informs us that on 21.9.99 Itself he had despatched the order dated 21.9.99 to respondent No. 1, the District Judge, Dehradun, for compliance of our directions. The record, however, has not been produced by him even today for the reason that they are untraceable. We merely put on record how in the absence of the original records, there can be photostat copies of at least part of it?

15. It is not the case of the Dehradun Bar Association that It was also heard by respondent No. 1, the District Judge, Dehradun, after the receipt of the report of respondent No. 3. From the submissions made at the Bar before us, it is also clear that the Dehradun Bar Association was even not heard by respondent No. 3 before submission of his enquiry report to respondent No. 1.

16. The petitioner had appeared before respondent No. 1 by filing his application

dated 30.7.1991. Thereafter it does not appear that respondent No. 1 had fixed any date for his appearance before him to have his say in the matter. Unless a person is made aware of the next date how he can appear and ventilate his cause.?

17. True it is that there is a presumption of the correctness and legality of the official acts as envisaged u/s 114(e) of the Evidence Act which is of a higher degree when such acts are performed by a high ranking Judicial Officer but under illustration (g) of the same section, the Legislature has provided that if an evidence which could be and is not produced would, if produced, be unfavorable to the person, who withholds it. The original records pertaining to the proceeding under the Act has not been produced by respondent No. 1 despite clear cut orders and expiry of more than two and half months by now. Accordingly, we hold that had the records been produced before us it would have shown that no reasonable opportunity of hearing was provided by respondent No. 1 to the petitioner before including his name in the list of touts envisaged under the Act. No notice was given to him by respondent No. 1 in regard to receipt of the enquiry report. Unless that notice is given, how the person concerned can come to know of the factum of submission of such a report and object to the correctness of that report. The stage of the petitioner's desire to be heard has to be ascertained or intimated after the receipt of the enquiry report. Thus, we hold that the principles of natural justice were violated before holding the petitioner as tout in agreement with the report the contents of which he was not made aware.

18. In the peculiar facts and circumstances, we are further of the view that the petitioner should have been given a copy of the order/ enquiry report by the Enquiring Officer (respondent No. 3) or in any view of the matter should have been apprised of the substance of the same by respondent No. 1 who has committed an error of record, though immaterial for this Court for the present, in observing that the Resolution was passed unanimously though it is crystal clear from its reading that It was passed by majority.

19. It is well-settled by a catena of decisions that a writ of Certiorari can be issued if an order is passed in violation of principles of natural justice if it causes prejudice to the petitioner. In the instant case prejudice of the petitioner is writ large as the order is penal in character which even otherwise also affects his character.

20. For the reasons aforementioned, we quash the impugned order as contained in Annexure-7 but having regard to the peculiar facts and circumstances we make no order as to cost.

21. Since considerable time has elapsed and in order to close the unfortunate chapter, one way or the other, we direct the petitioner as well as respondent No. 2, both to appear before respondent No. 1 by 8.2.2000 and thereafter the respondent No. 1 will hand over a copy of the report of respondent No. 3 to both

of them and will fix a firm date for proceeding further in accordance with law in the matter, who shall also make sincere endeavour to conclude it expeditiously preferably within six weeks from the date of further commencement of the proceeding. It is further made clear that if one or the other party makes any dilly-dallying in the conduct of the proceeding, then it will be open for respondent No. 1 to proceed ex parte in accordance with law.

22. Before parting. It is further clarified that anything stated herein shall not be construed to mean by any stretch of Imagination adjudication on merits of the allegation which the Bar Association has made against the petitioner and it will be for the authority concerned to be satisfied and pass order, one way or the other, in accordance with law and in the light of the observations as made by us above.

23. This writ petition is allowed to the extent indicated as above.

24. The office is directed to hand over a copy of this order to Sri P. K. Bisaria, learned standing counsel within a week for its intimation to and follow up action by respondent No. 1, the District Judge, Dehradun.