
(1931) 07 AHC CK 0027
In the Allahabad High Court

Ram Phal	Vs	APPELLANT
Emperor		RESPONDENT

Date of Decision : 17-07-1931

Acts Referred:

Legal Practitioners Act, 1879 — Section 36

Citation : AIR 1931 All 711 : (1932) ILR (All) 230 : 136 Ind. Cas. 374

Hon'ble Judges : Sulaiman, Acting C.J.

Bench : Division Bench

Final Decision : Dismissed

Judgement

Sulaiman, Ag. C.J.

1. This is an application in revision from an order of the District Magistrate of Basti, declaring Ram Phal applicant to be a tout.
2. There are precedents for the exercise of the power of superintendence by this Court when an order passed by a subordinate officer is against natural justice.
3. The learned advocate for the applicant urges before us that there is no legal evidence whatsoever on which the District Magistrate could have legally acted. It appears that apart from certain oral evidence which has not been relied upon by the District Magistrate there were two resolutions of the Bar Associations of Mukhtars and Vakils in the following terms:
 - (1) That the meeting....is of opinion that Ram That stamp vendor of the place is by general repute a tout.
 - (2) It is resolved that Ram Phal stamp vendor of Bansi is a tout on the strength of general repute.
4. The District Magistrate had power to act upon the evidence of general repute u/s 36, Legal Practitioners Act, as amended. The explanation added to the section makes the passing of a resolution declaring a person 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 practise as legal practitioners as evidence of the general repute of such person for the purpose of that section. It cannot therefore be denied that if the resolution substantially is one declaring Ram Phal to be a tout then it was legally admissible as evidence of general repute, even though the basis of that resolution may be hearsay evidence. On the other hand, if there is no resolution declaring him to be a tout, but there is a simple statement of fact that there was such evidence before the Association, then possibly it would not come under the explanation.

5. There seems to be nothing in the language of Section 36 of the explanation which would make a resolution based on general repute or hearsay evidence ineffective.

6. The language of the first resolution was somewhat ambiguous, but the second resolution undoubtedly shows that the members recorded their conclusion and declared that Ram Phal was a tout although they also indicated that their conclusion was based on the strength of general repute. We think that the words " on the strength of general repute " merely indicate the basis of the resolution declaring him to be a tout and does not destroy its effectiveness.

7. If a resolution is based on general repute the Court may attach less weight to it, but it cannot be said that such a resolution is legally inadmissible in evidence and cannot be taken into consideration by the Court.

8. We are accordingly unable to interfere with the order passed in the case. The application is dismissed with costs.