

(1998) 11 AHC CK 0057
In the Allahabad High Court
Case No : C.M.W.P. No. 23359 of 1992

Sita Ram Yadav

APPELLANT

Vs

State of U.P. and another

RESPONDENT

Date of Decision : 05-11-1998

Acts Referred:

Citation : (1999) 1 AWC 447 : (1999) 1 UPLBEC 593

Hon'ble Judges : R.K. Singh, J;B.K. Roy, J

Bench : Division Bench

Advocate : Krishan Ji Khare, for the Appellant; S.C. and Sudhir Jaiswal, for the Respondent

Final Decision : Dismissed

Judgement

B.K. Roy and R.K. Singh, JJ.—According to Sri Krishan Ji Kharr, learned counsel for the petitioner, the real prayer of the petitioner is to quash the communication made by the Joint Secretary and Joint Legal Remembrancer, Government of Uttar Pradesh to the District Magistrate, Ghazipur informing him that he has been directed to communicate that in regard to his recommendation made under Clause 7.08 of the Legal Remembrancer's Manual, it has been decided after thorough thinking that the services of Sri Sita Ram Yadav (the petitioner) as Assistant District Government Counsel (Civil) will not be extended and, thus, Sri Yadav be relieved immediately (as contained in Annexure-5 to this writ petition).

2. Sri Khare, with reference to the decision of the Apex Court in Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others, contended that the order impugned is arbitrary inasmuch as the recommendations made by the District Magistrate and the District Judge concerned were based on performance of the petitioner which were binding on the State.

3. We regret in not finding any substance in the contention. It is always open for the State as a litigant to engage a counsel of his choice. Merely because the District Magistrate or District Judge has made recommendations for continuance

of the petitioner as a counsel for the State, it cannot be held that that recommendation is binding on the State. Mr. Khare could not locate his fingers to such a ratio decidendi in Kumari Shrilekha Vidyarthi's case (supra), to support his submissions. We are of the definite view that a counsel cannot thrust on a litigant to become his counsel and there is no question of violation of any fundamental right of the petitioner of his freedom of speech and expression. We do not find that earlier any interim relief was also granted to the petitioner.

4. We, accordingly, not finding any merit in this writ petition, dismiss it but without cost.

5. The office is directed to hand over a copy of this order within week to Sri Sudhir Jaiswal, learned standing counsel, for its communication to the Government.