

BOMBAY HIGH COURT

Government Pleader

Vs

S.A. Pleader

(Marten, J.)

26.03.1929

JUDGMENT

Marten, C.J.

1. This is an application under the disciplinary jurisdiction against Mr. S a District Pleader holding a sanad for the Surat District. The charge against him is shortly that he had been guilty of improper conduct under Section 20, Bombay Pleaders Act, inasmuch as he sent various circular post cards to the public with reference to the examination of accounts of wakf properties. These post cards are signed by him as High Court Pleader. They are in the form Ex. C, and after stating his address and the date are as follows: Respected Sir, Greetings, His Honour the District Judge of Surat has authorised me to examine the accounts of wakf properties and to issue certificates. Accounts in respect of wakf properties should be filed in the District Court before 30th June every year. Fee for examining the accounts is one per cent on the annual income. S High Court Pleader.

2. It will thus be seen that the pleader gives his address and description. So far as the description goes he is not entitled to call himself a High Court Pleader. He is only a District Court Pleader. But apart from that, it is important to observe that he refers to himself in this circular post card as a pleader.

3. Next, as regards his statement that he had been authorised to examine wakf properties and to issue certificates, this is inaccurate. The statement means, I think, that he had been given authority to audit the accounts of wakf properties generally by an order of the Court under Section 6(2), Mussalman Wakf Act of 1923. In fact, all that he had been authorized to do was to examine the accounts for certain specific wakf properties on this separate application in each case. No general permission had ever been given to him. He had asked for it. but it had been refused.

4. Next, in his affidavit of 25th March 1929, which has just been handed to us, he says in para.

4:He never meant to say or convey that he had general authority to audit the wakf accounts as distinguished from special authority.

5. We think, however, that the fair meaning of the post card is that he had this general authority. The main question, however, is, did this post card amount to advertising? The contention of the pleader, when called on for his explanation by the learned District Judge, was as follows: (I refer to his affidavit of 28th July 1928).Advertising by a pleader is nowhere specifically or impliedly prohibited under the Pleaders Act or rules thereunder. There is, I believe, customary prohibition. I have every respect for that custom but I believe such prohibition is with regard to legal work only. Audit work is not legal work. If it were so no non-lawyer should have been authorized to do such work.

6. As regards advertising, there is no doubt that that is unprofessional conduct on the part of a professional man such as a pleader or an advocate or a barrister. This indeed is a leading distinction between professional men on the one hand and those engaged in trade or business on the other hand, and it is of importance that that distinction should be maintained. Accordingly, if this circular post card had merely given the address and the name and description of this pleader, it would yet have amounted to an advertisement on his part and therefore to improper conduct. The fact that, in addition he stated that he had been authorised to examine the accounts of wakf properties and to issue certificates by the District Court rather aggravates the case than the reverse. Even if auditing is not strictly legal work, yet this very fact of advertising his readiness to take up that work, combined with his statement that he is a High Court Pleader and seeing that this work is connected with the Courts and has to be supervised by the Courts, would, I think, result in his getting an improper advantage in legal work over his fellow pleaders, who did not descend to such devices. Further, as I have already indicated, we think that his statements as to the authority given to him by the District Judge and also as to his being a High Court Pleader were inaccurate and misleading.

7. We, therefore, hold that it was improper conduct on his part to issue these post cards and to canvass for this particular work in the way that he did, and that accordingly he has committed an offence under Section 26, Bombay Pleaders Act. The next question is, what course we should take to signify our opinion of his improper conduct. We have considered whether it would be proper to suspend his sanad for a certain time, but as he is a comparatively junior practitioner we will not, on this occasion, take that particular course. We think it will be sufficient, under all the circumstances, to direct that he be severely reprimanded, and that as he is not present in Court today that that reprimand be conveyed to him personally in open Court by the learned District Judge. We further order that he do pay the Government Pleader's costs of this application.