

er with a Court of law, but with the municipality itself. The Corporation has the power of acquisition of land which may in their opinion be needed for carrying out any of the purposes of the Act. The resolutions come to clearly enough express that opinion. And the matter is thus at an end.

Their Lordships will humbly advise His Majesty that the appeal be dismissed with costs.

Solicitors for the appellants : *Watkins & Hunter.*

Solicitors for the respondents : *Orr, Dignam & Co.*

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PRIVY COUNCIL.

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v.

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P.C.^o
1922

May 23.

[ON APPEAL FROM THE COURT OF THE JUDICIAL COMMISSIONER OF THE
CENTRAL PROVINCES AND BERAR.]

Pleader—Legal Practitioners Act (XVIII of 1879), s. 13 (f)—Power of High Court to dismiss pleader—“Any other reasonable cause”—Urging organised refusal to pay tax.

The words “any other reasonable cause” in s. 13 (f) of the Legal Practitioners Act, 1879, (as amended by Act XI of 1896), include an act not done in a professional capacity.

The Court of the Judicial Commissioner, Central Provinces and Berar, dismissed a pleader until such time as he should satisfy the Court by his conduct that he was fit for re-admission; the pleader petitioned the Judicial Committee for special leave to appeal. The ground of the pleader’s dismissal was that he had publicly urged an organised resistance to the payment of a certain tax, and had not expressed regret for his conduct, but attempted to justify it.

*Present : LORD BUCKMASTER, LORD ATKINSON, LORD SUMNER, LORD CARSON AND SIR JOHN EDGE.

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Held, that the Court had acted within its discretionary powers, and that special leave to appeal should not be granted.

Petition for special leave to appeal from an order of the Court of the Judicial Commissioner of the Central Provinces and Berar, dated October 12, 1920, whereby the petitioner was dismissed from being a pleader of that Court.

The facts stated in the petition were shortly as follows :—The petitioner was a pleader on the roll of legal practitioners of the Court above mentioned, and practised at Basim in the District of Akola, Berar. In March, 1921, a resolution was carried in the Legislative Council of the Central Provinces, recommending the Government to abolish the *mahar baluta* system, which then formed part of the land revenue of Berar. The petitioner had made speeches at various places in Berar in support of the movement for the abolition of the system. In a public speech, delivered subsequently to the debate in the Legislative Council, after stating that the system was “unjust and illegal,” he had said “if you really wish that the injustice of *baluta* should be stopped, and that *baluta* should not be paid, let Government recover it by attachment; do not pay it of your own will.”

On April 6, 1921, the Divisional Magistrate of Basim served a notice upon the petitioner, calling upon him to show cause why he should not execute a bond for Rs. 500, with two sureties, for keeping the peace for one year. The notice was given under the provisions of s. 107, sub-s. (1) of the Code of Criminal Procedure, 1898, whereby the Magistrate was empowered to take that action upon being “informed that any person is likely to commit a breach of the peace, or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace

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or disturb the public tranquillity." The Sub-Divisional Magistrate, before whom the petitioner appeared, was of opinion, for reasons which he gave, that the petitioner's acts were such as to lead to a disturbance of the public tranquillity, although no disturbance had yet taken place; he accordingly ordered a bond to be entered into. The order was affirmed by the District Magistrate, and an application to the Court of the Judicial Commissioner for revision was dismissed. The petitioner entered into the bond under protest.

The Court of the Judicial Commissioner, by a notice to the petitioner dated September 17, 1921, reciting that he had been bound over as above stated, directed him to appear before that Court to show cause why he should not be dealt with under s. 13 of the Legal Practitioners Act. The section, which was substituted for s. 13 of Act XVIII of 1879 by Act XI of 1896, s. 2, provides that the High Court may, "after such enquiry as it thinks fit, suspend or dismiss any pleader or mukhtar holding a certificate" who should commit any of certain kinds of professional misconduct specified under the heads (a) to (e), "or (f), for any other reasonable cause."

The matter was heard by two Judges of the Court, who in the course of their judgment said: "It is clear that the pleader preached against the payment of *baluta*, and told cultivators not to pay that tax, but to allow their property to be attached and sold for it. *Baluta* is a tax legally recoverable by distress. He has been delivering lectures in public and distributing placards headed "The iniquity of *baluta*," instigating one class of persons not to pay money legally to another class, procedure reasonably calculated to lead to a breach of the public tranquillity. The pleader's action seems to us incompatible with his obvious duties and responsibilities as an official of this Court.

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He has not expressed regret for what he has done, but attempts to justify it. We learn that he has already suspended practice in the Court; consequently suspension from practice would not be any punishment. We, therefore, cancel his *sanad* until such time as he satisfies us by his future conduct that he is fit for re-admission."

Dube, for the petitioner. The Court had no power under s. 13 of the Legal Practitioners Act to cancel the petitioner's certificate. It cannot be alleged that the petitioner was guilty of any of the acts referred to in clauses (a) to (e). Clause (f), "any other reasonable cause," means something which is either professional misconduct or which amounts to moral turpitude. That view is supported by *In re Wallace* (1) and *In re Koylash Nath Chowdhry* (2). The petitioner's conduct did not come within either of those categories. He was entitled to agitate by peaceful means against the tax, and the action of the Legislative Council showed that his agitation was justified. There was nothing in his conduct which rendered him unfit to be a pleader. The facts did not make s. 107, sub-s. (1) of the Code of Criminal Procedure applicable.

Kenworthy Brown, for the respondent. The Court had discretionary jurisdiction under s. 13 (f). In accordance with the principles upon which the Board acts, the exercise of that discretion will not be interfered with, unless strong cause is shown. In the present case no ground for interference appears. It is desirable to maintain the disciplinary jurisdiction of a Court over its legal practitioners. The petitioner has not contended that s. 13 (f) is confined to grounds of professional misconduct, but it may be observed that a Full Bench in Calcutta has held that it is not so

(1) (1866) L. R. 1 P. C. 283.

(2) (1871) 16 Sath., W. R. (Cr.), 41.

confined : *Le Mesurier v. Wazid Hossein* (1). The terms of the section as it was originally enacted clearly shows that that decision was right.

Dube replied.

The judgment of their Lordships was delivered by

LORD BUCKMASTER. As a concession to the urgent request of counsel for the petitioner, their Lordships will briefly state the reasons why they are not able to advise that leave to appeal should be granted to the petitioner, but this indulgence must not be taken as recognising any departure from established practice, nor affording any precedent for the future. In expressing the opinion which they hold that this petition ought to be refused, their Lordships expressly desire to make plain that their opinion carries with it no approval of or reflection upon the order against which leave to appeal is sought. That order was entirely one for the discretion of the Court that made it, and the only matter that it has been necessary to consider is whether a *prima facie* case has been made out to establish that there was no foundation upon which that discretion could properly repose. It appears that the petitioner was, on 3rd May, 1921, bound over by the Sub-divisional Magistrate at Basim to keep the peace for a period of one year, and that order was confirmed by the District Magistrate and by the Court of the Judicial Commissioner. The offence which he had committed was connected with an agitation against payment of the *mahar baluta*, and it appears that in the course of such agitation he did not confine himself to protests, however vehement, against the tax, or against its injustice, but that he urged an organised resistance to payment, and attempted to establish a system which would have impeded and might have

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(1) (1902) I. L. R. 29 Calc. 890.

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defeated its recovery with grave danger to the public peace. These considerations led to the conviction to which reference has been made, and caused his conduct as a pleader to be brought before the Court in their jurisdiction under the Legal Practitioners Act of 1879. Their Lordships are of opinion that the circumstances to which they have referred were sufficient to find jurisdiction under s. 13 (f) of that Act, which is not confined to acts done in a professional capacity, and for these reasons they think that no leave to appeal ought to be granted in this case, and they will humbly advise His Majesty accordingly.

A. M. T.

Solicitor for petitioner : *E. Dalgado.*

Solicitor for respondent : *Solicitor, India Office.*

SPECIAL BENCH.

Before Sanderson C. J., Woodroffe and Mookerjee JJ.

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RABINDRACHANDRA CHATTERJEE, *In re.**

Jan. 23.

Legal Practitioner—Misconduct—Jurisdiction—What Court can institute proceedings—Legal Practitioners Act (XVIII of 1879), s. 14.

A District Judge is entitled to institute proceedings under section 14 of the Legal Practitioners Act against a pleader practising in the Court of the said Judge, if he be of opinion that the allegations against the pleader, if proved, would amount to professional misconduct within the meaning of the Act. It is not necessary that the alleged misconduct on which the proceedings are based must take place entirely in the Court of the said Judge.

In the matter of Babu Het Ram (1) followed.

It cannot be said that there is no legal foundation for such proceedings because details of the information on which proceedings are based have not

* Special Bench in Civil Rule, No. 480 of 1921, in a proceeding under s. 14 of the Legal Practitioners Act.

(1) (1901) 2 P. L. R. No. 188.