

Supreme Court to examine if high court can bar lawyers

The Supreme Court is to examine Monday if a high court has the power to bar a lawyer from practising before it and in the lower courts in the respective state.

A bench of Chief Justice K.G. Balakrishnan has been called upon to decide on the crucial question impinging upon the independence of the bar. The plea has been moved by advocate K.K. Jha, who stands convicted on charges of contempt of court by the Jharkhand High Court.

While convicting a 'cantankerous' Jha July 3 last year for showing disrespect to the judiciary, the high court sentenced him to six months in jail. It also barred him from practising before it or any other court in the state.

The high court also referred the matter to the Bar Council of Jharkhand to examine if the lawyer's act of showing disrespect to the court amounted to professional misconduct.

Jha was convicted on the contempt of court charges for questioning and declaring as wrong a civil judge's order and seeking the judge's prosecution under section 219 of the Indian Penal Code (IPC). The relevant section provides for seven-year jail term to an official for issuing wrong or illegal orders.

Jha subsequently moved the apex court against his conviction and sentencing.

While hearing Jha's petition, the apex court Dec 3 suspended his sentence entailing the jail term but ignored the other part of the high court order that barred him from practising in any court in the state.

'Though I am free to practise in courts outside Jharkhand, I cannot hope to get any legal brief in a place where people do not know me. This has driven me to the verge of starvation, affecting my fundamental right to life under Article 21 of the constitution,' Jha told IANS.

In his petition to the apex court, he also contended that as per the Advocates Act, 1961, and a 1998 judgement of a five-judge constitutional bench of the Supreme Court, only the Bar Council of India or the Bar Council of State are empowered to cancel an advocate's license and prevent him from practising before a court.

'Neither the constitution of India nor parliament in their wisdom have empowered courts to exercise the powers under the Advocate Act, 1961, to maintain the independence of the Bar,' pointed out Jha.

'For a sound health of the legal and judicial system in the country, the independence of the Bar is as important and necessary as that for the bench,' he added in his petition.

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