

IN THE MATTER OF RANJANADEVI UTTAMRAO NIKAM, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H B Holmes (in the chair)
Mr D Glass
Mrs S Gordon

Date of Hearing: 28th May 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Ian George Miller, a solicitor of Bevan Brittan LLP, Fleet Place House, 2 Fleet Place, London EC4M 7RF on 4th June 2008 that Ranjanadevi Uttamrao Nikam, a solicitor, might be required to answer the allegations contained in the statement that accompanied the application and that such order might be made as the Tribunal should think right.

The allegations against the Respondent were that she had acted contrary to Practice Rules 1(a) and (d) of the Solicitors Practice Rules 1990 and/or Conduct Rules 1.01, 1.02 and 1.06 of the Solicitors Code of Conduct 2007 in that:-

1. Between 13th September 2004 and 31st October 2004, the Respondent had practised as a solicitor in England and Wales when such a practice was not permissible under the terms of her student visa.
2. Between 31st October 2004 and 31st October 2007, the Respondent had practised as a solicitor in England and Wales when she was not in possession of a visa to remain in the UK.

3. The Respondent had made an application for a waiver of Practice Rule 13 to the Law Society under the Solicitors' Practice Rules 1990 when she had known or ought to have known that she could not run her own practice under the terms of her student visa.

The application was heard at the Court Room, Third Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 28th May 2009 when Ian George Miller appeared as the Applicant and the Respondent appeared in person.

The evidence before the Tribunal included correspondence, a chronology of events and statements with exhibits filed by the Respondent together with the submissions of both the Applicant and of the Respondent.

At the conclusion of the hearing the Tribunal made the following Order:-

The Tribunal Orders that the Respondent, RANJANADEVI UTTAMRAO NIKAM, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 28th day of May 2009 and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,238.90.

The facts are set out in paragraphs 1 - 4 hereunder

1. The Respondent was admitted as a solicitor on 1st February 2004 following her successful completion of the Qualified Lawyers Transfer Test ("QLTT"). Her date of birth is 14th December 1966. She remains on the Roll of Solicitors.
2. On 15th July 2004, the Respondent was granted a waiver under Rule 13 of the Solicitors' Practice Rules 1990 to enable her to become a sole practitioner without the need for her to complete three years of legal practice in England and Wales.
3. The Respondent commenced practising as a sole principal at Rano Nikam & Co on 13th September 2004. The former address for this practice was First Floor, 618 Stockport Road, Longsight, Manchester M13 0RQ. The practice then moved to Studio 8, First Floor, Longsight Business Park, 69 Hamilton Road, Manchester M13 0PD.
4. The Border and Immigration Agency ("the Agency") advised the Solicitors Regulation Authority ("SRA") orally on 7th August 2007 that:-
 - (a) On 18th May 2001, the Respondent had entered the United Kingdom as a student to enable her to sit the QLTT.
 - (b) On 23rd November 2001, the Respondent had made an application for a student visa to remain in the UK. That application had been granted on 24th April 2002. The Respondent had leave to remain in the UK as a student until 30th September 2002.
 - (c) A further application for leave to remain in the UK as a student had been made by the Respondent on 27th September 2002. That leave was granted on 4th

December 2002 and the Respondent had been able to remain in the UK until 30th September 2003.

- (d) A further application for leave to remain in the UK as a student had been made by the Respondent on 29th September 2003. That leave had been granted on 29th October 2003 and the Respondent had been able to remain in the UK until 31st October 2004.
- (e) Although the Respondent had applied for further leave to stay in the UK, that had been refused on 11th January 2006. She had further asked for the refusal to be reconsidered by the Agency but that request had been refused on 31st May 2006.
- (f) On 18th September 2006, the Respondent had made an application for judicial review against the refusal of her application by the Agency. That application had been refused on 14th July 2007.
- (g) The Respondent had also made application for a visa under the highly skilled migrant programme but that had been refused as she had failed to meet the relevant criteria.
- (h) The Respondent further had made a “non asylum application”. That application had been refused.
- (i) On 5th September 2007 the Agency had confirmed to the SRA that the Respondent had exhausted her rights of appeal through the immigration process and, therefore, she had been passed to the Home Office’s enforcement section where consideration of deportation was to be made.

The Submissions of the Applicant

5. The Applicant told the Tribunal that the Respondent denied the three allegations. However, he submitted that the facts of the matter were both simple and straightforward. The Applicant explained that the Respondent had only been legally able to remain in the UK under the terms of her student visa until 31st October 2004.
6. Under the terms of her student visa the Respondent had been restricted from working full-time in a permanent job or to work for more than 20 hours per week during term time. The Applicant submitted that these restrictions had not allowed the Respondent to practice as a sole practitioner between 18th May 2001 and 31st October 2004, nor after the expiry of her student visa on 31st October 2004 to work at all.
7. The Applicant explained that the Respondent had applied for and been granted a waiver under Practice Rule 13 on 15th July 2004. He submitted that in applying for the waiver, the Respondent knew or ought to have known that her student visa would not allow her to work as a sole practitioner.
8. The Applicant submitted that it was difficult to understand how the Respondent could have practised as a solicitor without appreciating that she was not entitled to do so and accordingly her acts and her application for a waiver appeared to amount to conscious

impropriety or dishonesty. The Respondent had commenced practice in September 2004, her student visa had expired on 31st October 2004 and she had continued in practice, until September 2007, when her practice had been subject to intervention.

9. The Applicant explained that he was aware that the Respondent was concerned because the QLTT did not have particular immigration consequences. However, the position he submitted was that the Respondent had damaged the reputation of the profession by setting up her own practice and working when she had no legal right to work in the UK.
10. The Applicant produced a schedule of costs of £5,238.90.

The Submissions of the Respondent

11. In response to a question from the Tribunal, the Respondent confirmed that she denied all three of the allegations against her. She referred to her chronology of events and her two statements all of which were before the Tribunal. The Respondent also referred to a College of Law information sheet on the QLTT. She explained that she had been qualified in India for some six years before she took and passed the QLTT. In essence, the Respondent submitted that she had been misled by the Law Society that passing the QLTT would result in her both qualifying as a solicitor and being able to practise in England and Wales. The Respondent criticised the Law Society for failing to make arrangements with The Home Office to obtain directives in relation to the immigration status of non-EEA lawyers.
12. The Respondent referred to the Immigrant Lawyers Scheme launched by the Law Society in May 2009. She also referred to the General Agreement on Trade in Services. The Respondent submitted that if the Law Society had registered the QLTT qualification with the Home Office, she would have been able to work as a solicitor in England and Wales. The Respondent accepted that she had been both self employed and doing business but stressed that she had been incorrectly advised by the Home Office. She maintained that she had been told that she did not need a visa as she had obtained a professional qualification. The Respondent submitted that the Law Society had produced a misleading advertisement for the QLTT with the result that she had obtained a useless qualification.

The Decision of the Tribunal

13. Having considered all the evidence and the submissions of both the Applicant and the Respondent, the Tribunal found the first two allegations proved. However, the Tribunal did not find the third allegation proved. Moreover, the Tribunal was not satisfied that in practising as a solicitor in England and Wales between 13th September 2004 and 31st October 2004 under the terms of her student visa and between 31st October 2004 and 31st October 2007 without the benefit of any visa, the Respondent had been acting dishonestly within both the objective and the subjective tests of the case of *Twinsectra*.
14. The Tribunal was extremely concerned that the Respondent appeared not to have distinguished between her need to obtain the right to live and work within the jurisdiction and her need to obtain the relevant professional qualification to practise as

a solicitor within England and Wales. The Tribunal did not accept that the Law Society had represented that obtaining the QLTT qualification involved an automatic right to live and work within the jurisdiction. The Tribunal noted that the Respondent had complaints outstanding with the Home Office and that she had been concerned that she had been given incorrect advice. However, her immigration status and her professional status were two separate matters. The Tribunal was satisfied so that it was sure on the facts that the Respondent had practised as a solicitor in England and Wales between 13th September 2004 and 31st October 2004 when such a practice was not permissible under the terms of her student visa and between 31st October 2004 and 31st October 2007 when she was not in possession of a visa to remain within the UK. However the Tribunal had not been persuaded that the Respondent had considered herself to be acting dishonestly. The Tribunal accepted that the Respondent had believed that errors had occurred and that her position would eventually be regularised. However, given that the Respondent's immigration position had not been resolved in her favour, the Tribunal considered that indefinite suspension was appropriate. The Tribunal noted that if the Respondent did subsequently succeed in obtaining the relevant authority to live and work within the jurisdiction, it would be open for her to apply for the indefinite suspension to be lifted.

Dated this 11th day of September 2009
On behalf of the Tribunal

A H B Holmes
Chairman