

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition No.30116 of 2015  
& M.P.No.1 of 2015

K.Shanavas

... Petitioner

Vs.

1. The Secretary to Government,  
Law (Administration) Department,  
Fort St. George, Chennai-9.
2. The Passport Officer,  
Passport Office, 1<sup>st</sup> Floor,  
Corporation Commercial Complex,  
Avanashi Road, Coimbatore-18.
3. The Principal District Judge,  
Salem.

... Respondents

PRAYER: PETITION is filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari to call for the records relating to the proceedings of the first respondent in G.O.Ms.No.259, Law Department dated 16.07.2015 and quash the same.

For Petitioner : Mr.M.Devaraj

For Respondents : Mr.P.Sanjay Gandhi  
**Additional Government Pleader**  
For R1

: **Mr.K. Raju, CGSC For R2\***

WEB COPY  
ORDER

The petitioner was appointed as Notary in Salem District for a period of three years with effect from 27.02.1998. Thereafter, it was renewed from time to time.

2. The Passport Officer, Coimbatore, made a request for taking appropriate action on the petitioner since the affidavit of the deponent, though did not contain signature, was notarized by the petitioner. Accordingly, enquiry was initiated, pursuant to which, the Principal District Judge, Salem, has filed a report. On consideration of the Report, the name of the petitioner was removed from the register of notaries. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that what has been done is a mistake. There was no complaint whatsoever against the petitioner from 27.02.1998 onwards. As the said mistake has been committed due to pure negligence, the order impugned will have to be set aside.

4. The learned Additional Government Pleader appearing for the respondents submitted that after thoroughly analysing the report submitted by the Principal District Judge, Salem, the impugned order has been passed. As there is no dispute on facts, no interference is required.

5. There is no dispute that the petitioner has committed an error. According to the petitioner, it has been done due to oversight. Prior to this incident, there is no complaint against the petitioner and if the petitioner is permitted to serve as Notary, he would be careful in future.

6. Though the power of judicial review in this matter is very limited, the doctrine of reasonableness has been expanded to that of proportionality. The petitioner has suffered sufficiently. By the order dated 16.07.2015 under challenge, the petitioner has been debarred from practising as Notary. Considering the peculiar facts and circumstances of the case, this Court is of the view that the order impugned is not proportionate to the misconduct alleged against the petitioner. Accordingly, the order impugned is set aside and modified to one of suspension till 29.2.2016, the date on which the present Notary gets expired. However, the petitioner can act as a Notary from 01.03.2016, subject to the other compliance including the renewal, if any. In the meanwhile, the petitioner is directed to apply for renewal with effect from 01.03.2016, which has to be considered by the 1<sup>st</sup> respondent on merits without taking into consideration of the order impugned. It is

also made clear that the petitioner is directed to be very prudent and careful in future while endorsing any affidavit or document.

7. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)  
dt. 15.12.2015

Corrected as per the order of  
this Court dated 4.03.2016 and  
made herein

Sd/-  
Assistant Registrar(CO)  
dt. 16.03.2016

//True Copy//

Sub Assistant Registrar

raa  
To

1. The Secretary to Government,  
Law (Administration) Department,  
Fort St. George, Chennai-9.

2. The Passport Officer,  
Passport Office, 1<sup>st</sup> Floor,  
Corporation Commercial Complex,  
Avanashi Road, Coimbatore-18.

To be substituted to the  
order already despatched  
on 21.1.2016 and made in  
WP.No.30116 of 2015

3. The Principal District Judge,  
Salem.

+lcc to Mr.M.Devaraj, Advocate, S.R.No.65635

+lcc to Mr.K.Raju, Advocate, **S.R.No.14371\***

+lcc to the Government Pleader, S.R.No.65705

VS(CO)  
CA(16/12/2015)  
EU 17.03.2016

W.P.No.30116 of 2015