

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.18786 of 2011

Between:

N. Anjaiah

PETITIONER

AND

1. The Government of A.P. rep. by its Principal Secretary, Revenue (Regn.II) Department, Secretariat Buildings, Hyderabad, and another.

RESPONDENTS

ORDER:

The present writ petition came to be filed for issuance of a Writ of Mandamus declaring the impugned G.O.Ms.No.1441, dated 21.12.2010 issued by the 1st respondent as illegal, arbitrary and violative of principles of natural justice.

The averments in affidavit filed in support of the writ petition are as under:-

The petitioner enrolled as an Advocate in the year 1979 and has been practicing at Karimnagar since then. He was appointed as a Notary under the provisions of the Notaries Act, 1952 vide Certificate of Practice issued by the 1st respondent-Principal Secretary to Government of Andhra Pradesh, for a period of three years vide G.O.Ms.No.6, dated 02.01.1996. Thereafter, the same was renewed for further period of three years through G.O.Rt.No.642, dated 20.04.1999. It is stated that after expiry of the said period the petitioner once again submitted an application on 15.04.2006 seeking renewal of his Certificate of Practice for the period 2002 to 2006 after complying all the requirements. Like wise, the petitioner also submitted an application on 5.02.2011 seeking renewal from 2007 to 2010. While things stood thus, the 1st respondent issued the impugned G.O.Ms.No.1441 Revenue (Regin.II) Department dated 21.12.2010 removing the name of the petitioner as Notary on the ground that he has not renewed his Certificate of Practice after its expiry in 2002. Hence the petitioner filed the present writ petition questioning issuance of G.O. on the ground that the reasons given therein are false.

A counter affidavit came to be filed by the respondents stating that

the petitioner was initially appointed as Notary on 02.01.1996 for a period of three years and subsequently the same was renewed on 20.04.1999 for a further period of three years i.e., up to 19.04.2002. There after, though the petitioner had applied for renewal of his C.O.P., the same was not renewed, but the petitioner went on practicing as Notary till his name was removed on 21.12.2010 which is an offence under Section 12(a)(b) of the Notaries Act, 1952. It is further stated in the counter that as per Rule 8-B of the Notary Rules, the Certificate of Practice issued under sub-rule (4), may be renewed for a further period of five years on payment of prescribed fee and the application for renewal of Certificate of Practice shall be submitted to the appropriate Government before three months from the date of expiry of its period of validity. Mere applying for renewal of his Certificate of Practicing does not confer any right to further continue as Notary. For all the lapses on the part of the petitioner, his name is liable to be removed from the Register of Notaries for laches and failure to pursue action under Section 10(f) of the Notaries Act, 1952.

The learned Government Pleader for Revenue on instructions submits that though the Certificate of Practicing expired in the year 2002 the petitioner continued as Notary till 2010 without any right and that itself is sufficient to dismiss the writ petition.

As seen from the record, the petitioner is a practicing advocate at Karimnagar. He was given Certificate of Practice in the year 1996. Even as per the counter filed by the respondents, the petitioner functioned as Notary from 1996 to 2002. In the year 2002 the petitioner applied for renewal of his Certificate of Practicing for a period of five years by paying requisite fee. Though the same was not renewed, he continued as Notary till 2010. Having kept quiet for 10 years he preferred the present writ petition in the year 2011 contending that he was functioning as Notary till 2010.

The averments in the affidavit show that initially the petitioner applied for renewal from 2002 to 2006 and then from 2007 to 2010, which

clearly show that he was functioning as a Notary though no licence was given to him. Therefore, it cannot be said that the petitioner has not sought for renewal of the Certificate of Practice.

In view of the same, without going into the merits of the case, the writ petition is disposed of permitting the petitioner to make a representation to the respondent-authorities seeking permission to appoint him as Notary and on such representation being received, the respondents shall consider the same, if it is in order, provided the appointments of Notaries are being made as of now, and pass appropriate orders in accordance with law, as early as possible.

There shall be no order as to costs. Pending miscellaneous petition, if any, shall also be closed.

JUSTICE C. PRAVEEN KUMAR

8th July, 2015
Js.