

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17117 of 2013

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1. Uma Shankar Sharma Son Of Late Ram Sakal Sharma Resident Of
Village- Khalkochak, P.S.- Makhdumpur, District- Jehanabad, Presently
Residing At Mohalla- North Lokhibag, P.S.- Moffasil, Dist- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Department Of Law,
Government Of Bihar, Patna
2. The Secretary, Department Of Law, Government Of Bihar, Patna
3. The Joint Secretary, Department Of Law, Government Of Bihar, Patna
4. The Under Secretary, Department Of Law, Government Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Prasad

For the Respondent/s : Mr. Prashant Pratap

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

5 22-07-2016

Heard the counsel for the petitioner and the State.

The petitioner was allowed to practice as Notary and entered his name in the register of the Notary under the Notaries Act, 1952 (for short 'the Act'). Before amendment of the Act anyone whose name is entered in the register was entitled to practice as such for a period of 03 years. It is stated that on being renewed the petitioner continued to practice as Notary. The certificate to practice issued in favour of the petitioner was to expire on 16.3.1999. It is stated that prior thereto the Notary Rules framed under the Act was amended w.e.f. 08.07.1997 wherein it was provided that such renewal shall now be for a



period of 05 years on a payment of renewal fee of Rs. 500/- instead of Rs. 100/- Petitioner claims to have deposited a sum of Rs. 500/- on 14.3.1999 for subsequent years upto 2004 and again in 2009. The respondents issued notice to the petitioner to the effect that his renewal fee for the year 2002 to 2007 and 2007 onwards was not paid within time by him according to the provisions of the Act. Another communication dated 6.5.2010 (Annexure-8 to the supplementary affidavit) was issued explaining the reasons for taking action against the petitioner which was responded by the petitioner. Having done so, the respondent Secretary, Department of law, by the impugned order (Annexure-1) struck off the name of the petitioner from the register of the Notaries. Aggrieved thereby the writ petition is filed.

Heard the counsel for the petitioner and AC to GP-6 for the State.

It is submitted by the petitioner as the Rules were amended prior to amendment in the Act, the petitioner deposited a sum of Rs. 500/- on 16.03.1997 and on such deposit the certificate to practice as Notary ought to have been renewed from 1999 to 2004. The respondents, having considered this aspect of the matter had accepted deposit made by the petitioner in 2004 and

2009. Rs. 500/- is the enhanced fee for such renewal of certificate to practice as Notary.

The respondent, on the other hand, states that the Act itself provides a tenure for which such certificate to practice as Notary can be issued/renewed. Before amendment effected in the Act w.e.f. 17.12.1999 the period provide was 03 years. The certificate to practice issued to the petitioner had expired on 16.3.1999. As per the substantive provisions of the Act, he was required to deposit the amount for renewal before 2002. As per the Act, the amount deposited by the petitioner was rightly considered as the fee for renewal of the certificate to practice till 2002. Thereafter there has been default on the part of the petitioner in depositing the renewal fee. This is the reason for striking off his name from the register of the Notaries.

There may be some confusion on the part of the petitioner in not depositing the fee before the expiry of the licence. The certificate to practice as Notary had expired on 16.03.1999. As the Act was not amended, any renewal could have been made only for a period of 03 years which is the stand of the respondents. The Court would have interfered with the order if no opportunity of filing show cause or submitting explanation was offered to the petitioner. On going through Annexure-6 as well as Annexure-8 it

does appear to the Court that the petitioner was given an opportunity to submit his explanation. It is not the case of the petitioner or the respondents that once the name of a Notary is struck off from the register, he cannot be considered afresh for grant of certificate to practice as Notary. This is another reason which has propelled the Court not to interfere with the order granting the petitioner liberty to make a fresh application for his enrolment in the register for practice as the Notary.

The writ application is, accordingly, disposed of.

(Kishore Kumar Mandal, J)

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