

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.18364 of 2013

M.Ramesh

.. Petitioner

Versus

1.The Government of India,  
Rep. by its Secretary to Government,  
Department of Legal Affairs,  
Ministry of Law and Justice,  
4<sup>th</sup> Floor, 'A' Wing,  
Shastri Bhawan, New Delhi.

2.The Deputy Legal Advisor &  
Competent Authority,  
Department of Legal Affairs (Notary Cell)  
Ministry of Law and Justice,  
4<sup>th</sup> Floor, 'A' Wing,  
Shastri Bhawan,  
New Delhi.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned orders in F.No.5(31)/2011-NC (Tamil Nadu) dated 04.06.2013 passed by the 2<sup>nd</sup> respondent, quash the same and consequently direct the respondents to appoint the petitioner as a Notary by considering his application dated 16.03.2011 afresh in accordance with the Notaries Rules, 1956.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.K.Raju

Central Government Standing  
Counsel

O R D E R

This writ petition is filed seeking for Writ of Certiorarified Mandamus calling for the records pertaining to the impugned orders in F.No.5(31)/2011-NC (Tamil Nadu) dated 04.06.2013 passed by the 2<sup>nd</sup> respondent, quash the same and consequently direct the respondents to appoint the petitioner as a Notary by considering his application dated 16.03.2011 afresh.

2. The facts of the case is that, the petitioner's application for appointment as a 'Notary' was rejected by the second respondent by an order dated 04.06.2013, on the ground that Column 10(2) of Form 1 is incomplete/incorrect. The petitioner's application was made in Form-1 Column 10(2) therein reads thus:

"10(2) that the memorialist resides in .....(here state the name of the local area or name of court where he intends to practice) and will reside for the upwards of .....(state how long)."

3. Challenging the rejection order dated 04.06.2013, passed by the second respondent, the petitioner has filed this Writ Petition.

4. Heard Mr.N.Manokaran, learned counsel on behalf of the petitioner and Mr.K.Raju, learned standing counsel on behalf of the respondents.

5. On bare perusal of the order impugned in this Writ Petition, it is seen that the second respondent has rejected the petitioner's application without calling for any explanation from the petitioner by way of giving him an opportunity to put forth his explanation. The arbitrary action in rejecting the petitioner's application without giving him an opportunity amounts to violation of the principles of natural justice and on this sole ground, the order is liable to be quashed.

6.Nevertheless, it would be appropriate to point out that, the petitioner in Column 10(2) of Form 1 had mentioned thus:

"1.That the memorialist is a person eligible for appointment as a notary under the Notaries Act, 1952 and Clause(a) of Rule 3 of the Notaries Rules, 1956.

2.That the memorialist resides in Old Washermenpet, Chennai for more than 10 years and is practicing Advocate at Chennai.

3.....

4....."

A copy of the petitioner's application has been annexed to the typed set of papers in this Writ Petition. The rejection order is also non-speaking order since the rejection does not say, in what aspect Column 10(2) of Form 1 is either incomplete or incorrect.

7. On the other hand, the petitioner's statement in his application that he is residing in Old Washermenpet, Chennai for more than 10 years and has been a practicing Advocate in Chennai would clearly establish that he has furnished the required details in his application and therefore, the impugned order ought not to have been rejected on this ground.

8. In view of the above observations, the second respondent's rejection order dated 04.06.2013 is liable to be set aside and is accordingly quashed. The Second respondent is consequently directed to consider the petitioner's application/memorial dated 16.03.2011 afresh in the light of the above observation and pass orders in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

9. With the above observation, the Writ Petition is allowed. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rm

To

1. The Secretary to Government,  
Department of Legal Affairs,  
Ministry of Law and Justice,  
4<sup>th</sup> Floor, 'A' Wing,  
Shastri Bhawan, New Delhi.
2. The Deputy Legal Advisor &  
Competent Authority,  
Department of Legal Affairs (Notary Cell)  
Ministry of Law and Justice,  
4<sup>th</sup> Floor, 'A' Wing,  
Shastri Bhawan,  
New Delhi.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.69558  
+1cc to Mr.K.Raju, Advocate, S.R.No.69049

W.P.No.18364 of 2013

ALA(CO)  
MA(28/12/2016)