

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 22.07.2019****CORAM****THE HON'BLE MR.JUSTICE R.SURESH KUMAR****W.P. (MD) No.16190 of 2019**

A.Paul Melkiur

... Petitioner

-Vs-

1.The Law Secretary,
Ministry of Law & Justice
Government of India,
Shastri Bhavan,
4th Floor, "A" Wing,
Dr.Rajendra Prasad Road,
New Delhi - 110 001.

2.The Deputy Legal Adviser & CA
Ministry of Law and Justice
Government of India,
Shastri Bhavan,
4th Floor, "A" Wing,
Dr.Rajendra Prasad Road,
New Delhi - 110 001.

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of 2nd respondent in F.No.N-12012/3/2016-NC dated 24/05/2019 quash the same and consequently directing the 1st respondent herein to consider the petitioner's application dated 29/04/2016 for extension of area of practice for Notary in Ramanathapuram District on merit and in accordance with law within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondents : Mr.V.Malaiyendran, CGSC

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of 2nd respondent in F.No.N-12012/3/2016-NC dated 24/05/2019 quash the same and consequently directing the 1st respondent herein to consider the petitioner's application dated 29/04/2016 for extension of area of practice for Notary in Ramanathapuram District on merit and in accordance with law within a reasonable time as may be fixed by this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard Mr.S.Srinivasa Raghavan, learned counsel appearing for



the petitioner and Mr.V.Malaiyendran, learned Central Government Standing Counsel, who accepts notice for the respondents.

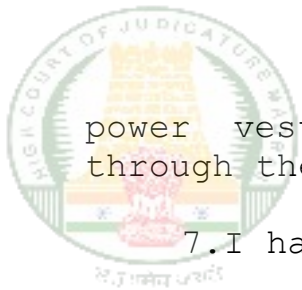
3.The petitioner has already a permitted Notary Public under the Notaries Act by the Central Government and his area of practice is Sivaganga District of Tamil Nadu State. While so, the petitioner applied to the respondent Central Government vide his application dated 29.04.2016 for extension of his practice area to neighbouring District viz., Ramanathapuram District also. The said application has been rejected by the present impugned order dated 24.05.2019 passed by the 2nd respondent, which reads thus:

"With reference to your application dated 29.04.2016, the undersigned is directed to inform you that your request pertaining to extension of area of practice has been considered and the same has not been acceded to by the appropriate Government."

4.The learned counsel appearing for the petitioner submitted that Rule 8(A) of Notaries Rules, 1956 made it clear that, the existing Notaries, who are practising in a particular area can seek for extension of area and in this regard, application can be made for sufficient reasons under Rule 8(A) of the Notaries Rules and once such application is made to the Central Government, who already permitted the applicant as Notary in a particular area, they shall decide the same on merits and pass orders. While such power is vested with the respondent Central Government and such an application was made by the petitioner, the same should have been decided on merits and if at all, they decided to reject the application of the petitioner, they have to give reasons and the present impugned order has been passed bereft of reasons. The same shall not stand in the legal scrutiny in the context of Rule 8A of the Notaries Rules and therefore, the learned counsel appearing for the petitioner seeks indulgence of this Court against the impugned order.

5.I have heard the learned Central Government Standing Counsel appearing for the respondents, who would submit that, the respondent Central Government has got every power to reject the application of the petitioner for extension of area of practice and this has been specifically empowered under Rule 8A of the Notaries Rules as per the language that, the Central Government, as the case may be, shall, after considering the reasons stated in the application and other factors, pass such orders thereon, as it may deem fit.

6.By relying upon this language used in Rule 8(A) of the Notaries Rules, the learned standing counsel would submit that, the Central Government deem it fit, can be passed either accepting or rejecting the application for extension of the area of practice by a Notary concerned and therefore, the said



power vested with the Central Government is being exercised through the impugned order need not be interfered with.

7. I have heard the said submissions made by both sides.

8. Since in the impugned order, admittedly no reasons have been given by the respondent Central Government for the rejection of the plea of the petitioner for extension of area of practice and the authority, who exercised the power can pass any orders either positively or negatively must give reasons for such a decision taken by the authority to pass the said order and herein, in the case in hand, no such reasons have been admittedly given by the respondent in the impugned order for rejecting the plea of the petitioner, this Court has no hesitation to hold that the impugned order cannot be sustained in the eye of law as it is nothing but an arbitrariness. Therefore, this Court is of the considered view that the impugned order cannot be sustained.

9. In that view of the matter, this Court is inclined to dispose of this writ petition, with the consent of both sides, at the admission stage, with the following direction:

"The impugned order is quashed and the matter is remitted back to the respondents for reconsideration. While making such reconsideration, the respondents shall scrutinize the reasons given by the petitioner in his application for seeking extension of area of practice and decide the same on merits and accordingly, final order can be passed by the respondents, within a period of four weeks from the date of receipt of a copy of this order."

10. With this direction, this writ petition is disposed of. No costs.

Sd/-

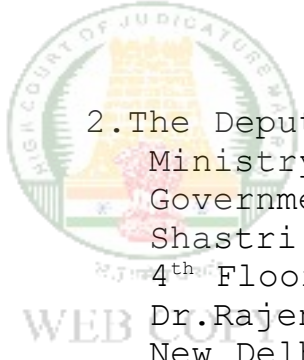
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

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+1 CC to M/s.V.MALAIYENDRAN, Advocate (SR-76731[F] dated
22/07/2019)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-76752[F] dated
22/07/2019)

ARUL

Order made in
W.P.(MD)No.16190 of 2019

Dated:
22.07.2019

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