



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 736 OF 2022

(Smt.Kanchan Girish Nimbulkar Vs. Union of India and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.V. Bhutada, Advocate for Petitioner.
Mr. N.S. Deshpande, DSGI for Union of India.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 28-4-2025

Heard Mr. Bhutada, learned counsel for petitioner,
Mr. Deshpande, learned DSGI for the respondents assisted by
Mr. Dhumne, learned standing counsel for Central Government.

2. The petition questions the show cause notice dated 12.1.2022 (p 19) issued by the competent authority under Rule 13 of the Notary Rules as well as the subsequent show cause notice dated 31.3.2022 (p22) on the ground, that in terms of the scheme of rule 13 of the Notary Rules which contemplates the manner in which the enquiry into allegations of professional or other misconduct of a notary is to be conducted, such a notice has to be given by the appropriate Govt, which in this case, is the Central Govt. and it is only after the written statement of the concerned notary is received and upon perusal of the written statement and other relevant papers, the appropriate Govt. considers that there is a prima facie case made out, the enquiry in that regard shall be caused to be made by the competent authority. It is therefore, contended that since both the

notices have been issued by the competent authority without following the procedure as contemplated by Rule 4A to 6 of the Notary's Rules, 1956, the same cannot be sustained. It is also contended, that the subsequent notice, issued by the Central Govt. dated 11.3.2025 (p 8) of the Civil Application No. 717/2025, is hit by the proviso to rule 13(3) of the Notary Rules also cannot be sustained.

3. Mr. Deshpande, learned DSGI, opposes the petition contending that at times, the role of the appropriate Govt and the competent authority would be supplementary to each other and therefore, merely because the earlier two notices have been issued by the competent authority nothing would turn around it. He further contends that the proviso to rule 13(3) of the aforesaid rules would not be attracted as there is no enquiry conducted of any nature in respect of the allegations for which the earlier two show cause notices have been issued, as the proviso is intended to protect the notary, from double jeopardy.

4. The notice dated 12.1.2022 (p 19), already stands withdrawn in terms of the subsequent notice dated 31.3.2022 (p 22) on account of which the challenge to the same, does not survive.

5. Having perused rule 13 of the Notary's Rule 1956, we find, that Mr Bhutada, learned counsel for petitioner is correct in his contention, that the initial show cause notice containing a statement specify the charges against notary together with the particulars of the documentary evidence

relied upon in its support, has to be issued by the appropriate Govt. This is a position which is spelt out from the language of Rule 13(4A) of the Rules 1956. It is only after receiving a written statement in terms of Rule 13(5) and applying its mind thereto and thereafter finding that prima facie case is made out that the matter then has to be referred to the competent authority in terms of rule 13(6) who is thereupon called to make an enquiry and submit a report to the appropriate Govt. Considering the scheme of the enquiry as contemplated by rule 13(4A) to 6 of the Rules, we find that the show cause notice dated 31.3.2022 (p22) which has been issued by the competent authority cannot be sustained and is required to be quashed and set aside which we accordingly do.

6. That takes us to the next contention of the learned counsel for petitioner that proviso to rule 13(3) of the Notary's Act would debar the issuance of a fresh notice under rule 13(4A), on the same set of circumstances. In this context, considering the language of the proviso to rule 13(3) of the Notary's Act, we find that the same is enacted in order to prevent 2nd enquiry being made on the same set of facts and therefore, entails to protect the concerned notary, from double jeopardy. In the instant matter, it is an admitted position, that no enquiry whatsoever has been conducted till date in respect of the allegations as contained in the context of the notice dated 31.3.22 issued by the competent authority or for that matter, in respect of the allegations, which the petitioner is facing. In that view of the matter, we do not see the proviso to rule 13(3) of the Notary's Rule being attracted

in the present matter.

7. We therefore, are of the opinion that since the show cause notice dated 11.3.2025 has been issued by the appropriate authority, it would now be open for the petitioner to file her written statement in terms of rule 13(5) of the aforesaid rules and satisfy the appropriate Govt that there is no substance in the allegations made against her. The petitioner is therefore, directed to file reply to the show cause notice dated 11.3.2025 within a period of 15 days from today and it is for the appropriate Govt. to take action in terms of rule 13(5) and onwards of the Notary's Rules.

We therefore, partly allow the petition in terms above.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

Belkhede