
(1996) 05 P&H CK 0187
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3677/95

Kewal Krishan Abrol, Advocate

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 24-05-1996

Acts Referred:

Notaries Rules, 1956 — Rule 8

Citation : (1996) 2 CivCC 549 : (1996) 114 PLR 344

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : None, for the Appellant; S.V. Rathee, for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed for issuing a writ of mandamus directing the respondents to appoint the petitioner as a Notary at Ambala Sub Division, Ambala.

2. The petitioner is a practising Advocate at Ambala. The Government of Haryana decided to appoint three Notaries in Ambala Sub Division and wrote a letter to the Deputy Commissioner, Ambala, to send a panel of competent Advocates for appointment as Notaries. Accordingly, the Deputy Commissioner, Ambala, recommended the names of three Advocates for being appointed as Notaries. The petitioner's name is found in the panel of names communicated by the 2nd respondent to the Government of Haryana for being appointed as Notaries under the Notaries Act, 1952. The Government of Haryana appointed only two practising Advocates out of the list of 3 Advocates and did not appoint the petitioner as a Notary. On 23.1.1995 the Financial Commissioner and Secretary to Govt. Haryana addressed a communication to the Deputy Commissioner, Ambala that out of the panel of three Advocates recommended by him, two posts of Notary Public have been kept vacant in Sub Division, Ambala. There is nothing on record to show why the petitioner was not appointed as Notary. It appears that no reason has been assigned for not appointing the petitioner as Notary.

3. u/s 3 of the Notaries Act, 1952, the Central Government for the whole or any part of India and any State Government, for the whole or any part of the State, may appoint a Notaries any legal practitioners or other persons who possess such qualifications as may be prescribed under the rules. Under Rule 4 of the Notaries Rules, 1956 a person may make an application for appointment as a Notary in the form of a memorial addressed to such Officer or authority (competent authority) of the appropriate Government as that Government may, by notification in the official Gazette designate in this behalf. On the receipt of the application, the competent authority may consider the application and recommend to the appropriate authority having regard to the matter enumerated in Rule 7 of the said Rules. Under Rule 8 of the Rules, on the receipt of the report of the competent authority, the appropriate Government shall consider the report and shall allow the application in respect of the whole of the area to which it relates or allow the application in respect of any part of the area to which it relates or reject the application and shall also make such orders as the Government thinks fit regarding the persons by whom the whole or any part of the cost of the application including the cost of hearing, if any, shall be borne. Under Sub-rule (2) of Rule 8 of the Rules, the applicant shall be informed of every order passed by the appropriate Government under Sub-rule (1). Under Sub-rule 3 of Rule 8 of the rules, the applicant, whose application has been rejected or allowed in respect of only a part of the area to which it relates, may, within 60 days of the date of order, apply to the appropriate Government for reviewing the order.

4. In the case on hand. it does not appear that there is no communication from the State Government to the Petitioner rejecting his application for appointment as a Notary. It is evident from Annexure P-5 dt. 23.1.1995 that the State Government has filled up two posts and kept one post of Notary Public vacant for which the Deputy Commissioner was asked to take action for filling up that post and the Financial Commissioner, Ambala to issue a notification for filling up the post and the applications of the Advocates be sent to the Government alongwith his recommendations. Thus, it is clear that State Government without passing an order rejecting the application of the petitioner as provided under the rules, sought further recommendations from the Deputy Commissioner for filling up the 3rd post of Notary Public which has been created by its letter dated 2.9.1992 vide Annexure P-1.

5. I, therefore, allow the writ petition and direct the State Government to consider the application of the petitioner duly recommended by the competent authority and pass an appropriate order under Rule 8 of the Notaries Rules, 1956 either to allow or reject the application by a speaking order. The State Government is further directed to take a decision on this matter within four months from today. There will be no order as to costs.