
(1997) 05 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 4759 of 1996

K.K. Batish

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 30-05-1997

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Notaries Rules, 1956 — Rule 3, 4, 4

Citation : (1997) 2 CivCC 140 : (1997) 2 CivCC 140 : (1997) 4 RCR(Civil) 319

Hon'ble Judges : N.K. Agrawal, J;Amarjeet Chaudhary, J

Bench : Division Bench

Judgement

Amarjeet Chaudhary, J.—The Petitioner, who is a practising advocate, has filed this writ petition under Articles 226/227 of the Constitution of India for quashing the appointment of Shri Jai Dev Parkash Chopra. Advocate, as Notary Public with a further prayer that the Respondent No. 1 be directed to appoint the Petitioner as Notary Public at Nabha, Distt. Patiala.

2. The case of the Petitioner, in brief is that he had applied for the post of Notary Public. His application was duly recommended by the Deputy Commissioner, Patiala but the State Government had appointed Sh. Jai Dev Parkash Chopra, Advocate, Respondent No. 3, as Notary Public despite the fact this his application was not recommended by the Deputy Commissioner, Patiala. As such appointment of Shri Jai , Dev Parkash Chopra, Advocate, Respondent No. 3. as Notary Public is liable to be quashed. As per Rule 3 of Notary Public Act, 1952, the recommendation of the Respondent No. 2 i.e. the Deputy Commissioner is a pre-requisite condition. The other contention is that the Petitioner has been ignored for appointment as Notary Public on the assumption that he had withdrawn his application submitted on 29.7.1988 and the same was never withdrawn by him.

3. On notice of motion having been issued the State Government as well as private Respondent have filed written statements in which it has been pleaded

that the case of the Petitioner was not to be considered, as he had withdrawn his application dated 29.7.1988. The appointment of the Respondent as Notary Public Act and as such the writ petition deserves to be dismissed.

4. We have heard the learned Counsel for both parties at length and with their help perused all the documents brought to our notice. The factual position which stands admitted by the State Government is that on 27th of May, 1988 the Sub Divisional Officer (C), Nabha, District Patiala, had recommended the name of the Petitioner Sh. K.K. Batish, Advocate, for appointment to the post of Notary Public. Before making this recommendation, the Sub Divisional Officer (C), Nabha had obtained the views of the local Judicial Officers and the Executive Magistrate of Nabha and then forwarded the same to the Deputy Commissioner, Patiala, who is the only competent authority for making the recommendation to the State Government for appointment of Notary Public in the district under Rule (4) of the Notaries Rules, 1956. Though only one name was required to be forwarded, yet the Deputy Commissioner sent a panel of Advocates in which the name of the Petitioner i.e. K.K. Batish was placed at No. 1, as he was having long standing at the Bar. Thereafter the name of the Petitioner was published in the Official Gazette on 12th February, 1990 for the information of general public and for inviting objections, if any, from the members of the public. But within the stipulated period, no objection whatsoever against the candidature of the Petitioner was received. However, the State Government instead of appointing Petitioner acting upon the recommendation made by the Deputy Commissioner, Patiala, the competent authority under Rule "4" of the Notaries Rules, 1986, asked the Commissioner, Patiala, to send some additional names. When the Petitioner came to know about this, he in the first instance submitted his bio-date through the Sub Divisional Officer (C), Nabha, but later on when he came to know that the persons whose names have already been recommended are not required to submit the bio-date afresh, he withdrew his second application and not the original application/bio-date dated 27.5.1988. Despite all this, even after receiving the communication from the Commissioner, Patiala, State Government instead of acting upon the recommendation made by the Deputy Commissioner, Patiala, whereby name of the Petitioner Mr. K.K. Batish was recommended, appointed Respondent No. 3 Mr. Jai Dev Parkash Chopra as Notary Public, Nabha. Name of the Respondent Mr. Jai Dev Parkash Chopra, Advocate had already been considered by the Deputy Commissioner, Patiala but his practice/standing at the Bar was less than the Petitioner and his candidature had not been recommended by the local Judicial Officers and further he was placed below the Petitioner i.e. Mr. K.K. Batish, whose name was recommended by the Deputy Commissioner, Patiala, for the appointment as Notary Public.

5. After taking into consideration submissions of the learned Counsel for the parties, we are of the considered view that there is a patent error of law committed by the State Government in ignoring the recommendation of the Deputy Commissioner, Patiala, in not considering the candidature/name of the Petitioner K.K. Batish. Consequently, we allow this writ petition and quash

impugned order, Annexure P-12, appointing Shri Jai Dev Parkash Chopra, Respondent No. 3, as Notary Public, Nabha, as the same was not strictly in accordance with the Notaries Rules and remand the case to the State Government for making appointment keeping in view the recommendation of the Deputy Commissioner, Patiala, the competent authority under Rule "4" of the Notaries Rules, 1986, within a period of one month from today.

6. However, there will be no order as to costs.