
(2002) 02 AP CK 0130

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3061 of 2002

Parchuri Kishore

APPELLANT

Vs

Government of A.P. and Another

RESPONDENT

Date of Decision : 18-02-2002

Acts Referred:

Notaries Act, 1952 — Section 15
Notaries Rules, 1956 — Rule 8(4A)

Citation : AIR 2002 AP 334 : (2002) 2 ALD 627 : (2002) 2 ALT 751

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : V. Venugopala Rao, for the Appellant; Government Pleader for Revenue, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—The petitioner is a practising advocate at Guntur. He applied for a licence to be appointed as a notary under the Notaries Act, 1952 and the relevant Notary Rules, 1956. The application of the petitioner was processed by the second respondent and the Government by Memo No.34050/ R &M-a/2001-I, Rev. (Regn and M) Department dated 5-7-2001 allowed, the same. Thereupon, the second respondent namely, Commissioner and Inspector-General of Registration and Stamps, Hyderabad requested the petitioner by letter dated 27-7-2001 to credit the requisite fee of Rs. 1,000/- to enable the Government to issue a certificate as required under Rule 8(4) of the Notaries Rules, 1956. The petitioner complied with the same. As he did not receive Certificate of Practice, he filed the present writ petition.

2. The learned Government Pleader, after receiving instructions at the stage of admission, submits that the Notaries Rules, 1956 were amended by Notaries (second amendment Rules, 2001 (for brevity "the Rules") vide G.S.R 330(E) by the Central Government in exercise of powers u/s 15 of the Notaries Act, 1952. According to the learned Counsel, the Central Government has prescribed

maximum number of Notaries to be appointed by the Central Government as well as the State Government and therefore it is not proper for the Government to appoint any notary in excess of the maximum number of prescribed by Rule 8 (4-A) of the Rules. I am unable to agree with the submission made by the learned Government Pleader.

3. The Second Amendment Rules were notified on 9-5-2001. Precisely, it is for this reason that Rule 8 (4A) lays down that the appropriate Government may on or after the ninth day of May, 2001 appoint Notaries in a State or Union Territory as the case may be, not exceeding the number of Notaries specified in the schedule. In the present case, the petitioner made an application for being appointed as Notary on 16-12-2000. After complying the necessary formalities and as recommended by the second respondent, the Government by their memo dated 5-7-2001 allowed the application of the petitioner for appointment as Notary. What remains is, issue of Certificate of Practice as required under Rule 8(4), which reads as under

4. Where the application is allowed, the appropriate Government shall appoint the applicant as a Notary and direct his name to be entered in the Register of Notaries maintained by that Government u/s 4 of the Act and issue to him a certificate on payment of prescribed fees authorizing him to practice in the area to which the application relates or in such part thereof as the appropriate Government may specify in the certificate as a Notary for a period of three years from the date on which the certificate is issued to him.

5. Rule 8(4) has not been amended. Therefore, in case of all appointments made by the Government before 9-5-2001 the amendment has no application. The learned Government Pleader, however, placed reliance on Memo No36644/R & M.I/2001-1 dated 13-11-2001 to impress upon the Court that the Government directed the second respondent to return the fee collected from the applicants and not to send any proposals to the Government for appointment of fresh notaries. The said memo does not help the learned Government Pleader. Having regard to the amendment, the Government decided not to accept any proposals and as such the second respondent was directed to return the fee collected from applicants presumably after 9-7-2001.

6. In the result, the writ petition is allowed and the respondents are directed to issue Certificate of Practice as required under Rule 8(4) of the Rules, within a period of two weeks from the date of receipt of this order.