

(2014) 02 CAL CK 0004
In the Calcutta High Court
Case No : WP No. 022 of 2014

Pradeep Mondal

APPELLANT

Vs

Andaman and Nicobar Administration

RESPONDENT

Date of Decision : 11-02-2014

Acts Referred:

Citation : (2014) 4 CHN 286

Hon'ble Judges : I.P. Mukerji, J

Bench : Single Bench

Advocate : Krishna Rao, Advocates for the Appellant; Anjili Nag, Advocates for the Respondent

Judgement

I.P. Mukerji, J.—This writ has been preferred by an applicant for grant of a learner's licence, for driving an auto-rickshaw, under the Central Motor Vehicles Rules, 1989. Mrs. Anjili Nag for the authority tells the Court that her client is unable to proceed with the application for want of necessary documents required to be furnished by the petitioner.

2. Rules 4 and 10 of the said Rules are relevant. These rules are to be read with Form-II appended to the Rules (under R. 10). Under these rules the applicant has to furnish proof of his age and residence, permanent and local to the authority.

3. To adduce proof regarding the above, anyone of the following documents was to be produced by the petitioner, as per Rule 4:

- "1. Ration Card,
2. Electoral Roll,
3. Life Insurance Policy,
4. Passport,
5. Electricity or Telephone Bill,

6. Pay slip issued by any office of the Central Government or a State Government or a local body,
7. House tax receipt,
8. School Certificate,
9. Birth Certificate,
10. Certificate granted by a registered medical practitioner nor below the rank of a Civil surgeon, as to the age of the applicant."

4. The proviso thereto, however, clarifies that if these documents are not available for any sufficient reason, the licensing authority would accept an affidavit sworn by the applicant before an Executive Magistrate or a First Class Judicial Magistrate or a Notary Public as evidence of age and address.

5. It is an admitted position that the petitioner has not been able to produce any of the documents mentioned in 1 to 10 above. However, he appears to have filed with the authorities an affidavit sworn before a Notary Public, a copy of which is annexed to the petition.

6. A copy of the voter's identity card of the petitioner as annexed to the petition at page 18 thereof would show that it was issued on 13th December, 2011, showing his address at "Nahati, Sitahati, Ketugram, Burdwan." (West Bengal).

7. There are discrepancies in the statement of the petitioner, as pointed out by Mrs. Nag. The affidavit says that he resides in these islands at Haddo from 2011. A Councillor's certificate dated 19th November, 2012, Annexure P-2 at page 19 of the petition says that he has been residing here ""for the last two years continuously till date."

8. There is hardly any doubt that upto quite recently, the petitioner had his permanent place of abode in the mainland, to be more specific in Burdwan in West Bengal. But, according to the petitioner, he intends to henceforth permanently reside in these islands and that he is taking all steps to obtain the documents like ration card, electricity, telephone bills etc.

9. If one considers both the above rules and the appended form, a person does not have to permanently reside in these islands to get a driving licence from here. In fact, the language in Rule 10 is "proof of residence" whereas the language in Rule A is "evidence of his address." Nowhere, the word "permanent residence" is mentioned. The matter is further explained by the appended form which provides for two places of residence, in Sl. Nos. 3 and 4, one described as the permanent address and the other described as the temporary address.

10. Therefore, it is quite possible for one having a permanent address in Tamil Nadu or Uttar Pradesh to have a temporary address at Port Blair. Yet, he can apply and obtain a driving licence in the Islands. This is my understanding of the Rules. But my understanding of the Rules is also that the local address must be

fixed, of some duration and likely to be so in the near future.

11. Therefore, the respondent authorities will consider the application of the petitioner for grant of a learner's licence by accepting the affidavit sworn before the Notary Public. Nonetheless, the respondents will be at liberty to make an enquiry as to the local residence of the writ petitioner on the basis of the observations made above and consider the grant of the above licence! by a reasoned order after giving a hearing to the writ petitioner within a period of three months from the date of communication of this order. The writ application is disposed of. There will be no order as to costs.