

(2026) 08 DEL CK 4224

In the Delhi High Court, Principal Bench, New Delhi

Case No : LPA 598/2026 & CM APPL. 50671/2026

Union Of India & Anr.

APPELLANT

Vs

Pooja Khanna

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Indian Penal Code, 1860 — Section 419/420/467/471/34

The Notaries Act, 1952 — Section 3, 4, 5, Sub-section 2 of Section 5, 7A, 9, 10, 12, 15

The Notaries Rules, 1956 — Rule 3, 4, 6, 7, 7A, 8, 8(1)(c), 8(4), 8(4A)

Rights of Persons with Disabilities Act, 2016 — Clause (r) of Section 2

Citation : (2026) 08 DEL CK 4224

Hon'ble Judges : Devendra Kumar Upadhyaya, C.J.; Tejas Karia, J

Bench : Division Bench

Advocate : Mr. Jaswinder Singh, Ms. Shipra Shukla, Mr. M.A. Inayti, Mr. Soaib Khan

Judgement

DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)

CM APPL. 50672/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CM APPL. 50673/2026 (Condonation of Delay)

3. This is an Application filed on behalf of the Appellants seeking condonation of delay of 99 days in filing the accompanying Appeal.
4. Having perused the averments made in the Application seeking condonation of delay and having heard the learned Counsel for the Parties, the Application is allowed. The delay of 99 days in filing the accompanying Appeal is hereby condoned.
5. The Application stands disposed of.

LPA 598/2026

6. Heard Mr. Jaswinder Singh, learned Counsel representing the Appellants and Mr. M.A. Inayti, learned Counsel representing the sole Respondent.

7. By instituting the proceedings of the instant Letters Patent Appeal, the Appellant – Union of India seeks to challenge the order dated 16.03.2026 ("**Impugned Order**") passed by the learned Single Judge in W.P.(C) 5091/2025 ("**Writ Petition**"), which was filed by the Respondent, wherein the Writ Petition has been disposed of with certain directions.

8. The learned Single Judge, while passing the Impugned Order, has directed the Appellant to consider the Respondent's pending application for issuance of Notary Practice Certificate / Certificate of Practice ("**CoP**") and to take a final decision. The Impugned Order further observes that pendency of a criminal case should not be a reason to deny the issuance of CoP. The learned Single Judge also observes in the Impugned Order that if there is any other impediment as per the Appellant in granting the CoP to the Respondent, the Appellant shall be at liberty to consider the same in accordance with law.

9. The facts leading to filing of the instant *intra court* Appeal are as under:

10. Pursuant to the process initiated by the Appellant for appointment of Public Notaries, the Respondent, *vide* notice dated 15.03.2024 ("**Appointment Notice**"), was intimated that the Appellant had decided to provisionally appoint her, subject to verification of her eligibility and verification of documents and payment of prescribed fee.

11. The Appointment Notice also informed the Respondent as also other applicants that they have to submit certain documents including an affidavit duly attested by 1st Class Magistrate containing depositions that the applicant is neither a Notary already appointed, that no criminal case / disciplinary proceedings are pending or initiated, that the applicant is not an undischarged insolvent and that the applicant has not been convicted by any Court of Law for an offence involving moral turpitude.

12. The Appointment Notice required the Respondent and all other such candidates to furnish the documents by 16.04.2024.

13. Pursuant to the Appointment Notice, the Respondent is said to have submitted the requisite documents including the affidavit dated 12.04.2024 ("**Affidavit**"), wherein it was *inter alia* stated by the Respondent that "***That cr. case bearing no-53797/2016 was trial against me in the Hon'ble court of Sh. Dev. Saroha, Patiala House court which was already dispose-off / discharged on 18/08/2022 (Photocopy are Enclosed) and the revision was filed on 15/12/2022 which was pending for order, whenever I got the final decision from the court, I will submitted the same in the concern authority.***"

14. The said assertion in Paragraph No. 2 of the Affidavit appears to have been made by the Respondent in view of a criminal case, which was instituted against her and certain other accused persons under Section 419/420/467/471/34 of Indian Penal Code, 1860. The learned Trial Court *vide* order dated 18.08.2022 ("**Discharge Order**") discharged the Respondent on certain grounds, however, the Discharge Order was challenged in a revision petition before the learned Principal District & Sessions Judge, namely, Cr. Rev. No. 531/2022 ("**Revision Petition**").

15. The learned Revisional Court, *vide* order dated 06.04.2024 ("**Revisional Order**"), set aside the Discharge Order passed by the learned Trial Court and remanded the matter back to the learned Trial Court to consider all relevant material on record for the purposes of framing charge and record the findings afresh.

16. The Affidavit by the Respondent, pursuant to the Appointment Notice was submitted on 12.04.2024, however, a perusal of Paragraph No. 2 of the Affidavit reveals that no information regarding decision on the Revision Petition *vide* the Order dated 06.04.2024 was disclosed by the Respondent in the Affidavit; rather what all was stated by the Respondent was that the Revision Petition was reserved for orders, though the orders were already pronounced on 06.04.2024.

17. Even after the issuance of the Appointment Notice, when the Respondent was not being issued the Certificate of Practice (CoP) and was not being enrolled in the Register of Notaries, the Respondent instituted the underlying Writ Petition, which has been disposed of by the Impugned Order by the learned Single Judge with certain directions and observations. It is this order dated 16.03.2026, which is under challenge herein before us in this Appeal.

18. Submission of the learned Counsel for the Appellants is that it was a case where the Respondent was guilty of suppression of facts inasmuch as that she, while submitting the Affidavit, pursuant to the Appointment Notice, did not deliberately disclose the Revisional Order passed by the learned Revisional Court, whereby the Discharge Order of the learned Trial Court was set aside and the matter was remanded back to the learned Trial Court. Further submission on behalf of the Appellants is that the Revisional Order was well within the knowledge of the Respondent when she filed the Affidavit and, therefore, non-disclosure of the Revisional Order of the Revisional Court amounts to suppression of material facts and on that count, the CoP was not issued to her; neither was her name included in the Register of Notaries.

19. Mr. Jaswinder Singh, learned Counsel appearing for the Appellants has also argued that it is not only that the Respondent is guilty of suppression of facts by not disclosing complete information while filing the Affidavit but also that considering the nature of allegations in respect of which she is facing trial, it would not be appropriate for the Appellant to issue the CoP and include her name in the Register of Notaries.

20. In this regard, it has been submitted that the allegation on the basis of which

criminal trial is going on against the Respondent is in relation to certain functions, which are stated to have been performed by her, which functions are legally to be performed by a Public Notary. It is stated that she performed certain functions of Public Notary, though she was not appointed; neither was she registered or was having a CoP as Notary.

21. In the wake of the said allegations, it has been stated by learned Counsel for the Appellants that it is impermissible to issue CoP to such an applicant for the reason that allegations reflect upon the integrity of the Respondent and it would not be in the fitness of things to issue CoP to the Respondent facing such allegations in the learned Trial Court.

22. Opposing the prayers made in this *intra court* Appeal, Mr. M.A. Inayti, learned Counsel representing the Respondent has, however, stated that at the time when the Affidavit was filed by the Respondent, she had no knowledge of the final outcome of the learned Revisional Court's decision, which though is said to be dated 06.04.2024, however, it was not made known to her by the time she filed the Affidavit.

23. Learned Counsel representing the Respondent has also argued that considering the aforesaid factual position in the Affidavit, the Respondent had clearly stated that she was tried in criminal case bearing No. 5397/2016, wherein she was acquitted by the learned Trial Court *vide* the Discharge Order and further that Revision Petition was filed on 15.12.2022, which was pending for orders.

24. According to learned Counsel representing the Respondent, on the date of furnishing the Affidavit, the Respondent had clearly indicated that the Revision Petition was pending for orders, however, since the Revisional Order was not in her knowledge or notice, she did not mention about the outcome of the Revision Petition and, accordingly, had undertaken that whenever the Revision Petition is finally decided, intimation shall be given to the Appellants of the said decision.

25. In this view of the matter, submission of learned Counsel representing the Respondent is that while filing the Affidavit, there has not been any suppression of facts: much less any material fact and, therefore, on this count, the action on the part of the Appellants in denying issuance of the CoP and non-inclusion of her name in the Register of Notaries is absolutely arbitrary and without any plausible basis.

26. So far as the submission made by learned Counsel representing the Appellants that considering the pendency of the criminal trial, the CoP cannot be issued, learned Counsel representing the Respondent has argued that mere pendency of a criminal trial is not a disqualification for being appointed as Notary in terms of the provisions contained in The Notaries Act, 1952 ("**Act**") and unless and until she is proved guilty in a duly conducted criminal trial, denial to her of the CoP cannot be justified.

27. Drawing our attention to Section 15 of the Act, which empowers the Central

Government to make rules, which are to be placed before each House of Parliament, it has been stated that pursuant to the said rule making power, the Central Government has made The Notaries Rules, 1956 ("**Rules**"), wherein the qualification for appointment as Notary is prescribed in Rule 3, which nowhere states that pendency of a criminal trial shall be a disqualification and, therefore, in absence of any such prescription in the Rules that pendency of a criminal trial shall be a disqualification for appointment as Notary, the stance taken in this regard by the Appellant is not justified.

28. Our attention has also been drawn by learned Counsel representing the Respondent to the provisions of Section 10 of the Act, wherein it has been clearly provided that removal from the Register of Notaries maintained by the Central Government can be made only if there is a conviction of a Notary by any Court for an offence involving moral turpitude. It has been stated that if in terms of the provisions contained in Section 10 of the Act, mere pendency of a criminal trial cannot be a basis of removal, denial of issuance of CoP on the said ground cannot be justified.

29. Mr. M.A. Inayti, learned Counsel representing the Respondent has also submitted that pursuant to an e-mail dated 14.01.2025 from the Appellant, the Respondent submitted her documents online on 24.01.2025 deposing all the relevant information about the Revisional Order passed by the learned Revisional Court and, therefore, holding the Respondent guilty of suppression of facts and based on such ground, non-issuance of CoP cannot be justified.

30. We have considered the respective submissions made by the learned Counsel for the Parties and have also perused the records available before us in this Appeal.

31. In terms of Section 3 of the Act, power to appoint Public Notaries is vested in the Central Government for the whole or any part of India and in State Government for the whole or any part of the State. Section 4 of the Act requires the Central Government and the State Governments to maintain Register of Notaries so appointed, which shall include various particulars of the Notaries.

32. Section 5 of the Act provides that every Notary, who intends to practise, shall be entitled to have his name entered in the Register maintained by the Government under Section 4 of the Act on payment of the prescribed fee. Sub-section 2 of Section 5 of the Act provides that the Government appointing the Notary may, on receipt of the application and the prescribed fee, renew the CoP of any Notary for a period of five years at a time. Section 9 of the Act provides that no person will be entitled to practise as a Notary or to do any notarial act under the official seal of a Notary unless he holds a CoP in force issued to him under Section 5 of the Act.

33. Section 10 of the Act is the provision, which vests in the Government appointing the Notary power to remove a Notary from the Register maintained by it on certain grounds and one of the grounds contained in Section 10 of the Act is

that if he has been found to be guilty of professional or other misconduct upon enquiry, in the opinion of the Government, which renders him unfit to practise a Notary. It also provides that name of a Notary can be removed from the Register under Section 10 if he is convicted by any Court for an offence involving moral turpitude. Section 10 of the Act is abstracted hereunder:

"10. Removal of names from Register.-The Government appointing any notary may, by order, remove from the Register maintained by it under section 4 the name of the notary if he-

(a) makes a request to that effect; or

(b) has not paid any prescribed fee required to be paid by him; or

(c) is an undischarged insolvent; or

(d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders his unfit to practise as a notary;

[(e) is convicted by any court for an offence involving moral turpitude; or

(f) does not get his certificate of practice renewed.]"

34. Section 12 of the Act contains a penal provision, according to which, if any person is found representing himself falsely that he is a Notary without being appointed as such or is found practising as a Notary in contravention of Section 9 of the Act, he shall be punishable with imprisonment for a term, which may extend to one year or with fine or with both. As already observed above, Section 15 of the Act empowers the Central Government to make rules for the purpose of carrying out the object of the said Act.

35. Rule 3 of the Rules provides qualification for appointment as Notary, which reads as under:

"3. Qualifications for appointment as a notary.-No person shall be eligible for appointment as a notary unless on the date of the application for such appointment-

(a) a person had been practising at least for ten years, or

(aa) a person belonging to Scheduled Castes/Scheduled Tribes and other backward classes had been practising at least for seven years, or

(ab) a woman who had been practising at least for seven years, as a legal practitioner, or

(ac) a person with benchmark disability as defined in clause (r) of section 2 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016), who has been practicing for at least seven years, as a legal practitioner;

(b) he had been a member of the Indian Legal Service under the Central Government, or

(c) he had been at least for ten years,-

(i) a member of Judicial Service; or

(ii) held an office under the Central Government or a State Government requiring special knowledge of law after enrolment as an advocate; or

(iii) held an office in the department of Judge Advocate General or in the legal department of the armed forces."

36. As per the scheme of the Rules read with the provisions of the Act, a person intending to be appointed as a Notary has to make an application under Rule 4 of the Rules for the appointment, whereupon in terms of the provisions of Rule 6 of the Rules, the Competent Authority is mandated to examine every such application and if the Competent Authority is satisfied that the application is complete in all respects, it shall make recommendation in terms of Rule 7 of the Rules to the appropriate Government recommending that the applicant may be allowed to appear before the Interview Board.

37. We may also note that if the provisions of Rules 6 and 7 of the Rules are read together, the Competent Authority is empowered to hold such enquiry as may be thought fit by it before making the recommendation to the Central Government that the applicant may be allowed to appear before the Interview Board.

38. Rule 7A of the Rules constitutes an Interview Board. Once the recommendations of the Interview Board are received, the Government, in terms of Rule 8 of the Rules, considers the recommendation for appointment and, accordingly, application for appointment may be allowed or it can be rejected as well. Rule 8 of the Rules is abstracted herein below:

"8. Appointment of a notary.- (1) On receipt of the recommendations of the interview board, the appropriate Government shall consider the recommendation and shall—

(a) allow the application in respect of the whole of the area to which it relates; or

(b) allow the application in respect of any part of the area to which it relates; or

(c) 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.

(2) An applicant shall be informed of every order passed by the appropriate Government under sub-rule (1).

(3) Any applicant whose application has been rejected for allowed in respect of only a part of the area to which it relates or against whom an order as to cost has been made under subrule (1) may, within sixty days of the date of the order apply to the appropriate Government for reviewing the order and that Government may, after making such further inquiry as it thinks fit pass such order as it considers necessary.

(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 under section 4 of the Act and issue to him a certificate on payment of prescribed fees authorizing him to practise 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 five years from the date on which the certificate is issued to him.

(4A) The appropriate Government may on and 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: Provided that the number of notaries whose certificate of practice has been renewed under subsection (2) of section 5 of the Act shall be included in the total number of notaries appointed for the purpose of counting the total number of notaries specified in the Schedule:

Provided further that if in a State or Union territory the number of notaries appointed before the ninth day of May 2001, exceeds the number of notaries specified in the Schedule, such notaries shall continue to be so appointed in that State or Union territory, as the case may be:

Provided also that in case, request for enhancement of maximum number of notaries under column (3) of the Schedule is received from Union Territory or the State concerned, the same shall be considered as per the following criteria:—

(a) if there is an increase in the population of the concerned State or the Union Territory;
(b) if there is increase in the number of districts or tehsil or taluka of the concerned State or Union Territory.

(5) The Register of Notaries shall be in Form IIA and the certificate of practice shall be in Form IIB."

39. If we consider the scheme of the Act read with Rules, what we find is that every application seeking appointment as a Notary is to be scrutinised first by the Competent Authority and if the Competent Authority is satisfied that the application is complete in all respects, a recommendation is made for interview by the Interview Board constituted under Rule 7A of the Rules. Once the Interview Board completes its task, it makes a recommendation to the Central Government, whereupon under Rule 8 of the Rules, the Central Government appoints the Notaries, however, merely because a recommendation by the Interview Board has been made, it is not mandatory for the Central Government to make appointment of a Notary in all cases.

40. The recommendation made by the Interview Board, in terms of Rule 8 of the Rules are to be considered, and in this process of consideration, the Government is empowered to pass such orders as may thought fit. It is empowered under Rule 8(1)(c) of the Rules even to reject the application for appointment.

41. So far as the provisions contained in Section 10 of the Act are concerned, we may note that the said provisions do not have any application so far as the facts of the instant case are concerned for the reason that the same applies in case of removal of the name of a Notary from the Register of Notaries. The said provision will have no application also for the reason that though by the Appointment Notice, the Respondent was intimated about her provisional appointment, however, the CoP and inclusion of her name as Notary in the Register of Notaries in terms of Sections 5 and 4 of the Act, respectively had not been done. Accordingly, any provision available in Section 10 of the Act, in our opinion, does not have any application so far as the issue, which has emerged in this Appeal is concerned.

42. It is rather a case, where after issuing the Appointment Notice, the Respondent has not been issued the CoP as per Section 5 of the Act, neither her name has been registered in the Register of Notaries maintained as per Section 4 of the Act.

43. The question for our consideration in the facts and circumstances, as

discussed above, thus is, as to whether the Respondent is entitled to get a CoP issued and also get her name entered in the Register of Notaries in terms of Section 5 and 4 of the Act, respectively. We have already noticed the provisions of Rule 8 of the Rules, which is in relation to the appointment of a Notary on the recommendation made by the Interview Board constituted in Rule 7A of the Rules. We have also already noticed that on receipt of the recommendation by the Interview Board, it is not incumbent upon the Government – Appellant to appoint every Notary. The Government has been vested with the discretion of even rejecting the application.

44. We may now examine the reason being given by the Appellant for not issuing the CoP and not registering the Respondent in the Register of Notaries maintained under Section 4 of the Act.

45. The submission made on behalf of the Respondent that on the date of filing of the Affidavit, i.e., on 12.04.2024 she was not aware of the Revisional Order, is yet to be considered by the Appellant. There is no conscious decision on record in this regard, which has been taken by the Appellant denying the issuance of the CoP on the alleged ground of suppression of facts while furnishing the Affidavit by the Respondent.

46. We may also note that pursuant to the e-mail dated 14.01.2025, certain other documents were also furnished by the Respondent by means of a communication dated 24.01.2025. Accordingly, in absence of any decision by the Appellant on the issue as to whether the Respondent is guilty of suppression of facts, we refrain ourselves from recording any finding. We do not intend to record any finding also in the wake of the direction issued by the learned Single Judge in the Impugned Order, whereby the Appellant has been directed to consider the prayer of the Respondent for issuance of CoP and take a decision. Therefore, we leave this issue at that.

47. As regards the ground taken by the Appellant that the Respondent cannot be issued the CoP, neither can her name be included in the Register of Notaries on the ground of pendency of the criminal case, it is noticeable that the learned Single Judge, while passing the Impugned Order, has though directed the Appellant to consider the prayer of the Respondent and take a final decision, however, in the same breath, it has been observed that pendency of criminal case should not be a reason to deny issuance of a CoP.

48. With all due respect, we are unable to find ourselves in agreement of such observation made by the learned Single Judge in the Impugned Order, where it has been observed that pendency of a criminal case should not be a reason to deny issuance of a CoP. As to whether pendency of a criminal case can be a ground for not issuing or issuing a CoP, it is a function which ought to be left to the Government for the reason that under Rule 8 of the Rules, the Government is empowered to allow the application on the recommendation made by the Interview Board, however, it is also empowered to reject the same.

49. If any authority or power has been vested with the Government for rejection of the application, it is the Government which should exercise its statutory discretion in this regard, of course, such rejection should bear some plausible reason.

50. So far as the submission made by learned Counsel representing the Respondent that pendency of a criminal trial has not been prescribed as a disqualification in the Rules for appointment of Public Notary, we may only observe that pendency of a criminal case, depending on the nature of allegations and charges, can be a ground for considering as to whether an application for appointment is to be allowed under Rule 8 of the Rules after the recommendation is made by the Interview Board constituted under Section 7A of the Act. After all antecedent of any applicant for appointment as Public Notary is a relevant factor which should weigh in the mind of the competent authority while considering any such appointment.

51. In our opinion, pendency of a criminal trial, depending on the nature on which the trial has commenced, is a relevant factor, which ought to be taken into account by the Appellant for taking a decision both at the time of appointment as also at the time of issuance of CoP and entering the name in the Register of Notaries maintained under Section 4 of the Act. There may be situations, where mere allegations may cause embarrassment to the Government in case appointment of a Notary is made, however, all that depends on the nature and seriousness of the allegations on the basis of which applicant is facing the criminal trial.

52. The reason given by learned Single Judge for making the observation that pendency of a criminal trial should not be a ground to deny issuance of CoP is based on the provisions of Section 10 of the Act, which, as already observed, will have no application in the facts of the present case for the reason that the same applies in a situation where there is any consideration for the removal of name from the Register of Notaries.

53. It is not a case where the name of the Respondent is sought to be removed from the Register of Notaries, rather it is a case where after the Appointment Notice was issued, the Respondent is to be issued the CoP and her name is to be entered in the Register of Notaries.

54. For the aforesaid reasons, we dispose of the instant Appeal with the following directions:

i. In terms of the Impugned Order passed by the learned Single Judge, the Appellant shall consider the prayer of the Respondent for issuance of CoP and to enter her name in the Register of Notaries by taking a final decision within a period of six weeks from today.

ii. The Respondent will have an opportunity to represent her case in writing before the Appellant, which shall be availed by her within a period of 10 days

from today, by making a representation in writing.

iii. On receipt of such representation, the Competent Authority of the Appellant shall take an informed decision by passing a reasoned order giving reasons for such decision.

iv. The decision under this Order on the prayer of the Respondent shall be taken by the Competent Authority of the Appellant without being influenced by the observations made in Paragraph No. 12(ii) of the Impugned Order.

v. The Impugned Order dated 16.03.2026 passed by the learned Single Judge stands modified to the aforesaid extent.

55. The Appeal, thus, stands disposed of in the aforesaid terms. Pending Application also stands disposed of. There shall be no order as to costs.