

Divakar Vs. the Commissioner for Registration of Stamps and ors.

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Court : Karnataka

Decided On : Jul-14-2003

Reported in : ILR2003KAR3495; 2003(6)KarLJ181

Judge : D.V. Shylendra Kumar, J.

Acts : Karnataka Registration (Deed Writers Licence) Rules, 1976 - Rules 3 and 19; [Constitution of India](#) - Articles 226 and 227

Appeal No. : Writ Petition No. 34054/2002

Appellant : Divakar

Respondent : The Commissioner for Registration of Stamps and ors.

Advocate for Def. : B.P. Puttasiddaiah, HCGP

Advocate for Pet/Ap. : M.R. Rajagopal, Adv.

Judgement :

ORDER

Shylendra Kumar, J.

1. Petitioner had sought for issue of what is known as deed Writers' Licence in his favour by making an application to the Licensing Authority under the provisions of the Karnataka Registration (Deed Writers Licence) Rules, 1979. The request on

behalf of the petitioner having been declined by the District Registrar for Stamps, Shimoga District, Shimoga as per endorsement dated nil copy at Annexure K petitioner has approached this Court for quashing of this endorsement and for issue of writ in the nature of mandamus to the 2nd respondent. Inspector General of Stamps in Karnataka to hold an examination as contemplated under Rule 19 of the Rules, non qualification of the petitioner under which Rules has been held against him for denying Deed Writers' Licence.

2. Sri M.R. Rajagopal, learned Counsel for the petitioner submits that it is not fair or proper on the part of the 3rd respondent to have refused to issue him with licence when the authorities themselves have not held any examination for the past about nine years which could have enabled the petitioner to appear and qualify himself in such examination and as such lack of qualification in the said examination/test should not be put against the petitioner for depriving him of a Deed Writers' Licence. Learned Counsel submits that the petitioner was earlier carrying on the avocation of Stamp Vendor and the period for which he has been permitted to carry on this avocation having come to an end during December, 2000 and he having no other avocation has sought for Deed Writers' Licence which he is competent to undertake.

3. Statement of objection has been filed on behalf of the respondents. Sri B.P. Puttasiddaiah, learned Government Pleader appearing for the respondents pointed out that there is a pre-requisite for issue of a licence under Rule 3 of the Rules that the applicant should be a person who has passed Deed Licence the stipulated qualification prescribed in Sub-clause (1) of Sub-rule (4) of Rule 3. Petitioner not having such qualification stipulated in Sub-clauses (1) of Sub-Rule (4) of Rule 3 his application has been rightly rejected. Learned Government Pleader submits that the order impugned is valid in law and the Writ Petition has to be dismissed.

4. Learned Counsel for the petitioner makes an alternative submission namely that respondent having virtually prevented the petitioner from qualifying himself as a Deed Writer inasmuch as the authorities are not holding tests as contemplated under Rule 19 of the Rules for the past more than nine years and as such it is just

and proper for this Court to direct the respondents to hold such tests so that the petitioner may qualify himself.

5. Holding of such tests is a mandate of the law enjoined upon the Inspector General of Stamps in Karnataka. It is reasonable to expect that such tests are conducted periodically and at any rate once in duration of 3 years or on such shorter intervals if necessary and found to be so by the concerned authorities. A test having not been held admittedly since the year 1993 it is only proper that a direction should be issued to the respondents to conduct such a test.

6. In the circumstances a writ in the nature of mandamus is issued directing the 2nd respondent to conduct a test as contemplated under Rule 19 of the Rules by giving sufficient publicity of the same, indicating the place, date etc. of such test. Compliance on the part of the respondents within six months from today.

7. Writ Petition stands disposed of accordingly. While it is not necessary to examine the validity of the order at Annexure K at this stage all the contentions urged on behalf of the petitioner on this and other aspects are left open to be urged later if need be if the cause arises for the same.

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