

Court No. - 6

Case :- WRIT - C No. - 3389 of 2025

Petitioner :- M/S Rajdhani Inter State Transport Co. New Delhi
Thru. Auth. Signatory Mr. Sunil Kumar Magoo

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy.
Labor Deptt. Lko. And 3 Others

Counsel for Petitioner :- Tushar Mittal, Kartikey
Dubey, Shrikant Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. Supplementary affidavit and written note filed by the petitioner are taken on record.
2. Heard Sri Tushar Mittal, learned Counsel for the petitioner and learned Standing Counsel.
3. Issue notice.
4. Steps be taken to serve the opposite party no.4 within a week.
5. The respondents may file counter affidavit within four weeks.
6. Rejoinder affidavit may be filed within two weeks thereafter.
7. List thereafter.
8. Till the next date of listing, the execution of the award dated 15.04.2022 passed in Adj. Case No.28 of 2019 shall remain stayed.
9. Sri Tushar Mittal states that, the petitioner had to seek an adjournment as the affidavit as required to be sworn in could not be sworn as the deponent of the affidavit could not come to Lucknow for photo identification and swearing of the affidavit.
10. A query was raised as to why, the affidavit could not be filed after getting the same sworn from the Notary public under the Notaries Act, 1952 at the place where the deponent was residing.
11. A brief note has been prepared by Sri Tushar Mittal to state that although, there is no bar of the notaries swearing the affidavits in terms of the specific provisions contained under the Notaries Act, 1952, however, in practice, the Registry accepts only the affidavit, which are sworn before the Oath Commissioner appointed under Chapter IV of the Allahabad High Court Rules and it is incumbent that a photograph be taken at the Photo Centre prior to ascertaining the veracity of

the deponent signing the affidavit. Prima facie, the non-acceptance of the affidavit deposited before the Notary under the Notaries Act is not permissible under the Allahabad High Court Rules also. Apart from the same, this Court had noticed this aspect in a judgment in the case of **Sajjan Kumar vs C.L. Verma and another: AIR 2006 All 36.**

12. Considering the fact that daily this Court is faced with the inconvenience caused to the litigants who come either at Allahabad or at Lucknow for visiting the photo centre to swear the affidavit and only then the said affidavit can be said to be properly sworn in terms of the provisions of the Rules, is contrary to the provisions of the Notaries Act but also *prima facie*, beyond the powers conferred by Chapter IV Rule 3 of the Allahabad High Court Rules.

13. Another aspect as highlighted in the office memorandum issued indicates that the power of identification has been delegated to the Bar Association, who are empowered to charge an amount of Rs.125/- and in addition to the said amount, an amount of Rs.400/- goes to the account of the lawyer concerned directly from the photo centre. Prima facie, the collection of the said amount is neither sanctioned by any law nor is it in consonance to Article 265 of the Constitution of India.

14. This is an important aspect to be decided, as such, the Counsel for the petitioner Sri Tushar Mittal is appointed as *Amicus Curiae* to assist the Court on the issue of swearing of the affidavit. He shall serve a copy of the petition along with the note so prepared to Mr. Gaurav Mehrotra, learned Advocate who appears for the High Court, who shall also assist the Court along with necessary office memorandums passed in this regard and would try to justify the imposition of the cost on the litigants for swearing of the affidavit.

15. The Registrar General is also directed to place the requisite office memorandums based upon which the cost is being imposed and charges are paid to the Bar Association.

16. For this limited aspect, list this case on **29.04.2025**. On which date, the necessary assistance as directed above shall be provided.

17. The written note handed over by Sri Tushar Mittal shall be kept on record.

Order Date :- 16.4.2025

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