

High Court of Allahabad: Custom of Refusing to Accept Affidavits Sworn Before a Notary in Violation of the Notaries Act

The rules pertaining to picture identification and affidavit swearing were the subject of a lawsuit heard by the Allahabad High Court, which raised concerns about the existing procedures.



It is against the Allahabad High Court Rules, the court noted, to refuse to accept affidavits sworn before a notary under the Notaries Act.

In addressing the Rules pertaining to picture identification and affidavit swearing, the Court took up the case and questioned whether the existing procedures were consistent with Article 265 of the Constitution.

Judge Pankaj Bhatia's single bench ruled that it is against the Notaries Act and, at the very least, beyond the authority granted by Chapter IV Rule 3 of the Allahabad High Court Rules to deal with the inconvenience this Court causes to litigants who travel to the photo center in Allahabad or Lucknow every day to swear the affidavit. Only then can the affidavit be considered properly sworn in accordance with the Rules.

The petitioner was represented by **advocate Tushar Mittal**.

Quick Facts

The Petitioner requested an adjournment during the proceedings because the deponent was unable to go to Lucknow for photo identification, making it impossible to swear the required affidavit. According to the Notaries Act of 1952, the Court questioned why the affidavit could not be sworn in front of a Notary Public at the deponent's home.

While the Notaries Act of 1952 permitted notaries to swear affidavits, the petitioner's counsel argued that in reality, the Allahabad High Court Registry only accepted affidavits sworn before an Oath Commissioner appointed under Chapter IV of the Allahabad High Court Rules, which required photo identification.

Reasoning of the Court

The High Court said, "An additional point made in the office memo that was released is that the Bar Association has been given the authority to charge Rs. 125 for identification, and on top of that, Rs. 400 is sent straight to the lawyer's account from the photo center. According to Article 265 of the Indian Constitution, the collection of the aforementioned sum is not authorized by any law.

"Since this is a crucial matter that needs to be resolved, the petitioner's attorney, Sri Tushar Mittal, has been designated as an Amicus Curiae to support the Court in the matter of affidavit swearing," the Lucknow Bench said.

As a result, the court mandated that the Registrar General *"place the necessary office memorandums upon which the cost is imposed and charges are paid to the Bar Association* .*"*List this case on April 29, 2025, for this specific limited aspect. which date the required support as outlined above will be given.

On April 29, 2025, the High Court listed the case as a result.

The title of the case is M/S Rajdhani Inter State Transport Co. v. State of U.P. & Ors. (WRIT-C No. 3389 of 2025).

Looks:

Advocates Tushar Mittal, Kartikey Dubey, and Shrikant Tripathi are the petitioner.

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