

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 27744 of 2015 (P)

PETITIONER(S):

**P. RAJENDRAN, KUMBALAKODE,
ALATHUR POST, PALAKKAD-678 541.**

BY ADV. SRI.S.MOHAMMED AL RAFI.

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF LAW & JUSTICE, NEW DELHI-110 001.**
- 2. DEPUTY LEGAL ADVISOR & COMPETENT AUTHORITY,
SHASTRI BHAVAN, MINISTRY OF LAW & JUSTICE,
DEPARTMENT OF LEGAL AFFAIRS (NOTARY CELL),
NEW DELHI-110 001.**

**R1 & R2 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.
ADV. SRI.S.BIJU, CGC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 27744 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

P1 : TRUE COPY OF THE CERTIFICATE OF PRACTICE DATED 02-06-2010 ISSUED BY THE 1ST RESPONDENT APPOINTING THE PETITIONER AS NOTARY

P2 : TRUE COPY OF THE ORDER NO.FTS NO.SA(17)/2015-NC (VOL.IX) DATED 24-04-2015 ISSUED BY THE 2ND RESPONDENT.

P3 : TRUE COPY OF THE AFFIDAVIT DATED 20-05-2015 SUBMITTED BEFORE THE 2ND RESPONDENT.

P4 : TRUE COPY OF THE ORDER NO.F.NO.5(2025) 2008-NC DATED 22-06-2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 27744 of 2015

Dated this the 15th day of September, 2015

J U D G M E N T

Petitioner is an Advocate practising in Palakkad District. He was appointed as a notary by the Government of India with effect from 2.6.2010. The Notary registration number of the petitioner is 7894/2010. This was renewed from time to time. The last renewal expired on 2.6.2015. The petitioner applied for renewal. The application was not within time, as contemplated under Rule 8B of the Notaries Rules. The petitioner filed an application for condonation of delay. This has been rejected. It is, challenging that order, this writ petition is filed.

2. The impugned orders are produced as Exts.P2 and P4. In the impugned orders, the authority found that the reasons stated by the petitioner that the ailment of mother-in-law cannot be a reason to condone the delay.

3. Rule 8B of Notaries rules reads as follows:-

“The Certificate of Practice issued under sub rule(4) of rule 8 may be renewed for a period of five years on payment of prescribed fee. An application for renewal of Certificate of Practice shall be submitted to the appropriate Government before six months from the date of expiry of its period of validity.

Provided that the appropriate Government may, after considering the reasons stated in the application, relax the condition of submission of application for renewal of certificate of practice before the above specific period.”

The above rule empowers the Government to relax condition of submission of application within time, after considering the reasons stated in the application for condonation of delay.

4. The reason stated in this case is ailment of mother-in-law.

The petitioner is a responsible lawyer. He has sworn an affidavit. He has narrated the ailment of mother-in-law. He has stated that mother-in-law is a widow and residing with him. When a reason is explained, if that is a cause for the delay, that would be sufficient to condone the delay. Justifiability for the delay must be relatable to the person

claiming the benefit of condonation of delay and not with reference to the justifiability with third party or any other authority. The petitioner appears to have a close relationship with his mother-in-law and their family. The petitioner's engagement with the treatment of mother-in-law need not be doubted in such circumstances. The petitioner has made out reasons for the delay. Therefore, this Court is of the view that the rejection of the delay condonation petition is unsustainable. In that view of the matter, this Court is of the view that the impugned order is liable to be set aside. Accordingly, it is set aside.

Therefore, there will be a direction to consider the petitioner's application in accordance with law.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/