

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08.07.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.15779 of 2015

U.S.Anbuchejian

...Petitioner

Versus

The Union of India  
rep. by The Deputy Legal Advisor and  
Competent Authority (Notaries)  
Ministry of Law and Justice  
Department of Legal Affairs  
New Delhi

...Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to call for the records of the respondent made in proceedings F.T.S. No.5A(17)/2015- NC (VOL.IX) dated 24.4.2015 and quash the same and consequently direct the respondent to issue renewal certificate as notary to the petitioner within the state related time as that may be fixed by this Honourable High Court.

For Petitioner : Mr.N.Umapathi

For Respondent : Mr.Su.Srinivasan  
Assistant Solicitor General of India

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims to be a practicing advocate and he is also running a home under the name and style of "Anbu Illam" for mentally retarded children and the said institution is also registered under Section 52 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, for a period from 18.11.2014 to 24.06.2017, vide Registration No.ST67/2014 at Kongalnagaram, Udumalpet Taluk, Tiruppur District.

3. The petitioner further claims that he is having extensive practice in District Court at Tiruppur and other Subordinate Courts including Courts at Udumalpet and his enrollment number is MS.1224/92. It is stated by the petitioner that he submitted an application before the respondent in the year 2010 for appointment as Notary Public and he was also recommended by the jurisdictional Principal District Judge. Subsequently, the petitioner was appointed as a notary for a period of five years with effect from 25.06.2010 and he is discharging the duties strictly in accordance with relevant norms and regulations.

4. It is also stated by the petitioner that as per the Notaries Act, Rules and Regulations framed thereunder, he is required to renew the certificate of practice for a further period of five years with effect from 24.06.2015 and accordingly, he submitted an application for renewal along with the prescribed fee on 07.01.2015 with a delay of 13 days on account of the fact that he was suffering from viral fever and engaged in activities in connection with the home, he is running. However, the said application for renewal was returned by the respondent vide communication dated 24.04.2015 stating that the petitioner has not applied for renewal well before the six months of the expiry of the certificate as required under the Notaries (Amendment) Rules 2014. The petitioner was also requested to stop practicing as Notary after the expiry date i.e. 24.06.2015. The Demand Draft sent by the petitioner was also returned therewith and challenging the legality of the same, the petitioner has filed this writ petition.

5. Learned counsel appearing for the petitioner would submit that no doubt, at the time of submission of the renewal application, he has not disclosed the reason for belated submission, but in paragraph no.5 of the affidavit filed in support of this writ petition, he has stated that he was suffering from viral fever and also attending his duties and responsibilities of the home, run by him to take care of the mentally retarded children and in any event the respondent ought to have issued notice seeking for explanation of the petitioner as to the delay before passing the impugned order and prays for appropriate orders.

6. Per contra, Mr.Su.Srinivasan, learned Assistant Solicitor General of India, has invited the attention of this Court to the counter affidavit filed on behalf of the respondent and would submit that as per the mandate of the rules, the application for renewal should have reached the department before six months i.e., by 25.12.2014. However, the petitioner has belatedly submitted the application and have not given any reason for belated submission and therefore, the application for renewal was rightly returned and prays for dismissal of the writ petition.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. Admittedly, at the time of submission of the renewal application, the petitioner, who is a practicing advocate is expected to be aware of the Notaries (Amendment) Rules, 2014 and he is under obligation to submit the application well within the time. Admittedly, the petitioner has belatedly submitted the application and has not given reasons as to the belated submission of the application. However, as a face saving grace, the petitioner at paragraph No.5 of the affidavit filed in support of this writ petition, has given the reason that he was suffering due to viral fever and he was engaged in looking after the mentally retarded children, who are housed in the home "Anbu Illam", run by him. It is also the claim of the petitioner that during the subsistence of the permission/licence granted as notary public, there was no complaint whatsoever.

9. This Court, taking into consideration the above facts and circumstances, is of the view that the petitioner is to be given one more opportunity to explain the reasons for belated submission of the application.

10. In the result, the writ petition is partly allowed and the impugned order dated 24.04.2015 is set aside and the matter is once again remanded to the respondent and the petitioner is permitted to file an affidavit along with necessary documents, explaining the reason for the belated submission of the application within a period of two weeks from the date of receipt of a copy of this order and the respondent, on receipt of the same, is directed to consider the said representation, in accordance with law and pass orders within a period of four weeks, thereafter and communicate the decision taken to the petitioner. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar

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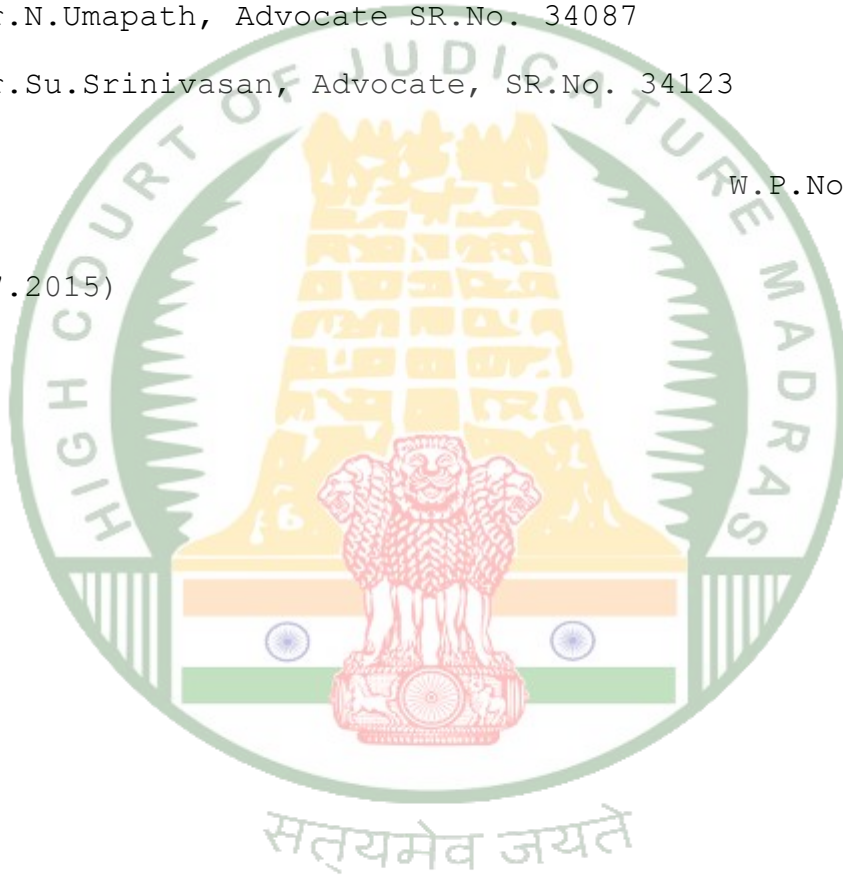
The Deputy Legal Advisor and  
Competent Authority (Notaries)  
Union of India  
Ministry of Law and Justice  
Department of Legal Affairs  
New Delhi

1 CC to Mr.N.Umapath, Advocate SR.No. 34087

1 CC to Mr.Su.Srinivasan, Advocate, SR.No. 34123

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EV (CO)  
PSI (22.07.2015)



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