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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8503/2015**

NEELAM SHARMA

..... Petitioner

Through: **Mr. Saurabh Bhargavan & Ms.
Surekha Bhargavan, Adv.**

Versus

UNION OF INDIA

..... Respondent

Through: **Mr. Ajay Digpaul, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **11.09.2015**

1. The petition impugns the refusal by the respondent of renewal of the Certificate of Practice as Notary of the petitioner for the reason of the petitioner having not applied for such renewal within a period of six months before the expiry of validity of the Certificate earlier issued to her, as required by Rule 8B of the Notaries Rules, 1956. There was a delay of 11 days according to the petitioner and of 39 days according to the counsel for the respondent appearing on advance notice, in applying for renewal.

2. The proviso to Rule 8B supra empowers the appropriate government to relax the condition of submission of application for renewal of Certificate of Practice before the aforesaid period of six months. It is the case of the petitioner that she, in her application dated 28th May, 2015, had given reasons for the delay in applying for renewal and the respondents have not considered the said reasons.

3. The counsel for the respondent appearing on advance notice states that the Rule 8B supra does not confer any right on a person granted Certificate of Practice as Notary to have his / her Certificate renewed for a further period of five years and the respondents are entitled to refuse renewal in their discretion.
4. The aforesaid argument does not appear to be correct. When the statutory Rules provide for a renewal and that too without any conditions, ordinarily the appropriate government would not be entitled to deny such renewal save for cogent reasons. Moreover, in the present case no reasons whatsoever have been given for denying the renewal of the Certificate of Practice. All that the respondent has done vide impugned order dated 31st August, 2015 is to deny the renewal on the ground of delay.
5. The counsel for the respondent states that on notice being issued, the reasons if any for denying renewal will be set out in the counter affidavit.
6. In my opinion, the setting out of reasons in the counter affidavit would not serve any purpose inasmuch as the petitioner then would have no reason to challenge the same.
7. The Supreme Court in ***D. Nataraja Mudaliar Vs. The State Transport Authority, Madras*** (1978) 4 SCC 290 finding that the holder of a road transport Permit ordinarily has a right of renewal held that unless it is shown that outweighing reasons of public interest lead to a contrary result, a Permit holder has a right to fair consideration of his claim for renewal. A Division Bench of this Court in ***International Trading Company Vs. Union of India*** AIR 2002 Delhi 488 (though overruled on another aspect) in ***Union of India Vs. International Trading Company*** (2003) 5 SCC 437 also held that

renewal of a Permit is a valuable right which can be refused only on cogent and valid grounds. It was further held that non-renewal of an existing licence is usually a most serious matter than refusal to grant a licence. Similarly, in *State of U.P. Vs. Ashok Kumar Nigam* (2013) 3 SCC 372 finding that the request for renewal in accordance with the rules had been rejected without proper consideration, it was held that the right of consideration for renewal is a legitimate right and an applicant can be deprived of such right and be declined renewal where work is unsatisfactory.

8. In the circumstances, it is deemed appropriate to dispose of this petition with a direction to the respondent to consider the application of the petitioner for renewal of licence, after considering the reasons given by the petitioner for the delay in applying for renewal and also set out the reasons / grounds, if any for otherwise denying the renewal to the petitioner.

9. Accordingly, the petition is disposed of with the following directions:

- (i) The petitioner, if so desire, may within 10 days hereof submit more particulars / documents in support of her explanation for the delay in applying for renewal.
- (ii) The respondent shall thereafter, within six weeks of the receipt of such further documents from the petitioner, consider the grounds given by the petitioner for condonation of delay in applying for renewal and shall take a reasoned decision thereon.
- (iii) The respondent, if of the opinion that the petitioner is to be denied the renewal for any other reason, would, after notifying

the petitioner of the said reason and after giving the petitioner an opportunity of being heard thereon within the subject period of six weeks, shall pass a reasoned order within a period of three months from today.

- (iv) Needless to state that if the petitioner remains aggrieved, shall have her remedies.

A copy of this order be given *dasti* under signature of the Court Master.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 11, 2015

‘gsr’..