

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8520 OF 2015

Padmanabh Nateshwar Joshi,
Age : 49 Years, Occu. : Legal Practitioner,
R/o Plot No.9, Shahunagar,
Deopur, Dhule - 424 002.

...PETITIONER

VERSUS

The Union of India
Through Its Department of Law and Justice,
(Notary Cell)

...RESPONDENT

...
Advocate for Petitioner : Mr. Subodh P. Shah.
ASG for Respondent : Mr. S. B. Deshpande.

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**CORAM : S. V. GANGAPURWALA &
A. M. BADAR, JJ.**

DATE : 15th FEBRUARY, 2016.

PER COURT:

1] Rule. Rule made returnable forthwith. With the consent of parties, taken up for final hearing.

The petitioner assails the order passed by the respondent rejecting the application of the petitioner for renewal of licence on the ground of delay.

2] Mr. Shah, learned counsel submits that Rule 8-B of the Notaries Rules, permits the authority to consider the grounds for delay in filing the application for renewal of licence of notary. The application for renewal of

licence of notary is to be made 6 months before the date of expiry of the period of licence. In the present case, it was to be made on or before 10th November, 2014. However, same was made on 15.1.2015. The same, as such, was delayed by 63 days. The petitioner had filed an application for renewal of licence and subsequently had also filed an application for condonation of delay on 25.5.2015. The reasons were given as to how the petitioner could not make an application for renewal in time. Initially the elder brother had to undergo by-pass surgery and thereafter, his mother suffered heart attack and passed away and the petitioner also suffered joint pain in the knee. According to learned counsel, the authority ought to have considered the reasons put forth by the petitioner in the application. However, only on the ground that the application is not submitted six months before the period of expiry of the licence of notary, the application is rejected.

3] Mr. Deshpande, learned ASG submits that as per Rule 8-B of the Notaries Rules, application for renewal of licence of notary has to be made six months prior to the scheduled date of it being lapsed. In the present case, same was not made. By way of exception, the delay can be condoned, however, exceptional reasons have to be made out for the same. The reasons put forth by the petitioner would not attract the proviso to Rule 8-B of the Notaries Rules. There was no impediment for the petitioner to move an application within the stipulated period of limitation.

4] We have considered the submissions. Rule 8-B of the Notaries

Rules, reads as under :-

“8-B. Renewal of Certificate of practice – The certificate of practice issued under sub-rule (4) of rule 8 may be renewed for a further 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 three 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 specified period.”

5] Proviso to Rule 8-B gives powers to the appropriate government to relax the condition of submission of application for renewal of certificate of practice before six months from the date of expiry of its period of validity, however, after considering the reasons stated in the application. The petitioner had given an application for condonation of delay. The reasons put forth by the petitioner were :-

[a] In August, 2014, the elder brother of the petitioner was required to undergo bypass surgery at Wockhardt Hospital, Nasik.

[b] After his discharge, in November, the mother of the petitioner had complaint about heart pain, she suffered heart attack and passed away in the next month.

6] It is trite that each and every day's delay is not required to be explained. The petitioner had given reasons for the delay. Authority was required to consider the said reasons. However, on the ground that the application is not submitted before six months before the expiry of the

certificate of notary, rejected the same without even considering the reasons put forth by the petitioner.

7] We have considered the said reasons as narrated above. We are convinced that the reasons put forth by the petitioner were sufficient to condone the delay.

8] In the light of the above, the impugned order is quashed and set aside. The respondent authority shall re-consider the application of the petitioner, seeking renewal of his certificate of practicing as a notary, on its own merit, in accordance with law and shall not reject it on the ground that it was not submitted within the stipulated period. If the demand Draft is returned back to the petitioner, the petitioner shall again forward a fresh Demand Draft to the authority, as required. The respondent authority shall take decision on the said application expeditiously preferably within 6 months.

9] Rule made absolute in above terms. No costs.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-