

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12274 OF 2015

Mr. Shreeniwas Vinayak Tarte. .. Petitioner
Vs
Union of India. .. Respondent
—
Shri Uday P. Warunjikar for the Petitioner.
Dr. G.R.Sharma and Shri D.P. Singh for the Respondent.
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CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 8TH FEBRUARY 2016

P.C.

1. Heard learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondent.

2. Rule. The Advocate on record for the Respondent waives service. Forthwith taken up for final disposal.

3. The Petitioner was appointed as a Notary Public under the Notaries Act, 1952 (for short “the said Act”). The Petitioner applied for renewal of certificate of practice as a Notary by making an application under Rule 8-B of the Notaries Rules, 1956 (for short “the said Rules”). The Application for renewal was made on 19th January 2015. On 18th June 2015, the Petitioner made one more application to the Licensing

Authority pointing out that as the Petitioner was unwell, he could not file Application for renewal within the time specified under Rule 8-B of the said Rules. He, therefore, prayed for condonation of delay. By the impugned order dated 4th September 2015, the Application made by the Petitioner has been rejected only on the ground that the same was not made within the stipulated period of six months as provided in Rule 8-B of the said Rules. However, the prayer for condonation of delay was not considered.

4. Our attention is invited to the Rule 8-B of the said Rules, which reads thus:

“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 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 specified period.”

5. Thus, there is an express power conferred on the Respondents to relax the requirement of submitting an Application for renewal within the stipulated period of six months. Though the Petitioner made a specific Application for relaxation, the same has not been considered as reflected from the impugned order.

6. The submission of the learned counsel appearing for the Petitioner is that the delay was only of 15 days. The submission of the learned counsel appearing for the Respondent is that the delay is of more than 70 days.

7. As there is a specific power to relax the condition of submitting the Application within the period of six months from the date of the expiry of the certificate, the request of the Petitioner ought to have been considered by the said Respondent.

8. Hence, we dispose of the Petition by passing the following order:

ORDER :

- (a) We set aside the order dated 4th September 2015. The Application made by the Petitioner for renewal of certificate of practice is remitted to the Licensing Authority of the Respondent;
- (b) It will be open for the Petitioner to produce the documents in support of the prayer for condonation of delay/relaxation within six weeks from today;

- (c) The Application made by the Petitioner for renewal as well as for condonation of delay shall be decided by the Respondent afresh as expeditiously as possible and in any event, within a period of three months from today;

- (d) The Rule is made partly absolute on above terms.

(C.V. BHADANG, J)

(A.S. OKA, J)