

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR

Writ Petition No. 1686 of 2016

Petitioner : Shirish son of Raphael Bhalerao, aged
about 61 years, Advocate, resident of 68,
Alashree Apartment, Ravi Nagar Square,
Amravati Road, Nagpur

versus

Respondents : 1) The Union of India, Ministry of Law
And Justice, Department of Legal Affairs,
Notary Section, New Delhi-110 001, through
its Secretary
2) The Deputy Legal Advisor and the Competent
Authority, Ministry of Law and Justice,
Department of Legal Affairs, Notary Section,
Room No. 439/A, A-Wing, Shastri Bhawan,
New Delhi-110 001

Shri N. B. Kalwaghe, Advocate for petitioner

Shri S. A. Chaudhari, Special Counsel for respondents

Coram : Smt Vasanti A. Naik And

V. M. Deshpande, JJ

Dated : 28th April 2016

Oral Judgment (Per Smt Vasanti A. Naik, J)

Rule. Rule is made returnable forthwith. The writ petition is heard finally at the stage of admission with the consent of the learned counsel for the parties.

2. By this petition, the petitioner challenges the communication/order of the respondent no. 2-Deputy Legal Advisor and the Competent Authority dated 8.12.2015 rejecting the application of the petitioner for renewal of the certificate to to practise as a Notary.

3. The learned counsel for the petitioner states that though the petitioner was required to make an application for renewal of the Certificate of Practice as a Notary in terms of rule 8-B of the Notary Rules, 1952 six months before the expiry of the validity period and though the petitioner has not made an application by adhering to the said time-frame, in view of the proviso to the said rule, the respondent no. 2 was empowered to relax the condition of the requirement to apply within the time-frame. It is stated that the powers under the proviso to rule 8-B of the Notary Rules, 1966 have not been invoked by the respondent no. 2 before rejecting the application of the

petitioner.

4. Shri Chaudhari, the learned counsel for the respondents supported the order of the respondent no. 2 and submitted that since the application was not made by the petitioner for renewal of his Certificate of Practice six months before the date of expiry of the validity period, the application of the petitioner was rightly rejected. It is, however, fairly stated on behalf of the respondent no. 2 that it does not appear from the impugned order, that the respondent no. 2 has invoked the powers under the proviso to rule 8-B of the Rules of 1956.

5. On hearing the learned counsel for the parties and on perusal of the provisions of rule 8-B of the Rules, it appears that the respondent no. 2 is empowered to relax the condition in respect of time-frame, as provided by rule 8-B and in certain cases, the condition in regard to the time-frame could be relaxed. Though the petitioner has stated the reasons for the delay in making the application under rule 8-B, the respondent no. 2 has not adverted its mind to the said reasons and the application of the petitioner was rejected without exercising the discretion under the proviso to rule 8-B of the Rules.

6. Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is quashed and set aside. The respondent no. 2 is directed to re-consider the application of the petitioner in the light of the provisions of the proviso to rule 8-B of the Notary Rules, 1956 and pass an appropriate order within a period of six weeks.

Rule is made absolute in the aforesaid terms with no order as to costs.

V. M. DESHPANDE, J

SMT VASANTI A. NAIK, J

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