

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

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THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.37240 of 2015
and M.P.No.1 of 2015

I.Paul Nobel Devakumar

... Petitioner

Vs.

The Joint Secretary to Government,
Department of Legal Affairs (Notary Cell),
Ministry of Law and Justice,
Government of India,
New Delhi.

... Respondent

Prayer: Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent pertaining to Letter dated 8.9.2015 and quash the same and consequently direct the respondent to renew the Certificate of Practice of the Petitioner under the Notaries Act.

For Petitioner : Mr.P.Wilson, Sr.Counsel
for Mr.P.Wilson Associates

For Respondent : Mr.Su.Srinivasan,
Asst.Solicitor General

O R D E R

The petitioner is a lawyer and appointed as a notary on 20.7.2005 and for a period of five years and his certificate was renewed on 20.7.2010 for a further period of 5 years and the same expired on 20.7.2015. The petitioner made an application on 13.2.2015 to renew his certificate of practice as notary. As per Notaries Rules, 1956, read with the Notaries (Amendment) Rules, 2014, an application for renewal has to be made six months prior to the date of expiry of the licence. The petitioner's application was found to be short of 22 days. Therefore, the petitioner was issued with the notice calling for his explanation in this regard. He gave his explanation. 27.5.2015. However, without considering the said explanation, the order impugned has been passed. Challenging the same, the present writ petition has been filed.

2. As rightly submitted by the learned Senior counsel appearing for the petitioner, the order impugned does not indicate the explanation given by the petitioner. The provision for making application six months prior to the date of expiry of the Certificate is directory but not mandatory. In other words, the said provision is only procedural in nature. The period of limitation and the question of delay are not part of substantive law. The respondent, having issued notice to the petitioner, calling for his explanation, cannot fall back upon provision, that too, considering the reply given by the petitioner and rejecting the same mechanically.

3. Therefore, the writ petition is allowed and the order impugned is hereby set aside. Consequently, the petitioner is at liberty to re-present the application for renewal along with demand draft within a period of two weeks from the date of receipt of copy of this order. After receipt of the renewal application from the petitioner, the respondent shall pass appropriate final orders on merits within a period of eight weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

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s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

The Joint Secretary to Government,
Department of Legal Affairs (Notary Cell),
Ministry of Law and Justice,
Government of India,
New Delhi.

+ 1 cc to Mr.Su.Srinivasan, Advocate SR 1478

+ 1 cc to Mr.P.Wilson Associates, Advocate SR 1254

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