

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32995/2016 & WMP.Nos.28508 & 28509/2016

S.Thirupathy

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Petitioner

..Vs..

1.The Regional Transport Authority
Vellore District at Vellore.

2.The Secretary
Regional Transport Authority
Vaniyampadi, Vellore District.

3.The Motor Vehicle Inspector Grade-I
Tirupattur, Vellore District.

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus call for the records relevant to the order in R.No.1367/A5/2016 dated 03.06.2016 passed by the 1st respondent and quash the same as illegal, improper against the natural justice and thereby direct the 1st respondent to renew the Permit No.2428/TN23/CC/2010 in respect of the petitioner's vehicle by namely Auto Rickshaw bearing Registration No.TN-23-BX-6217 immediately.

For Petitioner : Mr.C.V.Kumar

For Respondents : Mr.S.Diwakar, Spl.GP

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ORDER

Heard Mr.C.V.Kumar, learned counsel for the petitioner and Mr.S.Diwakar, learned Special Government Pleader accepting notice on behalf of the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner was granted a contract Carriage Auto Rickshaw Permit for the vehicle bearing Registration No.TN-23-BX-6217. The Permit was valid for a period of five years and expired on 10.08.2015. In terms of sub-section 2 of Section 81 of the Motor Vehicles act, 1988, [in short, "the Act"], a Permit may be renewed on application made not less than 15 days before the date of expiry. Admittedly, the petitioner did not submit the application within the said time frame ; but submitted the same after a delay of 109 days. The petitioner requested the 1st respondent to condone the delay on account of the fact that the petitioner was undergoing medical treatment. To substantiate his case, the petitioner produced a certificate from the Doctor, a Civil Assistant Surgeon in the Government Hospital, Tirupathur dated 08.01.2016. The doctor had certified that upto January 2016, the petitioner was advised bed rest and was under his active treatment. With these facts, the petitioner requested the 1st respondent to condone the delay in terms of section 81[3] of the Act - "Notwithstanding anything contained in sub-section 2, the Regional Transport Authority or the State Transport Authority has the case may be, may entertain an application for renewal of a permit, after the last date specified in that sub-section, if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified". The cause pleaded by the petitioner for the delay was on account of his sickness duly certified by the doctor. The 1st respondent while considering the application, has accepted the medical certificate ; but has made a very narrow interpretation stating that the petitioner could have sent the application by post and need not come in person to the office for renewal. However, the 1st respondent has not recorded any mala fides on the part of the petitioner for submitting the application belatedly. The law of limitation has been founded on public policy not with an intention to defeat the rights of the parties, but only to ensure that the parties do not adopt dilatory tactics for certain mala fide reasons. In the instant case, the petitioner is not going to be benefitted by submitting the application belatedly. That apart, the 1st respondent has not disbelieved the medical certificate produced by the petitioner. Therefore, this Court is of the view that it is a fit case where the delay in filing the application for renewal of Auto Rickshaw Permit should be condoned.

3 Accordingly, the writ petition is allowed and the impugned order passed by the 1st respondent in R.No.1367/A5/2016 dated 03.06.2016 is set aside and the 1st respondent is directed to accept the Renewal Application, verify all facts and if the same is found to be in order, grant renewal in terms of the

provisions of the Act and Rules framed therein. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Regional Transport Authority
Vellore District at Vellore.

2.The Secretary
Regional Transport Authority
Vaniyampadi, Vellore District.

3.The Motor Vehicle Inspector Grade-I
Tirupattur, Vellore District.

1 cc to The Government Pleader, sr.53677

1 cc to M/s.A.Rajeshkanna, Advocate, sr.53541

vd co
kra 04.10.2016

W.P.No.32995/2016

सत्यमेव जयते

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