

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2017

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THE HON'BLE MR. JUSTICE M.DURAI SWAMY

**W.P.No.24282 of 2017
and W.M.P.No.25666 of 2017**

M.Vadivel

[Petitioner]

Vs

Regional Transport Officer
Chennai (South Zone)
Ashok Nagar
Chennai – 600 083.

[Respondent]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Se.mu. Order No. A3/40888/16 dt.17.08.2016 and quash the same consequentially direct the respondent to reconsider the petitioners application for renewal of permit for his auto bearing Registration No.TN 09 BF 7089 without reference to the delay within a reasonable time to be fixed by this Court.

For Petitioner : Mr.R.Neelakandan

For Respondent : Mr.P.V.Selvakumar
Additional Government AdvocateORDER

Mr.P.V.Selvakumar, learned Additional Government Pleader, takes notice for the respondent. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned

order dated 17.08.2016 and to quash the same and consequently direct the respondent to reconsider his application for renewal of permit for his Auto bearing Registration No.TN 09 BF 7089, without reference to the delay, within a reasonable time.

3. It is the case of the petitioner that he made an application on 20.06.2016 to the respondent requesting for renewal of permit for his Auto bearing Registration No.TN 09 BF 7089 from 23.11.2015 till 22.11.2020. Since the petitioner was unwell, he could not make an application for renewal in time and there was a delay of 226 days in making the application. The petitioner has also submitted a medical certificate along with the application for renewal. However, the respondent, rejected the application, stating that the petitioner has not produced the prescription issued by the Doctor and the receipts for the purchase of medicines. As per section 81(2) of the Motor Vehicles Act, the application for the renewal of permit has to be filed 15 days prior to the expiry of the permit. According to the petitioner, the application for renewal submitted belatedly can be entertained ever after the period of 15 days, provided he satisfies the authority with regard to the delay in submitting the application for renewal. Further, as per Section 81(3) of the Act, the authority can entertain the application for renewal after the last date specified, if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

4. In the case on hand, there is a delay of 226 days in filing the application for renewal of permit.

5. By the impugned order dated 17.08.2016, the respondent, rejected the application for renewal stating that the explanation submitted by the petitioner is not satisfied as per Section 81 of Sub Section (2) of M.V. Act, 1988.

7. The learned counsel appearing for the petitioner submitted that the petitioner has produced the Medical Certificate and submitted that he could not make the application within 15 days from the date of expiry of the permit on account of ill health.

8. The impugned order is cryptic and not tenable. When the petitioner has produced the medical certificate issued by the Doctor, I do not find any reason for disbelieving the medical certificate and asking the petitioner to produce the prescription issued by the Doctor and the receipts for the purchase of the medicines. Since the petitioner has satisfactorily explained the reasons for the delay, I am of the view that the delay of 226 days can be condoned.

M.DURAISWAMY,J.

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9. Accordingly, the impugned order dated 17.08.2016 is set aside and the delay of 226 days in filing the application for renewal of permit is condoned and the respondent is directed to consider the petitioner's renewal application dated 20.06.2016 on merits and dispose of the same in accordance with the provisions of the Motor Vehicles Act, 1988, within a period of four weeks from the date of receipt of a copy of this order.

With these observations, the writ petition is allowed. No costs. Connected miscellaneous petition is closed.

11.09.2017

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Note: Issue the order copy on 14.09.2017

To

Regional Transport Officer
Chennai (South Zone)
Ashok Nagar
Chennai – 600 083.

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