

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.2797 of 2017

S.Jayanthi

... Petitioner

Vs.

The Regional Transport Authority  
Chennai - (North Zone), Chennai - 23.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records of the respondent relating to the Order made in R.No.E2/82623/16, dated Nil. 1.2017 and to quash the same and consequently direct the respondent hereinto renew the petitioner's Autorickshaw Permit in respect of Vehicle No.TN-03-Q-5907 as applied for.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.C.Jagadish  
Special Government Pleader (T)

O R D E R

1.Issue Notice. Mr.C.Jagadish, learned Special Government Pleader, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.This writ petition is directed against the order appended at page no.2 of the typed set of documents, which does not set out the date in its entirety. The impugned order only shows the month and the year, the day is not indicated. The month and the year of passing is shown as : January, 2017.

3. The petitioner is aggrieved by the impugned order passed by the respondent, as her application for renewal of permit, for Autorickshaw bearing Registration No.TN-03-Q-5907, of which, she is the owner, has been rejected summarily, without dealing with the reasons for delay.

4.Learned counsel for the petitioner says that a medical certificate was placed before the respondent, which was

demonstrative of the fact that the petitioner on account of her illness, could not apply for renewal of the permit, as per the provisions of Section 81 (2) of the Motor Vehicles Act, 1988 (in short, the Act).

5.Mr.Jagadish, who appears for the respondent says that he cannot, but submit, that the impugned order does not deal with the reasons for the delay.

6.I have heard the learned counsels appearing for the parties and perused the record.

7.The record shows that the petitioner filed a medical certificate dated 30.11.2016, which is indicative of the fact that the petitioner was ill and therefore, had been advised rest between 01.04.2016 and 29.11.2016. The permit issued to the petitioner vis-a-vis, the aforementioned vehicle, was admittedly, valid only up till 19.04.2016. The petitioner was, therefore, required to seek its renewal as per the provisions of Section 81(2) of the Act, 15 days prior to the expiry of the tenure of the permit.

8.Concededly, the respondent has the power to condone the delay under the provisions of Section 81(3) of the Act, if, the applicant were to show good and sufficient cause for not seeking renewal of permit, within the time frame provided under Section 81(2) of the Act.

9.Clearly, in this case, the respondent, to my mind exercised the jurisdiction vested in him with material irregularity by first noticing that the delay was caused on account of illness, and then, failing to dilate upon it and/or to deal with it. In these circumstances, I am constrained to set aside the impugned order, notwithstanding the availability of any other remedy, as the facts are not disputed and the error is apparent on its face.

10. Furthermore, given the fact that the medical certificate has been placed before me, I have put to Mr.Jagadish, as to whether delay can be condoned and the petitioner's application could be dealt with, by the respondent on merits.

11.Mr.Jagadish says, that in fitness of things, in the instant case, delay has to be condoned.

12.Accordingly, delay is condoned. Respondent is directed to deal with the application on merits. Needless to say, that the aforesaid exercise will be carried out with due expedition, though, not later than eight weeks from the date of receipt of a copy of the order.

13.The writ petition is disposed of in the aforementioned terms. However, there shall be no order as to costs.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Regional Transport Authority  
Chennai - (North Zone), Chennai - 23.

+1cc to Mr.K. Hariharan, Advocate in SR.NO. 7230

+1cc to Govt. Pleader in SR.NO. 7746

W.P.No.2797 of 2017

LRS (CO)  
VR(20/02/2017)



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