

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.17973 of 2016
Date of Decision.09.05.2017

Nirmal Singh

.....Petitioner

Vs

Union of India and others

.....Respondents

Present: Mr. Inderjit Singh, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioner has challenged the impugned order dated 29.03.2016 (Annexure P-6) whereby application of the petitioner seeking renewal of the certificate of practice as Notary had been rejected on the ground that it has not been submitted as per Rule 8B of the Notary Rules, 1956 read with the Notaries (Amendment) Rules, 2014, as the petitioner was required to submit the application for renewal before six months of its expiry i.e. upto 13.10.2014 but as per the submissions of learned counsel for the petitioner, the application for renewal was submitted on 26.03.2015, as the licence aforementioned had misplaced.

He further submits that proviso to Rule 8 B envisages to relax the condition of submission of the application submitted before six months.

In view of the reasons explained herein, the judgment relied upon by the respondent passed in CWP No.27445 of 2015 decided on 05.01.2016 titled as "Pritpal Singh Vs. Union of India and others" would not be applicable as the stand of the petitioner was not that he was not

ground that ignorance of law is not a bliss. However, the facts of the case are different.

This is precisely the argument of Mr. Vikram Pamboo to contend that once the petitioner has not submitted the application within a period of six months and the application submitted belatedly, has rightly been rejected, there is no illegality and perversity.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of learned counsel appearing for the petitioner and the facts of the judgment relied upon by Mr. Pamboo would not be applicable as the ratio decidendi is not applicable, in view of the provisions of Rule 8B, which reads as under:-

***“8B. Renewal of Certificate of Practice-** The certificate of practice issued under sub-rule (4) of rule 8 may be renewed for a further period of five years on payment of prescribed fee. An application for renewal of Certificate of Practice shall be submitted to the appropriate Government before six months from the date of expiry of its period of validity.*

Provided that the appropriate Government may, after considering the reasons stated in the application, relax the condition of submission of application for renewal of certificate of practice before the above specified period.”

In view of the proviso to Rule 8B, the Government has the power to relax the condition of submission of application for renewal of certificate of practice before the specified period. In order to apply the aforementioned proviso, I would be committing fallacy, if I do not refer to the contents of application seeking renewal of the notary licence, which reads as under:-

“To

*Ministry of Law and Justice
Department of Legal Affairs,
Shastri Bhawan, New Delhi.*

Sub: Renewal of Certificate of Practice as a Notary.

Sir,

- 1. I am sending herewith my certificate of practice as a Notary issued by your godself on dated 13.4.2000 vide File No.5(138)199-NC and Sr. No.1642 for practicing as a Notary at District Yamuna Nagar along with requisite fees of Rs.1000/- through D.D. No.945293 dated 26.3.2015 issued by State Bank of Patiala, Mini Sectt. Jagadhri, payable at New Delhi.*
- 2. That the renewal of certificate is hereby applied for further five years.*
- 3. That due to misplace of certificate of practice of Notary Public could not be renewed before three months of date of its expiry i.e. 13.4.2015.*

You are, therefore, most respectfully requested to kindly extend the time of practice as a Notary for further five years of my certificate and information to this effect may kindly be sent to me at the earliest as possible.

Thanking you,

Yours faithfully,

*Nirmal Singh Advocate
#9 Vishal Nagar
Yamuna Nagar
Distt. Yamuna Nagar (Hr.)”*

On perusal of the aforementioned content, it is evident that there is categoric averment/submission in the application of having misplaced the aforementioned notary licence. Thus, in my view the authorities could have invoked the proviso to Rule 8B instead of adopting a stringent approach as indicated in the order.

Resultantly, the impugned order is set aside. The respondent-authority shall consider the aforementioned application (Annexure P-2) for renewal of the Certificate of Practice as Notary by taking into consideration the proviso to Rule 8B in a most objective and pragmatic manner, preferably within a period of one month from the date of receipt of certified copy of this order and shall issue the licence in case other requirements of law than what has been noticed above are complied with.

The writ petition is allowed.

(AMIT RAWAL)
JUDGE

May 09 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No