

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.1221 of 2019

K.Madhan

... Petitioner

Vs

The Regional Transport Authority
Vellore.

... 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 the respondent relating to the order made in R.No.80663/A2/2018, dated Nil-12.2018 and quash the same and consequently direct the respondent herein to renew the petitioner's Auto rickshaw permit for the further period of 5 years from 11.07.2018 to 10.07.2023 in respect of vehicle No.TN-23/BE-2682, forthwith.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.R.Govindasamy,
Special Government Pleader

O R D E R

सत्यमेव जयते

This Writ Petition has been filed challenging the order passed by the respondent rejecting the application of the petitioner for renewal of the auto rickshaw permit.

2. Mr.K.Hariharan, the learned counsel appearing for the petitioner submitted that the petitioner was granted with Auto rickshaw Permit in respect of Auto rickshaw bearing Reg.No.TN23 BE 2683 and it was valid upto 10.07.2018. Even though, the petitioner filed the application for renewal of the permit, 15 days prior to the expiry of the permit period, since he was not well and bedridden, he could not file the application in time and hence there was a delay of 104 days in filing the

application. The petitioner was already paid the late fee and also filed an affidavit to the reason for the delay. But, without considering the same, the present impugned order has been passed by the respondent.

3.Mr.R.Govindasamy, the learned Special Government Pleader appearing for the respondent, on instructions, submitted that as per Section 81(3) of the Motor Vehicles Act, the petitioner make the application 15 days prior to the expiry of permit. Admittedly, the petitioner filed an application with the delay of 104 days and the reasons stated by the petitioner is sufficient. On considering those materials, the respondent has rightly rejected the application after considering the reasons stated by the petitioner.

4.I have considered the rival submissions and perused the records carefully.

5.Section 81(2) of the Act prescribes that a permit may be renewed on the application made not less than 15 days before the expiry of license. However, under Section 81(3) of the Act, authorities are empowered to entertain the application for renewal even after the last date specified under Section 81(2) of the Act, and if applicant satisfies the authorities that the applicant is prevented by good and sufficient cause. The relevant portion of the Act is extracted hereunder:-

"81.Duration and renewal of permit.---

(1)

(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

(3) Notwithstanding anything contained in Sub-section (2) the Regional Transport Authority or the State application for the 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."

6.Rule 193-A of the Tamil Nadu Motor Vehicles Rules (hereinafter called as "Rules") prescribes the additional fee for filing the application for renewal of permit after expiry of last date and Rule 279 of the Rules prescribes the fees payable for the belated submission of application charging the late fee of Rs.100/-. From the perusal of the above provisions, it is clear that the authorities are empowered to condone the delay in filing the application for renewal, provided the authority is satisfied with the reason for the delay in filing the application. In the instant case, the petitioner has stated that due to illness, he

was under treatment. In the said circumstances, he was not able to submit his application in time."

7.Considering the above facts, I am of the view that the reasons stated by the petitioner is sufficient for condoning the delay in filing the application and this Court finds no malafide intention in filing the application belatedly, as the petitioner is only eking out his livelihood from the income derived from auto rickshaw. The limitation prescribed by the statute is only to prevent the parties indulging dilatory tactics with the malafide intention. In the said circumstances, this Court is of the opinion that the cause shown by the petitioner is sufficient. But, the authority without considering the same has rejected the application.

8.On considering the above facts and circumstances, the impugned order passed by the respondent is set aside and the respondent is directed to consider the petitioner's application and pass suitable orders for renewal of auto rickshaw permit within a period of four weeks from the date of receipt of the copy of this order.

9.With the above direction, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

gmd/rrg

To

The Regional Transport Authority, Vellore.

+1cc to Mr.K.Hariharan, Advocate SR.No.6667

+1cc to Government Pleader SR.No.8168

W.P.1221 of 2019

RGN (CO)
GMY (07/03/2019)