

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.03.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P.No.6949 of 2020
and
W.M.P.Nos.8288 & 8289 of 2020

C. Sukumar

... Petitioner

Vs.

1.The Regional Transport Authority,
Vellore.

2.The Regional Transport Officer,
Vellore.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records of the impugned order of the first respondent vide R.No.23643/A2/2019 dated 20.08.2019 and to quash the same and further to direct the respondent to grant the renewal of contract carriage auto rickshaw permit of the petitioner in respect of vehicle bearing Registration No.TN 23 BE 4890.

For Petitioner : Mr. S. Govindaraman

For Respondents : Mr. E. Balamurugan,
Special Government Pleader

O R D E R

By consent given by either side, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed challenging the impugned order passed by the first respondent dated 20.08.2019 rejecting the application given by the petitioner who is seeking for the renewal of permit on the ground that it has been filed with a delay of 329 days.

3. The case of the petitioner is that he is holding a permit for an Auto Rickshaw which expired on 11.08.2018. As per Section 81(2) of the Motor Vehicles Act, the renewal of permit should be filed within 15 days before the expiry of the permit. According to the petitioner, he was not doing well and he fell sick and he was taking treatment for a very long time. After recovery, the petitioner gave an application to the second respondent seeking for renewal of permit and the same was sent to the first respondent. The first respondent conducted an

enquiry and rejected the application made by the petitioner mainly on the ground that it is barred by limitation and satisfactory explanation has not been given for the delay of 329 days in submitting the application for renewal of permit. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that there were valid reasons for the petitioner not being able to submit the application on time and therefore, the second respondent ought to have taken the same into consideration and dealt with the application on its own merits. The learned counsel further submitted that this Court had an occasion to deal with a similar issue in the case of K.Sridhar Vs. The Regional Transport Authority, Chennai-North Region, Chennai - 600 023 and others in W.P.No.23645 of 2018 dated 17.09.2019 and this Court had set aside the order and directed the authority to pass suitable orders for the renewal of permit. The relevant portion of the order is extracted hereunder:

6. Sec.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 Sec.81(2) of the Act, authorities are empowered to entertain the application for renewal even after the last date specified under Sec.81(3) of the Act, and if applicant satisfy 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 subsection (2) the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that subsection if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

7. 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 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 his auto rickshaw developed a major repair and he also did not have funds to repair it immediately. That apart, his family was seriously affected in the floods in Chennai during the year 2015. In the said circumstances, he was not able to submit his application in time.

8. 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 find 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.

9. On considering the above facts and circumstances, the impugned order passed by the 1st respondent is set aside and the 1st 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.

5. The learned Special Government Pleader appearing on behalf of the respondents submitted that under Section 81(2) of the Motor Vehicles Act, an application for renewal of permit must be submitted 15 days before the expiry of the permit and in the present case, the application has been submitted with an exorbitant delay of 329 days. Therefore, the learned counsel submitted that the second respondent was perfectly justified in rejecting the application since he did not find any sufficient reasons for entertaining the application. Accordingly, the learned Special Government Pleader sought for the dismissal of the writ petition.

6. This Court has carefully considered the submissions made on either side and perused the materials available on record.

7. The issue involved in this writ petition is squarely covered by the order that was cited by the learned counsel for the petitioner and which has been referred supra. The first respondent had the authority to condone the delay even if the application is submitted beyond the time limit. The only requirement is that the petitioner should satisfy and give sufficient reasons for the delay in filing the application. In the instant case, the petitioner is an Auto Rikshaw driver and he suffered from illness and he had also produced medical certificate from the Doctor.

8. In the considered view of this Court, the respondents ought to have taken the medical certificate into consideration and dealt with the application on its own merits. Instead the respondents have chosen to reject the application only on the ground of delay.

9. In view of the above, the impugned order passed by the first respondent requires interference and accordingly the same is quashed. The first respondent is directed to consider the application made by the petitioner and pass suitable orders for the renewal of the Auto Rickshaw permit, within a period of four weeks from the date of receipt of copy of this order.

10. This writ petition is accordingly allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT

To

1.The Regional Transport Authority,
Vellore.

2.The Regional Transport Officer,
Vellore.

+1 CC to Mr. S.Govindraman, Advocate SR 23943

+1 CC to the Government Pleader, High Court, Madras SR 24480

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EV CO

MRP 29/05/2020