



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P. No. 11966 of 2021

and

WMP Nos. 12730 & 12731 of 2021

S. Sundararaj

...Petitioner

Versus

The Secretary to Government (Law)
Administrative-Department,
Secretariat,
Chennai 600 009

...Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuance to letter No.10307/Admn/2021-1 dated 23.4.2021 on the file of respondent and quash the same as unreasonable and unjustifiable and direct the respondent to renew the Notary Certificate of petitioner dated 22.09.1992 .

For Petitioner : Dr.A.Thiyagarajan, Senior Counsel
for Ms.A.Vinupradha

For Respondent : Mr.G.Krishnaraja
Government Counsel

ORDER

The prayer made in this writ petition is to issue a Writ of Certiorarified Mandamus to call for the records from the file of the respondent in connection with the letter No.10307/Admn/2020-1 dated 23.04.2021, quash the same and consequently direct the respondent to renew the Notary Certificate of petitioner dated 22.09.1992 .

2. The petitioner enrolled himself as an Advocate on 27.06.1980 and till date, he is in effective practice. During the course of such practice, the petitioner submitted an application for appointment as a Notary under the provisions of the Notaries Act, 1952 (Central Act LIII of 1952) and Notaries Rules, 1956. He was appointed as the Notary by the State



Government and was issued a certificate of practice vide G.O.No.271 (Law) Admn-Dept, dated 22.09.1992 initially for a period of three years which was extended for a further period of five years from 22.09.2016 to 21.3.2021 as per G.O. (Ms) No.161 of 2016, dated 5.4.2016. Thus, the petitioner was given extension to practice as Notary until 21.3.2021. For further extension, the petitioner ought to have submitted an application six months prior to 21.3.2021, the date on which the Certificate of practice is to expire. In other words, the petitioner ought to have submitted an application for extension on or before 20.09.2020, but due to some technical difficulties in online portal, he was unable to submit his application in time, in person. The attempts made by the petitioner to submit an application through on-line could not be effectuated due to technical glitch in the server. Ultimately, only on 6.3.2021, the petitioner applied for the renewal of Notary Certificate by enclosing challan for Rs.1000 as renewal fees, sent the same to the respondent on 8.3.2021. However, the respondent by the letter dated 15.3.2021 returned the above renewal application stating that the application for renewal was received by respondent beyond the time limit fixed. The petitioner therefore submitted a representation dated 26.03.2021 to the respondent expressing his difficulties in renewal process due to server issues, but it was not rejected on 23.04.2021, hence, this writ petition has been filed.

3. The learned Senior counsel for the petitioner submitted that as per the Notary Rules, 1959, the application seeking renewal of certificate of practice ought to have been submitted six months before the expiry of the period of validity. In case of belated submission, such delay can be condoned as per Section 8B of the Notary Rules, 1956. However, as per the amendment brought in to the Rules with effect from 06.11.2019, the power for condoning the delay has been taken away and therefore, the petitioner is left no other statutory remedy except to file this writ petition. It is stated by the learned counsel for the petitioner that the petitioner made all out efforts to submit the application on-line but such attempts have been rendered futile. In any event, the application could not be submitted in person due to some technical difficulties in online portal. While so, the learned Senior counsel for the petitioner prayed for condoning the delay in submitting the application for renewal of Certificate of Practice and to direct the respondents to renew the Certificate of Practice to the petitioner for further period.

4. On the above contention of the learned Senior counsel for the petitioner, this Court heard the submissions made by the learned Government Advocate for the respondent and perused the material records placed.



5. The learned Government Counsel, by placing reliance on the counter affidavit submitted that the procedures relating to renewal of Certificate of Practice has been digitalised. A web portal for this purpose has been launched by the Government of Tamil Nadu on 23.02.2021 in which the application seeking renewal has to be submitted. If the application is submitted beyond the time provided under the Act and Rules, the application, if any, submitted will be automatically rejected and such application will not be entertained through offline on and from 10th March 2021. In such circumstances, an application submitted off line beyond the period prescribed under the Statute cannot be entertained. Therefore, the learned Government Counsel prayed for dismissal of the writ petition.

6. It is apparent that the petitioner is a holder of Certificate of Practice to discharge the duties of a Notary. At the first instance, the petitioner was issued with such a certificate on 22.09.1992, which was periodically renewed until 21.03.2021. As per the Notary Rules, for the purpose of further renewal of Certificate of Practice, an application ought to have been submitted by the petitioner on or before 20.09.2020, but in the instant case, such an application has been submitted only on 06.03.2021. It is stated in paragraph No.5 of the affidavit filed in support of the writ petition that the petitioner has made attempts to submit the application on-line, but due to technical glitch, he could not succeed in submitting the application for renewal. Thus, it is evident that the petitioner could not submit the application for renewal in time due to reasons which are beyond his control. The explanation offered by the petitioner for non-submission of application for renewal six months prior to the date of expiry of the Certificate of Practice has to be accepted. In such view of the matter, by citing the technicalities in uploading the application for renewal, the petitioner cannot be deprived of renewal. The concept of digitilisation is to ensure speedy and easy access to the schemes of the Government but it should not be put against a person to deprive his or her legitimate right due to technicalities. The validity of the Certificate of Practice issued to the petitioner was in currency until 21.3.2021. While so, the delay in submission of the application for renewal cannot be put against the petitioner in the given facts and circumstances of the case. Therefore, this Court is of the considered view that exercising the jurisdiction conferred under Article 226 of The Constitution is desirable in the present case. Accordingly, this Writ Petition is disposed of with the following direction

(i) The petitioner is directed to submit a fresh application in proper format within a period of two weeks from the date of receipt of a copy of this order.



(ii) On receipt of such application, the respondent is directed to entertain the application for renewal without raising any issue relating to limitation, consider the same and pass appropriate orders for renewal of Certificate of Practice, within a period of four weeks thereafter.

(iii) No costs. Consequently, WMP.Nos.12730 of 2021 & 12731 of 2021 are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr/rsh

To

The Secretary to Government (Law)
Administrative-Department,
Secretariat,
Chennai 600 009.

+1cc to M/s.A.Vinupradha, Advocate, Sr.41718
+1cc to the Government Pleader, Sr.41744

W.P. No. 11966 of 2021

KSM[co]
NSK 25/10/2021