



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 14488 of 2021

and

WMP No. 15376 of 2021

V.Ambika

.. Petitioner

Versus

1. The Government of India

Rep. by the Secretary to Government
Ministry of Law and Justice
4th Floor, A-Wing, Shastri Bhawan
New Delhi - 110 001.

2. The State of Tamil Nadu

Rep. by the Secretary to Government
Law (Administrative) Department
Fort St.George, Chennai - 600 009

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the digital information provided to the petitioner and dated Nil, quash the same and direct the respondents to renew the Certificate to Practice as Notary with effect from 05.12.2021 on the basis of the petitioner's application on 21.06.2021 made by the petitioner to the second respondent for further period of 5 years with effect from 05.12.2021.

For Petitioner : Mr.R.Singaravelan, Senior Counsel
for M/s.P.Brindha

For R1 : Mr. S. Muthusamy
Central Government Standing Counsel

For R2 : Mr.Stalin Abhimanyu,
Government Counsel

O R D E R

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 second respondent in connection with the digital information provided to the petitioner, quash the same and consequently, direct the respondents to renew the Certificate



to Practice as Notary with effect from 05.12.2021 on the basis of the petitioner's application dated 21.06.2021 to the second respondent for a further period of 5 years with effect from 05.12.2021.

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2. The petitioner enrolled as an Advocate on 11.11.1988 and she is practicing in the Courts at Chennai. During the course of such practice, the petitioner submitted an application for appointment as a Notary as per the order passed by the Government in G.O. (Ms) No.344, Law Department dated 05.12.2001 in and around the City of Chennai for five years from 05.12.2001. The petitioner was issued a Certificate of Practice vide G.O. (Ms) No.416 dated 18.10.2011, which was extended for a further period of five years from 05.12.2006 to 05.12.2011. According to the petitioner, the certificate of practice issued to the petitioner was further extended by an order passed by the Government in G.O. (Ms) No.453, Law (Administrative) Department dated 19.09.2016 for a period of five years. Thus, the petitioner was given extension to practice as Notary until 04.12.2021. For further extension, the petitioner ought to have submitted an application six months prior to 04.12.2021, the date on which the extension to practice expire. In other words, the petitioner ought to have submitted an application for extension on or before 05.06.2021, but due to the nation wide lock down imposed by the State Government, she was unable to submit her 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 21.06.2021, the petitioner got the application for renewal registered. The petitioner has thereafter submitted a representation dated 28.06.2021 to the second respondent about the submission of the application for renewal, but it was not considered. The petitioner also caused an enquiry in person through her junior advocate and he was informed that the application ought to have been submitted six months before expiry of the Certificate to Practice and the application submitted on 21.06.2021 is time barred, 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 relaxing 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 futile. In any event, the application could not be submitted in person due to the lock down imposed by the State Government to arrest the spread of the Covid-19 pandemic. While so, the learned Senior counsel for the petitioner prayed for condoning the delay of 15 days 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 Central Government Standing Counsel for the first respondent as well as the learned Government Counsel appearing for the second 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 05.12.2006, which was periodically renewed until 05.12.2021. 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 05.06.2021, but in the instant case, such an application has been submitted on 21.06.2021. It is stated in paragraph Nos. 4 and 5 of the affidavit filed in support of the writ petition, the petitioner has made attempts to submit the application on-line but due to technical glitch, she could not succeed in submitting the application for renewal. It is also stated that the petitioner could not submit the application for renewal in person due to the lock down imposed by the Government to curb the spread of Covid-19 Pandemic. Thus, it is evident that the petitioner could not submit the application for renewal in time due to reasons which are beyond her control. The explanation offered by the petitioner for non-submission of application for renewal within six months time 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 is in currency and it expires only on 05.12.2021. 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 second 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 No. 15376 of 2021 is closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

msr/rsh

To

1. The Secretary to Government,
The Government of India,
Ministry of Law and Justice,
4th Floor, A-Wing, Shastri Bhawan,
New Delhi - 110 001.
2. The Secretary to Government,
The State of Tamil Nadu,
Law (Administrative) Department,
Fort St. George, Chennai - 600 009.

+1cc to M/s.P.Brindha, Advocate SR.No.41002

WP No. 14488 of 2021

GPL (CO)

GMV (26/08/2021)