



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No.15789 of 2021

K. Natarajan

.. Petitioner

Versus

1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Law (Administration) Department,
Chennai - 600 009.

2.The Deputy Secretary to Government,
Law (Administration) Department,
Secretariat,
Chennai - 600 009.

.. Respondents

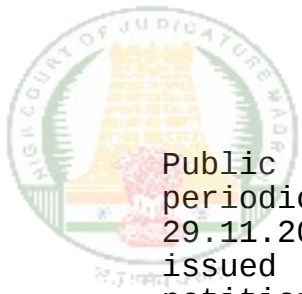
Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned letter No.11731/Admn/2021-1 dated 25.06.2021 on the file of the second respondent herein, quash the same and consequently direct the respondents herein to receive the application and consider the renewal of the Notarial Certificate of practice of the petitioner from 17.09.2021 for further period of 5 years.

For Petitioner : Mr. K. Govi Ganesan
For Respondents : Mr. Stalin Abhimanyu,
Government Counsel

O R D E R

The petitioner seeks to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the letter No.11731/Admn/2021-1 dated 25.06.2021 on the file of the second respondent, quash the same and issue a consequential direction to the respondents to receive the application and consider the renewal of the Notarial Certificate of practice of the petitioner from 17.09.2021 for further period of 5 years.

2. The petitioner enrolled himself as an Advocate on 05.03.1986 and from that date, he has been practicing in the Courts at Coimbatore. The petitioner was appointed as a Notary



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Public by the respondents on 17.09.1998 and the same was periodically renewed by G.O. Ms. Nos.315, 226, 252 and 51 dated 29.11.2001, 15.09.2006, 24.06.2011 and 11.02.2016 respectively issued by the first respondent herein. According to the petitioner, the Certificate of Practice issued to him was renewed till 16.09.2021. For further extension, the petitioner sent an application by enclosing the original certificate of practice and the original renewal fee paid challan to the first respondent herein with a request to renew his certificate for further period of five years from 17.09.2021. According to the petitioner, the application sent by Registered Post was delivered to the respondents herein on 23.04.2021 i.e. nearly after 82 days. Such a delay is attributable on the part of the Postal Department in delivering his application. On receipt of the same, the second respondent herein by his letter dated 07.05.2021 returned his application along with his original remittance challan stating that Rule 8 (B) has been amended on 06.11.2019 and as per the said Rule, renewal has to be sought through online only. Due to severe technical problems in website, the petitioner could submit his application for renewal through online only on 05.06.2021 at 11.00 p.m. by paying necessary charges. The petitioner was under the impression that his online application would be accepted and his certificate of practice as Notary public would be renewed. But to his dismay, his application was rejected by the second respondent by letter dated 25.06.2021 stating that it was filed belatedly. Therefore, challenging the order of rejection, the petitioner has filed the present writ petition.

3. The learned 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 into 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 become 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 counsel for the petitioner prayed this Court to direct the respondents to condone the delay of 82 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.



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4. The learned Government Counsel appearing for the respondents 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 through online beyond the period prescribed under the Statute cannot be entertained. Therefore, the learned Government Counsel prayed for dismissal of the writ petition.

5. 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 17.09.1998, which was periodically renewed until 16.09.2021. As per the Notary Rules, for the purpose of further renewal of Certificate of Practice, an application for renewal ought to have been submitted six months prior to the date of expiry of the validity of the certificate. In the instant case, such an application has been submitted well in advance on 01.02.2021 itself by the petitioner. It is stated in paragraph Nos. 5 and 6 of the affidavit filed in support of the writ petition that the petitioner made attempts to submit the application on-line but due to technical glitch, he 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 his 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 17.09.2021. 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.



6. Accordingly, this Writ Petition is disposed of with the following directions:

(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.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

vum/rsh

To

1. The Secretary to Government,
The State of Tamil Nadu,
Law (Administration) Department,
Chennai - 600 009.
2. The Deputy Secretary to Government,
Law (Administration) Department,
Secretariat,
Chennai - 600 009.

+1CC to M/s.K.Govi Ganesan, Advocate, SR.No. 43163

+1CC to The Government Pleader, SR.No. 43423

W.P. No.15789 of 2021

RSI(CO)
B.VC (01/10/2021)