



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No.18467 of 2021

R. Selvaraj

...Petitioner

Versus

1. The Principal Secretary
Law Admin Department
St. George Fort
Chennai - 600 009.
2. The Deputy Secretary to Government
Law (Admin) Department
Secretariat, St. George Fort
Chennai - 600 009.

...Respondents

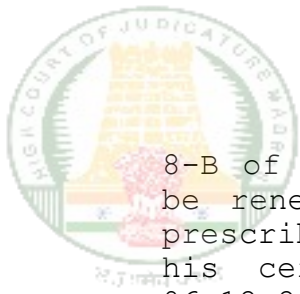
Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to Letter No.12618/Admn/2021-1, dated 12.07.2021 and quash the same along with a direction to the second respondent to re-consider the representation dated 01.07.2021.

For Petitioner	:	Mr.A.Parthasarathy
For Respondents	:	Mr. Stalin Abhimanyu, Government Counsel

O R D E R

The petitioner has filed this writ petition seeking to issue a Writ of Certiorarified Mandamus calling for the records pertaining to Letter No.12618/Admn/2021-1 dated 12.07.2021, quash the same and issue a consequential direction to the second respondent to re-consider the representation dated 01.07.2021.

2. The petitioner is practicing as an Advocate before the Coimbatore District Court ever since the year 1981. He was appointed as a Notary by the Government of Tamil Nadu in the year 1998. In this regard, a certificate of practice dated 07.12.1998 was issued to him so as to practice as notary in and throughout Coimbatore District for a period of three years with effect from 07.12.1998. According to the petitioner, as per Rule



8-B of Notaries Rules, 1956, the Certificate of Practice has to be renewed for a further period of five years on payment of prescribed fee. Therefore, in accordance with the said proviso, his certificate of practice was renewed and extended till 06.12.2021. For the purpose of next renewal of Certificate of Practice, an application has to be submitted online in Form XVI to the appropriate Government before six months from the date of expiry of its period of validity. Accordingly, the petitioner has to submit the online application under Form XVI on or before 06.06.2021 as contemplated under the Notaries Act, 1956. However, the petitioner was tested positive for the novel Corona Virus infection and he was in self quarantine since April 2021. Further, due to continuous lock down restrictions imposed by the State Government to arrest the spread of Covid-19 Pandemic and the fact that the Advocates Chambers within the Court Premises remained locked until further orders, the petitioner was unable to submit the online application for renewal and extension of certificate of practice, as he was practically unable to take all his original certificates from his chambers. Moreover, during the 1st week of June, he met with a dormancy, while collecting flowers in a close contact with the branches of a plant, which resulted in severe eye swelling. Since he got recovered only on 15.07.2021, after acquiring his original certificates, he attempted to submit his application for renewal and extension on 28.06.2021 through online, but he could not succeed in submitting his application. Therefore, he made a representation dated 01.07.2021 to the first respondent to condone the delay of 23 days in submission of the application for renewal and extension of certificate of practice stating the aforementioned facts, but the same was returned by the second respondent vide letter dated 12.07.2021. Hence, this writ petition has been filed.

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 relaxing the delay has been taken away and therefore, the petitioner is left with 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 and the ailment suffered by the petitioner due to novel Corona virus infection. While so, the learned counsel for the petitioner prayed for condoning the



delay of 23 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 counsel for the petitioner, this Court heard the submissions made by the learned Government Counsel for the respondents. The learned Government Counsel 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.

5. Heard the counsel for both sides and perused the material records placed. 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 07.12.1998, which was periodically renewed until 06.12.2021. 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 06.06.2021, but in the instant case, such an application has been submitted on 28.06.2021. It is stated in paragraph Nos.10 and 11 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. 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 06.12.2021. 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 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. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum/rsh

To

1. The Principal Secretary,
Law Admin Department,
St. George Fort,
Chennai - 600 009.
2. The Deputy Secretary to Government,
Law (Admin) Department,
Secretariat, St. George Fort,
Chennai - 600 009.

+1 CC to The Government Pleader, Sr.No. 45219.

W.P. No.18467 of 2021

PM(CO)
LS(29/09/2021)