



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.18419 of 2018
and W.M.P.Nos.21744 & 31572 of 2018

M.Ilancheran

...Petitioner

Vs.

1.The Chief Secretary
Government of Tamil Nadu,
Fort St.George, Chennai 600 009.

2.The Secretary to Government of Tamil Nadu,
Law Department,
Fort St. George, Chennai 600 009.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus to call for the records relating to the order passed by the second respondent in G.O.Ms.No.450 Law Administration Department dated 26.08.2013, to quash the same and consequently to direct the second respondent to renew the Notary Certificate of practice of the petitioner.

For Petitioner : Mr.T.Sivagnanasambandan
For Respondents : Mr.M.Shahjahan
Special Government Pleader

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in G.O.Ms.No.450 Law Administration Department dated 26.08.2013, quash the same and consequently to direct the second respondent to renew the Notary Certificate of practice of the petitioner.

2. The case of the petitioner is that he was appointed as a Notary through Dharmapuri District, Pappireddipatty Taluk, for a period of 5 years and it expires on 07.03.2012. Thereafter, he made an application for the purpose of renewal of the Notary Public vide application dated 10.04.2013 along with prayer to condone the delay, by enclosing medical certificates. While so, the 2nd respondent passed G.O.Ms.No.450, dated 26.08.2013, wherein, the petitioner's name was removed from the Register of Notaries maintained by the Government of Tamil Nadu.



3. The learned counsel for the petitioner submits by referring the said impugned order, the respondent stated that there was a delay of 492 days on the part of the petitioner in making the application renewal. In this regard, the petitioner sent a representation dated 7.9.2013, along with medical certificate, assigning the reason for the delay. However, the petitioner received a letter dated 25.10.2013 from the 2nd respondent, stating that there is no provision for review, once the order of removal was issued. Aggrieved over the same, with no other option, the petitioner is before this Court.

4. Mr. Shahjahan, learned Special Government Pleader, appearing for the respondents would submit that the petitioner has not made the application in time, but later requested to review the impugned order. He pointed out that as per the Notaries Rules, 1956, the petitioner has to apply for renewal of his Certificate of practice to the Government, six months prior to the expiry of the Notary License and in the present case, the petitioner has not made any such application six months prior to the expiry of his Certificate. The 2nd respondent received the application after a period of 492 days and no explanation was given by the petitioner for the said delay. He also pointed out that even before passing the impugned order, the respondent issued a communication to the petitioner to furnish the reason for the delay in filing the application for renewal and since no reply was received, the respondent passed the impugned order removing the name of the petitioner from the Register of Notaries.

5. In reply, the learned counsel for the petitioner would submit that though in the impugned order, the respondent referred that they have sent the communication to the petitioner, seeking explanation for the delay from the petitioner, but in fact, the petitioner has not received any such communication from the respondents and because of this, the petitioner could not submit the reasons for the delay.

6. In fact, in a decision of this Court dated 8.12.2009, in W.P.No.3779 of 2008 in the case of "T.Sivagnanansambandan Vs. The Chief Secretary", wherein a similar circumstance came up for consideration before this Court and this Court, by taking note of earlier decision in "M.A.Mohammed Ibrahim Vs. Secretary to Government" reported in 2009(3) CTC 490, by referring to the amended provisions of the Notaries Rules, 1956, observed that the Government is empowered to relax the conditions and such power must be liberally exercised. In the said case, there was a delay of nearly 6 years and following the earlier decision and interpreting Rule 8(B) of the Notaries Rules this Court directed the Government to re-consider the matter.



7. In the instant case, there was a delay of 492 days in making the application for renewal. However, later, the petitioner made a representation dated 07.09.2013 assigning the reason for the delay since he was suffering from Viral Hepatitis and he also enclosed a medical certificate. Further, it is the case of the petitioner that no communication as referred to by the 2nd respondent was received by the petitioner, by which, he was unable to give explanation for the delay. Further, there is no specific motive attributed against the petitioner in belatedly submitting the application. Also, there is no adverse report against the petitioner and renewal was refused on account of failure to respond the communication wherein the petitioner was called upon to give the reasons for the delay in submission of the application for renewal, which according to the petitioner, was not received by him. Therefore, this Court is of the view that the respondents can consider the claim of the petitioner by condoning the delay.

8. For all the above reasons, this writ petition is allowed and the impugned order is set aside and the delay of 429 days in filing the application for renewal stands condoned and the second respondent is directed to pass fresh orders on merits and in accordance with law on the application of the petitioner for renewal dated 10.04.2013 by following the provisions of Notaries Act and the Rules framed thereunder, within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Pns

To

1.The Chief Secretary
Government of Tamil Nadu,
Fort St.George, Chennai 600 009.

2.The Secretary to Government of Tamil Nadu,
Law Department,
Fort St. George, Chennai 600 009.

+1cc to the Government Pleader, S.R.No.67941

+1cc to Mr.T.Sivagnanasambandan, Advocate, S.R.No.67874

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PA(CO)
KKV/04/02/2022