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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.NO.20526 OF 2021

R. Logabiraman

...Petitioner

Versus

The Competent Authority (Notary)
Ministry of Law & Justice
(Department & Legal Affairs)
4th Floor, A-Wing, Shastri Bhavan
New Delhi - 110 001.

...Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent dated 16.07.2021 in F.No.5(2672), 2008 N.C.No.23/2021 rejecting the renewal of the notary certificate of the petitioner and to quash the same and direct the respondent to renew notary license of the petitioner vide F.No.5(2672) 2008 N.C. Dated 28.07.2015 vide Reg.No.8201.

For Petitioner : Mr. P. Chandrasekar

For Respondent : Mr. K. Srinivasamurthy
Senior Panel Counsel (Central Govt)

ORDER

Challenge in this writ petition is to the order passed by the respondent on 16.07.2021, rejecting the application submitted by the petitioner for renewal of Certificate to Practice as Notary on the ground that such application has been submitted beyond the time fixed under Rule 8 B of The Notaries Rules, 1956.

2. The petitioner claims that he is an Advocate practicing in Vellore District and he was appointed as a Notary Public on 28.07.2010. The Certificate of Practice issued was valid for a period of five years and it was subsequently renewed till



28.07.2020. For further extension, the petitioner ought to have submitted an application six months prior to 28.07.2020, the date on which the Certificate of practice expires. In other words, the petitioner ought to have submitted an application for extension on or before 27.01.2020, but due to the nation wide lock down imposed by the State Government and on account of the surgery undergone by him in his left eye during the year 2020, he was completely under medical supervision and could not submit the application for renewal. Subsequently, only on 25.06.2020, the petitioner sent the application for renewal but it was returned by the respondent on 16.07.2021 along with the demand draft on the ground that the application for renewal has been received after the expiry of Certificate of practice issued to him.

3. The learned counsel appearing 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 with no other statutory remedy except to file this writ petition. It is stated by the learned counsel for the petitioner that the petitioner underwent a surgery during the year 2020 and thereafter, a nation wide lockdown has been imposed to curb the spread of Covid-19 Pandemic. Thus, the petitioner was reasonably prevented from submitting the application in time. While so, the learned counsel for the petitioner submitted that the respondent is not justified in returning the application submitted by the petitioner by pointing out the delay in submitting it. Therefore, the learned counsel prayed this Court to allow the writ petition and to direct the respondent to renew the Certificate of Practice to the petitioner for further period.

4. The learned Senior Panel Counsel (Central Govt) for the respondent submitted that as per Section 8B of The Notaries Rules, as amended in 2014, the petitioner ought to have applied for renewal six months in advance i.e., before 27.01.2020 long before the Covid-19 Pandemic restrictions were imposed. However, the petitioner sent the application for renewal of the Certificate of Practice and it was received by the Notary Cell on 30.07.2020 long after the validity of his certificate on 27.07.2020. Thus, the petitioner had sent the application with a delay of six months and two days. When the application was submitted after the validity period of Certificate of Practice, it cannot be entertained. The learned Senior Panel Counsel (Central Govt) also relied on the order dated 05.01.2016 passed



by the Punjab and Haryana High Court in CWP No. 27445 of 2015 (Pritpal Singh vs. Union of India and others wherein it was held that the petitioner, who is an advocate by profession cannot feign ignorance of law and submit an application beyond the time stipulated under the statute. It is also stated that the reasons assigned by the petitioner that he had underwent a surgery in his eye is an afterthought especially when the surgery was performed during the year 2017 and in the year 2019, he had taken further treatment. In any event, the application for renewal was submitted belatedly and therefore, he prayed for dismissal of the writ petition.

5. Heard the submissions made by the Counsel for both sides and perused the material records placed.

6. It is apparent that the petitioner was 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 28.07.2010, which was periodically renewed until 28.07.2020. 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 27.01.2020, but in the instant case, such application has been submitted on 25.06.2020. It is stated that the petitioner underwent surgery in his eye and he was bed ridden. 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, the delay in submitting the application cannot be put against a person to deprive his or her legitimate right. The validity of the Certificate of Practice issued to the petitioner expired only on 28.07.2020. The application was submitted for renewal on 25.06.2020 which the respondent received on 30.07.2020. 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.

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Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mrr/rsh

To

The Competent Authority (Notary)
Ministry of Law & Justice,
(Department & Legal Affairs)
4th Floor, A-Wing, Shastri Bhavan,
New Delhi - 110 001.

+2ccs to Mr.P.Chandrasekar, Advocate, S.R.No.55497

+1cc to Mr.K.Srinivasamurthy, Advocate, S.R.No.55490

WP No. 20526 of 2021

NRL(CO)
RVM(26/11/2021)