



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.09.2021
CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 20590 of 2021
and
WMP No. 21840 of 2021

S.A. Syed Haroon

.. Petitioner

Versus

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

2. The Deputy Secretary to Government of
Tamil Nadu
Law (Admn) Department
Secretariat,
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 in letter No.10969/Admin/2021-1 dated 12.05.2021 on the file of the second respondent and quash the same and further direct the respondents to renew the Certificate to Practice issued to the petitioner by the first respondent dated 29.06.2016 which is valid till 18.10.2021.

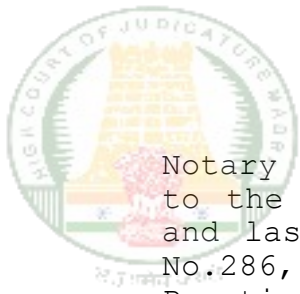
For Petitioner : Mr. S. Suresh Kumar

For Respondents : 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 in letter No.10969/Admin/2021-1 dated 12.05.2021 from the file of the second respondent, quash the same and consequently, direct the respondents to renew the Certificate to Practice as Notary with effect from 18.10.2021 on the basis of the petitioner's application dated 29.06.2021 to the second respondent for a further period of 5 years with effect from 18.10.2021.

2. The petitioner enrolled himself as an Advocate in the Bar Council of Tamil Nadu and he is practicing in the Courts at Chennai. During the course of such practice, he submitted an application for appointment as a Notary under the Notaries Act, 1952 (Central Act 53 of 1952) and an order dated 18.10.2001 was passed by the first respondent appointing the petitioner as a



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Notary for five years from 18.10.2001. Such certificate issued to the petitioner was periodically extended from time to time and lastly, by an order passed by the Government in G.O. (Ms) No.286, Law Department dated 29.06.2016 the certificate of Practice as Notary was extended until 18.10.2021. For further extension, the petitioner ought to have submitted an application six months prior to 18.10.2021, 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 18.04.2021, but due to the nation wide lock down imposed by the State Government to curb the spread of Covid-19 Pandemic, he was unable to submit his application in time. It is also stated that his wife died and therefore also, he could not submit the application for renewal in person. It is further submitted that closure of high court chambers is also one of the reasons for non-submission of the application for renewal. At the same time, it is stated that the attempts made by him to submit an application through on-line could not be effectuated due to technical glitch in the server. Ultimately, only on 03.05.2021, he sent the application for renewal through post with requisite fee as prescribed and by enclosing the original certificate of practice with the reasons for delay in submitting the same. However, the second respondent by a letter dated 12.05.2021 informed that as per Rule 8B of the Notary Rules, the petitioner ought to have submitted his application for renewal within six months and the belated submission of the application for renewal cannot be entertained. Therefore, on 20.05.2021 the original certificate as well as the fee of Rs.1,000/- paid by the petitioner were returned back. Thereafter, the petitioner submitted an application online on 16.06.2021 for which a reply was sent by e-mail stating that the application was submitted belatedly and it cannot be entertained. After rejection of his application, the petitioner sent representations on 19.06.2021 and 30.06.2021 requesting to consider his application for renewal, but there was no response. Hence, this writ petition has been filed.

3. The learned counsel for the petitioner placed reliance on the order dated 23.03.2021 passed by the Honourable Supreme Court in suo motu Writ Petition in Miscellaneous Application No. 665/2021 in SMW (C) No.3/2020/ In Re; Cognizance for extension of Limitation whereby the Honourable Supreme Court held that the period of limitation in filing petitions/applications/suits/appeals/all other proceedings irrespective of the period of limitation prescribed under the General or Special Laws shall stand extended with effect from 15.03.2020 until further orders. By placing reliance on the same, the learned counsel for the petitioner prayed this Court to allow this writ petition by directing the respondents to condone the delay in submitting the application to renew the certificate of practice and to renew the certificate for a further period of five years.

<https://hcservices.ecourts.gov.in/hcservices/> 4. The learned counsel for the petitioner further 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 made out all 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 counsel for the petitioner prayed for condoning the delay 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.

5. On the above contention of the learned counsel for the petitioner, this Court heard the submissions made by the learned Government Counsel appearing for the respondents and perused the material records placed.

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 18.10.2001, which was periodically renewed until 18.10.2021. 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 18.04.2021, but in the instant case, such an application has been submitted on 03.05.2021. It is stated in paragraph Nos. 3 and 4 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 and various other reasons as above said. 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 18.10.2021. 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. 21840 of 2021 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

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

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

+2 ccs to Mr.S. Suresh Kumar , Advocate Sr.NO. 49815

WP No. 20590 of 2021

A.SK(12.10.2021)