



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.20891 of 2021

M.Prakash

... Petitioner

-vs-

1.The Registrar General
High Court of Madras
Chennai 104

2.The Chief Administrative Officer
Principal District Court, Erode

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to reappoint the petitioner as Commissioner of Oaths and to accept the petitioner late fee and his renewal of application fee by considering the petitioner letter dated 27.08.2020 and application dated 09.12.2020

For the Petitioner : Ms.C.Meena,
for Mr.M.Guruprasad

For the Respondents : Mr.P.Kannan Kumar,

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The grievance of the petitioner is that because of the belated application for renewal of the petitioner's tenure as a Commissioner of Oaths, no extension was granted. The petitioner seeks a direction on the first respondent herein to consider the petitioner's belated application for renewal of his tenure as commissioner.



2. The respondents refer to Rule 7 of the Commissioner of Oaths Rules, 1988 formulated by this court under the Indian Oaths Act, 1969 for the appointment of Commissioners of Oaths. The first proviso to Rule 7(a) thereof conceives of an application for renewal to be made one month before the expiry of the term. A further proviso, however, makes it possible for an application for renewal to be entertained if the same is made within three months of the date of expiry of the tenure and if sufficient cause is shown for the delay and the late fee is tendered.

3. The petitioner claims that sufficient cause was indicated by the petitioner in the present case but the request was rejected.

4. It appears that the petitioner's tenure ended on April 10, 2020. The petitioner, however, applied for extension of the tenure on or about August 27, 2020, after a lapse of more than four months. Again, it is submitted by the respondents that the application was not tendered along with the late fee which implied that there was no application in the eye of law and the appropriate Form No.III was not submitted. It is the further case of the respondents that based on the recommendations of the District Judge, every January and June fresh appointments are made to fill up any vacancy. In the present case, the vacancy created upon the petitioner's tenure having come to an end was filled up in January, 2021.

5. In view of the aforesaid, particularly the fact that no real application within the meaning of the second proviso to Rule 7(a) of the said Rules of 1988 had been filed and, even the belated filing of the present application, nothing can be done now. The vacancy that arose upon the petitioner's tenure expiring by efflux of time has now been filled up.

6. However, the petitioner will be entitled to apply afresh for future appointment, whenever any vacancy arises.

WP No.20891 of 2021 is disposed of. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sra



To:

1.The Registrar General,
High Court of Madras,
Chennai-104.

2.The Chief Administrative Officer,
Principal District Court,
Erode.

Copy to:

The Section Officer,
Legal Cell,
High Court,
Chennai-104.

+lcc to Mr.M.Guru Prasad, Advocate Sr No.50582
+lcc to the Government Pleader Sr No.50827

W.P.No.20891 of 2021

PVS (CO)
PR (06/10/2021)