

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.21255 OF 2021

V.Jaisankari

...Petitioner

Versus

1. The Union of India,
Rep. by Secretary to Government,
Secretary to Ministry of Law and Justice,
4th Floor - A - Wing,
Shastri Bhavan,
New Delhi - 100 001.
2. State of Tamil Nadu,
Rep. by Secretary to Law Department,
Secretariat, Fort St.George,
Chennai - 600 009.
3. Deputy Secretary to the Government,
Law (Admn) Department,
Secretariat,
Chennai - 600 009.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the communication of the third respondent in Letter No.10636/Admn/2021-1 dated 11.05.2021, quash the same and consequently, direct the respondents 2 and 3 to consider the petitioner's application for renewal and issue Certificate of Practise for a further period of 5 years, upto 17.09.2026.

For Petitioner : Mr.Niranjana Rajagopalan
for M/s.G.R.Associates

For Respondents - 2 & 3 : Mr.Stalin Abhimanyu,
Government Counsel

O R D E R

The prayer made in this writ petition is to issue a certiorarified mandamus calling for the records relating to the

communication of the third respondent in Letter No.10636/Admn/2021-1 dated 11.05.2021, quash the same and consequently, direct the respondents 2 and 3 to consider her application for renewal and issue a certificate of Practise as Notary for a further period of 5 years, upto 17.09.2026.

2. According to the petitioner, she was enrolled as an Advocate with the Bar Council of Tamil Nadu in the year 1986 and she has been practicing as an Advocate before the District Court and Fast Track Court, Thoothukudi. Subsequently, she was appointed as a Notary for a period of 3 years with effect from 17.09.1998 and she was regularly renewing her Certificate of Practice and the last renewal of the same was on 18.10.2016 till 17.09.2021. The petitioner further stated that the first respondent has amended Rule 8B of Notaries Rules, 1956, as per which, the Certificate of Practice has to be renewed for a further period of five years on payment of prescribed fee and an application for renewal of Certificate of Practice shall be submitted online in Form XVI to the appropriate Government before six months from the date of expiry of its period of validity. As per the above Rules, the petitioner ought to have submitted her online application for renewal of her Certificate of Practice on 16.03.2021, but, due to health problem, including covid -19 pandemic situation, she submitted her renewal application on 27.04.2021, which was returned by the third respondent, vide Letter No.10636/Admn/2021-1, dated 11.05.2021. Subsequently, she submitted her application through online on 24.05.2021, which was also returned by the third respondent stating that the application should have been made six months before the expiry of certificate of licence. Thereafter, she sent a representation dated 10.06.2021 to the second respondent, explaining the delay of 43 days in filing the renewal application, which is kept pending, without any action. Finding no other alternative, the petitioner has filed this writ petition for the aforesaid relief.

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 Rule 8B of the Notary Rules, 1956, however, as per the amendment brought into the said 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 further stated by the learned counsel that the petitioner lost her father due to covid-19 on 06.01.2021, pursuant to which, she along with her family members were under home quarantine for two weeks, and she developed a throat infection, which was cured after taking medication; that

in the month of February, 2021, Thoothukudi District was seriously affected by thunderstorms and due to heavy rain in the locality of the petitioner, there was severe water clogging and local inhabitants were restricted of their movement, due to which, she was unable to leave her residence for over a month; and that on 09.03.2021, she fell down, due to which, she suffered a ligament tear in her left knee and was advised to take complete bed rest for six weeks i.e., from 10.03.2021 to 30.04.2021; and for the said reasons, she could not submit her renewal application on time. Therefore, the learned counsel prayed for condoning the delay of 43 days in submitting the application for renewal of Certificate of Practice by the petitioner and directing the respondents 2 & 3 to renew her Certificate of Practise for further period.

4. Per contra, the learned Government Counsel appearing for the respondents 2 & 3 submitted that the procedure relating to renewal of Certificate of Practice has been digitalized. 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 of Certificate of Practice has to be submitted. If any application is submitted beyond the time provided under the Act and Rules, such application will be automatically rejected and also, the same will not be entertained through offline, from 10.03.2021 onwards. In such circumstances, the application submitted by the petitioner beyond the period prescribed under the Statute cannot be entertained. Hence, he sought to dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed before this Court.

6. Admittedly, the petitioner is a holder of Certificate of Practice to discharge the duties of a Notary. At the first instance, she was issued with such a certificate on 17.09.1998, which was periodically renewed until 17.09.2021. As per the Notary Rules, for the purpose of further renewal of Certificate of Practice, the petitioner ought to have submitted an application on or before 16.03.2021, but, she made such an application on 27.04.2021. From a perusal of the affidavit filed in support of this petition, it is evident that the petitioner could not submit her application for renewal of Certificate of Practice, on time, due to the reasons which are beyond her control and hence, the same have to be accepted and she cannot be deprived of renewal. The concept of digitalization 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 some technicalities. When the petitioner submitted her renewal application before expiry of validity of the Certificate of Practice, the delay in submission of the

online renewal application cannot be put against her. Therefore, this Court is of the considered view that exercising the jurisdiction conferred under Article 226 of The Constitution of India 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 renewal application, the third respondent is directed to entertain the same, 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(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government, Union of India,
Secretary to Ministry of Law and Justice,
4th Floor - A - Wing,
Shastri Bhavan, New Delhi - 100 001.
2. The Secretary to Law Department,
State of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.
3. The Deputy Secretary to the Government,
Law (Admn) Department,
Secretariat, Chennai - 600 009.

+1cc to M/s.G.R.Associates, Advocate, S.R.No.52849

W.P.No.21255 of 2021

PM(CO)
PM/27/10/2021