



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.No.21713 of 2021

and

WMP.No.22894 of 2021

S.Haja Mohideen Gisthi

..Petitioner

Versus

1. The Secretary to Government (Law)
Administrative Department,
Secretariat,
Chennai - 600 009.

2. The Deputy Secretary Government,
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 call for the records pertaining to the order passed by the 2nd Respondent in his proceedings in letter No.11111/Admin/2021-1, dated 05.2021 and quash the same, consequentially direct the respondents to renew the certificate of practice as Notary as per the Notary renewal application of the petitioner dated 12.05.2021.

For Petitioner : Mr.S.Sathish Rajan

For R1 & R2 : 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 from the file of the second respondent in his proceedings in letter No.11111/Admin/2021-1, dated Nil.05.2021 and quash the same, consequentially direct the respondents to renew the certificate



of practice as Notary as per the Notary renewal application of the petitioner dated 12.05.2021.

2. The petitioner enrolled as an Advocate on 13.09.1989 and he is practicing in the Courts at Chennai. During the course of such practice, the petitioner submitted an application for appointment as a Notary and considering the same, the petitioner was appointed as Notary on 23.10.2000 for a period of five years. The certificate of practice issued to the petitioner on 22.10.2010 was periodically extended until 23.10.2020. For further extension, the petitioner ought to have submitted an application six months prior to 23.06.2020, the date on which the extension to practice expire, but due to the nation wide lock down imposed by the State Government, he was unable to submit his application in time, in person. The attempts made by the petitioner to submit an application through on-line could not be effectuated due to technical glitch in the server. Ultimately, only on 12.05.2021, the petitioner submitted the application for renewal of certificate of practice, but it was rejected by the impugned order dated 13.05.2021 on the ground of delay in submitting the application for renewal of certificate of practice. Aggrieved by the same, the petitioner has filed this writ petition.

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 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 no other statutory remedy except to file this writ petition. It is stated by the learned counsel for the petitioner that the petitioner made all out 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.

4. The learned Government Counsel appearing for the respondents opposed the writ petition filed by the petitioner and submitted that the procedure relating to renewal of Certificate of Practice has been digitalised. 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 has to be



submitted. If the application is submitted beyond the time provided under the Act and Rules, the application, if any, submitted will be automatically rejected and such application will not be entertained through offline on and from 10th March 2021. In such circumstances, an application submitted off line beyond the period prescribed under the Statute cannot be entertained. Therefore, the learned Government Counsel prayed for dismissal of the writ petition.

5. 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 22.10.2010, which was periodically renewed until 23.10.2020. 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 six months before 23.10.2020, but in the instant case, such an application has been submitted on 12.05.2021. It is stated in 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. 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. 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.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

av/rsh

To

1. The Secretary to Government (Law)
Administrative Department,
Secretariat,
Chennai - 600 009.
2. The Deputy Secretary Government,
Law (Admn) Department,
Secretariat, Chennai - 600 009.

+1cc to the Government Pleader, S.R.No.56650

W.P.No.21713 of 2021

SPD(CO)
RGA(26/11/2021)