



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. NO. 22777 OF 2021

K.Azhagarasan

.. Petitioner

Versus

1. The Secretary to Government
of Tamil Nadu,
Law Department,
Fort St. George,
Chennai-600 009.
2. The Under Secretary to Government
of Tamil Nadu,
Law (Admn) Department,
Secretariat, Chennai 600 009.

.. Respondents

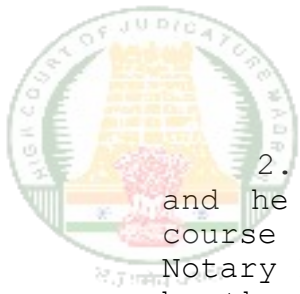
Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus by calling for the records in letter No.14102/Admn/2021-1, dated 16.08.2021 on the file of the second respondent and quash the same and further directing the respondents to renew the certificate of practice issued to the petitioner by the first respondent dated 29.01.2002 valid till 28.01.2022.

For Petitioner : Ms.AL.Ganthimathi

For Respondents : Mr.G.Krishnaraja,
Government Counsel

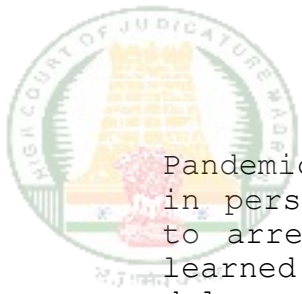
ORDER

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 relating to the letter dated 16.08.2021 and quash the same and consequently, direct the respondents to renew the Certificate to Practice as Notary issued to the petitioner by the first respondent dated 29.1.2002 valid till 28.1.2022.



2. The petitioner enrolled as an Advocate on 08.03.1989 and he is practicing in the Courts at Chennai. During the course of such practice, the petitioner was appointed as a Notary Public and the certificate of practice was issued to him by the respondents on 29.1.2002 which is renewable for a period of five years under the Notaries Act, 1952 (Central Act 53 of 1952). His certificate of practice was lastly renewed vide G.O. (Ms) No.275, dated 23.06.2016 with effect from 29.01.2017 valid until 28.1.2022. According to the petitioner, as per rule 8-B of the Notary Rules 1956, the certificate of practice may be renewed for further period of five years on payment of prescribed fee on submission of online application in form 16 to the appropriate Government before 6 months from the expiry of its period of validity. In other words, the petitioner ought to have submitted an application for extension on or before 28.07.2021, but due to the nation wide lock down imposed by the State Government and on account of his wife's illness due to Covid-19, he was unable to submit his application in time, in person, but submitted the application for renewal on 30.07.2021 with a delay of three days. However, the second respondent, by its letter No.14102/Admn/2021-1, dated 16.08.2021 rejected the petitioner's application for renewal on the ground that there was a delay of three days in submitting the renewal application which out to have been submitted on 28.07.2021 and directed the refund of renewal fee of Rs.1,000/-, hence, this writ petition has been filed.

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 with no other statutory remedy except to file this writ petition. Further, the Honourable Supreme Court, in its order dated 23.3.2021 in Miscellaneous Application No.665/2021 in SMW (C) No.3/2020/In : Re cognisance for extension of Limitation, issued a direction that the period of intimation in filing petitions/ applications/ suits/appeals and all other proceedings irrespective of the period of limitation prescribed under the General or special laws, shall stand extended with effect from 15.3.2020 till further orders. Hence, the time limit for filing his application for renewal of the certificate of practice under the Notaries Act 1952 stands extended. It is stated by the learned counsel for the petitioner that the petitioner is not able to submit the application on-line since his wife was affected with covid-19 and due to the lockdown imposed to curb the spread of Covid-19



Pandemic. 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 of 3 days 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. Per contra, the learned Government Counsel submitted that the procedures 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. Thus, an application submitted beyond the period prescribed under the Statute cannot be entertained. Therefore, the learned Government Counsel appearing for the respondents prayed for dismissal of the writ petition.

5. Heard the counsel for both sides and perused the materials placed on record. 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 29.01.2002, which was periodically renewed until 28.1.2022. 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 28.07.2021, but in the instant case, such an application has been submitted on 30.07.2021. It is stated in paragraph No. 4 of the affidavit filed in support of the writ petition that the petitioner, owing to illness of his wife due to Covid 19 infection as also the lockdown imposed by the Government to curb the spread of Covid-19 pandemic, was unable to submit his application for renewal in time. 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 mere three days delay in uploading the application for renewal, the petitioner cannot be deprived of renewal of his certificate of practice. The validity of the Certificate of Practice issued to the petitioner is in currency and it expires only on 28.01.2022. 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. 24001 of 2021 is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

msr/rsh

To

1. The Secretary to Government
of Tamil Nadu, Law Department,
Fort St. George, Chennai.
2. The Under Secretary to Government
of Tamil Nadu,
Law (Admn) Department,
Secretariat, Chennai 600 009.

+1cc to Ms.AL.Ganthimathi, Advocate, SR.No.54083

+1cc to the Government Pleader, Advocate, SR.No.54610

+3ccs to Ms.AL.Ganthimathi, Advocate, SR.No.54062

WP No. 22777 of 2021

KV(CO)

RLP(17/11/2021)