



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. NOS. 22813 AND 22820 OF 2021

I.Viswanathan

.. Petitioner in W.P. No. 22813 of 2021

P.Jagan Mohan

.. Petitioner in W.P. No. 22820 of 2021

Versus

1. The Secretary to the Government of Tamil Nadu
Law (Admn) Department
Chennai

2. The Deputy Secretary
Law (Admn) Department
Chennai

.. Respondents in both WP's

Prayer in W.P. No. 22813 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the letter No. 12316/Admn/2021-1, dated 29.06.2021 on the file of the second respondent The Deputy Secretary to the Government of Tamil Nadu, Law (Admn) Department, Secretariat, Chennai - 600 009, and quash the same and consequently direct the respondents to consider the petitioner's renewal application dated 23.06.2021 without insisting the delay.

Prayer in W.P. No. 22820 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the letter No. 12317/Admn/2021-1, dated 29.06.2021 on the file of the second respondent The Deputy Secretary to the Government of Tamil Nadu, Law (Admn) Department, Secretariat, Chennai - 600 009, and quash the same and consequently direct the respondents to consider the petitioner's renewal application dated 23.06.2021 without insisting the delay.



For Petitioner in both WP's : Ms.Ashwini Devi. K

For Respondents in both WP's : Mr.G.Krishnaraja
Government Counsel

WEB COPY

COMMON ORDER

In both these writ petitions, challenge is to the orders of rejection passed by the second respondent on 29.06.2021, rejecting the applications submitted by the respective petitioners for renewal of Certificate to Practice as Notary. Both the orders of rejection have been passed on the ground that the petitioners have submitted their applications through offline, belatedly and such applications cannot be entertained as per the amended rule 8B of the Notaries Rules, 1956 dated 06.11.2019.

2. The petitioner in W.P. No. 22813 of 2021 claims that he enrolled as an Advocate in the year 1985 and he is practicing in the Courts at Attur. During the course of such practice, he submitted an application for appointment as a Notary on 19.12.2001 in and around the Courts at Attur for five years from 19.12.2001. The petitioner was issued a Certificate of Practice vide G.O. (Ms) No.317, Law (Administration) Department dated 18.2.2006, which was extended for a further period of five years from 19.12.2006 to 19.12.2011. Subsequently, the certificate of practice issued to the petitioner was further extended by an order passed by the Government in G.O. (Ms) No.488, Law (Administration) Department dated 08.10.2016 for a period of five years. Thus, the petitioner was given extension to practice as Notary until 19.12.2021. For further extension, the petitioner ought to have submitted an application six months prior to 18.06.2021, the date on which the Certificate of practice expires. In other words, the petitioner ought to have submitted an application for extension on or before 18.06.2021, but due to the nation wide lock down imposed by the State Government, he was unable to submit his application 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 23.06.2021, the petitioner sent the application for renewal which was received by the respondents on 25.06.2021. Thereafter, the second respondent returned the application for renewal vide Letter.No.12316/Admn/2021-1 dated 29.06.2021 stating that the application ought to have been submitted online six months before expiry of the Certificate to Practice but such application has been submitted on 21.06.2021 and it is time barred. Therefore, the second respondent returned the



application of the petitioner, hence, WP No. 22813 of 2021 has been filed.

3. The averments made by the petitioner in W.P. No. 22820 of 2021 are to the effect that he enrolled as an Advocate in the year 1984 and he is practicing in the Courts at Attur. During the course of such practice, he submitted an application for appointment as a Notary in and around the Attur Court for five years. As per the application of the petitioner, he was appointed as Notary Public initially for a period of five years from 04.12.2001, which was subsequently renewed. The last such renewal of certificate of practice of the petitioner was made on 04.12.2016 and it is to expire on 03.12.2021. For further extension, the petitioner ought to have submitted an application six months prior to 03.06.2021, the date on which the certificate of practice expires. In other words, the petitioner ought to have submitted an application for extension on or before 03.06.2021, but due to the nation wide lock down imposed by the State Government, he was unable to submit his application 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 23.06.2021, the petitioner sent the application for renewal which was received on 25.06.2021. Thereafter, by a letter dated 29.06.2021 it was stated that the application ought to have been submitted online six months before expiry of the Certificate to Practice and the application submitted on 23.06.2021 is time barred and therefore it was returned. Challenging the same, the petitioner has filed WP No. 22820 of 2021.

4. The learned counsel appearing for the petitioners in both these writ petitions 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 petitioners are left no other statutory remedy except to file these writ petitions. It is stated by the learned counsel for the petitioners that in both these writ petitions, the petitioners have made out all efforts to submit the application on-line but such attempts have been futile. In any event, the applications 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 petitioners submitted that the respondent is not justified in returning the applications submitted by the petitioners by pointing out the



delay of 5 and 20 days respectively in submitting the applications for renewal of Certificate of Practice and therefore, she prayed this Court to direct the respondents to renew the Certificate of Practice to the petitioners for further period.

5. On the above contention of the learned counsel appearing for the petitioners in both these writ petitions, this Court heard the submissions made by the learned Government Counsel for the respondents and perused the material records placed.

6. It is apparent that the petitioners are holders of Certificate of Practice to discharge the duties of a Notary. At the first instance, the petitioners in both the writ petitions were issued with such a certificate on 19.12.2001 and 04.12.2001, which were periodically renewed until 19.12.2021 and 04.12.2021 respectively. As per the Notary Rules, for the purpose of further renewal of Certificate of Practice, an application ought to have been submitted by the petitioners on or before 18.12.2021 and 03.12.2021 respectively, but in the instant case, such applications have been submitted on 23.06.2021 by both the petitioners. It is stated in paragraph Nos. 11 and 12 of the affidavits filed in support of the respective writ petitions that they have made attempt to submit the applications on-line but due to technical glitch, they could not succeed in submitting the applications for renewal. It is also stated that the petitioners could not submit the applications 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 petitioners could not submit the applications for renewal in time due to reasons which are beyond their control. The explanations offered by the petitioners for non-submission of applications for renewal within six months time has to be accepted. In such view of the matter, by citing the technicalities in uploading the applications for renewal, the petitioners 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 petitioners is in currency and it expires only on 19.12.2021 and 04.12.2021 respectively. While so, the delay in submission of the applications for renewal cannot be put against the petitioners 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, these Writ Petitions are disposed of with the following



direction:

(i) The petitioners are 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 applications 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.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The Secretary to the Government of Tamil Nadu
Law (Admn) Department
Chennai
2. The Deputy Secretary
Law (Admn) Department
Chennai

+1cc to the Government Pleader, S.R.No.55863 & 55864

WP Nos. 22813 & 22820/2021

SPD(CO)

RLP(15/12/2021)