



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 23918 of 2021

and

WMP No. 25244 of 2021

P. Ramadoss

...Petitioner

Versus

1. The Union of India
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 Government
Secretariat, Fort St. George
Chennai - 600 009

2. The Deputy Secretary to the Government
Law (Administrative)
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 to call for the records and quash the impugned communication dated 13.10.2021 issued by the 3rd respondent and consequently directing the respondents to renew the Notary Certificate of the petitioner dated 17.04.2017 vide G.O.Ms.No.124/2017.

For Petitioner : Mr.D. Baskar

For Respondents : Mr. M.R. Gokulakrishnan
Government Advocate for R2-R3

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 third respondent in connection with the digital information provided to the petitioner, quash the same and consequently,



direct the respondents to renew the Certificate to Practice as Notary with effect from 11.04.2022 on the basis of the petitioner's application dated 11.11.2021 to the third respondent for a further period of 5 years with effect from 11.04.2022.

2. The petitioner enrolled as an Advocate in the year 1970 and he is practicing in the Courts at Thirukoilur. During the course of such practice, the petitioner submitted an application for appointment as a Notary as per the order passed by the Government in G.O. (Ms) No.90/1984 appointed to practice as Notary in and around the South Arcot District for three years from 11.04.1984. The petitioner renewed the Certificate of Practice as Notary from then periodically from time to time. According to the petitioner, the certificate of practice issued to the petitioner was further extended by an order passed by the Government in G.O. (Ms) No.124, Law (Administrative) Department dated 17.04.2017 for a period of five years. Thus, the petitioner was given extension to practice as Notary till 11.04.2022. For further renewal, the petitioner ought to have submitted an application six months prior to 11.04.2022, the date on which the extension to practice expire. In other words, the petitioner ought to have submitted an application for extension on or before 10.11.2021, but due to technical glitches in uploading the pre-requisite documents for renewal of certificate of practice as Notary, he was unable to submit his application in time. Ultimately, he filed application with one day delay on 11.10.2021, the petitioner got the application for renewal registered and he sent an e-mail to the third respondent regarding the same on 12.11.2021, but it was not favorably considered and the third respondent sent a reply on 12.11.2021 stating that the application ought to have been submitted on 10.10.2021 and the application submitted on 11.11.2021 is time barred. Aggrieved against the same, 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 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. While so, the learned counsel for the petitioner prayed for condoning the delay of 1 days in submitting the application for

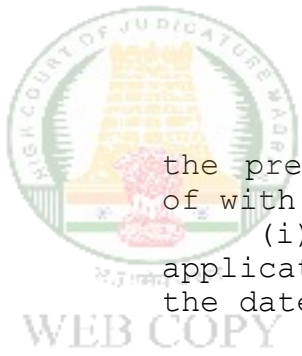


renewal of Certificate of Practice and to direct the respondents to renew the Certificate of Practice to the petitioner for further period.

4. On the above contention of the learned counsel for the petitioner, this Court heard the submissions made by the learned Government Counsel appearing for the respondents 2 and 3 and perused the material records placed.

5. The learned Government Counsel, by placing reliance on the counter affidavit submitted that the procedures 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 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. In such circumstances, an application submitted beyond the period prescribed under the Statute cannot be entertained. Therefore, the learned Government Counsel prayed for dismissal of the writ petition.

6. 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 11.04.1984, which was periodically renewed until 11.04.2022. 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 10.10.2021, but in the instant case, such an application has been submitted on 11.10.2021. It is stated in paragraph Nos. 6 and 7 of the affidavit filed in support of the writ petition, 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. Thus, it is evident that the petitioner could not submit the application for renewal in time due to reasons which are beyond his control. 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. The validity of the Certificate of Practice issued to the petitioner is in currency and it expires only on 11.04.2022. 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. 25244 of 2021 is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Ministry of Law and Justice
Union of India
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2. The Secretary to Government
State of Tamil Nadu
Secretariat, Fort St. George
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3. The Deputy Secretary to the Government
Law (Administrative)
Department Secretariat
Chennai - 600 009

+1cc to Mr.D. Baskar, Advocate, S.R.No.57781

+1cc to Mr.B.Rabu Manohar, Advocate, S.R.No.57725

+1cc to the Government Pleader, S.R.No.58052

WP No. 23918 of 2021

NMI [co]
NSK 08/12/2021