



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 25319 of 2021

M.Drakshayani

.. Petitioner

Versus

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

.. Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuance to Letter No.15697/Admn/2021-1 dated 15.09.2021 on the file of the respondent and quash the same as unreasonable and unjustifiable and direct the respondent to renew the petitioner's Notary Certificate dated 25.02.2002.

For Petitioner : S.N.Arunkumar

For Respondent : Mr.M.R.Gokul Krishnan
Government Advocate

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 in pursuance to Letter No.15697/Admn/2021-1 dated 15.09.2021 on the file of the respondent and quash the same as unreasonable and unjustifiable and direct the respondent to renew the petitioner's Notary Certificate dated 25.02.2002.

2. The petitioner enrolled as an Advocate in the year 1985 and she is practicing in the Courts at Dharmapuri. 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 Hosur Taluk, Dharmapuri District for three years from 25.02.2002. 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.2, Law (Administrative) Department dated 05.01.2017 for a period of five years. Thus, the petitioner was given extension to practice as Notary till 25.02.2022. For further renewal, the petitioner ought to have submitted an application six months



prior to 25.02.2022, 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 25.08.2021, but due to technical glitches in uploading the pre-requisite documents for renewal of certificate of practice as Notary, she was unable to submit her application in time. Ultimately, she filed application with seven days delay on 06.09.2021, the petitioner got the application for renewal registered. But it was not favorably considered and the respondent sent a reply on 15.09.2021 stating that the application ought to have been submitted on 25.08.2021 and the application submitted on 06.09.2021 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 7 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 respondent 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 25.02.2002, which was periodically renewed until 25.02.2022. As per the Notary Rules, for the purpose of



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further renewal of Certificate of Practice, an application ought to have been submitted by the petitioner on or before 25.08.2021, but in the instant case, such an application has been submitted on 06.09.2021. It is stated in (paragraph Nos. 6 and 7) grounds No.1 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 25.02.2022. 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 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.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

rli / sp

To

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

+1cc to Mr.S.N.Arunkumar, Advocate SR.No.61851