



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD)No.2931 of 2021

Marialalitha

... Petitioner

- Vs -

1.The Deputy Inspector of Registration,
Tirunelveli,
Tirunelveli District.

2.The District Registrar,
Palayamkottai,
Tirunelveli District.

3.The Sub Registrar,
Sattankulam,
Thoothukudi District.

... Respondents

PRAYER: Writ 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 impugned order மு.மு.எண்.4876/அ3/2015, dated 17.12.2020 passed by the first respondent and quash the same and consequently, direct the first respondent to take the petitioner's appeal filed against the order dated 03.04.2019 passed by the second respondent in order No.292/அ1/2018 and dispose of the same on merits.

For Petitioner

: Mr.P.T.Thiraviam

For Respondents

: Mr.K.Sathiya Singh

Additional Government Pleader

ORDER

The petitioner was the licensed stamp vendor from 2003 and her husband's father and grandfather were also licensed stamp vendors. They have been vending stamps for the last several years without any complaints whatsoever.

2.The second respondent issued summons on 02.05.2018 directing the petitioner to appear before him on 07.05.2018. According to the second respondent, the petitioner misused the licence granted to her and appears to have fabricated sale agreement. In this regard, a complaint was made by one Mr.Jegan Anthony Dennison on 16.01.2018. The petitioner appeared before the enquiry on 07.05.2018 and gave a statement before the second respondent. In the enquiry, the



petitioner has stated that there were 42 stamp papers wrongly printed which were not issued by her.

3.The second respondent, despite valid explanation by the petitioner, issued show-cause notice stating that why the stamp vending licence cannot be cancelled on 09.10.2018. The said show-cause notice was put to challenge in the Writ Petition before this Court in W.P.(MD) No.21608 of 2018. However, the Writ Petition was dismissed with liberty to the petitioner to file her objection before the second respondent within a period of two weeks. The order was passed by this Court on 16.10.2018. In the meanwhile, the second respondent passed an order cancelling the licence issued to the petitioner on 28.11.2018 on the ground that the petitioner has not submitted her explanation as directed within 15 days to the show-cause notice. The order dated 28.11.2018 was challenged before this Court in W.P.(MD)No.24348 of 2018. However, the Writ Petition was disposed of by this Court directing the petitioner to appear before the authority concerned within a period of three weeks. Thereafter, once again the authority passed an order cancelling the licence on 03.04.2019 without giving proper opportunity to the petitioner.

4.In the meanwhile, the petitioner's husband appears to have suffered from paralytic stroke and was taking treatment and the petitioner had been attending on him. Further, there was a pandemic crisis, after the final order was passed on 03.04.2019 and in that circumstances, appeal could not be filed in time. However, the appeal was filed with a delay of 571 days before the first respondent on 24.11.2020 against the order of the second respondent dated 03.04.2019. The appeal was rejected on 17.12.2020 only on the ground that there was a delay in filing the appeal. The first respondent did not deal with the appeal on merits by liberally considering the delay in the extraordinary circumstances explained by the petitioner seeking condonation of the delay. In the said circumstances, the petitioner is before this Court.

5.The learned Counsel appearing for the petitioner would submit that under similar circumstances, this Court has accepted the case of the petitioner therein seeking condonation of the delay and directed the appellate authority to dispose of the appeal on merits and in accordance with law by recent order dated 27.01.2021 in W.P.(MD) No.17942 of 2020.

6.At this, Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents would acknowledge that the order passed by this Court would cover the case of the petitioner herein on the aspect of condonation of delay and disposing of the appeal on merits.

7.This Court in the above mentioned order, in paragraphs 9 to 15 has held as under:

<https://hcservices.mca.gov.in/hcservices/>



"6.In terms of the above guidelines, the petitioner submitted a representation to the second respondent. However, the second respondent, without considering the representation in proper perspective, rejected the representation, by its proceedings, dated 03.02.2020. The petitioner, however, was provided an opportunity of filing an appeal against the order, within 60 days from the date of receipt of a copy of the proceedings, in case the petitioner is aggrieved with the proceedings. The appeal was stated to lie before the first respondent herein.

7.In the meanwhile, in March 2020, a national lock down was announced and imposed and consequently, all the activities came to a stand still due to Covid-19 situation. According to the petitioner, the limitation, prescribed in various contingencies for availing legal remedies, has been extended from time to time, in view of continuation of lock-down for months together, owing to the unprecedented pandemic crisis. In the trying circumstances, the petitioner could not avail the appeal remedy within 60 days period of stipulation. However, he filed his appeal on 10.10.2020, even during the period of pandemic crisis.

8.In response to the appeal filed by the petitioner, a cryptic one line order was passed by the first respondent on 19.10.2020, rejecting the appeal stating that the appeal was preferred after the expiry of 60 days. Challenging the same, the petitioner is before this Court.

9.After notice, Mr.R.Narayanan, learned counsel, entered appearance for the petitioner.

10.The learned counsel appearing for the petitioner reiterated the factual position as contained in the petition and submitted that in the extraordinary pandemic crisis, it is quite unfortunate that the first respondent has rejected the appeal on the ground of delay. When the Courts are extending limitation period liberally in extraordinary and unprecedented times, the valuable right of the petitioner in having the appeal heard on merits had been simply snuffed out by summarily rejecting the appeal on the said ground.

11.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as far as the appellate authority is concerned, he has followed the procedure and rules and therefore, the same cannot be found fault with.



12.This Court considered the submissions of the learned counsel for the rival parties.

13.As rightly pointed out by the learned counsel for the petitioner, the first respondent, namely, the appellate authority, ought not to have rejected the appeal by a cryptic order, rejecting the appeal only on the ground of delay without appreciating the unprecedented times, which entire humanity has been going through. In fact, as rightly pointed out by the learned counsel for the petitioner, the Courts have been extremely liberal in understanding the difficulties faced by the litigants in availing appropriate remedies promptly and entertaining the litigations by extending the period of limitation wherever possible. While such is the case, this Court is unable to appreciate as to why the first respondent has adopted a pedantic approach even during the pandemic crisis, while disposing of the appeal summarily on the ground of delay.

14.The action of the first respondent in summarily rejecting the appeal without delving the matter on merits would amount to denial of valuable right to the petitioner having the appeal heard on merits. In the considered view of this Court, the appellate authority is the most competent person to decide the claim of the petitioner both in terms of appreciation of facts as well as the nature of claim of the petitioner, if the materials are produced for consideration. However a cavalier approach adopted by the first respondent in rejecting the claim of the petitioner for the reason of delay alone without appreciating the prolonged crisis is opposed to fair play and good conscience.

15.For the above said reasons, the impugned order of the first respondent dated 19.10.2020 is hereby set aside. The matter is remanded back to the first respondent for considering the appeal of the petitioner on merits and in accordance with law. The first respondent is directed to pass appropriate orders by providing an opportunity of personal hearing to the petitioner, if necessary and pass orders, within a period of four weeks from the date of receipt of a copy of this order."

8.In view of the above view taken by this Court in similar circumstances, the present Writ Petition is also allowed and the impugned order dated 17.12.2020 passed by the first respondent in W.P.(MD)No.4876/m3/2015, is hereby set aside. The matter is remanded back to the first respondent for considering the appeal of the petitioner on merits and in accordance with law and the first respondent is directed to pass appropriate orders by providing an opportunity of personal hearing to the petitioner, if necessary, and



pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)

SRM

To

1.The Deputy Inspector of Registration,
Tirunelveli,
Tirunelveli District.

2.The District Registrar,
Palayamkottai,
Tirunelveli District.

3.The Sub Registrar,
Sattankulam,
Thoothukudi District.

+1 CC to Mr.P.T.THIRAVIAM, Advocate (SR-5558[F] dated 17/02/2021)

+1 CC to SPL GP (SR-5621[F] dated 17/02/2021)

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