



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2022

CORAM

The Hon'ble Mr. Justice PARESH UPADHYAY
and
The Hon'ble Mr. Justice SATHI KUMAR SUKUMARA KURUP

W.A.No.90 of 2022
and C.M.P.No.780 of 2022

The Competent Authority (Notary),
Ministry of Law & Justice,
(Department of Legal Affairs)
4th Floor, A Wing, Shastri Bhavan,
New Delhi - 110 001.

.. Appellant

Vs

R.Logabiraman

.. Respondent

Appeal preferred under Clause 15 of Letters Patent
against the order dated 27.10.2021 made in W.P.No.20526 of 2021.

Prayer in WP.No.20526 of 2021: Petition filed under Article 226
of the Constitution of India praying for issuance of a Writ of
Certiorarified Mandamus calling for the records of the
respondent dated 16.07.2021 in F.No.5(2672), 2008 N.C.No.23/2021
rejecting the renewal of the notary certificate of the
petitioner and to quash the same and direct the respondent to
renew notary license of the petitioner vide F.No.5(2672) 2008
N.C. Dated 28.07.2015 vide Reg.No.8201.

For Appellant : Mr.K.Srinivasa Murthy

For Respondent : Mr.R.Chandrasekar

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 27
October 2021 recorded on W.P. No.20526 of 2021. This appeal is
by the sole respondent / Authority (Notary), Ministry of Law &
Justice.

2.Learned advocate for the appellant has submitted that



the writ petitioner was a Notary and renewal of his licence was not applied within stipulated time and therefore the same was rejected and challenge to the said decision did not warrant any interference. It is submitted that the order of learned single Judge directing the Authority to consider the application of the writ petitioner afresh is unsustainable and the same be interfered with.

3.It is noted that the learned advocate for the appellant has drawn the attention of this Court to the relevant Rule, the impugned order dated 16.07.2021, so also the decision of the Punjab and Haryana High Court to contend that the interference by learned single Judge is erroneous. It is submitted that this appeal be entertained.

4.We note that the writ petitioner appears on caveat. He has attempted to address the Court. We have not thought it necessary to hear the counsel appearing on caveat.

5.Having heard learned advocate for the appellant and having considered the material on record, this Court finds that learned single Judge has under Article 226 of the Constitution of India exercised his discretion, which even the appellant Authority is also vested with, vide Rule 8B of The Notaries Rules, 1956, which is sought to be relied by the learned advocate for the appellant. The Central Government Authority can not be permitted to contend that, had that discretion been exercised by the official it was ok, but that discretion ought not to have been exercised by this Court under Article 226 of the Constitution of India. We refuse to entertain any such argument on behalf of the Government Authorities. On this count alone, this appeal needs to be dismissed.

6.We further find that, it was the case of the writ petitioner that the renewal application which should have been made in the earlier part of the year 2020, was made in June 2020 and that delay should have been condoned. Judicial cognizance needs to be taken of the fact that not only full-fledged lockdown was ordered by the Government in March 2020, if in those circumstances any citizen had not observed the time limit at the relevant point of time, the same can be said to be sufficient cause, which would warrant exercise of power to condone the delay. In the present case, that discretion ought to have been exercised by the officers, which was not done, which itself was arbitrary on their part. That is corrected by learned single Judge.



7. Therefore, while confirming the order of learned single Judge, we make it clear that in compliance of the order of learned single Judge, when the appellant Authority is to examine the application of the writ petitioner for renewal, it would not be open for them to reject it again on the ground of delay.

8. This appeal is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition would not survive.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Mmi/2

To

The Competent Authority (Notary),
Ministry of Law & Justice,
(Department of Legal Affairs)
4th Floor, A Wing, Shastri Bhavan,
New Delhi - 110 001.

+1cc to Mr.P.Chandrasekar, Advocate SR.No.7058

+1cc to Mr.R.Srinivasamurthy, Advocate SR.No.6968

W.A.No.90 of 2022

AD(CO)
GN(17/02/2022)