

**IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH**

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**CWP-7194-2019 (O&M).  
Date of Decision: 17.01.2023.**

**Raghubir Singh Toor**

.. Petitioner

Versus

**Union of India and others**

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

Present: Ms. Arshdeep Kaur, Advocate,  
for the petitioner.

Mr. Abhimanyu Antil, Advocate,  
for the respondents/UOI.

**VINOD S. BHARDWAJ, J. (ORAL)**

The instant writ petition raises a challenge to the order dated 13.02.2018 (Annexure P-10) passed by the respondents.

Briefly summarized, the case of the petitioner who is practicing as a Notary Public since 1989 at Judicial Court Complex, Jagraon, is that he was granted a license to practice as Notary Public in the year 2000 vide Certificate of Practice dated 07.03.2000 and the same was valid upto 07.03.2015. The petitioner claims to have moved an application for seeking renewal of the aforesaid certificate on 12.02.2015 i.e. about three weeks prior to its expiry along with the requisite fee. A letter was thereafter received by the petitioner on 14.05.2015 from respondent No.3 vide which the petitioner was asked to furnish certain documents which was also complied by the petitioner. A letter was again received by the petitioner

pointing out certain fresh objections regarding the renewal of Certificate of Practice as a Notary Public.

Reply to the above said objections was also submitted by the petitioner on 22.05.2015. As there was a delay of 127 days in submission for the application for renewal of the Certificate of Practice as Notary Public as per the procedure, the petitioner submitted the detailed reasons for the said delay pointing out that his wife had been suffering from Rheumatoid Arthritis for a long period and that even the petitioner was diagnosed with Bone Marrow Cancer. The family circumstances i.e. the health of his wife and also the failing health of the petitioner constantly delayed timely submission of the application for seeking renewal of the Certificate of Practice as Notary Public. The respondents had also referred to provisions of Rule 8B of the Notaries Rules, 1956, as amended vide the Notaries Amendment Rules 2014 whereby the Government after considering the reason stated in the application can relax the provisions of the rules. The petitioner was called upon to submit the relevant supporting documents setting out reasons for the delay since the rules require submission of application for renewal six months before its expiry. Along with furnishing requisite documents in support of the reasons for the delay, the petitioner also deposited an additional fee towards condonation of delay for seeking relaxation in delayed submission of the application for seeking renewal of Certificate of Practice as Notary Public. However, the application was rejected by the respondents vide order dated 13.02.2018 (Annexure P-10) on the ground of it having been submitted after expiry of validity period and after a period of 06 months and 03 days.

Written statement has been filed by the respondents wherein they have reiterated the said factual aspect and have contended that as per Rule 8B of the Notaries Rules, 1956, an application for renewal of Certificate of Practice as Notary Public was required to be submitted to the appropriate Government before six months from the date of expiry of its period of validity. Since the Certificate of Practice as Notary Public of the petitioner was valid upto 07.03.2015 and the application dated 12.02.2015 was received by the Ministry on 09.03.2015, hence the same was delayed. The petitioner having not fulfilled the requirements within the time frame, the same has validly not been renewed.

Learned counsel appearing on behalf of the petitioner contends that the application form specifically stipulates a column for a delayed submission of an application, thus providing an opportunity to an applicant to submit the reasons for delay in submission of the application. Further, the petitioner had also submitted the fee for seeking condonation of delay in submission of the application form and the same had also been accepted by the respondents. She further places reliance on the medical record appended along with the present petition as Annexure P-5 and the documents submitted to the respondents along with the response dated 14.05.2015 to contend that sufficient compelling circumstances exist which necessitate exercise of powers conferred with the respondents under Rule 8B of the Notaries Rules, 1956, as amended vide Notaries Amendment Rules, 2014. She contends that the wife of the petitioner was suffering from Rheumatoid Arthritis while the petitioner himself was diagnosed with cancer of Bone Marrow and as such, the family circumstances of the petitioner caused delay in submission of the application for seeking renewal of Certificate of

Practice as Notary Public. She further places reliance on the judgment of this Court in the matter of **Rajiv Johar Vs. Union of India and another, reported as 2016 (2) PLR 598**, wherein this Court had set aside the order passed by the competent Authority rejecting the application for seeking relaxation of the rules and directing the respondent authorities for considering the application afresh in view of the illness of the father of the petitioner therein. Further reference is also made to the judgment in the matter of **Jitendera K. Aggarwal Vs. State of Uttarakhand and another, reported as 2012 (67) RCR (Civil) 63**, wherein the Hon'ble Uttarakhand High Court had set aside the order passed by the competent Authority in not exercising the powers conferred under proviso to Rule 8B of the Notaries Rules, 1956.

Learned counsel for the respondents contends that the order passed by the competent Authority is strictly in accordance with rules and since the petitioner has failed to submit the application within timeframe i.e. 6 months before the expiry of the period of the validity of the certificate, the rejection is right and as per the applicable rules. He, however, could not respond to the query as to whether the respondents have notified any guidelines for exercise of relaxation and as to whether the respondent authorities have ever exercised the discretion to grant relaxation under proviso to Rule 8B to the Notaries Rules, 1956 as amended vide the Notaries (Amendment) Rules 2014. Besides, the ratio of the judgment referred to above has also not been disputed.

I have heard the learned counsel for the respective parties and have gone through the documents on record.

The facts have remained uncontroverted that the application dated 12.02.2015 was submitted by the petitioner and invariably the rules stipulate submission of such an application six months before the expiry of the period of validity of such certificate. The needful not having been done, there was a delay of 127 days as noticed by the respondents at the time of submission of the said application.

The said fact, however, need not be gone into at this juncture. The fact remains as to whether the respondents have taken into consideration the reasons given by the petitioner for delay in submissions of the application seeking renewal of the Certificate of Practice as Notary Public. The impugned order dated 13.03.2018 (Annexure P-10) fails to take into account the said circumstances and/or application of the mind on the same.

Invariably, once the fee for such delayed submission of application seeking renewal had been submitted and the requisite documents as were asked for, had also been furnished by the petitioner, the respondent authority was obligated to give reasons as why the reasons given by the petitioner for seeking relaxation in terms of proviso to Rule 8B of the Notaries Rules, 1956, as amended vide Notaries (Amendment) Rules 2014, were not sufficient for exercising the discretion. The same has not even been referred to in the order which has seemingly been passed in a mechanical manner.

The application form itself contains a column where in an applicant is required to give reasons for delay in submission of application for renewal. The objective of seeking advance application is only to ensure continuity and that there is no gap and that the Competent Authority gets

sufficient time to process the application. The said provision is not to be construed as a suggestive punitive provision or would deprive renewal of the certificate of practice. If time period was of such significance, there was no reason to provide for a column seeking reasons for delay in the first instance. The period of submission of application is thus part of procedural requirement and should be construed to advance the interest of parties and not to curtail them especially when no right has accrued in favour of any third party for such delay in submission of application for renewal.

The object behind providing power of relaxation is only to ensure that ends of justice can be met and that any injustice as may occasion due to literal interpretation may be obviated. The power is conferred with responsibility and reflects Legislature's awareness of failure by people to comply strictly with the letter of rules for seeking issuance or renewal of certificates. All reasons could not have been conceived, hence, power was conferred to relax the rules where sufficient mitigating circumstances are shown so that application of law does not result in injustice. All circumstances are to be evaluated by fine judicial discretion by the Competent Authority.

The circumstances as pose genuine human difficulty and reflect the difficult family conditions offering reasonable explanation for delay in submission of the application seeking renewal have to be considered humanly and with more practical approach.

The facts of the present case definitely show that wife of the petitioner was suffering from Rheumatoid Arthritis and even the petitioner was not keeping good health and was eventually diagnosed with bone marrow cancer. Invariably, the medical difficulties faced by the petitioner

would be far more attending and compelling than the timely submission of the application. It was thus expected of the respondent authorities to have adopted a human approach and to have taken a practical approach in the totality of the circumstances towards the reasons cited by the petitioner seeking relaxation for delay in submission of the application seeking renewal Certificate of Practice as a Notary Public. The order having been passed in a ministerial manner is thus liable to be set aside.

The present petition is accordingly allowed and the matter is remitted to the respondent authorities to pass a fresh order after taking into consideration the reasons given by the petitioner for seeking relaxation under the proviso to Rule 8B of the Notaries Rules, 1956 as amended vide Notaries (Amendment) Rules, 2014.

**January 17, 2023**  
**raj arora**

**(VINOD S. BHARDWAJ)**  
**JUDGE**

*Whether speaking/reasoned* : Yes/No  
*Whether reportable* : Yes/No