

**IN THE HIGH COURT OF JUDICATURE,  
ANDHRA PRADESH AT HYDERABAD  
(Special Original Jurisdiction)**

**THURSDAY, THE THIRTY FIRST DAY OF  
JULY,  
TWO THOUSAND EIGHT ONLY**

**PRESENT:  
THE HON'BLE MR. JUSTICE  
C.V.NAGARJUNA REDDY**

**WRIT PETITION No.20947 of 2005**

Between:  
Sri V.V.Satya Sai Babu. .... Petitioner

And  
Government of Andhra Pradesh,  
Reptd., by its Principal Secretary,  
Revenue (REGN.II) Department,  
Secretariat Buildings, Hyderabad and another.  
.... Respondents

Counsel for the petitioners: Sri  
V.S.R.Anjaneyulu.

Counsel for respondents: AGP for Revenue

**This Court made the following:**

**ORDER:**

At the interlocutory stage the Writ Petition is taken up for hearing and disposal with the consent of the learned counsel for the parties.

This Writ Petition is filed for a Writ of Mandamus to set aside proceedings dated 23-6-2005 issued by respondent No.2, whereby the application of the petitioner for renewal of Notary was rejected as barred by time.

The petitioner is a practicing Advocate and Member of Bezwada Bar Association. By proceedings dated 23-3-2001 respondent No.1 issued a "Certificate of Practice of Notary" (for short "the Certificate") authorizing the petitioner to practise as such for a period of three years commencing from 23-3-2001. The petitioner, through his application dated 16-4-2004 along with challan dated 13-4-2004 for Rs.500/-, sought for renewal of his Notary Practice Certificate. Respondent No.2, through his proceedings dated 8-11-2004 requested the petitioner to submit his explanation for the purported delay of 22 days in filing the

application for renewal. The petitioner filed his explanation and respondent No.2 by the impugned proceedings refused to renew the Certificate on the ground that the application was not filed prior to the date of expiry of the said certificate. It is also further stated that as per Section 10(b) of the Act, the Government may remove the names of the Advocates from the Register maintained under Section 4 of the Act if he has not paid any prescribed fee required to be paid towards renewal of the Certificate, and that, therefore, his name was removed from the Notaries Register.

I have heard the learned counsel for the parties and perused the record.

Under Section 5 of the Act, every Notary, who intends to practise as such, on payment to the Government the prescribed fee, is entitled to have his name entered in the register and to a certificate authorizing him to practise for a period of five years from the date on which the certificate is issued. Under sub-section (2) of Section 5, the Government may, on receipt of an application and the prescribed fee, renew the certificate of practice of any Notary for a period of five years at a time.

It is required to be noticed that prior to

17-12-1999, the period for which the certificate was to be issued was for three years. With effect from the said date, the said provision was substituted by Act 36 of 1999 with five years. Interestingly, respondent No.1 issued the certificate to the petitioner, after the said amendment, only for a period of three years. Be that as it may, neither the provisions of the Act, nor the Notaries Rules, 1956 made thereunder prescribe the time limit for applying for renewal. Though, ordinarily, an application for renewal presupposes its filing before the expiry of original certificate, however, in the absence of a statutory bar, the authority can always entertain the application by exercising its discretion. Indeed, in this case, respondent No.2 called for the explanation from the petitioner for the delay of 22 days in submitting his application for renewal and in response to the same, the petitioner submitted his explanation, wherein he explained that he was suffering from hypertension during the period February-March, 2004, which disabled him to send his renewal fee within the time. He also stated therein that he was enclosing the medical case sheet along with his application. Interestingly, respondent No.2 has not even referred to the explanation filed by

the petitioner, let alone rejecting the reasons contained therein.

I am, therefore, of the opinion that respondent No.2 has not exercised the discretion vested in him in a proper and reasonable manner by merely rejecting the petitioner's application on the ground of delay and placing reliance on the purported Memo of respondent No.1 and Rule 10(b), which, in my view, is wholly irrelevant in the context of considering the application of the petitioner for renewal.

On the above premises, the Writ Petition is allowed. The impugned order is set aside. Respondent No.2 is directed to consider the application of the petitioner for renewal, on merits, within a period of eight weeks from the date of receipt of a copy of this order.

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**C.V.NAGARJUNA REDDY, J**  
**Date:31-07-2008**  
**MNR**