

Court No. - 18

Case :- WRIT - C No. - 11216 of 2023

Petitioner :- Samriddhi Small Saving Nidhi Limited, Lko.
Thru. Managing Director And Auth. Signatory And Another

Respondent :- Union Of India Thru. Secy. Ministry Of
Corporate Affairs, New Delhi And 2 Others

Counsel for Petitioner :- Aakash Prasad, Himanshu Singh, Yash
Joshi

Counsel for Respondent :- A.S.G.I.

Hon'ble Shree Prakash Singh, J.

1. Heard Shri Aakash Prasad and Shri Himanshu Singh, learned counsels for the petitioners, Shri Suryabhan Pandey, Deputy Solicitor General of India assisted by Shri Anand Dwivedi, learned counsel for the Union of India and perused the record.

2. By means of the instant petition, the petitioners have assailed the order dated 07.03.2023 passed by the Deputy Director, Ministry of Corporate Affairs, while rejecting the application for registration of the company and for declaring it as a Nidhi Company.

3. Contention of the counsels for the petitioners is that though the petitioners after submitting the application have also submitted the records as an evidence but they were not afforded an opportunity of hearing prior to passing the impugned order dated 07.03.2023, which goes against the provisions prescribed under Section 406 of the Companies Act read with the Nidhi Rules, 2014 amended time to time. He also added that in fact, the gross illegality has been committed while passing the impugned order dated 07.02.2023.

4. In support of his contention, he has placed reliance on the judgment of *M/S UrbanVikas Nidhi Ltd. Vs. Union of India*

and referred paras 3 and 4, which are quoted hereinunder:-

"3. Learned counsel for the petitioner contended that, if the petitioner was granted an opportunity to explain the factual situation or at least been given a show-cause notice prior to issuing Ext.P4, certainly the petitioner could have apprised the 3rd respondent about the truth of the findings in Ext.P4 found against the petitioner. The violation of the principles of natural justice, according to the learned counsel, has actually affected the very basis on which the decision was rendered and hence the same is liable to be set aside.

4. Having regard to the contentions as aforesaid, I am satisfied that, there has been a violation of the principles of natural justice, while issuing Ext.P4 order. In the said circumstances, it is necessary that Ext.P4 order be re-considered after affording an opportunity of hearing to the petitioner in accordance with law."

5. Referring the aforesaid he submits that it has been observed in the aforesaid matter that affording an opportunity of hearing in such matter, is a must.

6. Therefore, submission is that the petitioners may be afforded an opportunity of hearing, thereby make a detailed representation along with the evidences before the Deputy Director, Ministry of Corporate Affairs and the same may be considered within period prescribed by the Court.

7. Shri Pandey, Deputy Solicitor General of India submits that though he has afforded opportunity of hearing but if he is still praying for further opportunity of hearing, he has no objection.

8. In view of the aforesaid submissions and discussions, the present petitioners are given an opportunity of hearing to move a detailed representation along with the evidences in support thereof, before the Deputy Director, Ministry of Corporate Affairs, within period of fifteen days and if such a representation is made, the same shall be decided by the Deputy Director, Ministry of Corporate Affairs, within further period of

thirty days, in accordance with law, after affording opportunity of hearing to all the parties concerned, if there is no legal impediments.

9. For the aforesaid period, no further proceeding shall be done, in furtherance to the order dated 07.03.2023, but this benefit is given only for forty five days.

10. It is clarified that nothing has been adjudicated on merits.

11. With the aforesaid observations, the instant petition is hereby **disposed of**.

Order Date :- 22.12.2023

Mohd. Sharif