

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.Nos.3169 and 3170 of 2015
and M.P.No.1 of 2015

1. R.K.Elango
S/o.N.Rayappan Felix Tower Ammayappa Nagar
Vayalur Road Tiruchirapalli 620 017 ... Petitioner
in both Petitions

Vs

1. The Union of India Rep by its
Secretary to Government Ministry of Finance
Financial Services) Govt of India II Floor
Jeevan Deep Bldgs Gate 3 No.10 Parliament
St New Delhi
2. The Insurance Regulatory and
Development Authority (IRDA) Rep by the
Chairman Parishram Bhavan 2nd Floor
Basheer Bagh Hyderabad 500 004
3. The Senior Joint Director
(Surveyors Department) Insurance Regulatory
and Development Authority Parishram Bhavan
2nd Floor Basheer Bagh Hyderabad 500 004 ... Respondents
in both Petitions

Petitions filed under Article 226 of the Constitution of India praying for issue of writ of mandamus directing the 2nd respondent to take necessary steps to issue modified license as per the application invited under IRDA circular No.87/10/2013 dated 17.10.2013 in accordance with the petitioner's representations dated 14.04.2014 and 26.05.2014 (WP.No.3169/15) (ii) directing the 2nd respondent to take necessary steps to guarantee the neutrality of the profession of Insurance Surveyors and Loss Assessors and prohibit their appointments being made by manufacturers/ dealers/ repairers/ service centers or any person other than the insurer and the insured with regard to the loss assessment in respect of any insurance claim in strict compliance with the IRDA circular dated 08.11.2010 in accordance with the representations of the petitioner dated 11.10.2014 and 22.01.2015. (WP.No.3170/15)

For petitioner : Mr. N. Dilip Kumar
For respondents : Mr. Su. Srinivasan, ASG for R1
No appearance for RR2 and 3

ORDER

The petitioner seeks for an issuance of a direction to the second respondent to take necessary steps to modify the license as per the application invited by IRDA in Circular No.87/10/2013 dated 17-10-2013 by considering the petitioner's application dated 14-04-2014 and 26-05-2014.

2. The petitioner is an independent surveyor and loss assessor licensed under the Insurance Act, 1938 and is a fellow member of Indian Institute of Insurance & Surveyors Loss Assessors (IIISLA) and was the President of the said body and is also a Secretary of some time and one of the directors of the governing board of IIISLA. The petitioner has submitted his representation on 14-04-2014 followed by the representation on 26-05-2014. The petitioner's request was to direct the respondents to consider the representation on merits and in accordance with law. In the representation, the petitioner has pointed out that based on the order passed by the Madurai Bench of this Court, the authority has agreed to remove the restrictions of three departments and upgrading the categorization and in this regard, an exposure draft was published on 17-12-2009 and suggestions were called for from the stakeholders. Further after reference to the representations from GIPSA and IRDA, it is stated that the Ministry has taken the decision on the following issues:

"(i) to make the Membership of IIISLA as a mandatory and

(ii) advised the GIPSA to review the Survey Fee Schedule; GIPSA has agreed to it.

(iii) advised the IRDA to look into categorization issue. IRDA has given an assurance that this issue will be taken up by making appropriate amendment in the Surveyors Regulation."

Further, it is stated that on 13-03-2013, IRDA has brought out amendments on Surveyors Regulation. Further the petitioner has requested to issue modified license in terms of the Circular dated 17-20-2013 without further delay. The said representation has been pending with the authorities till date. Further, in the representation to the second respondent dated 11-10-2014, the petitioner has prayed for maintaining the discipline and ethics in the profession and also to enforce code of conduct for the surveyors, the authority may kindly take appropriate action to ban auto tie-up surveyors panel of the Insurance Companies as per the IRDA Circular dt.08.11.2010 (Insurer should not involve in any

manner of outsourcing the core activities) and also as per the recommendation of the Law Commission and Parliament Standing Committee Report.

3. In the light of the above stand taken by the petitioner without going into the merits of his contention, there will be a direction to the competent authority to consider the petitioner's representations and pass orders on merits and in accordance with law, after notice to the petitioner and affording an opportunity to the petitioner to put forth his grievance in person. The above direction shall be complied with, within a period of three months from the date of receipt of a copy of this order.

4. The writ petitions are disposed of, accordingly. No costs. The connected miscellaneous petition are closed.

Sd/-
Assistant Registrar

//True Copy//

glp

Sub Assistant Registrar

To

1. The Union of India
The Secretary to Government,
Ministry of Finance, (Financial Services),
Govt of India, II Floor
Jeevan Deep Bldgs, Gate 3, No.10,
Parliament St., New Delhi
2. The Insurance Regulatory and Development Authority (IRDA),
Parishram Bhavan, 2nd Floor,
Basheer Bagh, Hyderabad 500 004
3. The Senior Joint Director (Surveyors Department),
Insurance Regulatory and Development Authority,
Parishram Bhavan, 2nd Floor,
Basheer Bagh, Hyderabad 500 004

+2cc's to Mr.E.Sathiyaraj, Advocate, S.R.No.16045,16044
+1cc to Mr.Su.Srinivasu, Advocate, S.R.No.15992
+2cc's to Mr.M.B.Gopalan, Advocate, S.R.No.16204 & 16206

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KSJ(CO)
CA(01/04/2015)