

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Writ Petition No.3033 of 2003 and

W.M.P.Nos.3790 & 3791 of 2003

A.Balasubramanian ..Petitioner

Vs

1.The Registrar of Companies,
Ministry of Law, Justice &
Company Affairs,
Office of the Registrar of Companies,
Chennai.

2.Anubhav Plantations Ltd.,
Rep. By Official Liquidator,
Office of Official Liquidator,
High Court,
Chennai - 600 104.

3.Inspector of Police,
(CBT/EOW/Crime Branch),
Lajpat Nagar Police Station,
New Delhi.

.. Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to issue Form 32 to all concerned to whom they have furnished the name of the petitioner as Board of Director earlier by giving fresh Form 32 issued by the first respondent deleting the name of the petitioner in the Board of Directors from list of Directors of Anubhav Plantations namely the second respondent herein.

For Petitioner : Ms.S.Ambigai for
Mr.S.Sundaresan

O R D E R

The petitioner is a practising Chartered Accountant. It is the case of the petitioner that he joined the Board of Anubhav Plantations Ltd., as a Director on 30.09.1992 by submitting consent in Form No.29 of the Companies Act, 1956. It is common knowledge that Anubhav Plantations Ltd., was run by one Mr.C.Natesan. From the year 1998, it ran into rough weather resulting in several First Information Reports having been registered against the company for the alleged acts of cheating the public and misappropriation of money.

2.It is the contention of the petitioner that he resigned from the Board of Anubhav Plantations Ltd., and that his resignation was accepted by the Board with effect from 10.09.1993, as could be seen from the photo copy of Form No.32, enclosed in page No.80 of the typed set of papers.

3.Admittedly, a case was registered by the Inspector of Police, Crime Branch, Lajpath Nagar Police Station, New Delhi against Anubhav Plantations Ltd., apart from other case registered against the said company by Tamil Nadu Police. Since the petitioner was a Director of the said company, he was subjected to interrogation by the Police Officers during investigation. According to the petitioner, he had ceased to be a Director as early as in the year 1993 and the cases against Anubhav Plantations Ltd., were filed only in the year 1998 which is 5 years after his exit, despite which, he has been unnecessarily harassed by the Police.

4.It is the further contention of the petitioner that the Managing Director of Anubhav Plantations Ltd., had not submitted his resignation from the Board in due time by not paying the relevant fees to the Registrar of Companies, on account of which, there was no entry in the records of the Registrar of Companies that he had resigned from the year 1993. This had resulted in the criminal proceeding on the premise that the petitioner continued to be in the Board of Anubhav Plantations Ltd. Under such circumstances, the petitioner has filed the above writ petition, with the following prayer:-

"writ of mandamus directing the first respondent to issue Form 32 to all concerned to whom they have furnished the name of the petitioner as Board of Director earlier by giving fresh Form 32 issued by the first respondent deleting the name of the

petitioner in the Board of Directors from list of Directors of Anubhav Plantations namely the second respondent herein”

5. In the considered opinion of this Court, the prayer sought in this writ petition is not maintainable since, a mandamus can be issued to an authority concerned only if he has the statutory duty to perform an act and which he had failed to do.

6. Under the Companies Act, 1956, even if a person submits his resignation as Director to the Board, the acceptance of the resignation by the Board and consequent filing of Form No.32 will only complete the process of resignation. For some good or bad reasons, the Managing Director of the Company had not filed Form No.32, in time, though the petitioner had submitted his resignation with effect from 10.09.1993. By the sustained efforts taken by the petitioner, the wrong has been set right now and the records of the Registrar of Companies show that the petitioner had resigned from 10.09.1993. Now, it is for the petitioner to show to the Investigating Officer that he had nothing to do with the affairs of Anubhav Plantations Ltd., and the fraud that is said to have been committed by the said company.

7. In view of the foregoing discussion, a blanket mandamus as prayed for by the petitioner cannot be issued. That apart, the case has been registered by the Inspector of Police, Lajpath Police Station, New Delhi, over whom this Court does not have territorial jurisdiction. In *Dashrath Rupsingh Rathod v. State of Maharashtra* [(2014) 9 SCC 129], the question of territorial jurisdiction was discussed by the Hon'ble Supreme Court and it was held the concept of cause of action is unknown to criminal law. This issue came up for consideration before a learned Single Judge of this Court in *S. Ilanahai v. The State of Maharashtra & others* (2015 (1) LW (Cr1.) 395) and the learned Judge relying upon the judgment of the Hon'ble Supreme Court in *Dashrath Rupsingh Rathod v. State of Maharashtra* (cited supra) has held that the High Court does not have territorial jurisdiction to quash an F.I.R., registered in a police station situated outside the State.

8. In the light of the above judgment, the present writ petition challenging the police action of Delhi Police is not maintainable. However, the fact remains that the petitioner has enjoyed the stay of arrest that has been granted by this Court at the time of admission in the year 2003 and much water has flown under the bridge thereafter inasmuch as Anubhav Plantations Ltd., Promoter Mr. Natesan himself was arrested and released on bail and the investigation has culminated in charge sheets.

9.In the result, this writ petition is devoid of merits and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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New Delhi.

ss(CO)
md(20/01/2017)

W.P.No.3033 of 2003

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