



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

WEB COPY

W.P. (MD) .No.5843 of 2011

Fathima Beevi

.. Petitioner

.Vs.

1.The Reserve Bank of India,
Department of Non-Banking Supervision,
Post Bag No.5053, Fort Glacis,
Rajaji Salai,
Chennai - 1.

2.The Registrar of Companies,
26, Haddows Road,
Chennai - 6.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 07.10.2010 and direct the respondents to delete the petitioner's name with effect from 06.11.1998 as Director in the M/s Akilam Benefit Fund Limited, Nagercoil, based on the resolution passed by the M/s Akilam Benefit Fund Limited, dated 06.11.1998 from the records maintained by respondents.

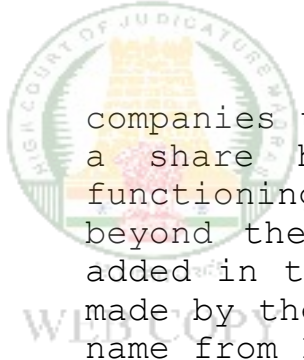
For Petitioner : Mr.A.Thirumurthy

For Respondents : No Appearance for R1
Mr.S.Arunkumar for R2

O R D E R

This writ petition is filed to issue a writ of Mandamus, directing the respondents to consider the petitioner's representation dated 07.10.2010 and direct the respondents to delete the petitioner's name with effect from 06.11.1998 as Director in the M/s Akilam Benefit Fund Limited, Nagercoil, based on the resolution passed by the M/s Akilam Benefit Fund Limited, dated 06.11.1998 from the record maintained by the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The case of the petitioner is that she is a share holder in M/s.Akilam Benefit Fund Limited, Nagercoil to the tune of Rs.25,000/-. The said company was registered with Registrar of



companies under Companies Act, 1956. The petitioner except because a share holder has neither any nexus nor any role in the functioning of the Benefit fund company. However, without consent, beyond the knowledge of the petitioner her name was erroneously added in the panel of Board of directors. Therefore a request was made by the petitioner before the Board of directors to remove her name from Directorship. The said request was accepted by the board and a resolution dated 06.11.1998 was passed to that effect, removing her name from directorship. Thus the membership of the petitioner was ceased. The said resolution was communicated vide a representation dated 10.11.1998 to the respondents herein with a prayer to remove the petitioner's name in the light of the above resolution. Being so, after a period of five years an order dated 17.11.2003 viz a rejection cum prohibitory order was communicated by the 1st Respondent to the petitioner, whereby the petitioner's name was mentioned as one of the Board of Members. From the above said communication the petitioner came to know that her name was not yet removed, besides her representation dated 10.11.1998 praying for removal of her name from directors has not been considered. Therefore again the petitioner made subsequent representations on 27.11.2003, 09.03.2004 and 07.10.2010 to the respondent to remove her name from the panel of board members in the light of resolution dated 06.11.1998. However, all the representation remained heedless; hence the petitioner is before this court praying for a writ of Mandamus directing the Respondents to consider the petitioner's representation dated 07.10.2010.

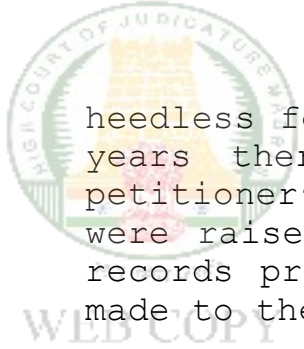
3.The counsel for the respondents filed counter and contended as follows:

According to Sub Sec. (2) of Section 303 of the Companies Act a return in duplicate in the prescribed form containing any change made in office bearers should be made within a period of 30 days to the Registrar of companies. Further even if the petitioner is construed as resigned, it will come to effect only by way of filing Form 32 by the company. In case of cessation of Directorship, it will be governed by section 303(2) of Companies Act, 1956. But the petitioner has not complied with any of the provisions. Hence as per the records available with them, the petitioner still continues to be liable as the Director of company.

4.I heard Mr.A.Thirumurthy, learned counsel appearing for the petitioner. No representation for the 1st respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

5.The petitioner has come up with the present writ petition praying a limited relief of considering her claim that remains



heedless for the past about 10 years. It is to be noted all these years there was neither response nor any order made on the petitioner's repeated representation. Though very many contentions were raised by the respondents, there was no document or related records produced before disclosing that an order or communication made to the petitioner in this regard.

6. In view of same, the writ petition is disposed of by directing the 1st respondent to consider the petitioner's representation dated 07.10.2010 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and the same shall be communicated to the petitioner. No cost.

Sd/-
Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Reserve Bank of India,
Department of Non-Banking Supervision,
Post Bag No.5053, Fort Glacis,
Rajaji Salai,
Chennai - 1.

2. The Registrar of Companies,
26, Haddows Road,
Chennai - 6.

+One cc to Mr.A.Thirumurthy, Advocate, SR.No.58516

vs/skn
RL/4C/3P/KP/SAR1/29/6/2017

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