

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.08.2018

DATE OF DECISION : 03.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.28155, 31515, 31516, 32016, 32188 to 32191, 32213, 32214, 32232, 32253, 32411, 32454, 32969, 33036, 33037, 33042 to 33044, 33143, 33310, 33374 to 33377, 33412, 33486 to 33488, 33506, 33533, 33534, 33540, 33566, 34251, 34252, 34260 to 34262 of 2017, 3268, 3269, 4274, 4275, 6912, 6913, 6923 to 6929, 6930 to 6936, 6991, 7029, 7059, 7061, 7062, 7068, 7069, 7151, 7157, 7158, 7165, 7166, 7180, 7181, 7195, 7196, 7197, 13000, 16570, 16585, 16659 to 16661, 16713 to 16716, 16755, 16756, 16762, 16829, 16876, 16920, 16929, 17011 to 17014, 17103 to 17106, 17124, 17133, 17191, 17204, 17226, 17284, 17285, 17293, 17348, 19318, 19355 of 2018, 28349, 28440, 30718 to 30722 of 2017, 19461, 19531, 19532, 19577, 18687, 15254, 15255 of 2018

- 1 SHANTI KUMBHAT ... PETITIONER in WP No.28155 of 2017
- 1 YENNARKAY CHIRANJEEVI ... PETITIONER in WP No.31515 of 2017
- 1 VIJAYALAKSHMI CHIRANJEEVI ... PETITIONER in WP No.31516 of 2017
- 1 PUI KEI CHUNG ... PETITIONER in WP No.32016 of 2017
- 1 RENU BHUSHAN ... PETITIONER in WP No.32188 of 2017
- 1 SANJU DEVI BAGMAR ... PETITIONER in WP No.32189 of 2017
- 1 BRIJ BHUSHAN ... PETITIONER in WP No.32190 of 2017
- 1 NAVRATAN MAL BAGMAR ... PETITIONER in WP No.32191 of 2017
- 1 SEYED FAYAZ AHMED MEERAN ... PETITIONER in WP No.32213 of 2017
- 1 SATHAK ANSARI ... PETITIONER in WP No.32214 of 2017
- 1 KUMARAN SITARAMAN ... PETITIONER in WP No.32232 of 2017
- 1 VENKATRAMAN BASKARAN ... PETITIONER in WP No.32253 of 2017

1 K.UDAYAKUMAR KALYANASUNDARAM
... PETITIONER in WP No.32411 of 2017

1 RAMYA RAMARATHNAM ... PETITIONER in WP No.32454 of 2017

1 RANGASWAMI VEERAMANI ... PETITIONER in WP No.32969 of 2017

1 M.DHANRAJ ... PETITIONER in WP No.33036 of 2017

1 AYYA KUSUMA KUMARI ... PETITIONER in WP No.33037 of 2017

1 KUPPUSAMY SHANMUGASUNDARAM
... PETITIONER in WP No.33042 of 2017

1 SIVANANDHAN SHENBAGAVALLI
... PETITIONER in WP No.33043 of 2017

1 NALLUR PALANISWAMY SIVANANDHAN
... PETITIONER in WP No.33044 of 2017

1 THIRUVALLUVAN ANNAMALAI
... PETITIONER in WP No.33143 of 2017

1 SIVANADIAN NACHIAPPAN
2 ALAGAMMAI SIVANADIAN
...1 and 2nd PETITIONERS in WP No.33310 of 2017

1 SHANKARA MAHADEVAN ... PETITIONER in WP No.33374 of 2017

1 MANOHARAN MURUGESAN ... PETITIONER in WP No.33375 of 2017

1 SRIDHARAN MAHALINGAM ... PETITIONER in WP No.33376 of 2017

1 LAKSHMI SRIDHARAN ... PETITIONER in WP No.33377 of 2017

1 SANDHYA KOTHARI ... PETITIONER in WP No.33412 of 2017

1 CHINNAYAGOUNDER SUBRAMANIAM
... PETITIONER in WP No.33486 of 2017

1 SUBRAMANIAM DHARANI ... PETITIONER in WP No.33487 of 2017

1 SUBRAMANIAM BHARATH ... PETITIONER in WP No.33488 of 2017

1 SUBBIAH MARIMUTHU VIJAYADEEPAN
... PETITIONER in WP No.33506 of 2017

1 MOTICHAND CHANDRA NIRMAL
... PETITIONER in WP No.33533 of 2017

1 DURGAPRASAD.S. ... PETITIONER in WP No.33534 of 2017

1 MR.PULTIKKAL VEETTIL ABDUL
... PETITIONER in WP No.33540 of 2017

1 MR.N.MUTHU GANESH
2 MR.M.NACHIAPPAN
3 MR.SHRINIVASAN
... 1 to 3rd PETITIONERS in WP No.33566 of 2017

1 THARANIPATHY RAJKUMAR
... PETITIONER in WP No.34251 of 2017

1 M.SATHISH KUMAAR ... PETITIONER in WP No.34252 of 2017

1 L.CHARLES ... PETITIONER in WP No.34260 of 2017

1 SHUBA CHARLES ... PETITIONER in WP No.34261 of 2017

1 LIONEL CHARLES ... PETITIONER in WP No.34262 of 2017

1 KAMINI CHANDRASEKAR ... PETITIONER in WP No. 3268 of 2018

1 S.GURUSHANKAR ... PETITIONER in WP No. 3269 of 2018

1 KOTTAI KULANDAI ARUN KULANDAI
... PETITIONER in WP No.4274 of 2018

1 PONNAIAH KOTTAI KULANDAI
... PETITIONER in WP No.4275 of 2018

1 G.RAAMESHSAAM ... PETITIONER in WP No.6912 of 2018

1 A.DHANALAKSHMI ... PETITIONER in WP No.6913 of 2018

1 MEENAKSHISUNDARAM ... PETITIONER in WP No.6923 of 2018

1 PANDIAN NIRMAL KUMAR ... PETITIONER in WP No.6924 of 2018

1 UMA SHANKAR PANDIAN ... PETITIONER in WP No.6925 of 2018

1 JAWAHARLAL BHERULAL NAHAR
... PETITIONER in WP No.6926 of 2018

1 RAMADOSS SRINIVASAN ... PETITIONER in WP No.6927 of 2018

1 GOMATHI KANNIAPPAN ... PETITIONER in WP No.6928 of 2018

1 HARIHARAN VENKATRAMAN ... PETITIONER in WP No.6929 of 2018

1 ABHILASH PRAKASH ... PETITIONER in WP No.6930 of 2018
1 SHAMLA MAJEED ... PETITIONER in WP No.6931 of 2018
1 MAJEED PANICKA VEETIL ... PETITIONER in WP No.6932 of 2018
1 SHAFEEK SHAMSUDEEN ... PETITIONER in WP No.6933 of 2018
1 ETHANUR THUPPALAE PADMAJA ... PETITIONER in WP No.6934 of 2018
1 THURAIPANDIAN NAGARAJAN .. PETITIONER in WP No.6935 of 2018
1 LOGANATHAN GAJALAXMI ... PETITIONER in WP No.6936 of 2018
1 VITALAPAI RAJAGOPAL ... PETITIONER in WP No.6991 of 2018
1 KAMAEELSH SHANTILALJI JAIN ... PETITIONER in WP No.7029 of 2018
1 BRUNTH DEVADASA SUNDAR ... PETITIONER in WP No.7059 of 2018
1 APPUKUTTAN JAYAKUMAR ... PETITIONER in WP No.7061 of 2018
1 AHIRE MANOJ UTTAM RAO ... PETITIONER in WP No.7062 of 2018
1 R.RAVI KUMAR ... PETITIONER in WP No.7068 of 2018
1 PURUSHOTHAMAN SURESH KUMAR ... PETITIONER in WP No.7069 of 2018
1 VETRISELVAN ... PETITIONER in WP No.7151 of 2018
1 GNANASEKARAN ... PETITIONER in WP No.7157 of 2018
1 MADHAN RAJAN ... PETITIONER in WP No.7158 of 2018
1 BALAGURU ANNAMALAI ... PETITIONER in WP No.7165 of 2018
1 KASINATHAN THIYAGARAJAN ... PETITIONER in WP No.7166 of 2018
1 RAMARAJ KANDASAMY ... PETITIONER in WP No.7180 of 2018
1 MENAKSHI SANKARAN ... PETITIONER in WP No.7181 of 2018
1 SYED MAJEED ... PETITIONER in WP No.7195 of 2018

1 K.MURUGAVEL ... PETITIONER in WP No. 7196 of 2018
1 ARUN PRAKASH ... PETITIONER in WP No. 7197 of 2018
1 P.S.NATHAN ... PETITIONER in WP No.13000 of 2018
1 MR.SIVARAMAN PANDIAN ... PETITIONER in WP No.16570 of 2018
1 SANKARAN JAIKUMAR ... PETITIONER in WP No.16585 of 2018
1 BALAKRISHNAN RAJ ASHWIN KARTHI
... PETITIONER in WP No.16659 of 2018
1 BALAKRISHNAN RENUKA ... PETITIONER in WP No.16660 of 2018
1 THIRUPPATHY BALAKRISHNAN
... PETITIONER in WP No.16661 of 2018
1 SAILENDRA KUMAR KETHINENI
... PETITIONER in WP No.16713 of 2018
1 VENKATESWARA RAO CHALASANI
... PETITIONER in WP No.16714 of 2018
1 SUSEELA RANI CHALASANI
... PETITIONER in WP No.16715 of 2018
1 KAMALA KETHINENI ... PETITIONER in WP No.16716 of 2018
1 CHANCHAL MEHTA ABHINANDAN APT
... PETITIONER in WP No.16755 of 2018
1 AKSHAY JASWANT MEHTA
... PETITIONER in WP No.16756 of 2018
1 SURESH KUMAR MUTHUSUBRAMANIAM
... PETITIONER in WP No.16762 of 2018
1 RAMAMURTHY BHUVANESH ... PETITIONER in WP No.16829 of 2018
1 RAJABATHAR VENKATESHWARAN
2 C.SAROJA
3 RAJESWARI
4 BALACHANDRAN ..1 to 4 PETITIONERS in WP.No.16876 of 2018
1 MUTHAIAH KASINAATHAN ... PETITIONER in WP No.16920 of 2018
1 SIVAGURU SINGARAM PATTANAM
... PETITIONER in WP No.16929 of 2018

1 KARTHIKEYAN PERIYASAMY ... PETITIONER in WP No.17011 of 2018

1 MOULISHANKAR SUNDARARAJAN ... PETITIONER in WP No.17012 of 2018

1 THIRUPPAKKUZHI GOPALAKRISHNAN ... PETITIONER in WP No.17013 of 2018

1 SUBRAMANIAN SUMAN ... PETITIONER in WP No.17014 of 2018

1 AMUTHA DEVI @ DINESHKUMAR ... PETITIONER in WP No.17103 of 2018

1 R.VENKATESA DINESH KUMAR @
RAJASEKARAN VENKATESA DINESH KUMAR ... PETITIONER in WP No.17104 of 2018

1 KUNDUR RAVINDER REDDY @ KUNDUR REDDY ... PETITIONER in WP No.17105 of 2018

1 K.RAJASEKARAN @ KALIAPPA ... PETITIONER in WP No.17106 of 2018

1 PURUSHOTHAMAN ... PETITIONER in WP No.17124 of 2018

1 R.SHYAMM KUMAR ... PETITIONER in WP No.17133 of 2018

1 SEUNG WOO RYOO ... PETITIONER in WP No.17191 of 2018

1 SIVARAMAN KARUPPAIAH ... PETITIONER in WP No.17204 of 2018

1 MUPPAVARAPU KRISHNA RAO ... PETITIONER in WP No.17226 of 2018

1 VANITA ANAND ... PETITIONER in WP No.17284 of 2018

1 DAMODHARAN PRADEEP KUMAR ... PETITIONER in WP No.17285 of 2018

1 ARNAV ANAND ... PETITIONER in WP No.17293 of 2018

1 ANAND NAGPAL SOBHRAJ ... PETITIONER in WP No.17348 of 2018

1 SHRI ANAND MURUGA UTHARKAR ... PETITIONER in WP No.19318 of 2018

1 MANICKAM LAKSHMANAN ... PETITIONER in WP No.19355 of 2018

1 M.SREENIVASAN
2 BRAGADHAMBAL SREENIVASAN
...1 & 2 PETITIONER in WP No.28349 of 2017

1 G.S.RAJASEKARAN ... PETITIONER in WP No.28440 of 2017

1 MELKIOR GILES JOSEPH ... PETITIONER in WP No.30718 of 2017

1 CELINE THERESE AGUSTINE .. PETITIONER in WP No.30719 of 2017

1 EDWARD SUNIL JOSEPH .. PETITIONER in WP No.30720 of 2017

1 NANCY JULIET JESUDOSS ... PETITIONER in WP No.30721 of 2017

1 EDWARD ANIL JOSEPH ... PETITIONER in WP No.30722 of 2017

1 SIVAPUNNIYAM VELAYUTHAM .. PETITIONER in WP No.19461 of 2018

1 PICHANATHAR PILLAI RAMESH
... PETITIONER in WP No.19531 of 2018

1 PADMAPRIYA ... PETITIONER in WP No.19532 of 2018

1 RAJKUMAR DURAISAMY ... PETITIONER in WP No.19577 of 2018

1 SUNDARESAN KUMARAVELU ... PETITIONER in WP No.18687 of 2018

1 KAMASHI BALA VINAYAKA MURTHI KUMAR
... PETITIONER in WP No.15254 of 2018

1 GOPALAKRISHNAN BALARAMAN
... PETITIONER in WP No.15255 of 2018

vs

THE SECRETARY,
MINISTRY OF CORPORATE AFFAIRS,
SHASTRI BHAVAN, DR.RAJENDRA PRASAD ROAD,
NEW DELHI-110 001.

... 1st RESPONDENT in WP No.32016 of 2017
33310/17, 33566/17, 16570/18, 16876, 19355/18,
28349/17

THE SECETARY,
MINISTRY OF CORPORATE AFFAIRS,
UNION OF INDIA, SHASHTRI BHAWAN
DR.RAJENDRA PRASAD ROAD,
CENTRAL SECETARIAT, NEW DELHI

... 1st Respondent in
WP.No.32411 of 2017

THE SECRETARY
REP. BY ITS SECRETARY TO GOVERNMENT,
MINISTRY OF CORPORATE AFFAIRS, 'A WING'
SHASHTRI BHAWAN
DR. RAJENDRA PRASAD ROAD
NEW DELHI

... 1st RESPONDENT IN WP.Nos.33412/17
3268/18, 3269/18

... 2nd RESPONDENT in WP.Nos.33042
to 33044/17

UNION OF INDIA
REP. BY ITS MINISTRY OF CORPORATE AFFAIRS
SHASHTRI BHAWAN DR. RAJENDRA PRASAD ROAD
NEW DELHI 110 001

... 1st respondent in WP.Nos.28155/17
31515, 31516, 32188 to 32191, 32213,
32214, 32232, 32253, 32454, 32969,
33036, 33037, 33143, 33374 to 33377,
33486 to 33488, 33506, 33533,
33534, 33540, 34251, 34252, 34260 to
34262/17, 4274/18, 4275, 6912, 6913,
6923 to 6936, 6991, 7029, 7059,
7061, 7062, 7068, 7069, 7151, 7157,
7158, 7165, 7166, 7180, 7181, 7195
to 7197, 13000, 16585, 16659 to
16661, 16713 to 16716, 16755, 16756,
16762, 16829, 16920, 16929, 17011 to
17014, 17103 to 17106, 17124, 17133,
17191, 17024, 17226, 17284, 17285,
17293, 17348, 19318/18, 28440/17,
30718 to 30722/17, 19461/18, 19531,
19532, 19577, 18687, 15254, and
15255/18

REGISTRAR OF COMPANIES
TAMIL NADU, CHENNAI
BLOCK NO.6, B WING
2ND FLOOR, SHASHTRI BHAWAN,
26, HADDOWS ROAD,
CHENNAI 600 006

... 2nd respondent in WP.Nos.28155/
17, 31515, 31516, 32016, 32188 to
32191, 32213, 32214, 32232, 32411,
32454, 32969, 33036, 33037, 33143,
33310, 33374 to 33377, 33412,
33506, 33540, 33566, 34260 to
34262/17, 3268/18, 3269, 4274,
4275, 6912, 6913, 6924 to 6935,
6991, 7029, 7059, 7061, 7062, 7068,

7069, 7151, 7157, 7158, 7165, 7166,
7180, 7181, 7195 to 7197, 16570,
16585, 16713 to 16716, 16755,
16756, 16762, 16829, 16876, 16920,
16929, 17011 to 17014, 17103 to
17016, 17133, 17191, 17204, 17284,
17285, 17293, 17348, 19318,
19355/18, 28349/17, 28440, 30718,
to 30722/17, 19461/18, 19531,
19532, 18687, 15254, 15255/18,
13000/18.

REGISTRAR OF COMPANIES
COIMBATORE STOCK EXCHANGE BUILDING II
FLOOR NO.683 TRICHY ROAD SINGANAILLUR
COIMBATORE 641 005

... 1st RESPONDENT in WP No.33042 to
33044 of 2017

... 2nd Respondent in WP.Nos.33486
to 33488/17, 33533, 33534, 34251,
34252/17, 6936/18, 13000, 16659 to
16661/18, 32253/17.

REGISTRAR OF COMPANIES
COIMBATORE TAMILNADU STOCK EXCHANGE
BUILDING II FLOOR No.683 TRICHY RD
RAMANATHAPURAM SOWRIPALAYAM COIMBATORE
TAMILNADU 641 005

.. 2nd RESPONDENT in WP No.17226 of 2018
and 19577/18

REGISTRAR OF COMPANIES
PUDUCHERRY NO.35
FIRST FLOOR ELANGO III
CROSS NAGAR PUDUCHERRY-605 011.

...2nd RESPONDENT in WP No.6923 of 2018

REGISTRAR OF COMPANIES
KENDRIYA SADAN II FLOOR
E-WING KORAMANGALA
BANGALORE-560 034.

.. 2nd RESPONDENT in WP No.17124 of 2018

SMILE AMUSEMENT AND
HOSPITALITY PVT LTD
MEENAKSHI BHAVAN 1ST FLOOR
44/1 G.N.CHETTY ROAD
T.NAGAR, CHENNAI-17

.. 3rd RESPONDENT in WP No.3268 of 2018
& 3269/2018

Prayers:-

These writ Petitions filed under Article 226 of the Constitution of India, Praying for the issue a writ of certiorarified Mandamus

To calling for the records of the second respondent relating to the impugned order under section 164 (2)(a) if the Companies Act, 2013 dated 08.09.2017 uploaded in the website of the First Respondent in so far as the petitioner herein concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit the petitioner to get reappointed as Director of any company or appointed as Director in any company without any hindrance.

(in WP.Nos.28155/17, 33143, 33374, 33375, 33376, 33377, 33486, 33487, 33488, 33540, 34252/17, 4274/18, 4275, 7029, 7059, 7157, 7158, 16659, 16660, 16661, 16716, 17011, 17012, 17013, 17014, 17133, 17191, 17226/18, 28440/17, 30718, 30719, 30720, 30721, and 30722/17)

To calling for the records of the 2nd respondent relating to the impugned order dated 1.11.2017 uploaded in the website of the 1st respondent in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any company without any hindrance.

(in WP.Nos.31515/17, 31516, 32769, 33412/17, 6923/18, 6924, 6925, 6926, 6927, 6928, 6929, 6930, 6934, 6935, 6936, 6937, 6991/18, 7061, 7062, 7180, 7181, 16585, 16713, 16714, 16715, 16755, 16756, 16920, 17204, 19318, 19461, 19577, 15254 and 15255/18 and 17103 to 17106/18)

To calling for the records of the 2nd Respondent relating to the impugned order dated 08.09.2017, read with the updated list dated 01.11.2017 uploaded and hosted on the website of the 1st Respondent in so far as the Petitioner herein is concerned,

quash the same as illegal, arbitrary and devoid of merits and consequentially direct Respondents herein to permit Petitioner to get reappointed as director of any company or to be appointed or to continue as director in any company without any hindrance.

(in WP.NOs.32016/17, 32188 to 32191/17, 32213, 32214, 32232, 34260 to 34262/17, 6912/18, 6913, 7068, 7069, 7195, 7196, 13000/18)

To Calling for the records of the 2nd respondent relating to the impugned order dated 08.09.2017 uploaded in the website of the 1st respondent in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit the petitioner (having DIN No.00631973, 03351746 and 02441819) to get reappointed as director in the Company or appointed in any other Company without any hindrance.

(in WP.Nos.32253/17, 16762/18 and 16829/18)

To calling for the records relating to the website notice of the respondents holding M/s. E-sun Foundation (India) Private Limited Company to have attracted default under Section 164 (2) of the Companies Act 2013 and the orders passed based thereon holding the petitioner ineligible to file any returns or accounts on behalf of any companies of which I am Director and quash the same.

(in WP.NO.32411/17)

To Calling for the records of the first respondent culminating in the communication published in the website of the first respondent disqualifying the petitioner under Section 164 read with Section 167 of the Companies Act 2013, pursuant to the undated order issued under Section 248 of the Companies Act 2013 by which the Company M/s.Harini Investments and Farms Private Ltd., had been removed / struck off from the registrar of Companies maintained by the second respondent, quash the same as being illegal, arbitrary, devoid of any merits and to consequently direct the respondents to permit the petitioner to be appointed / reappointed as a Director in any Company already registered or to be registered under the companies Act -2013 and to continue to permit the Petitioner to act as a Director in such of those companies in which the Petitioner is presently serving as a Director or in any other Company as a Director or in any other Company.

(in WP.NO.32454/17)

To calling for the records in respect of the impugned order (in so far as the petitioner is concerned) dated 1.11.2017 uploaded by the 1st respondent on its website, quash the same.
(in WP.NOs.33036 and 33037/17)

To calling for the records of the Notification passed by the 1st respondent dated 12.9.2017 published in the official website of the MCA and quash the same under Sec. 164(2) of the Companies Act as void, illegal and unconstitutional as far as petitioner concern and direct the respondent to permit the petitioner to continue as director of M/s.Anusam Knitters Pvt. Ltd.,

(in WP.No.33042 and 33043/17, 33044/17)

To calling for the records of the first respondent relating to the impugned list issued by the Respondents under section 164(2) of the Indian Companies Act, 2013 dated 1.11.2017 disqualifying the petitioner as director of company in serial number 27111, and quash the same and further direct the respondents to forthwith withdraw their impugned disqualification in so far it relates to the petitioner and consequently unfreeze the Directors Identification Number and Digital Signature Certificate of the petitioner

(in WP.No.3268 and 3269 of 2018)

To Calling for the records of the 2nd respondent relating to the impugned order as on 1.11.2017 uploaded in the Website of the 1st respondent in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to take on record the resignation of the petitioner in M/s.Annexu Online Media Private Limited (CIN: U74990TN2010PTC078142) with effect from 15.11.2016, permit the petitioner to get appointed as Director in any company without any hindrance.

(in WP.No.6931 and 6933 of 2018)

To calling for the records of the 2nd respondent relating to the impugned order dated 3.11.2017 uploaded in the website of the 1st respondent in so far as the petitioners herein are concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit the 1st petitioner (having DIN -00912145) and 2nd petitioner (having DIN 01718907) to get reappointed as director in the company or appointed in any other company without any hindrance.

(in WP.No.33310/17)

To Calling for the entire records of the 2nd Respondent relating to the impugned order dated 12.11.2017 uploaded in the website of the 1st Respondent in so far as the Petitioner is concerned and quash the same as illegal, arbitrary and in excess of jurisdiction vested with the authority and consequently direct the Respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any company without any disqualification and activate the DIN No.01807424 of the petitioner

(in WP.No.33506/17)

To Calling for the records of the 2nd Respondent relating to the impugned order dated 11.09.2017 uploaded and hosted on the website of the 1st Respondent in so far as the Petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the Respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any company without any hindrance

(in WP.Nos.33533, 33534 of 2017)

To Calling for the records of the 2nd Respondent relating to the impugned order dated 3.11.2017 uploaded in the website of the 1st Respondent in so far as the Petitioners herein are concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the Respondents herein to permit the 1st petitioner (having DIN No.01851582), 2nd petitioner (having DIN No.01851572), 3rd petitioner (having DIN No.07525432) to get reappointed as Director in the Company or appointed in any other company without any hindrance.

(in WP.No.33566/17)

To calling for the records of the 2nd Respondent relating to the impugned order dated 11.09.2017, uploaded in the website of the 1st Respondent in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the Respondents herein to permit petitioner to get reappointed as Director of any company or appointed as Director in any company without any hindrance

(in WP.No.34251 of 2017)

To Calling for the records of the 2nd respondent relating to the impugned order as on 1.11.2017 uploaded in the Website of the 1st respondent in so far as the petitioner herein is

concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to take on record the resignation of the petitioner in M/s.Southern Symmentech & Solutions Private Limited (CIN:U72200 TN2006PTC059960) and M/s.Annexu Online Media Private Limited (CIN: U74990TN2010PTC078142) with effect from 15.11.2016, permit the petitioner to get appointed as Director in any company without any hindrance.

(in WP.No.6932 of 2018)

To Calling for the records of the 2nd respondent relating to the impugned order dated 13.04.2017 uploaded in the website of the 1st respondent in so far as the petitioner herein is concerned quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any Company

(in WP.No.7151 of 2018)

To calling for the records of the 2nd respondent relating to the impugned order dated 01.11.2017 uploaded in the website of the 1st respondent in so far as the petitioner herein is concerned, having DIN 02105135, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any Company without any hindrance.

(in WP.No.7165 and 7166 of 2018)

To Calling for the records of the 2nd respondent relating to the impugned order dated 08.09.2017 uploaded in the website of the 1st respondent on 01.11.2017 in so far as the petitioner herein is concerned quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any Company without any hindrance.

(in WP.No.7197 of 2018)

To calling for the records of the 2nd respondent relating to the impugned order dated 03.11.2017 uploaded in the website of the 1st respondent in so far as the petitioners herein are concerned, quash the same as illegal, arbitrary and devoid of

merit and consequentially direct the Respondents herein to permit the petitioner (having DIN No.02122949) to get reappointed as director in the Company or appointed in any other Company without any hindrance.

(in WP.No.19355 of 2018, 16570 of 2018)

To calling for the records of the 2nd respondent relating to the impugned order dt 3.11.2017 uploaded in the website of the 1st respondent in so far as the petitioners herein are concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit the 1st petitioner (having DIN No. 02300822), 2nd petitioner (having DIN No.02300834), 3rd petitioner (having DIN No. 02304560) and 4th petitioner (having DIN NO. 02410150) to get reappointed as Director in the Company or appointed in any other Company without any hindrance

(in WP.No.16876 of 2018)

To Calling for the records of the 2nd respondent, relating to the impugned order dated 08.09.2017 published in the website (MCA21) of the 1st respondent as so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merits and consequently direct the respondents herein to permit petitioner to get reappointed as Director of any Company continue or appointed as Director in any Company without any hindrance

(in WP.Nos.17284/18, 17293, 17348/18)

To calling for the records of the impugned order dt 1.11.2017 passed by the 2nd respondent and uploaded on the official web portal of the 1st respondent in so far as the petitioner Identification Number 03028080 under section 164 (2) (a) of the Companies Act, 2013, and quash the same as null and void ab initio, arbitrary, illegal and unconstitutional and consequently direct the respondents herein to permit the petitioner to continue as a Director or get appointed or reappointed as Director of any other company without any hindrance.

(in WP.No.17285 of 2018)

To Calling for the records of the Notification dated 01.11.2016 list published in the 2nd respondent site on 01.11.2017 in respect of petitioner Din No.0005111267 and quash the same as void, illegal and unconstitutional and direct the

respondent to permit the petitioner to get re-appointed without any hindrance

(in WP.No.16929 of 2018)

To Calling for the records of the 2nd respondent relating to the impugned order dated 24.10.2017 uploaded in the website if the 1st respondent in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any Company without any hindrance

(in WP.No.17124 of 2018)

To calling for the records of the 2nd respondent relating to the impugned order dated 8.9.2017 uploaded in the website of the 1st respondent in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit the 1st petitioner (having DIN No.01472196) and 2nd Petitioner (having DIN No.-01029189) to get reappointed as director in the Company or appointed in any other Company without any hindrance

(in WP.No.28349 of 2017)

To Calling for the records of the 2nd respondent relating to the impugned order dated 07.04.2017 uploaded in the website of the 1st respondent dated 1.11.2017 in so far as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any company

(in WP.No.19531 and 19532 of 2018)

To Calling for the records of the list published in the 2nd respondent site on 01.11.2017 and quash the same as void, illegal and unconstitutional and direct the 2nd respondent to permit the petitioner to get re-appointed without any hindrance

(in WP.No.18687 of 2018)

For Petitioners [Appearance]

Mr.R.SIVARAMAN ..WP No.28155 and 33143 of 2017

Mr.S.SATISH .. WP No.31515/17, 7060, 7061, 7180,
7181 of 2018 and 31516/17

Mr.P.H.Arvind Pandian
Senior Counsel for
M/S.Shardul Amarchand
Mausaldas .. WP.No.32016 of 2017

Mr.P.H.Arvind Pandian
Senior Counsel for
M/S.C.V.SHAILANDHRAN ... WP No.32188 to 32191/17,
32213,32214,33533,33534,34251,34252/17,
16659 to 16661/18 and 28440/17

Mr.P.H.Arvind Pandian
Senior Counsel for
M/S.HARISHANKAR MANI .. WP No.32232 of 2017

M/S.SANKAR VARADHARAJAN ... WP No.32253 and 33566/17,
19355, 16876/18 and 28349/17

M/S.R.BALAGURUSWAMY ... WP No.32411 of 2017

Mr.J.RAVINDRAN ... WP.No.32454 of 2017

M/S.K.JAYARAMAN ... WP No.32969 of 2017

M/S.A.NARAYANAN ... WP No.33036 & 33037 of 2017

Mr.NAVEENKUMAR MURTHI ...WP No.33042 to 33044 of 2017

M/S.DESIKAN BALAJI ... WP No.33310 of 2017

M/S.N.V.PRAKASH ... WP No.33374 to 33377 of 2017

M/S.GOVIND CHANDRASEKHAR ... WP No.33412 of 2017

M/S.S.SATHIYANARAYANAN ... WP No.33486 TO
33488, 17191 of 2017

M/S.P.BAGYALAKSHMI ... WP No.33506 of 2017

M/S.R.PRITHVIRAJ PANDIAN ... WP No.33540 of 2017

Mr.R.SANGEETHA ... WP No.34260 to 34262 OF 2017

M/S.S.PUNNIYAKOTTI ... WP No.3268,3269 OF 2018

Mr.A.P.RAMESH ... WP No.4274,4275 OF 2018

M/S.K.VIJAYARAGHAVAN ...WP.NoS.6912,6913,7068,
7069,7196,13000/ 2018

M/S.J.LENIN ... WP No.6923 to 6929/18

M/S.A.M.ILANGO ... WP No.6930 to 6936/18
17204/18

M/S.RAM KUMAR.A. ... WP No.6991 of 2018

M/S.S.KARUNAMOORTHY ... WP.No.7029 and 7059,16762,18829/18

M/S.M.BALAJI ... WP No.7151/18, 19531 and 19532/18

M/S.T.SAI KRISHNAN ... WP No.7157,7158/18,19461/18

M/S.M.NARAYANASWAMY ... WP No.7165 and 7166/18

Mr.BABU RANGASAMY
FOR M/S.BABU RANGASAMY ASSO. ... WP No.7195 of 2018

M/S.R.SARAVANAKUMAR ... WP No.7197 of 2018

M/S.G.SAVITHA WP No.16570/18

MR.S.GIRITHARAN ...WP.No.16585/18

MR.S.A.SHANMUGAM ...WP.No.16713 TO 16716/18,
16755 AND 16756/18

MR.C.SAKTHIMANIKANDAN ...WP.No.16920/18

MR.S.SHANMUGAVELAYUTHAM ...WP.No.17011 TO 17014/18

MR.S.KUMARAN ...WP.No.17103 TO 17106/18 17226/18

MR.R.INBARAJU ...WP.No.17124/18,15254 AND 15255/18

MR.K.V.SANJEEVKUMAR ...WP.No.17133/18

MR.P.ANNAL ...WP.No.17284,17293 AND 17348/18

MR.P.STEELAMARY ...WP.NO.17285/18

MR.AROKIA SATHEESH

...WP.No.19318/18

MR.R.S.PANDIYARAJ

...WP.No.30718 TO 30722/17,19577/18

MR.K.THIRUVENGADAM

...WP.No.18687/18,16929/17

For Respondents:-

MR.G.RAJAGOPALAN,
ADDITIONAL SOLICITOR GENERAL OF INDIA
ASSISTED BY

1. MR.G.KARTHIKEYAN
ASSISTANT SOLICITOR GENERAL
AND DR.V.VENKATESAN,
SENIOR CENTRAL GOVERNMENT STANDING COUNSEL
FOR R1 & R2
... in WP No.28155 of 2017
2. R.V.VENKATESAN, SCGSC
... 1 & 2 RESPONDENTS in WP NoS.
31515,31516,32016,32213,32214,28349,
28440/17 and 30718, TO 30722/17
3. MR.K.RAMANAMOORTHY, CGSC
... 1 & 2 RESPONDENT in WP NoS.32188 TO
32191,32232,32253,32254,33486,
TO 33488/17, 3268 AND 3269/17
4. MR.P.RAMESKUMAR, CGSC
... 1 & 2 RESPONDENTS IN WP.Nos.4274,
4275/18
5. MR.C.V.RAMACHANDRA MURTHY
SENIOR PANEL COUNSEL

... For RESPONDENT in WP NoS.6912 ,6913/18,6923
TO 6929/18,6930 TO 6936,6991,7029,7059,
7061,7062,7068,7069,7151,7157,
7158,7165, 7166,7195,7196/18

6. MR.S.SATHISH RAJAN, CGSC
...FOR RESPONDENTS 1 & 2
IN WP.Nos.13000/18
7. MR.P.AYYASWAMY
...FOR RESPONDENTS 1 & 2 IN WP.Nos.16570/18,
16585,16659 TO 16661/18,15254 AND 15255/18
8. M/S.N.K.NITHICAVANI, CGSC
..FOR RESPONDENTS 1 & 2
IN WP.Nos.16929/18,17011 TO 17014,17133,17103
TO 17106,17124,17191,17204,17226,17284,
17285,17293,17348/18
- 9.. MR.S.PAVESH KANNAN CGSC
...FOR RESPONDENTS 1 & 2 IN
WP.Nos.19461/18,19531 AND 19532,19577/18
10. MR.B.RAMARATHNAM CGSC
...FOR RESPONDENTS 1 & 2 IN WP.Nos.18687/18,
MR.G.RAJAGOPALAN,
ADDITIONAL SOLICITOR
GENERAL OF INDIA
...FOR RESPONDENT 1 & 2 IN
WP.NOS.32411/17,32969/17,33036,
33037,33042 TO 33044,33143,33310,33374
TO 33377, 33506, 33533, 33534, 33540,
33566,34251,34252, 34260 TO 34262/17,
7180, 7181/18, 7197, 16713 TO 16716,
16755,16756,16762,16829,16876,16920,
19318,19355/18

COMMON ORDER

The petitioners in this bunch of writ petitions have challenged the respective impugned orders dated 8.9.2017, 1.11.2017 etc., passed by the Registrar of Companies, Tamil Nadu, Chennai, the second respondent herein, uploaded in the website of the Ministry of Corporate Affairs, New Delhi, the first respondent herein disqualifying them to hold the office of Directorship of the companies under Section 164(2)(a) of the Companies Act 2013, which came into effect from 1.4.2014, to quash the same as illegal, arbitrary and devoid of merits with a consequential direction to the respondents herein to permit the petitioners to get reappointed as Director(s) of any company or appointed as Director(s) in any other company without any hindrance.

2. Heard Mr.P.H.Aravind Pandian, learned senior counsel for Mr.C.V.Shailandhran, Mr.Shardul Amarchandmangaldas, Mr.Harishankar Mani for the respective petitioners, Mr.R.Sivaraman, Mr.Sankar Varadharajan, Mr.R.Balaguruswamy, Mr.J.Ravindran, Mr.K.Jayaraman, Mr.A.Narayanan, Mr.Naveenkumar Murthi, Mr.Desikan Balaji, Mr.N.V.Prakash, Mr.Govind Chandrasekhar, Mr.S.Sathianarayanan, Mrs.P.Bagyalakshmi, Mr.R.Prithviraj Pandian, Mrs.R.Sangeetha, Mr.S.Punniyakotti, Mr.A.P.Ramesh, Mr.K.Vijayaraghavan, Mr.R.S.Pandiyaraj, Mr.T.Sai Krishnan, Mr.K.Thiruvengadam, learned counsels appearing for the respective petitioners and also the other counsels, adopting the arguments of the learned senior counsel Mr.P.H.Aravind Pandian, on similar lines and Mr.G.Rajagopalan, learned Additional Solicitor General of India assisted by Mr.G.Karthikeyan, learned Assistant Solicitor General along with Dr.V.Venkatesan, learned Senior Central Government Standing Counsel, Mr.K.Ramanamoorthy, Mr.S.Sathish Rajan, Mrs.N.K.Nithilavani, Mr.S.Pavesh Kannan, Mr.B.Ramarathnam, learned Central Government Standing Counsels, Mr.C.V.Ramachandra Murthy, Senior Panel Counsel and Mr.P.Ayyaswamy for the respondents.

3. The issue raised in this bunch of writ petitions has been answered by this Court vide order dated 3.8.2018 passed in a batch of writ petitions viz., W.P.Nos.25455 of 2017 etc., batch (Bhagavan Das Dhananjaya Das v. Union of India and another) holding as follows:-

"29. In fine,

(a) When the New Act 2013 came into effect from 1.4.2014, the second respondent herein has wrongly given retrospective effect and erroneously disqualified the petitioner-directors from 1.11.2016 itself before the deadline commenced wrongly fixing the first financial year from 1.4.2013 to 31.3.2014.

(b) By virtue of the new Section 164(2) (a) of the 2013 Act using the expression "for any continuous period of three financial years" and in the light of Section 2(41) defining "financial year" as well as their own General Circular No.08/14 dated 4.4.2014, the first financial year would be from 1.4.2014 to 31.3.2015, the second financial year would be from 1.4.2015 to 31.3.2016 and the third financial year would be from 1.4.2016 to 31.3.2017, whereas the second respondent clearly admitted in paras 15 and 22 of the counter affidavit that the default of filing statutory returns for the financial years commenced from 2013-14, 2014-15 and 2015-16 i.e., one year before the Act 2013 came into

force. This is the basic incurable legal infirmity that vitiates the entire impugned proceedings.

(c) By virtue of the first proviso to Section 96(1) of the 2013 Act, Annual General Meeting for the year ending on 31.3.2017 can be held within six months from the closing of financial year i.e., 30.9.2017, additionally in the light of Section 164(2)(a) referring to "annual return" and "financial statement", the time limit to file annual return under Section 92(4) of 2013 Act is sixty days from Annual General Meeting or the last date on which Annual General Meeting ought to have been held, hence, the time limit to file balance sheet under Section 137(1) of the 2013 Act is again thirty days from Annual General Meeting. Therefore, in view of these legal position, the disqualification could get triggered off only on or after 30.10.2017 only, if any company fails to file annual forms for three financial years. Importantly, it is to be borne in mind that even beyond that time limit, additional time limit of 270 days was available by virtue of the then first proviso to Section 403.

(d) Although there is no statute or provision expressly spelling out the observance of the principles of natural justice against disqualification of directors, as the legal right of the petitioners to continue as director in other company or to be reappointed in any other company, which are scrupulously following the provisions of the Companies Act, have been deprived of, the principles of natural justice should have been adhered to by issuing proper notice to all the directors.

(e) When the disqualification clause was not attracted to the directors of private companies under the old Act of 1956, the same cannot be allowed to take a retrospective effect under the new Act, when the provision of Section 164(2)(a) came into force only from 1.4.2014. This is also for one more reason that the failure to file the annual returns has been adequately taken care of by the penal provision under Section 92, making it clear that every officer of the company who is in default shall be punishable with imprisonment

for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both. Again under Section 137, the failure to file the financial statement visits punishment with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both. Further, under Section 441(4), the default in filing returns or accounts compoundable by Tribunal or Regional Director or by any officer authorized by the Central Government.

(f) In view of the above legal position, when the default in filing the accounts or returns are made as compoundable offence, Section 164(2)(a) providing the disqualification of director of private company not only in the defaulting company, but also from other company in which the petitioner is a director, diligently and meticulously following every provision of law, is certainly disproportionate to the lapse, as it is only regulatory in nature, because, notice to be sent under Section 248(1) of the Companies Act, 2013 by the Registrar of Companies for striking off the name of the company from the Registrar of Companies on the premise that the company has not been carrying on any business for a period of two financial years, is different from the disqualification under Section 164(2)(a), inasmuch as a company can be struck off, if the company has not been carrying on any business for a period of two financial years, whereas for disqualification, the criteria is three financial years. Therefore, in my considered opinion, although the petitioners have not challenged the provision of Section 164(2)(a), as the respondents have not followed the principles of natural justice, extinguishing the corporate life of the directors to the extent of disqualifying them to hold the directorship in the other companies, the said provision is liable to be read down, hence, Section 164(2)(a) is read down to the extent it disqualifies the directors in other companies which are scrupulously following the requirements of law, making it clear that no directors in

other companies can be disqualified without prior notice.

(g) However, it is made clear beyond any pale of doubt that the mischief of removal of the names of the companies by the Registrar of Companies and the disqualification of the directors in the defaulting company will go together, as it is inseparable, and the Registrar of Companies need not give fresh notice to the directors for their disqualification from the dormant company, if there is a failure to file the financial statement or annual return for any continuous period of three financial years as per Section 164(2) (a).

30. For all the aforementioned reasons, the impugned orders are set aside and the writ petitions shall stand allowed. Consequently, all the connected writ miscellaneous petitions are closed. However, there shall be no order as to costs.

31. Since this Court at the time of entertaining the writ petitions viz., in W.P.Nos.6896 of 2018 etc., vide order dated 26.3.2018 had directed the deposit of Rs.30,000/- and any other charges which are payable under the CODS 2018 Scheme in the Registry of this Court to the credit of their respective writ petitions by way of fixed deposit receipts in the name of the Registrar General for a period of one year, the Registrar General of this Court is directed to transmit the said deposits to the Registrar of Companies, Tamil Nadu, Chennai to reconcile the same to the respective accounts of the companies."

4. Following the same, the impugned orders are set aside and these writ petitions shall stand allowed on the above terms. Consequently, all the connected writ miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Secretary to Union of India
Ministry of Corporate Affairs
Shastri Bhawan
Dr. Rajendra Prasad Road
New Delhi 110 001
2. The Registrar of Companies
Tamilnadu Chennai
Block No.6, B Wing 2nd Floor
Shastri Bhawan
No.26 Haddows Road
Chennai 600 006
3. The Secretary,
Ministry of corporate Affairs
5th floor 'A' Wing, Shastri Bhawan
Dr.Rajendra Prasad Road,
New Delhi 110 001
4. The Secretary,
Ministry of Corport Affairs,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi.
5. The Secretary,
Ministry of Corporate Affairs,
Union of India,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
Central Secretariat, New Delhi
6. The Registrar General
High Court, Madras
7. The Section Officer सतयमेव जयते
Accounts Section, High Court, Madras

+4cc to Mr.Ayyaswamy, CGC, Advocate, S.R.No.54490, 54492, 54493, 54496
+2cc to Mr.G.V.Mohankumar, Advocate, S.R.No.53796
+1cc to Mr.S.Sathishrajan, Advocate, S.R.No.53940
+1cc to Mr.K.Jayapal, Advocate, S.R.No.53886
+1cc to Mr.K.V.Sajeev Kumar, Advocate, S.R.No.53692

W.P.Nos.28155 of 2017 etc.

GSP(03/10/2018)