

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.06.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. Nos. 15450 and 15451 of 2019

and

W.M.P. Nos. 15398, 15401, 15403, 15395 and 15396 of 2019

V. Nagarajan in both Writ Petitions

-vs-

1. The Disciplinary Committee,
ICSI Institute of Insolvency Professionals,
3rd Floor ICSI House 22 Institutional Area Lodhi Road,
New Delhi - 110 003.
2. ICSI Institute of Insolvency Professionals,
3rd Floor ICSI House 22 Institutional Area Lodhi Road,
New Delhi - 110 003. First and Second Respondents
in both Writ Petitions
3. Aruna Hotels Ltd.,
Aruna Centre, 145,
Sterling Road,
Nungambakkam,
Chennai - 600 034. 3rd Respondent in
W.P.No.15451 of 2019

Prayer in W.P. No. 15450 of 2019:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, quashing the show cause notice dated 15.06.2018 under DC/ICSI IIP/001/2018 against the Petitioner on the file of the First Respondent.

Prayer in W.P. No. 15451 of 2019:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, quashing the show cause notice dated 07.09.2018 under DC/ICSI IIP/004/2018 against the Petitioner on the file of the First Respondent.

For Petitioner : Mr. R. Subramanian
for M/s. T. Sugirtha
(in W.P. No. 15450 of 2019)
for M/s. M.K. Kanimozhi
(in W.P. No. 15451 of 2019)

C O M M O N O R D E R

The Writ Petitions challenge the show cause notices dated 15.06.2018 and 07.09.2018 issued by the First and Second Respondents against the Petitioner.

2. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in *Special Director -vs- Mohammed Ghulum Ghouse* [(2004) 3 SCC 440], *Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha* [(AIR 2012 SC 2250)] and *Life Insurance Corporation of India -vs- A. Masilamani* [(2013) 6 SCC 530] that a show cause notice cannot be challenged before completion of enquiry and the disciplinary proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion.

3. In view of the same, when this Court raised queries to the Learned Counsel for the Petitioner as to how the Writ Petitions could be entertained at this stage of the matter, Learned Counsel for the Petitioner contended that the Petitioner has raised the grounds of inherent lack of jurisdiction of the First and Second Respondents to issue the impugned show cause notices and fairly admitted that objections in that regard had not been raised before the First and Second Respondents so far and added that final orders have not yet been passed in the matter.

4. In this backdrop, the Learned Counsel for the Petitioner sought the permission of this Court to withdraw the Writ Petitions with liberty to file the written objections of the Petitioner raising the ground of inherent lack of jurisdiction before the First and Second Respondents so that the same could be considered before any final decision is taken by the First and Second Respondents in the matter pursuant to the impugned show cause notices.

5. Having regard to the aforesaid submissions made, the Writ Petitions are dismissed as withdrawn granting such liberty to the Petitioner. If such written objections as aforesaid are made by the Petitioner before the First and Second Respondents on or before 14.06.2019, it shall be incumbent upon the concerned authority to duly consider the same and render specific finding in that regard while taking final decision in the matter. It is

equally made clear that if such written objections are not made within the said date, it shall be open to the concerned authority to proceed further in the matter in accordance with law. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Disciplinary Committee,
ICSI Institute of Insolvency Professionals,
3rd Floor ICSI House 22 Institutional Area Lodhi Road,
New Delhi - 110 003.
 2. ICSI Institute of Insolvency Professionals,
3rd Floor ICSI House 22 Institutional Area Lodhi Road,
New Delhi - 110 003.
- +2cc to M/s. T. Sugirtha, Advocate Sr.46416 [10/06/2019]

W.P. Nos. 15450 and 15451 of 2019

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srg 7/6/2019

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