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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.19995 of 2016
and Cr1.M.P.No.9355 of 2016

1. M/s.Kayesvee Educations Limited,
No.66, Central Street, Kilpauk Garden,
Chennai - 600 030, Tamil Nadu.

2. Bhaskar Krishnapuram Varatharajan

3. Nangavaram Mahadevan Rangnathan

.. Petitioners/
Accused 1 to 3

Vs.

The Deputy Registrar of Companies,
Tamil Nadu, having office at
Shastri bhavan, 26, Haddows Road,
Chennai - 600 006.

.. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in E.O.C.C.No.300 of 2015 pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offenses I, Egmore, Chennai and to quash the same.

For Petitioners : Mr.V.Subramanian
for Mr.S.Sathish Rajan

For Respondent : Dr.D.Simon
C.G.S.C

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O R D E R

(The case has been heard through video conference)

This Criminal Original Petition has been filed seeking to quash the proceedings in E.O.C.C.No.300 of 2015, pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offenses I, Egmore, Chennai.



2. The respondent has filed a complaint against the petitioners on the ground that they have not appointed a woman director as contemplated under Section 149 of the Companies Act, 2013, read with Rule 3 of the Companies (Appointment and Qualification of Directors) Rule, 2014.

3. The learned counsel appearing for the petitioners submitted that Section 149 of the Companies Act is applicable to a company whose paid-up share capital is one hundred crore rupees or more or turnover of three hundred crore rupees or more. Whereas, the petitioner company has paid up capital of Rs.37,114,000/- and the turnover is less than Rs.300 crores. The learned counsel further submitted that the petitioner company has not violated the provisions of Section 149(1) of the Companies Act and therefore the petitioners have filed this quash petition.

4. The learned counsel appearing for the respondent by relying upon the counter affidavit admitted the fact that the paid up capital of the petitioner company is only Rs.37,114,000/- and the complaint has been inadvertently filed.

5. I have considered the rival submissions.

6. In the counter affidavit filed by the respondent, in paragraph Nos.5 and 6, it could be seen that the petitioner company has paid up capital of Rs.37,114,000/-, and therefore the petitioners have not violated the provisions of Section 149(1) of the Companies Act, 2013 read with Rule 3 of the Companies (Appointment and Qualification of Directors) Rule, 2014. The respondent also further stated in the counter that inadvertently complaint has been preferred. In paragraph Nos.5 and 6 of the counter it is stated as follows:

"5. The respondent humbly submits that as per the records available in the MCA portal, the financial statement filed by the accused in the financial year 2014-15, it is seen that the paid up capital of the company is 37,114,000/-

6. It is submitted that the respondent had inadvertently filed the prosecution in the said matter in the EOCC No.300 of 2015, against a company under Section 172 of the Companies Act, 2013 for violation of Section 149 of the Companies Act, 2013."



7. Considering the above circumstances, as the petitioner company has not violated the provisions of Section 149(1) of the Companies Act, 2013, the proceedings in E.O.C.C.No.300 of 2015, pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offenses I, Egmore, Chennai is not maintainable and it is liable to be quashed and accordingly quashed.

8. In the result, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Additional Chief Metropolitan Magistrate,
Economic Offenses I, Egmore, Chennai.

2.The Deputy Registrar of Companies
Tamil Nadu, having at Shastri Bhavan,
26, Haddows Road, Chennai-600 006.

3.The Government Advocate(Crl Side)
High Court, Madras.

+lcc to Dr.D.Simon, Advocate SR.No.60147

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PMK(CO)
CB(01/12/2021)