IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.24039 of 2015

M.Achuthan ...Petitioner

Vs.

1. Insurance Ombudsman,
   Fathima Akhtar Court, 4th Floor,
   453, Anna Salai,
   Teynampet,
   Chennai 600 018.

2. HDFC Standard Life Insurance Company Ltd.,
   Rep. by its Authorised Signatory,
   No.37/38, Ramana Towers, II Floor,
   Venkatanarayana Road,
   T. Nagar,
   Chennai 600 017. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Award No.IO (CHN) A/L-0010/2015-16 of the 1st Respondent dated:28.05.2015 and quash the same and to direct the 2nd Respondent to pay the sum of Rs.2,50,000/- to the petitioner with interest at 12% per annum from the date of wrongful termination of policy No.10663311 on 26.08.2012 together with the cost of this Writ Petition.

For Petitioner : Mr.M.Arun Kumar
for Mr.Sampathkumar

For R1 : No Appearance

For R2 : Mr.S.Namasivayam

O R D E R

(Through Video Conferencing)

The order dated 28.05.2015 passed by the 1st respondent is sought to be quashed in the present writ petition.

2.The 1st respondent is the Insurance Ombudsman. The Insurance claim made by the petitioner was rejected by the 2nd respondent/HDFC Standard Life Insurance Company.

3.The learned counsel for the petitioner relied on the judgment of the Hon'ble Division Bench of this Court to establish that, in the event of performance of public duty, writ proceedings may be entertained against a private person and High Court can issue directions against such private parties. The 2nd respondent is a private Insurance Company. They have collected money from the public at large and therefore, they are coming up within the writ jurisdiction. The Hon'ble Supreme Court of India in Dr.Janet Jeyapaul v. SRM University and others [2015 (16) SCC 530], held that, once public duty is established or performed by a private person, then a writ may be entertained. However, this Court is of the opinion that there is no quarrel in respect of the proposition submitted by the writ petitioner, however, each case is to be considered based on the facts and circumstances.

4.In the present case, the nature of dispute is contractual obligations based on the Insurance Policy and its terms and conditions and an adjudication is required for the purpose of resolving the disputes. Scrutiny of original documents, evidences, including oral evidence, are required to crystallize the rights of the parties in respect of the contract entered into between the petitioner and the private Insurance Company. Such an adjudication cannot be done by the High Court in a writ proceedings under Article 226 of the Constitution of India. Merely based on the affidavits and some photocopies of the documents enclosed along with the writ petition, the High Court cannot issue any direction to settle the Insurance claim, which is otherwise based on certain terms and conditions which all are contractual obligations between the parties. This being the nature of the dispute, the petitioner has to approach the competent forum or competent Court of Law for redressal of his grievances. In the event of approaching any such forum or competent Court, the pendency period of this writ petition is to be considered for the purpose of condoning the delay, if any application is filed to condone such delay.

With this liberty, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

mkn

To

The Insurance Ombudsman,
Fathima Akhtar Court, 4th Floor,
453, Anna Salai,
Teynampet, Chennai 600 018.

+2ccs to Mr.Sampathkumar, Advocate, S.R.No.55727
+1cc to Mr.S.Namasivayam, Advocate, S.R.No.56006

W.P.No.24039 of 2015

RGN[co]
NSK 23/11/2021