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W.P.No.32964 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.P.No.32964 of 2022

CA V.Venkata Siva Kumar

... Petitioner

Vs.

1.Ministry of Corporate Affairs (MCA)

Union of India,
Represented by the Secretary,
Garage No.14, “A” Wing, Shastri Bhawan,
Rajendra Prasad Road,
New Delhi – 110 001.

2.Ministry of Law and Justice,

Union of India,
Represented by the Deputy Secretary,
4th Floor, A-Wing, Shastri Bhawan,
New Delhi – 110 001.

3.The Hon'ble NCLT,

Represented by the Registrar,
3rd Floor, Pt.Deen Dayal Antyodaya Bhawan,
CGO Complex, Lodhi Road, New Delhi – 110 003.



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4. Central Vigilance Commissioner,
Represented by its Commissioner,
No.20, Besant Avenue,
Adayar, Chennai,
Tamil Nadu -600 020.

5. Shri. Anil Kumar B.
Member Technical (Retd.)
Hindustan Newsprint Ltd.,
Newsprint Nagar PO, Kottayam,
Kerala District – 686 001.
email : anilkumarbsmart@gmail.com

6. Mr. Rakesh Sharma
IDBI Bank Limited,
IDBI Tower, WTC Complex,
Cuffe Parade, Colaba,
Mumbai – 400 005.
email : cmd@idbi.co.in

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to constitute a committee of experts comprising of representatives of 1st to 4th respondents and any other experts deemed fit, to look into the suggestions made by the petitioner vide his letter dated 28.09.2022 and also submit the action taken report and in its absence the proposal to initiate the action along with recommendations for strengthening the adjudicating mechanism of Hon'ble NCLT and Hon'ble NCLAT within a reasonable period as this Court may deem fit and proper in the circumstances of the case and thus restore the majesty and authority of judiciary.



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For Petitioner : CA V.Venkata Siva Kumar
(Party-in-Person)

For R1, R2 & R4 : Mr.ARL.Sundaresan
Additional Solicitor General
assisted by Mr.Rajesh Vivekananthan
Deputy Solicitor General

R3 : Tribunal

For R6 : Mr.Varun Srinivasan

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed for issuance of a Writ of Mandamus directing the 1st respondent to constitute a Committee of Experts comprising of representatives of 1st to 4th respondents and any other experts deemed fit, to look into the suggestions made by the petitioner vide his letter dated 28.09.2022 and also submit the action taken report and in its absence, the proposal to initiate the action along with recommendations for strengthening the adjudicating mechanism of Hon'ble NCLT and Hon'ble NCLAT within a reasonable period.



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2.This writ petition is filed with serious allegations as against several officials. Even though one of the officials is arrayed as 6th respondent in this writ petition, the petitioner, who is a party in person, is not inclined to withdraw the allegations against the said individual so that this Court can entertain this writ petition as a Public Interest Litigation. His intention is only to target individuals due to personal reasons and the purpose of this litigation appears to be not to get his suggestions considered by the Expert Committee, but to expose certain serious irregularities he has found in individuals. Therefore, this Court is bound to examine the *bona fides*.

3.This Court has also taken note of the directions of this Court in the earlier writ petitions filed by the petitioner for similar relief. The same petitioner has earlier filed writ petitions in W.P.Nos.11059 and 11062 of 2019 before this Court. The prayer in the writ petition in W.P.No.11059 of 2019 is for issuance of a Writ of Mandamus directing the 1st respondent to constitute a committee of experts comprising of representatives of 1st to 4th respondents and any others deemed fit, to look into the suggestions made by



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the petitioner vide his letter dated 27.10.2018 for strengthening the adjudicating mechanism of the important Economic Legislation, namely Insolvency and Bankruptcy Code 2016, giving recommendations, within a reasonable period. The prayer in W.P.No.11062 of 2019 is for issuance of a Writ of Mandamus directing the 1st and 2nd respondents to constitute a committee to inquire into the representations made by the petitioner vide his letter dated 15.11.2018 against the 5th respondent for initiating proceedings under Sec 417 (e) of the Companies Act, 2013 within a reasonable period.

4.This Court, after taking note of the fact that the subject matter is covered by the Insolvency and Bankruptcy Code, 2016, and the functioning of the authorities therein, expressed its opinion that the matter falls squarely within the domain of the legislature and suggestions, if any, may be made by the Executive for the proper functioning of the authorities constituted under the Statute. Taking note of the fact that the petitioner is a practicing Chartered Accountant and considering the submission of the Union that the petitioner is targeting a particular official, disposed of the earlier writ petitions in W.P.Nos.11059 and 11062 of 2019 in the following lines :



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“4.The matters carried to Court cannot be looked into nor can any mandamus be issued to either the legislature to incorporate any suggestion put forth by the petitioner or any direction issued to the executive as to the manner in which bodies organized under the Act ought to function. Both the petitions may be taken as a representation of a well-wisher. The appropriate authorities will look into the matter and it will be completely open to such authorities to incorporate or reject the petitioner's suggestions or any part thereof.

5.It is made clear that this Court has not applied its mind to the suggestions, particularly since there may not be any sequitur thereto.

W.P.Nos.11059 and 11062 of 2019 are disposed of without any order as to costs.”

5.The petitioner has once again come forward with identical prayer, however, on the basis of subsequent representation he has made before the 1st respondent giving some more suggestions. Since the nature of prayer is identical and the subject matter is not different, we are unable to entertain



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this writ petition. We are now informed that special Committees have been constituted with different assignments. Hence, this Court dispose of this writ petition with a direction to the 1st respondent to consider the suggestions made by the petitioner and forward them, if they found necessary, to the appropriate Committee constituted by the 1st respondent as indicated in their counter affidavit. We are not expressing any opinion on the merits of the suggestions. No costs.

(S.S.S.R., J.) (P.D.B., J.)
11.11.2024

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Internet : Yes

Index : Yes

Neutral Citation : Yes



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To
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Ministry of Corporate Affairs (MCA)
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New Delhi – 110 001.
- 2.The Deputy Secretary,
Ministry of Law and Justice,
Union of India,
4th Floor, A-Wing, Shastri Bhawan,
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and
P. DHANABAL, J.

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