



W.P.Nos.23402 & 23408 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.03.2025

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

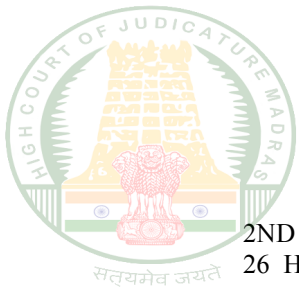
W.P.Nos.23402 & 23408 of 2024

M/S.ABAYAMBIGAI NIDHI LIMITED
REP. BY ITS MANAGING DIRECTOR MR.SUDARSHAN
S/O. HARIHARASUBRAMANIAN
NO.138/4, KARAICKAL MAIN ROAD
SWARNAPURI NAGAR, KADUVANGUDI
KOLLUMANGUDI, THIRUVARUR 609 403

.. PETITIONER IN BOTH W.P'S

Vs

- 1 UNION OF INDIA
REP. BY ITS SECRETARY
MINISTRY OF CORPORATE AFFAIRS
5TH FLOOR, 'A' WING, SHASTRI BHAWAN
DR.RAJENDRA PRASAD ROAD
NEW DELHI 110 001
- 2 THE DEPUTY DIRECTOR
MINISTRY OF CORPORATE AFFAIRS
5TH FLOOR 'A' WING, SHASTRI BHAWAN
DR.RAJENDRA PRASAD ROAD
NEW DELHI 110 001
- 3 REGIONAL DIRECTOR
SOUTHERN REGION
MINISTRY OF CORPORATE AFFAIRS
SHASTRI BHAWAN, BLOCK I, V FLOOR
26 HADDOWS ROAD, CHENNAI 600 006
- 4 REGISTRAR OF COMPANIES
TAMILNADU CHENNAI
BLOCK NO.6 'B' WING



W.P.Nos.23402 & 23408 of 2024

2ND FLOOR, SHASTRI BHAWAN
26 HADDOWS ROAD
CHENNAI 600 006

.. RESPONDENTS IN BOTH W.P'S

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W.P.No.23402 of 2024 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent dated 23.06.2023 rejecting the Application filed by the petitioner vide SRN: R36944098 dated 15.04.2020 in Form NDH-4 and quash the same as contrary to law, unfair, excessive, harsh, violative of principle of natural justice, defective and arbitrary and direct the 1st respondent to consider the application afresh after considering the reply dated 14.07.2023 of the petitioner and after providing the petitioner opportunity of hearing.

W.P.No.23408 of 2024 is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Declaration,

(i) to declare the amendment made substituting Section 406 of The Companies Act 2013 with new Section 406 as per The Companies (Amendment) Act 2017 (Act 1 of 2018) published vide gazette dated 03.01.2018 and notified with effect from 15.08.2019 requiring the Nidhi Companies which are already incorporated as Nidhi Companies to once again get a declaration as Nidhi by the Central Government is illegal, excessive, arbitrary and unconstitutional and strike down the same;

(ii) to declare the amendment made to Nidhi Rules 2014 by Nidhi (Amendment) Rules 2019 vide notification dated 01.07.2019 with effect from 15.08.2019 by inserting Rule 3A and Rule 23A are illegal, excessive, arbitrary and unconstitutional and strike down the same;

(iii) to declare the amendment made to Nidhi Rules 2014 by Nidhi (Amendment) Rules 2022 vide notification dated 19.04.2022 with effect from 19.04.2022 by inserting provisos to Rule 3A and Rule 23A are illegal, excessive, arbitrary and unconstitutional and strike down the same.



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W.P.Nos.23402 & 23408 of 2024

For Petitioner :: Mr.S.Sathish

For Respondents :: Mr.K.Venkataswamy Baabu
Senior Panel Counsel

COMMON ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The writ petitions have been instituted to assail the order passed by the second respondent dated 23.06.2023 rejecting the application filed by the petitioner in Form NDH-4 and to declare the amendment made substituting Section 406 of The Companies Act 2013 with new Section 406 as per The Companies (Amendment) Act 2017 (Act 1 of 2018) published vide gazette dated 03.01.2018 and notified with effect from 15.08.2019 requiring the Nidhi Companies which are already incorporated as Nidhi Companies to once again get a declaration as Nidhi by the Central Government is illegal, excessive, arbitrary and unconstitutional and strike down the same; to declare the amendment made to Nidhi Rules 2014 by Nidhi (Amendment) Rules 2019 vide notification dated 01.07.2019 with effect from 15.08.2019 by inserting Rule 3A and Rule 23A are illegal, excessive, arbitrary and unconstitutional and strike down the same; to



W.P.Nos.23402 & 23408 of 2024

WEB COM declare the amendment made to Nidhi Rules 2014 by Nidhi (Amendment) Rules 2022 vide notification dated 19.04.2022 with effect from 19.04.2022 by inserting provisos to Rule 3A and Rule 23A are illegal, excessive, arbitrary and unconstitutional and strike down the same.

2. The learned counsel appearing on behalf of the writ petitioner restricted his prayer by submitting that the second respondent passed orders on the application beyond the time limit of 45 days fixed to dispose of the application. In the present case, the application in Form NDH-4 was filed by the petitioner on 15.04.2020, but the same was rejected by the second respondent in proceeding dated 23.06.2023.

3. A perusal of the impugned order would reveal that certain observations against the petitioner are made with reference to the particulars available in the application and consequently the rejection order was passed. The learned counsel for petitioner would submit that the petitioner will be satisfied if the subsequent reply/explanation given by the petitioner is taken into consideration and a fresh order is passed, by affording opportunity to



W.P.Nos.23402 & 23408 of 2024

the petitioner, on merits and in accordance with law.

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4. The learned Senior Panel Counsel appearing on behalf of the respondents would submit that reasons are stated in the order impugned. The application was rejected on merits. The larger relief sought for in one of the writ petitions is to declare the provisions of law as null and void.

5. In view of the fact that the petitioner has restricted the relief as such sought for in the writ petitions, this Court is inclined to pass the following order:-

(i) The petitioner states that it has submitted reply to the impugned order dated 23.06.2023 on 14.07.2023. Apart from the reply dated 14.07.2023, the petitioner is at liberty to submit a fresh reply regarding the compliance of the defects stated in the impugned order dated 23.06.2023, within a period of four weeks from the date of receipt of a copy of this order.

(ii) On receipt of any such reply/explanation from the petitioner, the second respondent shall provide an opportunity to the writ petitioner and



W.P.Nos.23402 & 23408 of 2024

thereafter pass appropriate final orders on merits and in accordance with law as expeditiously as possible. However, the legal issue regarding the validity of the provisions of law is left open. The writ petitions are disposed of. Consequently, W.M.P.Nos.25568 & 25569 of 2024 are closed. No costs.

Index : yes

Neutral citation : yes/no

(S.M.S.,J.) (K.R.S.,J.)

20.03.2025

SS

To

- 1 THE SECRETARY TO UNION OF INDIA
MINISTRY OF CORPORATE AFFAIRS
5TH FLOOR, 'A' WING, SHASTRI BHAWAN
DR.RAJENDRA PRASAD ROAD
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- 2 THE DEPUTY DIRECTOR
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S.M.SUBRAMANIAM,J.

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