



W.P.(MD)No.30447 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.01.2025

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

W.P.(MD)No.30447 of 2023

and

W.M.P.(MD)Nos.26208 & 26210 of 2023

M/s. Madhavprabha Nidhi Limited,
8-105, Kuzhivilai Nagacode,
Kulasekharam Post, Kanyakumari - 629 161,
Represented by its Director,
Vijayakumar Nagendran, ... Petitioner

/Vs./

1. The Deputy Director

Ministry of Corporate Affairs,
5th Floor, A Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi - 110 001.

2. The Registrar of Companies

Tamil Nadu, Andaman and Nicobar Islands,
Chennai, II Floor, C-Wing, Shastri Bhavan,
26, Haddows Road,

Nungambakkam, Chennai - 600 006. ... Respondents



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WEB COURT

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings in SRN No.R60255601/2023/CL-VII dated 20.06.2023 passed by the first respondent and the consequent impugned notices in F. No.ROC/CHN/Madhav/REJECTION/NIDHI/2023 and F. No. ROC/CHN/Madhav/ADJ/2023 dated Nil and F. No. RCO/ CHN/ NDH4/ REJECTION/MADHAVPRABHA/2023 dated 31.08.2023 issued by the 2nd respondent and quash the same and consequently direct the 1st respondent to reconsider the application of the petitioner by providing an opportunity.

For Petitioner : Mr.Naveen Kumar Murthi
for Mr.K.Shanmuga Sundaram

For Respondents : Mr.S.Jeyasingh
Central Government Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 20.06.2023 and consequently notices dated 31.08.2023 on the file of the second respondent.

2. Heard the learned counsel on either side and perusal the material available on records.



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3. The petitioner is the registered Company under the Companies Act and carrying out the business as Nidhi Company. In order to obtain recognition and for ease of business, the petitioner intended to register itself as Nidhi Company and submitted application for registration as it is Nidhi Company under the Nidhi Rules 2014 by submitting NDH-4 E-form. It was submitted on 25.09.2020. However, the said application was not considered within the stipulated time. While application was pending, there were several amendment came to effect to the Nidhi Rules 2014 by the Nidhi (Amendment) Rules, 2022. As per amended Nidhi Rules, several conditions are there to complete on the part of the applicants. As per the prevailing Rules, the application for declaring as a Nidhi Company, shall be disposed of within a period of 45 days under Rule 3 (4) of Nidhi Rules, 2014. Admittedly, the application submitted by the petitioner for declaring as a Nidhi Company was rejected only on 20.06.2023. It is relevant to extract Rule 3 (4) of the Nidhi Rules, 2014, is hereunder:

“(4). The Central Government, shall examine the application filed in Form NDH-4 and convey its decision within a period of forty five days to the Company.



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Provided that in case a decision on an application filed in form NDH-4 is not taken by the Central Government within the aforesaid period of receipt of such application, the same shall be deemed as approved”

4. Thus, it is clear the if the application is not considered within 45 days, the same shall be deemed as approved one. Further, on perusal of the order dated 20.06.2023 revealed that before refusal of his application, the petitioner is not served with any notice and the petitioner is not given any opportunity.

5. Therefore, it is clear violation of principles of natural justice and at this sole ground, the order impugned cannot be sustained and the same is liable to be quashed, accordingly, quashed. The matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to conduct enquiry, after giving an opportunity to the petitioner and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of copy of this order. It is made clear that till the disposal of the application, no coercive action initiated as against the petitioner, for violation of Rules.



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6. With the above observation, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
LS

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