

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 30TH DAY OF APRIL 2021/10TH VAISAKHA, 1943

W.P. (C) No.10673 OF 2021 (H)

PETITIONER:

M/S.URBANVIKAS NIDHI LIMITED.,  
A NIDHI COMPANY, UNDER THE NIDHI RULES, 2014,  
HAVING REGISTERED OFFICE AT  
VISWAJYOTJHI BUILDING, NEAR GANAPATHY TEMPLE,  
NADAMALIKA MANNARKKAD, PALAKKAD 678 582,  
REPRESENTED BY ITS MANAGING DIRECTOR,  
SREENIVASAN A, S/O.ARUMUGHAN, AGED 43 YEARS,  
DOOR NO.9/93, KRISHNA HOME, SIVANKUNNU,  
MANNARKKAD, PALAKKAD 678 582.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS:

- 1 THE UNION OF INDIA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT, MINISTRY OF CORPORATE AFFAIRS, 'A' WING, SASTHRI BHAVAN, RAJENDRAPRASAD ROAD, NEW DELHI 110 001.
- 2 THE JOINT SECRETARY, MINISTRY OF CORPORATE AFFAIRS, 'A' WING, SASTHRI BHAVAN, RAJENDRAPRASAD ROAD, NEW DELHI 110 001.
- 3 THE REGIONAL DIRECTOR, SOUTHERN REGION, MINISTRY OF CORPORATE AFFAIRS, SASTHRI BHAVAN, BLOCK NO.1, 5TH FLOOR, 26, HADDOWS ROAD, CHENNAI, STATE OF TAMIL NADU - 600 006.
- 4 THE REGISTRAR OF COMPANIES, ERNAKULAM, HAVING OFFICE AT COMPANY LAW BUILDING, THRIKKAKARA, KAKKANAD, COCHIN, ERNAKULAM DISTRICT - 682 021.

GOVERNMENT PLEADER, SMT.PRINCY XAVIER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.04.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner - a 'Nidhi Limited Company', has filed this writ petition challenging Ext.P4 order by which the application filed by it in form NDH-4 is rejected. Several defects have been pointed out as violation of various provisions contained in Nidhi Rules. The petitioner points out that in case these defects were pointed out before issuing Ext.P4 order and time was granted for rectifying the same, the petitioner would have been able to get the NDH-4 accepted. Each and every point raised in Ext.P4 as reasons for rejection, have been answered in Ext.P5.

2. Heard the learned counsel for the petitioner as well as the learned Central Government Counsel.

3. Learned counsel for the petitioner contended that, if the petitioner was granted an opportunity to explain the factual situation or at

least been given a show-cause notice prior to issuing Ext.P4, certainly the petitioner could have apprised the 3<sup>rd</sup> respondent about the truth of the findings in Ext.P4 found against the petitioner. The violation of the principles of natural justice, according to the learned counsel, has actually affected the very basis on which the decision was rendered and hence the same is liable to be set aside.

4. Having regard to the contentions as aforesaid, I am satisfied that, there has been a violation of the principles of natural justice, while issuing Ext.P4 order. In the said circumstances, it is necessary that Ext.P4 order be re-considered after affording an opportunity of hearing to the petitioner in accordance with law.

Accordingly, I set aside Ext.P4 and direct the 2<sup>nd</sup> respondent to consider Ext.P5 representation submitted by the petitioner and

afford an opportunity of hearing within a period of three months from the date of receipt of a copy of the judgment. Needless to mention that, in the meantime, no coercive action will be initiated against the petitioner. However, the petitioner shall also not include any new members or create any charge on the assets or deposits of its members.

The writ petition is disposed of as above.

*Sd/-*

**BECHU KURIAN THOMAS**

ss

**JUDGE**

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF CERTIFICATE OF INCORPORATION DT. 19.07.21.
EXHIBIT P2	TRUE COPY OF MEMORANDUM OF ASSOCIATION OF THE COMPANY DT. NIL.
EXHIBIT P3	TRUE COPY OF ARTICLE OF ASSOCIATION DT. NIL.
EXHIBIT P4	TRUE COPY OF ORDER DT. 15.01.2021.
EXHIBIT P5	TRUE COPY OF OBJECTION/EXPLANATION REPLY DT. 03.04.21.
EXHIBIT P6	TRUE COPY OF JUDGMENT IN WPC 178/2021 DT. 19.03.2021.