



2023:KER:31489

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 9TH DAY OF JUNE 2023 / 19TH JYAISHTA, 1945

WP(C) NO. 8942 OF 2023

PETITIONER:

JOHNNY M V
AGED 53 YEARS
S/O M T VARUNNY MUNDUPAL- HOUSE AYYAMPARAMBU
AKATHIYOOR-POST KUNNUMKULAM-TALUK
THRISSUR-DISTRICT, PIN - 680503
BY ADVS.
BIJU ANTONY ALOOR
K.P.PRASANTH
VISHNU DILEEP
T.S.KRISHNENDU
ARCHANA SURESH
SAKSHYA A.K.

RESPONDENTS:

- 1 UNION OF INDIA
(THE PRINCIPLE SECRETARY TO PMO)
PUBLIC GRIEVANCE OFFICE (PMOPG) SOUTH BLOCK,
SECRETARIAT BUILDING, RAISINA HILLS,
NEW-DELHI, PIN - 110011
- 2 SECURITIES AND STOCK EXCHANGE BOARD POF INDIA
(REPRESENTED BY ITS CHAIRMAN) SEBI BHAVN,
PLOT NO. C4-4, BANDRA-KURLA COMPLEX, BANDRA (E)
MUMBAI,, PIN - 400051
BY ADVS.SRI.S.MANU, DSGI
Adv. K. M. Jamaludheen
LATHA PRABHAKARAN(K/158/1993)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09.06.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



P.V.KUNHIKRISHNAN, J.

W.P.(C).No.8942 of 2023

Dated this the 09th day of June, 2023

JUDGMENT

This writ petition is filed with following prayers:

- i. This Petition may kindly be admitted and allowed;
- ii. Issue a writ of Mandamus or such other writ, Order or Direction commanding the Respondent No. 1 to release the fund as claimed at Exhibit-P18 through the Respondent No. 2.
- iii. Issue such other Writ, Order or Direction/Reliefs which this Honorable Court may deem fit and proper to grant in the facts and circumstances of the case, so as to secure in the interest of justice

(SIC)

2. When this writ petition came up for consideration, the counsel for the 2nd respondent submitted that, for the same relief, the petitioner moved two petitions before this Court earlier as W.P.(C). No.12402/2012 and O.P.No.5137/1997. A counter affidavit is also filed raising a preliminary issue of maintainability.



3. This Court considered the contentions of the petitioner and the respondents regarding maintainability. Ext.P17 is the judgment in W.P.(C). No.12402/2012, which is extracted hereunder:

“The petitioner has approached this Court seeking the following reliefs :

- “a. Issue a Writ of Mandamus directing the Respondents 1 to 3 to conduct a detailed enquiry against Respondents 4 and 5 on the allegations set forth in Ext.P3 and Ext.P7, after giving an opportunity of hearing to the Petitioner by producing documentary as well as oral evidence and thereafter to issue directions and orders that are found necessary to meet the ends of justice;
- b. Issue Writ of Mandamus or Order declaring that the inaction and omissions on the part of the Respondents 1 and 2 in not having taken any action so far on Ext.P3 and Ext.P7 in order to dispose of the same on merits is in violation of the statutory duties cast upon them as per the Securities and Exchange Board of India Act, 1992 and the Rules thereunder
- c. Issue Writ of Mandamus or Order directing the Respondents to give compensation to the Petitioner as per Section 4(1)(a) of Securities Contract (Regulation) Act, 1956 and as per the provisions of Section 11 and Section 15-J of the Securities and Exchange Board of India Act.”

2. The learned counsel for the petitioner submits that, they have already relinquished the vakalath and intimated the same to the petitioner.

3. In the counter affidavit filed on behalf of



respondents 1 & 2, a communication showing that, they have acted upon the complaints of the petitioner, was also produced. It is pointed out that, the petitioner has filed O.P.No.5137 of 1997 for the same relief and the said original petition was dismissed for default by this Court as per Ext.P5 judgment.

In such circumstances, this Court is of the view that, nothing further survives in this writ petition and accordingly the same is dismissed."

From the above judgment it is clear that the same relief is prayed in this writ petition also. I am of considered opinion that this writ petition is not maintainable.

The writ petition fails and the same is accordingly dismissed.

**APPENDIX OF WP(C) 8942/2023**

PETITIONER EXHIBITS

Ext-P1	TRUE COPY OF THE AWARD DATED 14/09/1994 .
Ext-P2	TRUE COPY OF THE GRIEVANCE COMMITTEE RECORDS DATED 28/06/1995.
Ext-P3	TRUE COPY OF THE NOTICE DATED 29/06/1995.
Ext-P4	TRUE COPY OF THE REPORT DATED 22/08/1995
Ext-P5	TRUE COPY OF THE RELEVANT EXTRACT FROM THE MINUTES DATED 09/11/1995
Ext-P6	TRUE COPY OF THE REPLY DATED 08/12/1995
Exhibit7	TRUE COPY OF THE REPLY OF AWARD DATED 09/05/1996
Exhibit8	TRUE COPY OF THE REPRESENTATION DATED 11/05/1996
Exhibit9	TRUE COPY OF THE DIRECTION DATED 24/06/1996
Ext-P10	TRUE COPY OF THE REPORT DATED 19/12/1996
Ext-P11	TRUE COPY OF THE JUDGEMENT U/VIDE OP NO.5137/1997 DATED 23/09/2002
Ext-P12	TRUE COPY OF THE AUDIT REPORT DATED 24/08/2009
Ext-P13	TRUE COPY OF THE REPLY ON OBJECTION DATED 20/02/2015
Ext-P14	TRUE COPY OF THE EXIT ORDER DATED 23/12/2014
Ext-P15	TRUE COPY OF THE REPLY OF REQUEST ON NOTICE DATED 29/05/2015
Ext-P16	TRUE COPY OF THE REPLY ON REPRESENTATION AND ACCOUNT DETAILS DATED 23/07/2015
Ext-P17	TRUE COPY OF THE ORDER 30/11/2015



WP(C).No.8942 /2023

6

RESPONDENT EXHIBITS

Exhibit R2(A) The true copy of the response from Our
Investment Enterprises Limited to SEBI
dated 9-4-2020

PETITIONER EXHIBITS

Ext -P18 TRUE COPY OF THE REPRESENTATION DATED
24/02/2023

RESPONDENT EXHIBITS

Exhibit R2(B) True copy of SEBI's letter dated
18.05.2021

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