

(2023) 02 KL CK 0221

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5499 Of 2023

M/s New Puthuppady Nidhi Limited

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 22-02-2023

Acts Referred:

Companies Act, 2013 — Section 406
Nidhi (Amendment) Rules, 2022 — Rule 3B(1)

Citation : (2023) 02 KL CK 0221

Hon'ble Judges : Shaji P.Chaly, J

Bench : Single Bench

Advocate : Vijay V. Paul, Chelson Chembarathy, Gokul Krishnan R., Mini Gopinath

Final Decision : Disposed Of

Judgement

Shaji P. Chaly, J.

1. The petitioner is a company incorporated for the purpose of being declared as a Nidhi company under Section 406 of the Companies Act, 2013. As per Rule 3B(1) Nidhi (Amendment) Rules, 2022, a public company desirous of being declared as a Nidhi shall apply in Form NDH-4 within a period of 120 days of its incorporation for declaration as Nidhi after it fulfills the twin conditions prescribed thereunder i.e. having not less than 200 members (200 shareholders) and having a net owned fund of Rs.20,00,000/- or more.

2. The case of the petitioner is that even though the petitioner attempted to upload the NDH-4 in the portal, due to the non-functioning of the portal, the application could not be uploaded and therefore, the form PAS-3 could not be uploaded.

3. Smt. Mini Gopinath, learned Central Government Counsel, on instructions, submitted that the last date of uploading application in Form NDH-4 is extended upto 31.03.2023 and that the portal is functioning.

4. In that view of the matter, I think, it is only appropriate that the writ petition is disposed of, leaving open the liberty of the petitioner to take necessary steps to upload Form NDH-4 in the portal in question. Therefore, after having heard the learned counsel for the petitioner and the learned Central Government Counsel, this writ petition is disposed of, leaving open the liberty of the petitioner to upload the application in form NDH-4 within 31.03.2023.

However, the learned counsel for the petitioner expressed an apprehension with respect to the non-functioning of the portal. Taking into account the said aspect, I observe that if the petitioner is unable to upload form NDH-4 within 3 weeks from today, the petitioner will be at liberty to submit the application physically along with necessary proof to establish that the application could not be uploaded online.