

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

Wednesday, the 24th day of January 2024 / 4th Magha, 1945
IA.NO.2/2024 IN WP(C) NO. 42092 OF 2023(J)

APPLICANT/PETITIONER:

SHONE GEORGE, [REDACTED]
[REDACTED]

RESPONDENTS/RESPONDENTS:

1. MINISTRY OF CORPORATE AFFAIRS, OFFICE OF DIRECTOR GENERAL OF CORPORATE AFFAIRS, KOTA HOUSE ANNEXE 1, SHAHJAHAN ROAD, NEW DELHI, REPRESENTED BY ITS JOINT DIRECTOR., PIN - 110011
2. THE DIRECTOR, SERIOUS FRAUD INVESTIGATION OFFICE CGO COMPLEX, LODHI ROAD, PRAGATI VIHAR, NEW DELHI, DELHI, PIN - 110003
3. M/S. COCHIN MINERALS AND RUTILE LTD, HAVING ITS REGISTERED OFFICE AT VIII/224, P.B. NO. 73, MARKET ROAD, ALWAYS, ERNAKULAM, KERALA, REPRESENTED BY ITS MANAGING DIRECTOR, PIN - 683101
4. KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD, HAVING ITS REGISTERED OFFICE AT TC 11/266, 1 KESTON ROAD, KOWDIAR, TRIVANDRUM, KERALA, REPRESENTED BY ITS MANAGING DIRECTOR, PIN - 695003
5. M/S. EXALOGIC SOLUTIONS PRIVATE LIMITED, HAVING ITS REGISTERED OFFICE AT NO.343, 9TH MAIN ROAD, HSR LAYOUT SECTOR-7, BANGALORE, KARNATAKA, REPRESENTED BY ITS DIRECTOR, PIN - 560102
6. MRS. VEENA THAIKKANDIYIL, AGED 40 YEARS, D/O. PINARAYI VIJAYAN, DIRECTOR, EXALOGIC SOLUTIONS PRIVATE LIMITED, HAVING ADDRESS AT AKG CENTRE PALAYAM, THIRUVANANTHAPURAM, KERALA, PIN - 695034
7. MR. PINARAYI VIJAYAN, AGED 78 YEARS, S/O. MUNDAYIL KORAN, CHIEF MINISTER OF KERALA, HAVING ADDRESS AT 3RD FLOOR, NORTH BLOCK, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM, KERALA, PIN - 695001

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to permit the petitioner to make the corrections of the typographical errors in the prayer of the Writ Petition so as to secure the ends of justice.

Corrections required:

In prayer (i): "Section 210(2)" of the Companies Act to be corrected as : "Section 212" of the Companies Act.

In prayer (ii): "Section (14A)" of the Companies Act to be corrected as "Section 212(14A)" of the Companies Act.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of M/S. MARIYA RAJAN, SHINU J.PILLAI, S.SUJA, AISWARYA JAMES, NESMEL DIVAN, DIYA BIJOY, SWETHA ELIZABETH SABOR, Advocates for the petitioner in

IA/WP(C), SRI. R.V.SREEJITH, SENIOR CENTRAL GOVERNMENT COUNSEL for the respondents 1 and 2, GOPIKRISHNAN NAMBIAR M., K.JOHN MATHAI, JOSON MANAVALAN, KURYAN THOMAS, PAULOSE C. ABRAHAM, RAJA KANNAN, PRANOY HARILAL, Advocates for the 3rd respondent in IA/WP(C) and of SHRI.P.U.SHAILAJAN, Advocate for the 4th respondent in IA/WP(C), the court passed the following:



DEVAN RAMACHANDRAN, J.

WP (C) No.42092 of 2023

Dated this the 24th day of January, 2024

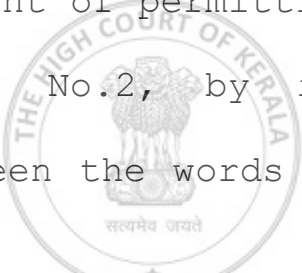
ORDER

I.A.No.2/2024

This application, to correct the prayers in the writ petition, is opposed in part by the respondents and conceded to the other.

As regards the correction sought for to prayer No.1, Sri.Vijay Narayan, learned Senior Counsel, instructed by Sri.Paulose C.Abraham - learned counsel appearing for respondent No.3 and Sri.C.S.Vaidhyanathan, learned Senior Counsel, instructed by Sri.P.U.Shailajan - learned counsel for respondent No.4, opposed it vehemently, saying that the mention of 'Section 210(2)' of the Companies Act ('Act', for short) therein cannot be seen to be a mere mistake, but a conscious prayer made by the petitioner.

However, as regards the prayer of the petitioner, for correction of the second prayer, incorporating the figures '212' prior to '(14-A)' is not opposed, since both the learned Senior Counsel very fairly submitted that it appears to be an omission because, Sub Clause (14-A) cannot remain on its own.

In the afore circumstances, I allow this I.A. to the limited extent of permitting the petitioner to correct prayer No.2, by incorporating the figures '212' between the words 'Section' and the figures '(14-A)'.


As regards the prayer of the petitioner for correction of the 1st prayer, this I.A. will stand dismissed; however, without prejudice to his liberty to approach this Court again, through an appropriate application.

I.A.No.3/2024 & W.P(C)

The respondents, through their learned Senior Counsel and Counsel, and in particular the learned

Senior Central Government Counsel, seek time to file counter pleadings.

I must, however, record the submissions of the learned Senior Central Government Counsel - Sri.R.V.Sreejith, that, though an investigation under Section 210(1)(c) of the 'Act' has been ordered - vide the proceedings of the Government of India, Department of Corporate Affairs, a copy of which has been brought on record, along with his Memo dated 19.01.2024 - it does not reflect any decision of the Government with respect to Section 212 of the 'Act', namely for an investigation by the Serious Fraud Investigation Office (SFIO). He submitted that he requires some more time to confer with his client, particularly, in view of the earlier directions of this Court in the interim order dated 15.01.2024; however, arguing that the mere initiation of an inquiry under Section 210 of the 'Act' would not preclude

an investigation under Section 212 thereof, if found warranted.

I do not propose to answer any contention at this stage because the pleadings are not yet complete.

As matters now stand, the Government of India appears to have initiated investigation under Section 210(1)(c) of the 'Act' and they say that they will inform this Court about the further prayers of the petitioner in due course.

I, therefore, adjourn this matter to be called on 12.02.2024.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

akv