

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**  
**(Special Original Jurisdiction)**  
**W.P. No 18327 of 2020**

G.V.Mohan Kumar,

... Petitioner

-versus-

1. The Registrar,  
National Company Law Appellate Tribunal,  
2nd & 3rd Floor of Mahanagar Doorsanchar  
Sadan (M.T.N.L. Building),  
No : 9, CGO Complex, Lodhi Road,  
New Delhi - 110003.
2. The Secretary,  
Ministry Of Law And Justice,  
4th Floor, A-Wing, Shastri Bhawan,  
New Delhi -110 001
3. The Secretary,  
Ministry of Corporate Affairs  
'A' Wing, Shastri Bhawan  
Rajendra Prasad Road,  
New Delhi - 110 001.
4. Chief Secretary to Government,  
Government of Tamil Nadu,  
Secretariat, Fort St.George,  
Chennai - 600 009

... Respondents

**AFFIDAVIT FILED BY THE PETITIONER**

I, G.V.Mohan Kumar, S

do hereby solemnly affirm

and sincerely states as follows –

1. I am the petitioner herein and as such, I am well acquainted with the facts and circumstances of the present case. It is submitted that I have not filed any other writ petition before this Hon'ble Court seeking the same relief sought for in the instant writ petition.

2. It is submitted that the Petitioner is filing this Writ Petition solely out of public motive and there is no personal interest of the Petitioner involved in this Petition. Further the present Writ Petition is filed in the larger Interest of the Litigant Public, Advocates, Chartered Accountants, Company Secretaries and Resolution Professionals Practicing in the Southern part of India
3. It is submitted that in the event this Hon'ble Court finds that the petition is frivolous or vexatious, the Petitioner undertakes to pay costs as directed by this Hon'ble Court. The Petitioner is filing the present Petition solely out of his own funds and the average annual income of the Petitioner in the last 3 preceding years is about
4. It is submitted that the Petitioner is a First Generation Layer and with great difficulty has got opportunity to represent in several matters before the Hon'ble Madras High Court, Hon'ble National Company law Tribunal (hereinafter referred to as "NCLT"), erstwhile Company Law Board (CLB), Other Tribunals and Sub-Ordinate Courts.
5. It is submitted that the NCLT has been established all over the country on 01.06.2016 to exercise an exclusive jurisdiction over cases pertaining to the Companies Act 1956 and 2013, The Insolvency and Bankruptcy Code, 2016 and the Competition Act 2002 and since its establishment, the number of cases in the realm of the NCLT has increased multifold. Hence, as a consequence, the National Company Law Appellate Tribunal (hereinafter referred to as the "NCLAT") is faced with several appeals arising from the orders of the NCLT.
6. It is submitted that at the present, there are 5 Judicial Members and 6 Technical Members, including the Hon'ble Chairperson presiding over the NCLAT. However, due to the large volume of appeals being filed from all over the country and the exclusive jurisdiction exercised by the NCLAT in

respect of special laws such the Competition Act 2002, the pendency of the cases in the NCLAT has also been steadily mounting.

7. It is submitted that considering the fact that the NCLAT is situated only in New Delhi and the litigants and lawyers from the farther parts of the country, especially the Southern region comprising of Tamil Nadu, Kerala, Karnataka, Andhra Pradesh, Telegana including the Union Territory of Puducherry find it difficult to travel for each and every hearing and conduct their cases in New Delhi due to the same being both financially expensive and time consuming, it was considered a necessity to create a regional bench of the NCLAT in the southern region.
8. It is submitted that after considering the hardships faced by the litigants and lawyers alike, the Hon'ble Supreme Court in the case of Writ Petition (Civil) No. 99 of 2018 by its Order Dated 25.01.2019 in **Swiss Ribbons Pvt. Ltd and Another v. The Union of India and Others** has directed the Union of India as follows:

*33. The learned Attorney General has assured us that this judgment will be followed and Circuit Benches will be established as soon as it is practicable. In this view of the matter, we record this submission and direct the Union of India to set up Circuit Benches of the NCLAT within a period of 6 months from today".*

9. It is submitted that in pursuance of the same, careful thought has been made and it has been notified vide Notification S.O. 1060(E) dated 13.03.2020 issued by the Ministry of Corporate Affairs that the Central Government has decided to constitute the regional Bench of the NCLAT at Chennai so as to hear appeals against orders of the NCLTs having jurisdiction over Karnataka, Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Lakshadweep and Puducherry.

10. It is also humbly submitted that the said notification stated that the NCLAT at New Delhi would be known as the Principal Bench and would continue to hear appeals from all other territories except those mentioned herein above. The said decision, as briefed above, was notified in the backdrop of several voices from both within and outside the legal profession calling for the establishment of a Regional Bench of the NCLAT so as to make the NCLAT easily accessible to litigants from all parts of the country, considering the difficulty in travelling to New Delhi every single time.
11. It is submitted that the former Chairperson of the NCLAT has also expressed his inclination in establishing a Regional Bench of the NCLAT in Chennai so as to make appeals and applications to the NCLAT easily accessible to those living in the southern part of the country.
12. Further it is submitted that it is reliably learnt that the space and the buildings for physical establishment of the Southern Bench of the NCLAT in Chennai have also been allotted and all the preparatory works have been completed for successfully commencing the functioning the NCLAT Southern Bench.
13. It is submitted that despite the Hon'ble Supreme Court having recorded submissions made on the behalf of the Central Government stating that a bench of the NCLAT would be established within a period of 6 months nearly one and half years ago and issuing the direction to the said purpose and despite a notification being issued on 13.03.2020 for the establishment of a Regional Bench of the NCLAT at Chennai, no further action has been taken in this respect to ensure the setting up of a regional Bench of the NCLAT at Chennai.
14. It is humbly reiterated that the litigants, Chartered Accountants, Company Secretaries and Lawyers are put to severe hardship due to the inaccessibility of the National Company Law Appellate Tribunal(NCLAT)

at New Delhi as a result of travel restrictions across the country and connected risks and despite the notification having been issued long ago, not constituting the Southern Bench at Chennai is posing a severe inconvenience to several litigants and professionals alike.

15. It is submitted that in these circumstances, it is essential and the need of the hour that the Regional Bench of the National Company Law Appellate Tribunal(NCLAT) be established at Chennai at the earliest so as to ease the burden on the litigants and lawyers.
16. Further it is submitted that the Petitioner made a representation dated 30.10.2020 to the Respondents 1 to 4 herein requesting them to take appropriate steps for the establishment and commencement of the functioning of the Regional Bench of the National Company Law Appellate Tribunal (NCLAT) at Chennai. However, no action has been taken and no reply has been given till date with regard to the above mentioned representation given by the Petitioner.
17. Aggrieved by the inaction of the respondents and having no other remedy open, the Petitioner begs to invoke the extraordinary jurisdiction of this Hon'ble court under article 226 of the Constitution of India praying for a writ of Mandamus.
18. Hence, it is humbly prayed that this Hon'ble Court may be pleased to direct the Respondents herein to take appropriate steps for the establishment and commencement of the functioning of the Regional Bench of the National Company Law Appellate Tribunal (NCLAT) at Chennai, in accordance with the submissions made by the learned Attorney General of India and recorded by the Hon'ble Supreme Court in Writ Petition (Civil) No. 99 of 2018 by its Order Dated 25.01.2019 in ***Swiss Ribbons Pvt. Ltd and Another v. The Union of India and Others*** and subsequent Notification S.O.1060(E) dated 13.03.2020 issued by the Ministry of Corporate Affairs.

For the reasons stated above, it is humbly prayed that this Hon'ble Court may be pleased to issue a **WRIT OF MANDAMUS** or any other writ or order or direction to the Respondents to consider the representation dated 30.10.2020 given by the Petitioner and direct the Respondents 1 to 4 to take appropriate steps for the establishment and commencement of the functioning of the Regional Bench of the National Company Law Appellate Tribunal (NCLAT) at Chennai in accordance with the submissions made by the learned Attorney General of India and recorded by the Hon'ble Supreme Court in Writ Petition (Civil) No. 99 of 2018 by its Order Dated 25.01.2019 in ***Swiss Ribbons Pvt. Ltd and Another v. The Union of India and Others*** and subsequent Notification S.O. 1060(E) dated 13.03.2020 issued by the Ministry of Corporate Affairs and pass any such other orders or further orders as it may deem fit and thus render justice.

Solemnly affirmed at Chennai

BEFORE ME

On this the 27<sup>th</sup> day of November, 2020

and signed his name in my presence

ADVOCATE

**IN THE HIGH COURT OF  
JUDICATURE AT MADRAS  
(Special Original Jurisdiction)**

**W.P. No. 18327 of 2020**

**AFFIDAVIT**

**COUNSEL FOR PETITIONERS**

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