

\$~10

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5486/2020 & CM APPLs.19769-72/2020**

INDIAN INSTITUTE OF INSURANCE SURVEYORS  
AND LOSS ASSESSORS

..... Petitioner

Through: Mr. Ashish Dholakia and Mr. Ankit  
Mongla, Advocates. (M:9899948838)

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sanjeev Sabharwal, Sr. Panel  
Counsel along with Mr. Abhishek  
Khanna, Advocate for R-1.  
Mr. Dipak K. Nag, Advocate for R-2.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **20.08.2020**

1. This hearing has been done by video conferencing.
2. The present writ petition has been filed by the Indian Institute of Insurance Surveyors and Loss Assessors (*hereinafter*, "IISLA") - a Section 8 company under the Companies Act. The Petitioner is, an association of registered insurance surveyors and loss assessors. The challenge raised in the present writ petition is to the decision taken in the board meeting held on 13<sup>th</sup> August, 2020 by which the Insurance Regulatory and Development Authority of India (Insurance Surveyors and Loss Assessors) (Amendment) Regulations, 2020 was approved by the Board. By the said Regulations, the earlier regulations of 2015 are sought to be amended.
3. The challenges raised by the Petitioner are multi-fold. Broadly, the Petitioner's stand is that the amendments proposed are arbitrary, unjust and illegal. It is also their stand that the Petitioner made detailed representations

to the Insurance Regulatory and Development Authority of India (*hereinafter*, “IRDAI”). Vide the board meeting held on 13<sup>th</sup> August, 2020 the regulations have been passed without giving serious consideration to the suggestions made by the Petitioner. The prayer is that the decision of the Board Meeting held on 13<sup>th</sup> August, 2020 be quashed and the Regulations not be given effect to.

4. Mr. Ashish Dholakia, Id. counsel for the Petitioner submits that the copy of the Minutes of the Board Meeting dated 13<sup>th</sup> August, 2020 is not available with the Petitioner and hence, the same could not be placed on record. He further submits that the Regulations are arbitrary and ought not to come into force.

5. On a query raised by the Court as to whether the petition is premature, Mr. Dipak K. Nag, Id. counsel appearing for the IRDAI submits that as per Section 27 of the Insurance Regulatory and Development Authority Act, 1999 (*hereinafter*, “IRDA Act”), the rules and regulations have to be laid before the Parliament. Under instructions, he submits that the draft regulations would not be given effect until and unless the same are duly notified and passed by Parliament.

6. Section 27 of the IRDA Act reads as under:

***“27. Rules And Regulations To Be Laid Before Parliament.- Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any***

*modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.”*

7. As per Section 27, when the regulations are placed before Parliament, the same may be modified and only the modified regulations would take effect. The statement made by Mr. Dipak K. Nag, Id. counsel that the regulations are currently not being given effect to is accepted and taken on record.

8. Considering the fact that the regulations which are sought to be challenged are still in a draft form, and the stand of the IRDAI that the same would not be given effect to until they are notified and passed by Parliament, in the opinion of this Court, the challenge is premature. Accordingly, the writ petition is disposed of as premature, leaving open the rights of the Petitioner to avail its remedies in accordance with law once the regulations are duly notified and placed before the Parliament. All pending applications are also disposed of. In the meantime, in order to maintain transparency, IRDAI is directed to supply the minutes of the board meeting dated 13<sup>th</sup> August, 2020 to Id. counsel for the Petitioner within a period of one week from today.

**PRATHIBA M. SINGH, J.**

**AUGUST 20, 2020**

*dj/T*

*This is a Print Replica of the raw text of the judgment as appearing on Court website.*

*Publisher has only added the Page para for convenience in referencing.*