

Party Name : Koushik Sarkar Vs Union of India & Ors

THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Mr. A. Lodh, learned counsel appearing for the petitioners.

All these writ petitions are taken up together for disposal by a common judgment as the identical question of law in the similar perspective has been raised in these writ petitions.

Mr. Lodh, learned counsel appearing for the petitioners has submitted that the petitioners are the Directors of Pinnacle Ventures India Limited and the company is in the bad financial shape. A notice/summons has been issued to them for production of documents and other things under Section 91 of the Cr.P.C., 1973 in connection with Kamalpur P.S. case No.109 of 2013 under Sections 420/120-B of the I.P.C. and Section 3 of the TPID Act and West Agartala P.S. Case No.2015 WAG 086. In the said notice/summons, the particulars of information in respect of the lands and properties are given. The petitioners have been asked to produce the records relating to those properties.

By means of these writ petitions, the petitioners have prayed for prohibiting the State from proceed further with the investigation of the Kamalpur P.S. case No.109 of 2013 and West Agartala P.S. Case No. 2015 WAG 086.

But in the writ petitions, the fundamental prayers those are advanced are briefly noted as under:

(i) to restrain the State from confiscating the assets of the company for its 'appropriate reimbursement' to the investors and

(ii) to declare disposal of the company assets vide deed No.2524 dated 10.06.2013 and the deed No.4168 dated 30.04.2013 executed before ARA-III, Kolkata and DSR-III, Alipore, South 24 Parganas as null and void.

It has been further prayed that

(iii) to appoint a receiver and/or administrator to receive and to take possession of the assets and lastly

(iv) to direct the Stock Exchange Board of India, the SEBI in short, to assign the sale proceed in favour of the official liquidator appointed by the High Court of the judicature at Kolkata having regard to the order passed in C.P. No.144 of 2014.

When confronted, Mr. Lodh, learned counsel has submitted that the official liquidator of the company has been appointed by the High Court of the judicature at Kolkata and the liquidation process is the subject matter of C.P. No.144 of 2014.

Mr. Lodh, learned counsel has not denied the fact that the SEBI has already issued process against the petitioners and that has been reflected in the order dated 24th July, 2015 in WTM/PS/25/ERO/JULY/2015. Against this process, this Court does not have any jurisdiction. Moreover, the process as referred has reached to its finality and the petitioner's company it has been directed to refund the money in the manner as under:

'Pinnacle Ventures India Limited shall forthwith refund the money collected by the Company through the issuance of preference shares, including the money collected from investors, till date, pending allotment of securities, if any, with an interest of 15% per annum compounded at half yearly intervals, from the date when the repayments became due [in terms of Section 73(2) of the Companies Act, 1956] to the investors till the date of actual payment.'

Now the assets of the company as it appears under liquidation in C.P. No. 144 of 2014. This Court also cannot exercise its jurisdiction to issue any direction to the said official liquidator. The appropriate forum for the petitioners would be the High Court of the judicature at Kolkata. So far it relates to issuance of summons/notice in connection with Kamalpur P.S. case No.109 of 2013 and West Agartala P.S. Case No. 2015 WAG 086 is concerned, these are mere summons to produce certain documents to the investigating officers for purpose of their examination perhaps for examining the culpability of the petitioners or the extent of the securities etc. This Court is of the considered opinion that the petitioners do not have any right to question the issuance of summons. That is well within the prerogative of the investigating officers. If the petitioners are affected by any action of the police, they are always at liberty to approach the court for their remedy.

Having observed thus, this Court does not find any merit in these writ petitions and accordingly, these are dismissed.

There shall be no order as to costs.