

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27801 of 2015
and
M.P.Nos.1 and 2 of 2015

K.V.Sreenivasan

... Petitioner

-vs-

1. M/s.Neyveli Lignite Corporation Limited,
rep. by its Chairman-cum-Managing Director,
Registered Office, "Neyveli House",
No.135, Periyar EVR High Road,
Kilpauk, Chennai-600 010.
2. The Principal Director of Commercial Audit
Ex-officio Member, Audit Board, Chennai,
Indian Audit and Accounts Department,
Indian Oil Bhawan, I Floor,
No.139, Mahatma Gandhi Road,
Chennai-600 034.
3. The Union of India,
rep. by its Secretary to Government,
Ministry of Coal,
5th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi.
4. The Director,
Central Bureau of Investigation,
Plot No.52 B, 6th Floor, CGO Complex,
Lodhi Road, New Delhi-110 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the 4th respondent to investigate the rampant corruption and other financial irregularities, manipulation, hooking and fudging of accounts done in annual returns and thereby having committed fraud of more than

several crores of rupees in procurement, purchase, new project implementation and fund allocation, misappropriation of depreciation and other reserve fund and various mischief done by the 1st respondent and to file the F.I.R.

For Petitioner : Mr.P.G.Kumaraguru

For Respondents : Mr.K.Raju
CGSC for R3

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to file the present Public Interest Litigation claiming that he is the share holder and authorised to seek protection of the share holders in the first respondent Corporation. He alleges mismanagement of the Corporation, through falsification of financial records to the tune of Rs.15,000 Crores and seeks direction for investigation to be made in the affairs of the first respondent/Neyveli Lignite Corporation, through an independent body.

2. The first respondent/Neyveli Lignite Corporation is one of the Public Sector Undertaking having Navrathna Status. We may notice that the Government of India is having 93% shares and the petitioner has 200 shares. The learned counsel for the petitioner acknowledges that there is a dispute between the current employees and the management, but he states that the petitioner is not currently employed.

3. We are unequivocally of the view that this is apparently an endeavour through proxy litigation. Thus, a person holding 200 shares seeks intervention of this Court for an independent investigation. If the allegation is within the purview of Sections 397 and 398 of the Companies Act, 1956 then it is those provisions which the petitioner would have to take recourse. Interestingly, the petitioner did move the Company Law Board, Chennai Bench at Chennai, which however rejected the petition. As to what is the nature of the proceedings is apparent from the relevant portion of paragraph 5, which is extracted as under:-

"5. Further it is made clear that the petition is a sheer abuse of process of law for more than one reason that the petitioner has not made the company as party to the petition. Further the petitioner made a futile exercise by impleading the retired employees and individuals who are nothing to

do with the affairs of the company and it amounts to a misjoinder of parties. Even otherwise the petition needs to be dismissed on the merits of the case for the reason that the petitioner made irrelevant averments and sought various irrelevant reliefs in the petition which this Bench cannot even prima facie look into those allegations made by the petitioner. I am of the view that it is a fit case to impose heavy costs on the petitioner for wasting the valuable time of this Bench."

4. The aforesaid advice also did not have the salutary effect on the petitioner.

5. The learned counsel for the petitioner states that a private complaint has been lodged by a third person before the Principal Special Judge for CBI Cases, Chennai, the copy of which he seeks to place at the first page of the additional typed set of papers, and that Court is in seizin of the dispute. If it was so, there was no occasion for the petitioner to come to this Court.

6. We cannot permit such petition to be filed in different Forums, an abuse of process of Court and the restraint shown by the Company Law Board, Chennai Bench at Chennai in not imposing the cost as the petitioner was an ex-employee is not a benefit which can be availed of repeatedly.

7. We are, thus, not only constrained to dismiss the writ petition, but also impose costs on the petitioner to the tune of Rs.5,000/- (Rupees Five Thousand only) for abuse of process of Court and the cost is directed to be deposited within fifteen days with the Mediation and Conciliation Centre, Madras High Court campus. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. M/s.Neyveli Lignite Corporation Limited,
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4. The Director,
Central Bureau of Investigation,
Plot No.52 B, 6th Floor, CGO Complex,
Lodhi Road, New Delhi-110 003.
5. The Assistant Registrar,
Mediation & Conciliation Centre,
Chennai - 114.

+1cc to Mr.P.TamilMani, Advocate, S.R.No.39773
+1cc to Mr.K.Raju, Advocate, S.R.No.48217
+1cc to Mr.P.G.Kumaraguru, Advocate, S.R.No.48238

सत्यमेव जयते

W.P.No.27801 of 2015

KM(CO)
CA(25/09/2015)

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