

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH

* * *

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No. 40606 of 2015

BETWEEN

M/s.Transgene biotek Ltd., and others

... PETITIONERS

AND

Securities and Exchange Board of India Limited, rep. by its Whole Time
Member of the Board and others

...RESPONDENTS

Date of Order pronounced: 15.12.2015

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ORDER:-

Heard learned senior counsel for the petitioners and learned Standing Counsel for respondent Nos.2 and 3. Though respondent No.1 is not represented by the Standing Counsel, in view of the order proposed to be passed, it is not necessary to issue notice to respondent No.1.

2. As is evident from the prayer in this writ petition, petitioners seek a Mandamus against respondent No.1 that the enquiry proposed and pending before it in File No.WTM/RKA/ISD/136/2014 be kept on hold awaiting adjudication by respondent Nos.2 and 3 in File No.T-3/19/HZO/2013/BSG/878.

3. The facts, in brief, show that on a complaint made by the Managing Director, second petitioner, to respondent Nos.2 and 3 alleging serious fraud on the first petitioner-Company by one of its associates, respondent Nos.2 and 3 are stated to have commenced investigation. It is stated that respondent Nos.2 and 3 had already recorded statements of various persons including the person against whom petitioners have made allegations and have also collected the relevant documents. It is contended that the investigation by respondent Nos.2 and 3 having substantially progressed, is completing shortly. Meanwhile, in order to protect the interest of investors, respondent No.1 had stepped in and initiated its regulatory measures against the first petitioner-Company and passed an *ad interim* order to protect investors on 20.11.2014 and the said order is stated to be in force.

4. In the meanwhile, the hearings before respondent No.1 being taken up from time to time, petitioners requested on 21.08.2015 while filing the written submissions to adjourn the hearing for a period of two months awaiting finalization of proceedings before respondent Nos.2 and 3. Though respondent No.1 had acceded to that request, continuation of enquiry is stated to be scheduled for 16.12.2015 before respondent No.1. Present writ petition is, therefore, filed effectively seeking a Mandamus against respondent No.1 to await adjudication by respondent Nos.2 and 3.

5. Learned senior counsel for the petitioners submit that since the interim order passed by respondent No.1 against petitioners is operating, petitioners themselves would be anxious for early disposal of the case before respondent No.1. However, on account of the relevancy of the investigation by respondent Nos.2 and 3 and the possibility of early completion of the said investigation, learned senior counsel requests that the first respondent be directed to await and postpone the hearing fixed on 16.12.2015. Learned senior counsel would also submit that earlier no doubt the request of the petitioners was accepted by respondent No.1, under intimation of date of hearing on 16.12.2015 stating that a last opportunity of personal hearing is granted on that day. Hence, petitioners are apprehending that respondent

No.1 would not consider the request of the petitioners any more and would hear and decide the matter pending before it without waiting for Enforcement Directorate's proceedings.

6. After hearing learned Senior Counsel for the petitioners and learned Standing Counsel for respondent Nos.2 and 3, I am of the view that respondent No.1 is fully aware of the pendency of proceedings before respondent Nos.2 and 3 and had already accommodated the petitioners and merely on the request of the petitioners, further directions cannot be given to respondent No.1 to postpone the hearing indefinitely. However, it is for respondent No.1 to consider whether the Enforcement Directorate's investigation and enquiry by respondent Nos.2 and 3 would be relevant and would have a bearing on the enquiry being conducted by respondent No.1 itself. Respondent No.1 shall therefore hear the petitioners on the date already fixed and it is open for respondent No.1 to pass appropriate orders in the matter including to await for the adjudication by the respondent Nos.2 and 3.

3. Since proceedings before respondent No.1 are scheduled for hearing to 16.12.2015, in my view, intervention by this court at this last minute is not warranted.

Hence, with the above observation, writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

December 15, 2015

Note:-

Furnish copy today.

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LMV