

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13203 of 2008

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Chinta Mani Pandey, son of Sri Kapildeo Pandey, resident of C-113, Rajnigandha Apartment, P.O.- Sadaquat Ashram, Kurjee, P.S.- Patliputra, District- Patna.

.... Petitioner/s

Versus

1. Board of Directors of Magadh Stock Exchange Limited, 9th Floor, Ashiana Plaza, Budhamarg, Patna through the Chairman.
2. Sri B.K. Thakur, Nominee Director, Magadh Stock Exchange Limited, 9th Floor, Ashiana Plaza, Budhamarg, Patna.
3. Manager –cum- Administrative Officer, Magadh Stock Exchange Limited, 9th Floor, Ashiana Plaza, Budhamarg, Patna.
4. Enquiry Officer, Magadh Stock Exchange Limited, 9th Floor, Ashiana Plaza, Budhamarg, Patna.
5. Securities and Exchange Board of India, Mittal Court Building, First Floor, Nariman Point, Mumbai, through its Chairman.
6. Whole Time Member, Securities & Exchange Board of India, Mittal Court Building, First Floor, Nariman Point, Mumbai.
7. Sri D. Ravi Kumar, General Manager, Securities and Exchange Board of India, Mittal Court Building, First Floor, Nariman Point, Mumbai.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manik Vedsen Mr. Subhas Chandra Bose,
For the Respondent/s	:	Mr. Pradeep Kumar Mr. Sanjay Kumar Sinha Mr. Manojeshwar Pratap Sinha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-08-2016

Heard Mr. Manik Vedsen, learned counsel appearing for the petitioner and Mr. Pradeep Kumar, learned counsel appearing for the respondent nos.5, 6 and 7 i.e. the Securities and the Exchange Board of India and its authorities.

The petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order passed by the Board of Director of Magadh Stock Exchange Limited bearing letter No.362 dated 30.7.2007, whereby he has been dismissed from the services

of the Magadh Stock Exchange.

An issue of maintainability was raised by Mr. Pradeep Kumar as according to him, the Magadh Stock Exchange was not 'State' within the meaning of Article 12 of the Constitution of India. The matter was adjourned and has been taken up today when Mr. Vedsen relies upon a judgment of the Supreme Court reported in **(2005)4 SCC 4 (K.C. Sharma Vs. Delhi Stock Exchange)** to submit that an identical matter of termination was addressed before the Delhi High Court and it was held that the Delhi Stock Exchange was 'State' within the meaning of Article 12 of the Constitution of India and thus amenable to the writ jurisdiction of this Court. He submits that the view of the Delhi High Court has been affirmed by the Supreme Court in the judgment referred to above.

Responding to the argument of Mr. Vedsen, Mr. Pradeep Kumar has referred to Annexure-D to the supplementary counter affidavit filed in the present proceedings to submit that the recognition of the Magadh Stock Exchange was valid only up to 10.12.2006 and vide notification dated 3rd of September, 2007 i.e. even prior to the filing of the writ petition its renewal was refused. He submits that although an appeal was filed before the Securities Appellate Tribunal, Mumbai but which also has been dismissed on 27.10.2018 vide Annexure-E. It is thus submitted that the case of **K.C. Sharma** (supra) and that of the petitioner is clearly

distinguishable for while in the case of **K.C. Sharma** (supra) the Delhi Stock Exchange was operational and had the recognition of the SEBI, in so far as the present case is concerned the writ petition was filed at a stage when the Magadh Stock Exchange was derecognized as the recognition of the Magadh Stock Exchange expired on 10.12.2006 and thus Magadh Stock Exchange lost its status for being amenable to the writ jurisdiction of this Court. He submits that the writ petition was neither maintainable at the stage of filing nor can proceed even at the present stage.

Faced with the situation Mr. Vedsen prays for disposal of the writ petition to enable the petitioner to take recourse to such other remedy that may be available to him in law.

Permission is granted.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.