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

\+ W.P.(C) 10617/2015

H.P.DAS ..... Petitioner

Through: Petitioner-in-person.

Versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Dev P. Bhardwaj and Ms. Anubha Bhardwaj, Advs. for R-1/UOI.
Mr. Sanyam Saxena and Mr. Sahib Chadha, Advs. for R-2/SEBI.
Ms. Debdatta Ray Chaudhury, Adv. for R-3&4.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% 24.02.2016

1. This order is in continuation of the earlier order dated 8th February, 2016.

2. The counsel for the respondents No.3&4 states:

(i) that a total sum of Rs.1,500/- was received from the petitioner with Rs.2/- per share being received along with the application and Rs.3/- per share being received at the time of allotment;

(ii) that the petitioner was to pay the balance Rs.5/- per share at the time of final call;

(iii) that such final call was made in April, 1999 and reminder thereof was issued in June, 1999 but no response was received from the petitioner;

(iv) that there is no provision in any law, rule or regulation permitting forfeiture of amounts so paid by the petitioner or prohibiting such forfeiture;

(v) that however as per the general practice, clauses to the said effect are contained in the Prospectus / Initially Public Offer published and it was so done in the prospectus / IPO of the subject shares also.

(vi) that a final call public notice was also issued for publication in the newspaper on 8th September, 1999.

3. The counsel for the respondent No.2 Securities and Exchange Board of India (SEBI) confirms that prior to the year 2000 to which this petition relates, there was no provision either way. He however informs that now a provision enabling forfeiture has been made in SEBI (Disclosure and Investor Protection) Guidelines, 2000.

4. The counsel for the respondents No.3&4 also reiterates her contention of the petition being barred by laches, acquiescence and waiver.

5. The petitioner appearing in person on the other hand has shown to this Court a bunch of his medical certificates to demonstrate that he was under psychological treatment in All India Institute of Medical Sciences (AIIMS) and contends that he was unable to respond to the final call notice and get the shares. He further states that the respondents in neither of the notices claimed to have given by them threatened forfeiture and merely stated that

upon failure to pay the balance share money, interest would be payable thereon. He has also handed over a document which the counsel for the respondent No.2 SEBI, after looking into it, states that is Schedule I, Table A of the Companies Act, 1956, laying down the procedure for forfeiture of shares. He however states that the same has no application to the present controversy.

6. The petitioner appearing in person has also shown a letter dated 12th October, 2015 of the Govt. of India, Ministry of Corporate Affairs forwarding the complaint of the petitioner and others to the respondent No.2 SEBI for examination.

7. The petitioner again reiterates that he is ready to pay the balance share money with interest and contends that he could possibly have no intention not to pay the balance share money which was a small amount.

8. Having considered the rival contentions, I am of the view that not only is the petition barred by laches, acquiescence and waiver but also that this Court, particularly when no violation of any law is shown to have been made out, cannot direct issuance of shares to the petitioner and which shares were to be issued seventeen years prior to the filing of the petition. The share issue in pursuance to IPO in response to which the petitioner had applied stands closed and cannot be permitted to be reopened.

9. There is thus no merit in the petition, dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 24, 2016/bs..