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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2371 of 2018

- Bhilai Engineering Corporation Limited (A Company Registered Under The Companies Act.) Having Its Registered Office At Village Hathkhoj, Industrial Area, Bhilai, District- Durg, Chhattisgarh, Through Its Managing Director, Bhilai Engineering Corporation Limited, Village Hathkhoj, Industrial Area, Bhilai, District- Durg, Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through The Secretary Ministry Of Corporate Affairs, Shastri Bhawan, New Delhi.

2. The Securities And Exchange Board Of India Plot No. C4-A, G Block, Bandrakurla Complex, Bandra (East), Mumbai 400051, Through Its Chairman, The Securities And Exchange Board Of India, Plot No. C4-A, G Block, Bandrakurla Complex, Bandra (East), Mumbai, 400051

3. Bombay Stock Exchange Through Its Authorized Officer, Stock Exchange Building, Mumbai, Maharashtra.

---- Respondent

For Petitioner : Shri Prafulla Bharat, Advocate.
For Respondent No. 1 : Shri B. Gopakumar, ASG.
For Respondents 2 & 3 : Shri Amrito Das, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

18/09/2018 :

1. Vide office note dated 14.9.2018, default has been pointed out by the Registry that in the amended petition, respondent No.3 has not been arrayed as respondent. The petitioner is directed to correct the cause

title by adding respondent No.3 during the course of the day.

2. The petitioner has assailed the order passed by the Securities and Exchange Board of India (Annexure-P/1) on 29th December, 2015 under Sections 11 (1),11(2)(j), 11 (4) and 11B of the Securities and Exchange Board of India Act, 1992 (for short 'the SEBI Act') read with Section 12A of the Securities Contracts (Regulation) Act, 1956 in the matter of non compliance with the requirement of minimum public shareholding by listed companies. The petitioner has also assailed the order (Annexure-P/2) passed by the BSE on 5th July, 2018.

3. Admittedly, the order under challenge (Annexure-P/1) is appealable before the Securities Appellate Tribunal under Section 15-T of the SEBI Act, whereas the order (Annexure-P/2) passed by the BSE is appealable under Section 23-L of the Securities Contracts (Regulations) Act, 1956 before the same authority.

4. Learned counsel for the petitioner has tried to persuade this Court that despite appellate remedy this Court has jurisdiction to decide the dispute as alternative remedy is not an absolute bar for entertaining writ petition.

5. After hearing learned counsel for the parties for some time, I am not inclined to entertain this writ petition as the issue involves matters related to affairs of the companies which are governed under the statute having fiscal and accounting flavour which should be left to be decided

by the statutory bodies before whom appellate remedy has been provided.

6. Let the petitioner prefer an appeal against the impugned orders (Annexure-P/1 & P/2) before the Securities Appellate Tribunal within a period of one month from today. On such appeal being preferred, the same shall be decided by the appellate authority on merits without raising plea of limitation.

7. With the above observations, the Writ Petition is disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve