IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6926 of 2022

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Sanjeet Kumar Sharma Son of Surendra Kumar Sharma Resident of Village - Anandpur, P.S.- Bihta, District- Patna, Presntly residing at Flat No. - 104, Raghu Hari Complex, Saketpuri, Vijay Nagar, Hanuman Nagar, P.S. - Patrakar Nagar, Patna.

... ... Petitioner/s

Versus

1. The Securities and Exchange Board of India through its Chairman SEBI Bhawan, Plot No. C4-A, G. Block, Bandra Kurla Complex, Bandra, East, Mumbai - 400051.
2. The Chairman, SEBI, SEBI Bhawan, Plot No. - C4-A, G. Block, Bandra Kurla Complex, Bandra, East, Mumbai - 400051.
3. The Whole Time Members, SEBI, SEBI Bhawan, Plot No.- C4-A, G. Block, Bandra Kurla Complex, Bandra, East, Mumbai - 400051.
4. The Recovery Officer, SEBI, Eastern Regional Office, L and T, Chambers, 16 CAMAC Street, 3rd Floor, Kolkata - 700017.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar Sr. Advocate Mr. Manish Dhari Singh, Advocate Mr. Nirmal Singh, Advocate Mr. Rishav Mishra, Advocate
For the Respondent/s	:	Mr. Pradeep Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-06-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

(i) To issue an appropriate writ, order ,direction in the nature of 'Certiorari' for quashing the part of the final Order dated 6.3.2018 passed by Sri Madhabi Puri Buch, Whole Time Member, Securities and Exchange Board of India, in the matter of Helios

Corporation Ltd. only to the extent whereby and where under petitioner has been treated as one of the Ex- Director of Helios Corporation Ltd. (for the period 30.5.2007 to 3.12.2012) and was also directed along with Helios Corporation and its part and present directors to forthwith refund the money collected by the Company,

during their respective period of director ship through the issuance of OSDS (Optionally Convertible Debentures) including the application money collected from investors during their respective period of directorship, till date, pending allotment of Securities , if any, with an interest of 15% per annum, from the eight day of Collection of funds, to the investors till the date of actual payment.

(ii) To issue an appropriate writ, order or direction in the nature of 'Certiorari for quashing the Notice of Demand dated 16/12/2020 issued under the seal and signature of Recovery Officer & Dy. General Manager, Kolkata in connection with Certificate No.- RC3179 of 2020 whereby and where under petitioner is directed to pay jointly and severally Rs. 11,95,34,587/- within 15 days of receipt of notice failing which recovery shall be made.

(iii) To issue an appropriate writ , order , direction in the nature of Certiorari for quashing the Notice of attachment of Bank Account and Notice of attachment of Mutual Fund and Demand Account dated 6.1.2021 issued under the seal and signature of Recovery Officer SEBI, Kolkata.

(iv) To issue an appropriate writ, order, direction in the nature of Mandamus commanding the respondent to defreeze the Bank A/c No.-030701517437 and A/c No.- 061601503694 of the petitioner in the ICICI Bank, Kankarbagh Branch, Patna (Bihar)

(v) To issue an appropriate writ, order, direction in the nature of

Mandamus commanding the concerned respondent for inquiry/investigation in respect of false, fabricated and forged documents uploaded by Helios Corporation and its Chairman Sanjay Kumar Singh on MCA 21 Portal as despite pointed out by the petitioner by way of filing reply dated 30-11-2016 high lighting the contradictions in between the documents the Whole Time Member SEBI failed to consider in final order dated 6/3/2018 and relying upon only the contents uploaded by Helios Corporation on MCA 21 Portal.

(vi) To hold that treating the petitioner as director of the Helios Corporation (for the period 30-5-2007 to 3/12/2012) on the basis of documents uploaded on MCA 21 Portal by the Helios Corporation, in the final order dated 6-3-2018 passed by Whole Time Member , SEBI is apparently illegal as the Ministry of Corporate Affairs , Govt. of India furnished one information under R.T.I. Act that the Director identification No.- 03549592 has been allotted to the petitioner only on 10-6-2011 and therefore before 10-6-2011 petitioner was not director in any Company registered in India.

(vii) For any other relief/reliefs for which petitioner is found entitled in the facts and circumstances of the case

After the matter was heard for some time, Smt. Nivedita Nirvikar, learned Senior counsel for the petitioner states that petitioner be permitted to file an appeal before the Securities Appellate Tribunal (SAT) constituted under the provisions of the Securities and Exchange Board of India (SEBI), Act.

It is further prayed that the Tribunal be directed to decide the appeal expeditiously.

Well, none can have any objection to the same.

Learned counsel for the respondents states that if the petitioner were to prefer an appeal within four weeks, the same shall be considered and decided in accordance with law within a period of two months thereafter.

Needless to add, since the petitioner had been pursuing the remedies before different foras, including the present Court, the issue of limitation shall not be allowed to come in the way of adjudication of the appeal on merits.

Liberty reserved to the petitioner to agitate the issue should the need arise any further.

We also request the Tribunal to consider the petitioner’s interim application, if any, for de-attaching the bank accounts.

With said observation and direction, this writ petition is disposed of.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	