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WPO 595 of 2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

JAINCO PROJECTS (INDIA) LIMITED
VERSUS
SECURITIES AND EXCHANGE BOARD OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 7th February, 2022.

APPEARANCE:
Mr. Jatinder Singh Dhatt,Adv.
...for the petitioners

Mr. P.K.Dutt,Adv.
Mr. S.K.Dutt,Adv.
Mr. Syamantak Banerjee,Adv.
...for the respondent no. 1

Mr. P.Khaitan,Adv.
Mr. Anurag Basu,Adv.
...for the respondent no. 2

Mr. Jayanta Sengupta,Adv.
Mr. Uttam Kumar Mondal,Adv.
Mr. Shankharit Chakraborty,Adv.
Ms. Maitree Roy,Adv.
...for respondent no. 3

The Court:- The writ petitioner is aggrieved by a demand for payment of listing fees raised by the Bombay Stock Exchange against the petitioner. The petitioner has challenged the said demand on various grounds. Firstly, that the demand is excessive and onerous. It is secondly argued that power to specify and direct listing fees has been transferred by the Securities and Exchange Board of India, to the concerned stock exchanges, under Section 11 of the SEBI Act of 1992. This, according to the petitioner, is contrary to law and an abdication of responsibilities by SEBI. There are other grievances also raised.

Counsel for the Bombay Stock Exchange challenges the maintainability of the writ petition. It is submitted that the Bombay Stock Exchange is located in Mumbai in the State of Mahrashtra. The Calcutta High Court would not have territorial jurisdiction to entertain the writ petition. The writ petitioner is also listed at the Bombay Stock Exchange.

It is next submitted that even assuming for the sake of argument that the petitioner has any cause of action, the availability of efficacious alternative remedy before the Securities Appellate Tribunal is a bar to this writ petition being entertained.

Counsel for the SEBI submits that the petitioner has never ever raised any grievance in writing formally with SEBI or with BSE. This, according to the petitioner, is in violation of the writ rules of the High Court, particularly Rule 26 thereof, i.e. absence of a demand for justice.

This Court is inclined to accept the submissions of the Bombay Stock Exchange on territorial jurisdiction having alternative remedy and the arguments of SEBI i.e. want of a formal demand of justice. The writ petition must therefore fail and the same is hereby dismissed.

The dismissal of the writ petition shall not stand in the way of the writ petitioner moving the appropriate forum having jurisdiction under the law and in accordance with law.

(RAJASEKHAR MANTHA, J.)

S.Chandra