IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.7263 of 2017
and
WMP No.7895 of 2017

D. Parthasarathy
"Thiruvenkadam"
No.1, De Silva Road,
Mylapore,
Chennai 600 004 ...Petitioner

Vs

Securities & Exchange Board of India,
Plot No.C4-A, "G" Block,
Near Bank of India
Bandra Kurla Complex,
Bandra East,
Mumbai 400 051 ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus for quashing clause 'F' of the Circular MIRSD/SE/CIR-21/2011 dated 05.10.2011, by which the Additional Documents/information are sought in the case of Non-individuals in the KYC application form over and above the proof of identity and proof of address (POI, POA) and direct the 3rd party intermediaries to receive deposits from the petitioner without insisting upon the Additional Documents, which are the petitioner's own fund and are to be invested by accepting the basic KYC details which all public sector Bank/Financial Institution seek while accepting the Deposit from Investors.

For petitioner ... Mr. T. Ravikumar

For respondents ... Mr. C. Prasana Venkatesh

ORDER

This writ petition has been filed challenging the circular issued by the respondent dated 05.10.2011.

2. According to the petitioner, he is the Managing Director of a Private Limited Company and also its Trustee. The petitioner's Company has surplus funds, after paying income tax, he wants to invest the same in mutual funds. When he enquired for investing in mutual funds, the intermediate agencies, on the instructions from SEBI, are seeking KYC requirements, which contains excessive personal information, which even the Public Sector Banks and other financial institutions are not asking. Those conditions seeking for KYC based on a circular issued by SEBI dated 05.10.2011 is against the requirements and intermediaries are seeking regarding personal information in violation of the fundamental rights under the Constitution of India and it will affect the right of privacy and hence, the present writ petition has been filed.

3. The respondent filed a counter affidavit stating that the personal information sought is only to prevent the money laundering and other illegal activities and all the information sought for from the petitioner will no way affect his right to the privacy.

4. The learned counsel appearing for the petitioner submitted that the petitioner is ready and willing to give the requirements as sought by the SEBI and the information sought by the intermediaries are not secured and there is a chance of misusing the information. Hence, he opposed the circular.

5. The learned counsel appearing for the respondent submitted that the intermediaries are acting only as per the SEBI regulations and they will take necessary action if any misuse of KYC information. All the above personal information regarding the Corporate Companies are essential for the SEBI to curtail any illegal activities.

6. The learned counsel appearing for the petitioner submitted that, even though they oppose the circular, already he sent a representation to the respondent on 22.10.2016 seeking for some exemption and he will be satisfied if SEBI is directed to consider his representation and pass suitable orders.

7. Considering the above submission made by the learned counsel for the petitioner, without going into the merits of the case, the petitioner is directed to file a fresh representation within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent/SEBI is

directed to consider the same and after giving opportunity of hearing to the petitioner, pass suitable order within a period of six weeks thereafter.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mrp

To

The Securities & Exchange Board of India,
Plot No.C4-A, "G" Block,
Near Bank of India
Bandra Kurla Complex,
Bandra East,
Mumbai 400 051.

+1cc to Mr.T.Ravikumar, Advocate SR. No. 29284

W.P. No.7263 of 2017

SKM (CO)
PR (20/05/2022)