IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.27300 of 2017

G.Govindaraj,
S/o.Ganapathy ... Petitioner

Vs.

1. The Union of India,
rep. by its Secretary,
Ministry of Finance,
Department of Investment and
Economic Affairs, New Delhi.

2. The Securities & Exchange Board
of India, rep. by its Director,
SEBI Bhavan, BCK,
Plot No.C4-A, 'G' Block,
Bandra-Kurla Complex,
Bandra East, Mumbai.

3. National Stock Exchange of India Ltd.,
rep. by its Director,
Investor's service cell,
Defaulters Committee Section,
Exchange Plaza, Bandra-Kurla Complex,
Bandra, Mumbai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents to order payment of a sum of Rs.1,79,930.45/- under "Investors Protection Funds" in pursuance of Investor Grievance Resolution Panel (IGRP) proceedings dated 02.11.2015 and communication made by 3rd respondent dated 02.11.2015 in Ref. No.NSE/ISC/2015/1508221465600216/48760 to the credit of petitioner's bank account, by considering his representation dated 06.03.2017 and pass orders thereon within a time frame as may be fixed by this Hon'ble Court.

For Petitioner : Mr.R.Veeramani

For Respondents : Mr.T.V.Krishnamachari
SCGPC for R1

Mr.Shivakumar for R2

Mr. S.Thiruvenkataswamy for R3

O R D E R

(The case has been heard through video conference)

This Writ Petition has been filed seeking a direction to the 3rd respondent to order payment of a sum of Rs.1,79,930.45/- under Investors Protection Funds.

2. The grievance of the petitioner is that, he opened "Demat Account" with Orion Captial and Debt Market, Coimbatore, which is registered as trading member under the 3rd respondent. The petitioner is transacting with another trading member, and there is a default in payment of full amount. Subsequently, he came to know that trading member has closed his office without any intimation. In the said circumstances, the petitioner has made a request to the 3rd respondent to conduct enquiry and refund the amount payable to him. Based on that complaint, the 3rd respondent passed an order dated 02.11.2015, thereby directing the trading member to pay a sum of Rs.1,79,930.45/- to the complainant. Not satisfying with that, as trading member is not available and closed the office, once again, the petitioner had approached the 3rd respondent under the "Investors Protection Funds" to reimburse the amount to the petitioner, that claim was not considered. Hence, the present Writ Petition has been filed seeking a direction.

3. Mr. R.Veeramani, learned counsel appearing for petitioner would submit that, under the "Investors Protection Funds", the 3rd respondent has to necessarily refund the amount, which is payable by the trading member, but his application was not considered. Mr.S.Thiruvenkataswamy, learned counsel appearing for 3rd respondent would content that, the petitioner's application has been considered and he was directed to produce relevant documents to consider his request, but so far, the petitioner did not produce any document. Hence, the 3rd respondent is not in a position to consider his application. If the petitioner produces the relevant documents, it will be considered and suitable orders will be passed.

4. Heard and considered rival submissions made by Mr. R.Veeramani, learned counsel appearing for petitioner, Mr. T.V.Krishnamachari, learned Senior Central Government Panel Counsel appearing for 1st respondent, Mr.Shivakumar, learned counsel appearing for 2nd respondent as well as Mr.S.Thiruvenkataswamy, learned counsel appearing for 3rd respondent and perused the records.

5. Considering the fact that the 3rd respondent is ready to consider petitioner's request, the 3rd respondent is directed to send fresh notice to the petitioner directing him to produce relevant documents within a period of two weeks from the date of receipt of copy of this order. On receipt of such notice, the petitioner is directed to produce all the relevant documents required by the 3rd respondent within a period of four weeks thereafter. On receipt of the same, the 3rd respondent is directed to consider petitioner's request and pass suitable orders within a period of six weeks. If the petitioner fails to produce the relevant documents, the 3rd respondent can very well pass orders based on available materials on merit and in accordance with law. Accordingly, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Secretary,
Union of India,
Ministry of Finance,
Department of Investment and
Economic Affairs, New Delhi.

2. The Director,
The Securities & Exchange Board
of India, SEBI Bhavan, BCK,
Plot No.C4-A, 'G' Block,
Bandra-Kurla Complex,
Bandra East, Mumbai.

3. The Director,
National Stock Exchange of India Ltd.,
Investor's service cell,
Defaulters Committee Section,
Exchange Plaza, Bandra-Kurla Complex,
Bandra, Mumbai.

+1cc to M/s.S.Thiruvenkataswamy, Advocate, S.R.No.9429

W.P.No.27300 of 2017

CP(CO)
SU(11/03/2022)