9th October, 2023
(AK)
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W.P.A 16464 of 2023

Lopamudra Bandyapadhyay @ Lopamudra Banerjee
Vs.
Securities and Exchange Board of India and another

Ms. Senjuti Sengupta
Mr. Rananesh Guha Thakurta
Ms. Dipa Ray
...for the petitioner.

Mr. Indradeep Basu
...for the SEBI.

1. Learned counsel for the petitioner submits that the salary account of the petitioner has been attached by the SEBI, thereby directly and adversely affecting the livelihood of the petitioner.

2. It is contended that, without any clarification on the actual amount due, such attachment has been effected.

3. The petitioner, it is argued, was made to sign certain documents by her husband, which purportedly were discovered subsequently by the petitioner to be documents which imposed liability on the petitioner as well as a borrower.

4. Learned counsel for petitioner argues that the petitioner is willing to repay her share of the debt to the SEBI for the attachment to be released.

5. Learned counsel appearing for the SEBI points out, by placing reliance on copies of certain orders handed over in court today, that the petitioner had challenged the attachment by SEBI in an appeal.

6. However, the same was dismissed for default and subsequently a restoration application was also dismissed, along with the appeal on merits.

7. Hence, the attachment order cannot now be reopened.

8. However, learned counsel for the SEBI fairly submits that the principle of Section 60 of the Code of Civil Procedure with regard to salary is to be adhered to by the SEBI and the SEBI is willing to do so.

9. It is argued by learned counsel for the SEBI that the attachment commenced on December 24, 2020 and has been continuing since.

10. It is argued that even as per the provisions of the Code of Civil Procedure, twenty-four months is the outer limit to which such attachment subsists.

11. Hence, the SEBI is willing to disburse 1/3rd of the salary of the petitioner during the relevant period from December 24, 2020 to December 23, 2022, subject to the petitioner disclosing her actual salary during the said period.

12. Insofar as subsequent transactions are concerned, it is submitted that the SEBI is willing to open up the

attachment to the extent of 1/3rd of the salary of the petitioner.

13. Upon hearing learned counsel for the parties, it transpires that even if the petitioner would have made out a *prima facie* case regarding the petitioner having been duped by her husband, this court, sitting in judicial review under Article 226 of the Constitution of India, cannot decide such question on merits.

14. However, the law is contrary to the submission of the petitioner that the petitioner's liability as borrower is only to the extent of her share as a co-borrower, since the concept of dividing the debt into shares between the co-borrowers is unknown to law.

15. The debt is a liability as a whole against all the borrowers co-extensively and, as such, cannot be segregated into shares of each of the borrowers.

15. As such, in view of the fair submission made by the SEBI, it will only be appropriate if the petitioner furnishes due documents to establish her salary during the entire period from December 24, 2020 to December 23, 2022 before the SEBI to get 1/3rd of her salary during the entire period as indicated above.

16. Insofar as the subsequent period is concerned, till the petitioner establishes her current salary, the SEBI would do well to permit the petitioner to operate the

account to the extent of 1/3rd of the amount lying at any point of time in the same.

17. In such view of the matter, WPA 16464 of 2023 is disposed of by directing the petitioner to furnish relevant documents to establish her salary before the SEBI authorities for the period between December 24, 2020 and December 23, 2022, within a fortnight.

18. Subject to furnishing such documents and *prima facie* satisfaction of the SEBI, the SEBI shall disburse within a month thereafter 1/3rd of the entire salary of the petitioner lying in the said account during the said period.

20. Insofar as the current period is concerned, the attachment of the SEBI shall be restricted to 2/3rd of the total amount lying in the account-in-question at any given point of time.

21. The petitioner would be at liberty to operate the remaining 1/3rd of the account as if there were no attachment with regard to such balance 1/3rd.

22. However, nothing in this order shall prevent the petitioner from taking appropriate steps, if the petitioner is so entitled in law, to challenge the dismissal of her appeal as well as connected application for restoration by the appellate authority before an appropriate forum.

23. Necessary consequential steps shall be taken by the SEBI to give due effect to the above order.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)