Gitalaxmi

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1689 OF 2023

Shoaib Richie Sequeira …Petitioner
Versus
Union of India & Ors …Respondents

Mr Karl Tamboly, *with Prerak Talati i/b Jain Law Partners LLP, for the Petitioner.*
Mr Rafique Dada, Senior Advocate, *with Nishit Dhruva, Ravishekhar Pandey & Rasika Ghate, i/b MDP & Partners, for the Respondents.*

CORAM **G.S . Patel &**
Neela Gokhale, JJ.
DATED: **23rd June 2023**

PC:-

1. We are not persuaded that the Petitioner has any right to the relief sought. Prayer clause (A) reads thus:

> "A. That this Hon'ble Court be pleased to issue a Writ of mandamus or any other appropriate writ, order or direction to direct the Respondent No. 2 to investigate the matters as complained off vide Petitioner's complaint dated March 25, 2023 (Exhibit "F" hereto) and submit a report with this Hon'ble Court within a period of 3 weeks from the date of the Order or any such other time as this Hon'ble Court may deem fit and proper."

2. Regulation 25 in Chapter V of the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 says that the Board has a right to inspect or investigate and that it **may** *suo motu* or on receipt of information of complaint appoint one or more persons as inspecting or investigating officers to inspect or investigate books of accounts, records, documents, etc. relating to a Venture Capital Fund for any one of the four reasons that are set out there.

3. The Petitioner claims to have acted in the past in the public interest. When we ask whether this is a PIL, Mr Tamboly says it is not. But that is a peculiar answer, because it then means that the Petitioner must demonstrate that he has a personal interest in the subject matter of the Petition. This he cannot do. If he does have a personal interest, then that is not disclosed, and the entire petition would then be bad for being motivated by mala fides and would necessarily require the filing of a suit. The Petitioner cannot possibly have it both ways, i.e., seeking a relief in which he has no personal interest but claiming that it is *not* a PIL.

4. The Petition is directed against two particular named individuals and their entities. We do not think it is appropriate to mention these entities or the individuals. It is enough for our purposes to note that the Petitioner is unable to demonstrate that he has any legally or constitutionally enforceable right or he has the right to demand the performance of a particular statutory or constitutional duty by the Board. Even the regulation itself specifically contemplates exercise of discretion by the Board. It is well settled that no Court can compel the exercise of discretion in a particular manner. That is precisely what the Petitioner seeks, as is clear from prayer clause (A). The Petitioner wants nothing other than a launching of investigation whether SEBI believes such an investigation is necessary or not.

5. There is absolutely no merit in the Petition. It is rejected. There will be no order as to costs.

(Neela Gokhale, J) **(G. S. Patel, J)**