IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3458 OF 2018

Peter Jesunathadas ...Petitioner
Versus
Securities and Exchange Board of India & Anr. ...Respondents

Mr. Nikhil Sakhardande Senior advocate a/w Mr. Abhineet Sharma i/b RHP Partners, for Petitioner.
Mr. Dhaval Patil i/b M/s K. Ashar & Co., for Respondent No.1 -SEBI.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : DECEMBER 5, 2023.

P.C.:

1. We have heard Mr. Sakhardande, learned senior advocate for the petitioner and Mr. Patil, for respondent No.1 -SEBI.

2. The only substantive prayer as made in the petition reads thus:

> "(a) for a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India directing Respondents, their subordinate officers, servants and agents to act upon the submissions of the Petitioner and direct an investigation in the matter;

3. The case of the petitioner is in regard to illegal transfer of the shares of the petitioner. It appears from the record that repeated complaints were made by the petitioner to the SEBI to take an action in accordance with law in regard to such illegal transfers of shares.

4. It appears that SEBI had in fact acted upon the complaints as seen from the reply affidavit, as filed on behalf of the SEBI. The SEBI had obtained information from the companies concerned. On the basis of the information / action taken report filed by the company, it is stated that the complaints were closed by the SEBI. In the reply affidavit in para 7 the SEBI has stated thus;

> "7. It is submitted that the Complaints made by the Petitioner were forwarded to the respective companies and based on the Action Taken Report (ATRs) filed by these respective companies (or their RTAs) with the Answering Respondent, Complaints were closed by the Answering Respondent for reasons as stated below:
>
> 7.1 As the fraudulent transfer of shares was based on fake documents/signatures etc., the same was not within SEBI's mandate to resolve disputes relating to forged documents/signatures.
>
> 7.2 For compensation from company for any loss suffered as a result of such transfer, the complaint was advised to approach the competent Civil Court.
>
> 7.3 Further, the Petitioner was advised to register the complaints with appropriate forum/Police authorities."

5. It thus, appears that already a decision has been taken by the SEBI in regard to the complaints of the petitioner. However, the decision has not been communicated to the petitioner. In the above circumstances, we are of the opinion that if the stand of the SEBI is as what has been set out in paragraph 7 of the reply, then the SEBI needs to inform the petitioner of the appropriate decision taken on the basis of the appropriate material /

report which has been received. Let such communication of the decision to the petitioner take place within a period of four weeks from today.

6. All contentions of the petitioner in regard to any other proceedings in regard to illegal transfer of shares are expressly kept open.

7. Disposed of in the above terms. No costs.

[JITENDRA JAIN, J.] [G. S. KULKARNI, J.]