

08.10.2024
Sl. No.9(DL)
srm

W.P.A. No. 25631 of 2024

Sandip Agarwal

Versus

Securities and Exchange Board of India & Ors.

Mr. Mainak Bose,
Mr. Neeraj Kumar Pandey,
Mr. Shakeel Md. Akhter

...for the Petitioner.

Ms. Aasia Hasan,
Mr. Arghya Chakraborty

...for the SEBI.

The petitioner has challenged an order passed by the Adjudicating Officer, Securities and Exchange Board of India (SEBI). According to Mr. Bose, learned Advocate appearing for the petitioner, the proceeding was without jurisdiction. Mr. Bose further contends that SEBI could not have asked the banks to freeze the accounts of the petitioner by marking a lien, without any notice of the pending recovery proceeding.

Ms. Hasan, learned Advocate appearing for the SEBI opposes the prayers made by Mr. Bose. She submits that the petitioner has an alternative remedy before the Securities Appellate Tribunal. Moreover, the petitioner had an option to pay up the penal amount within 45 days from the date of the

order impugned. The petitioner has assailed the order after more than a year, by filing the writ petition which is otherwise not maintainable.

Having considered the rival contentions of the parties, this Court is of the view that the petitioner may be directed to deposit a sum of Rs.5,66,000/- with SEBI. The payment and acceptance will be without prejudice to the rights and contentions of the parties and subject to further adjudication by the appropriate authority.

The payment shall be made as per the instructions of SEBI, within ten days from date. The petitioner will file an appeal within two weeks, subject to the laws of limitation. After receipt of payment, SEBI shall instruct the respective banks to remove the attachments, so that the petitioner may operate the accounts. This direction is not passed in respect of the Demat account. The issues raised, shall be subject to the final decision of the appellate authority.

Mr. Bose's prayer that the writ Court should interfere with the order impugned, by exercising power of judicial review on the ground of error of jurisdiction of the authority, can also be made before the appellate authority. This Court is not inclined to interfere with the factual aspects which are reflected in the order.

The prayer for de-freezing the demat account of the petitioner shall be made before the appellate authority and shall be decided by the appellate authority.

The learned Advocate for SEBI is allowed to file *vakalatnama* after the Puja vacation.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)