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W.P.No.6025 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.6025 of 2022

and

W.M.P. No.6110 of 2022

63 Moon Technologies Ltd.,
Formerly known as M/s. Financial Technologies (India) Ltd.,
Rep. by its Authorized Signatory Mr. D.John Deepak,
Having its Registered Office at Shakti Tower-1, 7th Floor,
Premises E, 766, Anna Salai,
Thousand Lights,
Chennai – 600 002.

... Petitioner

Vs

Secretariat of Lokpal,
Government of India,
The Ashoka Hotel, 2nd Floor,
Chanakyapuri,
New Delhi – 110 021.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order issued by the respondent, dated 7th December, 2021 pursuant to the Complaint No. 106/2021(F)/Sr No. 343 dated 15th May 2019 sent by the petitioner to the respondent and quash the same and consequently direct the respondent to conduct an enquiry afresh pursuant to



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the Complaint dated 15th May 2019 in accordance with the provisions under Section 20 of the Lokpal Act, 2013 within a reasonable time frame as this Court may deem fit in the facts and circumstances of the present case and also call for periodic status reports from the respondent concerning the complaint of the petitioner dated 15th May 2019.

For Petitioner : Mr. Nithyaesh Natraj

For Respondent : Mr. N.Ramesh,
Senior Panel Counsel

ORDER

The Writ Petition has been filed challenging the order passed by the respondent dated 07.12.2021, thereby the complaint lodged by the petitioner, was disposed of.

2. The Petitioner is a Company registered under the Companies Act, 1956 and it is having registered Corporate Office at Chennai. The respondent is an anti-corruption authority or body of ombudsman, which represents the public interest in the Republic of India. Therefore, the petitioner submitted a representation dated 15.05.2019 as against one Ramesh Abhishek, who was former Chairman of Forward Markets



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Commission (FMC) to the office of the Central Vigilance Commission of India, alleging his suspicious role in NSEL payment crisis. On receipt of the said complaint, it was given Diary No.343 of 2019. However, no action has been taken by the respondent and as such, the petitioner was constrained a Writ Petition before this Court in W.P.No. 6106 of 2020. While closing the said Writ Petition on 001.2022, the petitioner was given liberty to work out the remedy in manner known to law. Aggrieved by the order dated 07.12.2021 passed by the respondent, the present Writ Petition is filed.

3. The learned counsel for the petitioner submitted that the impugned order passed by the respondent is in clear violation of the principles of natural justice. He further submitted that the impugned order is against the object and scope of the Lokpal and Lokayuktas Act, 2013 (hereinafter referred to as 'the Act' for short). The respondent failed to follow the procedures as contemplated under Section 20 or Section 25 of the Act and the procedures have not been complied with by the respondent herein.



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follows:-

4. It is relevant to extract Section 20(1) of the Act, which reads as

“20. (1) The Lokpal on receipt of a complaint, if it decides to proceed further, may order—

(a) preliminary inquiry against any public servant by its Inquiry Wing or any agency (including the Delhi Special Police Establishment) to ascertain whether there exists a prima facie case for proceeding in the matter; or

(b) investigation by any agency (including the Delhi Special Police Establishment) when there exists a prima facie case:

Provided that the Lokpal shall if it has decided to proceed with the preliminary inquiry, by a general or special order, refer the complaints or a category of complaints or a complaint received by it in respect of public servants belonging to Group A or Group B or Group C or Group D to the Central Vigilance Commission



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constituted under sub-section (1) of section 3 of the Central Vigilance Commission Act, 2003:”

5. Thus, it is clear that, on receipt of a complaint, if the Lokpal decides to proceed further, the above procedures in Section 20(1) of the Act have to be followed, whereas the Lokpal (Complaint) Rules No.4, reads as follows:-

“4. Handling form(s) of complaint.- The Lokpal may process a complaint in the following manner, namely:-

(a) protect the identity of the complainant or the public servant complained against till the conclusion of the inquiry or investigation:

Provided that the protection, shall not be applicable, in cases where the complainant himself has revealed his identity to any other office or authority while making a complaint to the Lokpal;

(b) protect the integrity of the process of inquiry or investigation;

(c) dispose of the complaints, in limine, under the following conditions, namely:-

(i) where the contents of the complaint are illegible;



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(ii) where the contents of the complaint are vague or ambiguous;

(iii) where the contents of the complaint are trivial or frivolous;

(iv) where the complaint does not contain allegation against a public servant;

(v) where the complaint is not filed within the period of limitation under section 53 of the Act; and

(vi) where the cause of the complaint is pending before any other Court or Tribunal or Authority.

(d) the Lokpal shall dispose of the complaints satisfying the conditions as contained in clause (c) above within a period of thirty days.”

Thus, the Lokpal may process a complaint as stated in the said Rule in the manner stated therein. Rule 4 (c) (vi) & (d) of the Rules are very clear that if the cause of the complaint is pending before any other Court or Tribunal or Authority, the Lokpal shall dispose of the complaint after satisfying the conditions as contained in clause (c) above within a period of thirty days.



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6. However, admittedly, the petitioner also filed a suit in C.S.No.980 of 2019 against the counter party, as against whom he lodged complaint before the High Court of Bombay and it is pending.

7. That apart, on a perusal of the order impugned in this Writ Petition, it reveals that the respondent has already ordered for preliminary enquiry on 03.09.2021. Accordingly, the Central Vigilance Commission of India conducted preliminary enquiry and submitted report to the Central Bureau of Investigation. As per the said report, it is pending for approval with the Central Bureau of Investigation. In addition to the report submitted by the Central Vigilance Commission of India, the Central Bureau of Investigation also submitted a report before the respondent, by its communication dated 11.06.2021. The similar complaint against the said counter party was enquired and closed. In view of the above, the respondent has rightly closed the compliant and this Court finds no infirmity or illegality in the impugned order passed by the respondent and the Writ Petition is devoid of merits.



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8. In the result, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No
Neutral Citation: Yes/No
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To

The Secretariat of Lokpal,
Government of India,
The Ashoka Hotel, 2nd Floor,
Chanakyapuri,
New Delhi – 110 021.



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G.K.ILANTHIRAIYAN, J.

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