



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on : 22 May 2024**
Judgment pronounced on : 31 May 2024

+ **W.P.(C) 6726/2024**

MEGHANA T. V. Petitioner

Through: **Mr. Rakesh Kumar and Ms. Deepali Aggarwal, Advs.**

versus

UNION OF INDIA Respondent

Through: **Ms. Rukmini Babde, CGSC with Mr. Hussain Taqvi, GP, Ms. Soumya Priyadarshinee, Mr. Amlaan Kumar and Mr. Amit Srivastav, Advs.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The petitioner is invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, seeking directions for issuance of a writ of *Mandamus* or any other appropriate writ and the following reliefs are being sought:

- “a) Issue appropriate writ, order or direction directing Respondent no.1 to appoint an investigator and complete the investigation under relevant provisions of law in a time-bound manner to take appropriate action in terms of the order dated 07.12.2023 passed by the Hon’ble National Company Law Tribunal, Bengaluru, Special Bench in case No. C.P.N0.14/BB/2022
- (b) Pass such other and further order as this Hon’ble Court may deem fit and proper in the interest of Justice.”



FACTUAL BACKGROUND:

2. The genesis of the instant writ lies in the order dated 07.12.2023 passed by the learned Judges of the Special Bench, NCLT¹ Bengaluru in CP No. 14/BB/2022 in the proceedings under Section 213 and 221 of the Companies Act, 2013 read with Rules 11 and 74 of the National Company Law Tribunal Rules, 2016, whereby it found sufficient material to come to the conclusion that despite the fact that the respondent No.1/VSPL was ordered to be liquidated in terms of the order dated 13.04.2023 passed by the NCLT in IA No. 526/2022 and a RP² was appointed as a Liquidator and the liquidation process was still in progress, it found overwhelming grounds to make directions for investigation into the affairs of the company by SFIO³, and passed the following directions:

“(a) Ld. Counsel for the Petitioners is directed to forward all material documents, which is connected to the present case to the Central Government along with a copy of this Order, within a period of three weeks from the receipt of the Certified Copy of this Order with a copy to all the concerned Parties, duly following the principles of natural justice.

(b) The Central Government is directed to adopt the procedure prescribed under Section 213(b) of the Companies Act, 2013 and the Central Government may get the affairs of the Respondent No.1 Company herein, namely, M/s. Vikram Structures Pvt. Ltd. (presently under Liquidation process under the I&B Code, 2016) and those of the related parties be investigated by appointing Inspector(s) to carry out the investigation by following the due procedure.

(c) Liquidator of the Respondent No. 1 Company is directed to cooperate with the Petitioners in handing over the requisite material documents of R-1 Company.

¹ National Company Law Tribunal

² Resolution Professional

³ Serious Fraud Investigation Office



(d) The Registry of this Tribunal is also directed to forward a copy of this Order forthwith to the Secretary and Joint Secretary, Ministry of Corporate Affairs, Government of India, 51h Floor, 'A' Wing, Shastri Bhawan, Dr. R.P. Road, New Delhi-110001 for information and necessary follow-up action."

3. Learned counsel for the petitioner urged that despite very damning observations made by the NCLT with regard to the conduct of the business/affairs of the company (in liquidation) by its directors and owners of the land, and thereby, defrauding the investors to the tune of Rs. 136,50,19,085/-(Rupees One Hundred Thirty Six Crores Fifty Lacs Nineteen Thousand and Eighty Five Only), the respondent No.1 i.e. the Ministry of Corporate Affairs, Union of India, has miserably failed to order an inquiry into such sordid affairs through the SFIO and thereby, overlooking the exigency of the representations made *vide* letter dated 16.01.2024 delivered at its office, which representations were made subsequent to the aforesaid order.

4. Learned counsel for the respondent appeared on advance notice and has assailed the maintainability of the present Writ Petition on the ground that this Court has no territorial jurisdiction.

5. Learned counsel for the petitioner was given sufficient time to cite any case law that would make the petition maintainable before this Court, however, no case law has been cited in this regard.

6. Thus, having heard the learned counsel for the parties and on perusal of the record, *Prima facie*, this Court finds that evidently, the entire cause of action with regard to the alleged acts of cheating, misappropriation of funds, defrauding of the investors and siphoning



of the funds on the part of the VSPL and its Directors, as alleged, has arisen in the State of Karnataka.

7. Learned counsel for the petitioner has vehemently urged that the seat or the main head office of the respondent is located in Delhi and that alone would constitute a sufficient cause to confer territorial jurisdiction upon this Court.

8. Avoiding a long academic discussion, a plain reading of Clause (2) to Article 226⁴ of the Constitution of India makes it clear that the High Court could issue a writ when the person or the authority against whom the writ is issued is located outside its territorial jurisdiction, provided the cause of action wholly or partially arises within the

⁴ [226. Power of High Courts to issue certain writs

(1) Notwithstanding anything in article 32 2[***] every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including 3[writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose].

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.]

4[(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without--

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.]

[(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.]



Court's territorial jurisdiction. Needless to state that the expression 'cause of action' for exercising powers under Article 226(2) of the Constitution of India is to be assigned the same meaning as assigned to such an expression under Section 20 (c) of the CPC⁵.

9. Further, merely because the seat or the main head office of the respondent is located in Delhi would not be sufficient to confer jurisdiction upon this Court. Reference in this regard can be invited to a decision by the Supreme Court in the case of **Union of India v. R. Thiagarajan**⁶ wherein it is reiterated that unlike the Supreme Court, which can exercise jurisdiction over the entire country, the jurisdiction of the High Courts is limited to the territorial jurisdiction of the State (s) of which it is the High Court; and that such orders may be passed if it impacts the people within its territorial jurisdiction and the High Courts have no pan-India jurisdiction. Further, there is no averment that any person or authority within the territorial jurisdiction of this Court is substantially affected by the affairs of the company in question i.e. VSPL.

10. There is no gainsaying that the respondent has its Regional Office with necessary paraphernalia in the State of Karnataka and the petitioner has appropriate efficacious remedy to approach the Karnataka High Court in order to seek appropriate reliefs. In a case like the present one, this Court can refuse to exercise its discretionary jurisdiction by invoking the Doctrine of *Forum Conveniens*.

⁵ Code of Civil Procedure, 1908

⁶ (2020) 5 SCC 201



11. At this juncture, it would be relevant to invite reference to a decision by the Supreme Court in the case of **U.P. Rashtriya Chini Mill Adhikari Parisahd, Lucknow v. State of U.P.**⁷ wherein it was held that the situs of office of the Parliament, Legislature of a State or Authorities empowered to make subordinate legislation, would not by itself, constitute any “cause of action” or “cases arising”. Likewise, mere fact that the respondent-Ministry of Corporate Affairs can appoint or entrust the investigation to the SFIO from Delhi would not by itself be sufficient to invoke the territorial jurisdiction of this Court.
12. Accordingly, the present Writ Petition is dismissed for not being maintainable before this Court for lack of territorial jurisdiction.

DHARMESH SHARMA, J.

MAY 31, 2024

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⁷ (1995) 4 SCC 738