

WPA(P) 514 of 2024

**Shambhu Nath Jajodia
Versus
State of West Bengal and Ors.**

Mr. Sudip Deb, Sr. Adv.
Mr. Pradeep Kr. Tulsyan
Mr. Vivek Basu
Ms. Ipsita Ghosh
...For the Writ Petitioner
Mr. Jishnu Chowdhury, Sr. Adv.
Mrs. Urmila Chakraborty
Mr. Arka Biswas
...For the Respondent No.7
Mr. Sakya Sen, Sr. Adv.
Mr. Kanishk Kegriwal
Mr. Pranav Sharma
...For the Respondent No.8
Mr. Sabyasachi Chowchury, Sr. Adv.
Mr. Rajarshi Datta
Mr. Rishabh Karnani
...For the Respondent No.9
Mr. Anirban Pramanick
Mr. Punarbasu Nath
Ms. Bhagyasree Dey
...For the Respondent No.19/
State Bank of India
Mr. Abhimanyu Shandilya
Ms. Susmita Roy
...For Respondent No.42/
LIC Housing Finance
Mr. Anirban Ray, G.P.
Mr. Nilotpall Chatterjee
Ms. Munmun Ganguly
Mr. Sayan Ganguly
...For the State-Respondent

1. Affidavit-of-service filed by the petitioner is taken on record.
2. This is a writ petition filed by one Shambhu Nath Jajodia styled as Public Interest Litigation praying for issuance of writ of mandamus to direct the

respondent authorities, in particular the respondent Nos.2 and 3, namely, Director and Inspector General of Police, State of West Bengal and the Director, Directorate of Economic Offences respectively to conduct an investigation into the affairs of the respondent No.4 being E.M.C. Ltd., having its registered office at Kolkata and represented through the erstwhile Resolution Professional Mr. Kannan Tiruven Gadam (R.P.) and to file a report before this Court. The petitioner also prays for issuance of writ of mandamus to direct the respondent authorities to take appropriate steps against the persons involved in fraudulent, oppressive and illegal transactions as may be discovered and established upon investigation and interim prayers sought for freezing the assets of the respondent Nos.5 to 13, who are the private parties, from dealing with, disposing of, encumbering, alienating and/or transferring their assets and properties in any manner whatsoever.

3. The first hurdle the petitioner has to cross is with regard to the maintainability of the writ petition. It is not in dispute that the petitioner himself has approached the National Company Law Tribunal, Kolkata Bench being C.P./306(KB) 2023. The said

petition is filed by one Mr. Beni Gopal Singhi as operational creditor and the fourth respondent EMC Ltd. is shown as corporate debtor. Records of the proceedings are annexed as annexures to the writ petition. Interestingly annexure P-13 contains a bunch of orders passed by the National Company Law Tribunal, Kolkata Bench in an application being I.A.(Companies Act)/139(KB) 2024. Though a copy of the said application has not been annexed in the instant writ petition but the learned advocate for the petitioner has handed over a copy of the said writ petition in Court today. The prayers sought for in the said application are more or less identical with the prayers sought for in the writ petition, except that the private respondents, who are impleaded in the writ petition, have not been either named or arrayed specifically and the petitioner seeks for a direction for conducting an investigation into the affairs of EMC Ltd. in respect of the matters indicated in the application for the period prior to commencement of corporate insolvency resolution process by a Central agency or Inspector/Inspectors to be appointed by the Central Government who shall report thereon to the Central Government. Furthermore, the petitioner has sought for a

direction to suitably punish the guilty person involved in fraudulent, oppressive and illegal transactions as may be discovered and established upon investigation. Interim prayer was sought for to freeze the assets of the respondent Nos.2 to 10 who are the private respondents in the writ petition, namely, the Duggar Family. Thus, the petitioner having approached the National Company Law Tribunal, Kolkata Bench, is he entitled to pursue this writ petition styled as Public Interest Litigation for identical relief.

4. The learned advocate appearing for the petitioner submits that there are several decisions of the Hon'ble Supreme Court which have carved out the exception that alternate remedy is always not a bar to a litigant to approach the court by way of Public Interest Litigation specially when the public money is involved and more particularly in the instant case there appears to be a forensic audit report, which according to the petitioner is adverse to the fourth respondent. We would have been impressed by the argument that the petitioner has approached this Court at the first instance, having not done so we are of the clear mind that the petitioner cannot be permitted to pursue the parallel remedy both before the National Company

Law Tribunal, Kolkata Bench as well as before this Court that too by way of a Public Interest Litigation. However, the proposition advocated by the learned advocate for the petitioner is to be accepted then the constitutional courts would be flooded with Public Interest Litigation only considering the cases ordering investigation into the affairs of the private limited Company or public limited Company which are gone into liquidation or there is any adverse report drawn by certain statutory authorities, this in our opinion cannot be a role of a constitutional court exercising jurisdiction to entertain Public Interest Litigation petition. Therefore, we are of the clear view that the writ petition is not maintainable.

5. In the result the writ petition is dismissed with cost of Rs.1000/- payable to the West Bengal State Legal Services Authority not later than 10th February, 2025.
6. Learned advocate appearing for the petitioner submitted that a direction be issued upon the learned National Company Law Tribunal, Kolkata Bench to expedite the matter pending before the tribunal. As we have held that the prayers sought for in the writ petition is not maintainable he is not entitled to approach this Court for issuance of

such direction. As his remedy is available before the tribunal we cannot issue any direction as such prayer stands negated.

(T.S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)