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

% ***Date of Decision : 25.04.2025***

\+ **W.P.(C) 5363/2025**

GULSHAN KUMAR GUPTA .....Petitioner

Through: Mr. Amit Ojha and Mr. Prashant Sharma, Advs.

versus

SECURITIES AND EXCHANGE BOARD OF INDIA THROUGH CHAIRMAN & ANR. .....Respondents

Through: Mr. Ashish Aggarwal and Ms. Shivangi Shokeen, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*Oral*)

CM APPL.24422/2025 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

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3. The present petition assails a communication dated 09.03.2022 issued by the Deputy General Manager & Recovery Officer, SEBI (respondent no.2) whereby the petitioner has been divested / relieved of his responsibilities as administrator in the recovery proceedings initiated against 'M/s. En Aromatic & Petro Chemicals Pvt. Ltd.' under Section 28A of the SEBI Act, 1992 by the Securities and Exchange Board of India (SEBI / respondent no.1). The said communication reads as under:

"Mr. Gulshan Kumar Gupta

202, Kumar House, Central Market,
Prashant Vihar, New Delhi-110082.

Sir,

Sub: Recovery Proceedings in the matter of En Aromatic & Petro Chemicals Ltd.

This has reference to your appointment as Administrator in the captioned matter as per terms of appointment communicated to you vide email dated May 31, 2019. However, it has now been decided by SEBI to withdraw your appointment as an Administrator.

2. Accordingly, your appointment as Administrator in this case stands withdrawn. You are advised not to part with any documents/information to anyone which was entrusted to you during course of assignment.

3.We convey our sincere gratitude for your help and guidance in this matter.

Thanking you,

Yours sincerely,

-sd-
(Rajeev Rastogi)
Recovery Officer &
Deputy General Manager."

4. The petitioner came to be appointed as an Administrator in the said matter of 'M/s. En Aromatic & Petro Chemicals Pvt. Ltd.' *vide* a letter / communication dated 31.05.2019 issued by the Deputy General Manager and Recovery Officer, SEBI (respondent no.2). The same reads as under:

"*Dear Sir,*
Securities and Exchange Board of India (SEBI) is a statutory body constituted under an Act of Parliament i. e. SEBI Act, 1992(The Act). The Act was amended in 2014 enabling SEBI to recover penalties,

> *amounts directed to be refunded to the investors, disgorgement, fees etc. by attaching various assets of defaulters. In exercise of the said powers, SEBI has initiated recovery proceedings against M/s En Aromatic & Petro Chemicals Ltd. and its directors under Certificate no. 1010 of 2016.*
>
> *It is informed that the Recovery Officer, SEBI has appointed you as an Administrator in the instant case in terms of Regulation 4 of the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018 and circular dated April 02, 2019. Kindly find attached scanned copy of a letter dated May 31, 2019 along with terms of appointment. Hard copy of the same has been dispatched through speed post.*
> *In case of any further information/clarification required in the matter, the undersigned may please be contacted.*
>
> *With Regards*
> *Parmanand*
> *Assistant General Manager*
> *Securities and Exchange Board of India (SEBI)*
> *Northern Regional Office.*"

The aforesaid letter was communicated to the respondent vide email communication dated 03.06.2019 along with the terms of appointment of the petitioner.

5. Concededly, the appointment of the petitioner as the Administrator in the matter of 'En Aromatic & Petro Chemicals Pvt. Ltd.' was made in terms of Regulation 4 of the SEBI (*Appointment of Administrator and Procedure for Refunding to the Investors*) Regulations, 2018 and a Circular dated 02.04.2019. The Regulation 4 of SEBI (*Appointment of Administrator and Procedure for Refunding to the Investors*) Regulations, 2018 reads as under:

> "***Appointment of an Administrator.***
> ***4.*** *For the purposes of these regulations, the Board shall, after attachment of the properties of the defaulter by the Recovery Officer, appoint an Administrator in the manner specified."*

6. It is apparent from the framework of the aforesaid regulations that there is no limitation / restriction upon SEBI for the purpose of termination of services of an 'Administrator' appointed by it.

7. In the present case, the petitioner, having acted as the Administrator for more than three years pursuant to his appointment on 31.05.2019, was duly relieved of his responsibilities vide the communication dated 09.03.2022. A perusal of the communication dated 09.03.2022, reveals that the same does not cast any stigma on the petitioner; rather the said communication acknowledges the efforts made by the petitioner during his term as an Administrator.

8. Inherently, the petitioner's appointment as Administrator is not indefinite and can be terminated by the SEBI. As such, the prayer sought by the petitioner that the letter dated 09.03.2022 be declared as null and void and that the petitioner be restored as Administrator, is untenable.

9. As regards payment of the outstanding remuneration to the petitioner for performing services as an administrator, the concerned regulations provide as under:

> "***Terms of appointment.***
> *6. The terms and conditions of appointment including remuneration shall be specified by the Board, on a case to case basis, after taking into consideration the quantum of work, the number of investors and the quantum of money involved.*"

10. It is the common case of the respective counsel for the parties that the petitioner's remuneration is governed by a circular dated 02.04.2019 issued by the Deputy General Manager, Recovery Division-1, Recovery and Refund Department, SEBI (respondent no.2) which prescribes a graded

payment mechanism depending upon the amount realized by the Administrator by way of sale of assets of the company in question (M/s. En Aromatic & Petro Chemicals Pvt. Ltd.).

11. The respondent is directed to consider the representation of the petitioner regarding payment of his remuneration; the same may be duly determined in terms of the stipulation contained in the appointment letter dated 31.05.2019, read with the aforesaid circular dated 02.04.2019. Let a reasoned order be passed by the respondent, setting out the monetary entitlement of the petitioner, and the time frame for payment of the same. Let the said order be passed within a period of eight weeks from today. In case any document/s is required from the petitioner for the purpose of assessing his remuneration, the same shall be duly provided by the petitioner.

12. In case the petitioner is aggrieved with the outcome of the aforesaid exercise, he shall be at liberty to avail appropriate remedies under law.

13. The petition is disposed of in the above terms.

SACHIN DATTA, J

APRIL 25, 2025/cl