



2026:DHC:1564



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 197/2025, CM APPL. 46164/2025, CM APPL. 46272/2025, CM APPL. 65032/2025 and CM APPL. 65224/2025**

Date of Decision: **11.02.2026****IN THE MATTER OF:**

ADITYA MALHOTRA & ORS.Petitioners

(Through: Mr. Dinesh Jotwani, Advocate.)

Versus

UNION OF INDIA & ORS.Respondents

*(Through: Mr. Amit Tiwari, CGSC with Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Arpan Narwal & Mr. Kushagra Malik, Advs. for R1, R2, R5 & R8**Mr. Anurag Jain, Advocate for R4.**Mr. Vipul Ganda with Mr. Ishan Upadhaya & Ms Sakshi Panwar, Advocates for R6.**Ms. Udit Singh, Advocate for R7.**Mr. Rohan Kothari, Mr. Aditya Wadhwa, Ms. Shivani Pegatraju, Advocates for R11, R12 & R13.**Mr. Anupam S Sharrma with Ms. Harpreet Kalsi, Mr. Ripudamn Sharma, Mr. Vashisht Rao, Ms. Riya Sachdeva & Ms. Amisha P Dash, Advocates.**Mr Aditya Verma with Ms Parkhi Rai & Mr K Rigved Prasad, Advocates for applicant in CM APPL. 46272/2025.**Mr. Dipan Sethi with Mr. Snehashish Bhattacharya, Advs. for RBI.)***CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

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JUDGMENT

PURUSHAINDRA KUMAR KAURAV J. (ORAL)

1. The present writ petition is for the following reliefs:

- “1. Mandate the SEBI (response), Union of India, Ministry of Finance, Reserve Bank of India and the Ministry of Electronics and IT to implement a regulatory framework and policies regulate cryptocurrency exchanges and transactions to ensure investor protection.*
- 2. Direct the constitution of a Special Investigation Team (SIT) under the Central Bureau Of Investigation (CBI) (Respondent No. 9) to register a FIR and investigate thoroughly the financial fraud, cyberattack, fund mismanagement, and operational lapses at BitBNS.*
- 3. Direct any of the Government Agencies (Respondent No. 1 to 4, 6-8) to conduct a thorough investigation into the offences alleged to have been committed on Petitioners and other investors.*
- 4. Direct Respondent No. 11, 12 and 13 to immediately release the funds of Petitioners and Victims and lift the withdrawal restrictions and start express INR withdrawal.*
- 5. Award compensation to all affected petitioners and users who have suffered financial losses due to mismanagement and fraudulent activities by Respondent no. 12 and Respondent no. 13.*
- 6. Pass any such further order(s) as this Hon’ble Court may deem fit and proper in the interests of justice.”*

2. The petitioners have pleaded that the present writ is filed seeking redressal of their grievances caused by the actions and omissions of the Respondents, particularly, BitBNS Internet Pvt. Ltd. (Respondent No. 11) and its promoters. The material portion of the petition reads as under:

“1. ...The Petitioners, invoking the jurisdiction of this Hon’ble Court in the writ petition , seek redress for the grave grievances caused by the actions and omissions of the Respondents, particularly BitBNS Internet Private Limited (Respondent No. 11) and its promoters. The Petitioners contend that the Respondent’s conduct amounts to a breach of trust, financial mismanagement, and fraudulent practices, leading to substantial economic losses and undue distress to thousands of Indian cryptocurrency investors.”

3. In this writ petition, the relief prayed for is overwhelmingly similar to the reliefs prayed for in W.P. (C) 1928/2026. The reliefs in the said writ petition read as under:



“a). Pass an Order directing the Respondent No.2, Respondent No.3, Respondent No.4, Respondent No.8, Respondent No.9 to take steps to implement stricter policies pertaining to the workings of cryptocurrency exchanges dealing in Virtual Digital Assets;

b). Pass an Order directing the constitution of a Special Investigation Team (SIT) under the Respondent No.10’s aegis to conduct an investigation into the Respondent No.1’s offences including, but not limited to criminal breach of trust, financial fraud, allegations of cyberattacks and other offences arising from the operational mismanagement at the Respondent No.1 Company;

c). Pass an Order directing the Respondent No.1, Respondent No.12 and Respondent No.13 to jointly and severally release the Petitioner’s monies invested by him on the Respondent No.1’s cryptocurrency exchange”

4. After analysing each individual prayer in W.P. (C) 1928/2026, this Court dismissed the said writ petition, *vide* the judgement in ***Rana Handa v. Bitbns Internet Pvt. Ltd. & Ors.***¹

5. In the context of the Prayer (A) in W.P. (C) 1928/2026, which is similar to Prayer 2 and 3 in the instant petition, this Court held:

“7. If Prayer (B) is considered to be the first prayer, the same seeks a direction for constitution of a Special Investigation Team under the aegis of the Central Bureau of Investigation (CBI). No doubt, the High Court, in exercise of its powers under Article 226 of the Constitution of India, is fully empowered to direct investigation by the CBI. However, such recourse is to be taken only in exceptional circumstances. Reference to the decision of the Supreme Court in State of W.B. v. Committee for Protection of Democratic Rights, wherein it was held that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to the CBI to investigate an offence is valid in law. However, the Court emphasised that although Article 226 of the Constitution confers wide powers on the High Courts, such powers must be exercised with great caution. An order directing the CBI to conduct an investigation should not be passed as a matter of routine or merely because a party has made allegations against the local police. The Court clarified that this extraordinary power must be invoked sparingly, cautiously, and only in exceptional circumstances where such intervention is truly warranted.

8. Furthermore, in Sakiri Vasu v. State of Uttar Pradesh, it has been observed that although the High Court has power to order investigation by the CBI, the same should be done only in rare and exceptional cases,

¹ 2026:DHC:1446.





otherwise the CBI would be flooded with cases and would find it impossible to properly investigate all of them.

9. Reference may also be placed on Secretary, Minor Irrigation & Rural Engineering Services, U.P. v. Sahngoo Ram Arya, wherein the Supreme Court held that such power should be exercised only when the material on record discloses a prima facie case calling for investigation by the CBI or any similar agency and that a CBI inquiry cannot be ordered as a matter of routine or merely because allegations are made.

10. There does not seem to be sufficient material placed on record warranting the constitution of a Special Investigation Team. There is no material indicating any exceptional circumstance. There is no F.I.R. registered at the instance of the petitioner. If the petitioner so desires, he may not only take recourse to lodging of an F.I.R., but can also approach the jurisdictional Magistrate in accordance with law. In case of non-registration of F.I.R., appropriate remedies are available under the statutory framework. Hence, the Prayer (B) cannot be acceded to.”

6. Furthermore, in the context of Prayer (C) in W.P. (C) 1928/2026, which is similar to Prayer 4 in the instant petition, this Court held:

“11. With respect to Prayer (C), it may be noted that Respondent Nos. 1, 12 and 13 are not “State” within the meaning of Article 12 of the Constitution of India. They are not discharging any public functions. They, therefore, are not amenable to the writ jurisdiction of this Court.”

7. Similarly, *qua* Prayer (A) in W.P. (C) 1928/2026, which is similar to Prayer 1 in the instant petition, this Court held:

“12. Prayer (A) relates to a direction for implementation and framing of stricter policies pertaining to the working of cryptocurrency exchanges dealing in virtual digital assets.

13. A bare perusal of Prayer (A) and Prayer (B) appear to be inconsistent with each other. The petitioner cannot, in one breath, ask for framing of policy, law and regulations to address the situation faced by him and, in the same breath, seek a direction for investigation under the existing and prevailing law. If there is, as Prayer (B) reveals, a means available under the existing legislative framework to seek redressal of the petitioner’s grievance, there appears to be no reason to delve into Prayer (A). There does not appear to be any legislative vacuum or void where the petitioner is rendered remediless

14. Pertinent to note herein that the Writ Court, in the exercise of its inherent power to issue a writ of Mandamus, ordinarily seeks to enforce existing rules and regulations. A statutory duty must exist before it can be enforced through mandamus and unless a statutory duty or right can be





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read in the provision, mandamus cannot be issued to enforce the same. If there is no regulation governing the preliminary issue, it is for the legislature to consider and address the matter.

15. At this stage, the Court is also cognizant of the decision of the Supreme Court in Union of India v. K. Pushpavanam, wherein it has been held that no constitutional Court can issue a writ of mandamus to a legislature to enact a law on a particular subject in a particular manner. Thus, it is trite that the Court cannot assume the role of the legislature. Moreover, there does not seem to be justification to direct the legislature to frame any policy as prayed by the petitioner.”

8. Prayer 5 in the instant petition appears to be a distinct prayer not sought for in W.P. (C) 1928/2026. The said prayer seeks for the award of compensation to purportedly affected petitioners and users who have suffered financial losses due to the alleged mismanagement and fraudulent activities of Respondent no. 12 (one Mr. Gaurav Dahake) and Respondent no. 13 (one Mr/ Prashant Kumar Singh).

9. If the said prayer is read with the averments made in the petition, particularly those reproduced in para. 2 of this order, it would become clear that the present petition has private law origins, and would require the Court to delve into disputed question of facts. The determination of compensation, requires, at the threshold, a conclusion on liability. It is only when liability for a purported wrongdoing is established, that the question of compensating the victim arises. The Court believes for arriving at such findings, evidence is to be led and parties are to be cross examined. Such an exercise, normally, should not be conducted by this Court acting under Article 226 of the Constitution.

10. This Court in **Gurdip Singh v. Sub Divisional Magistrate and Ors.**,² while relying upon the observation of the Supreme Court in **Radha**

² W.P. (C) 12145/2024



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Krishnan Industries v. State of Himachal Pradesh³ and the judgement of this Court in **IDBI Bank Ltd. v. Power Finance Corporation Ltd.**,⁴ has held as under:

“7. In Radha Krishnan Industries v. State of Himachal Pradesh the Supreme Court re-iterated the discretion available with the writ court to decline exercise of its powers when disputed questions of facts are involved. The material portion of the judgement reads as under

“27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”

8. This Court in **IDBI Bank Ltd. v. Power Finance Corporation Ltd.** while analysing the impermissibility of entertaining writs which have their origin in private and not public law has held as under:

“26. Each of the issues so mentioned above, fall exclusively in the domain of private law and are fundamentally contractual in nature. There is no element of public law that this court finds involved in the present petition. The mere fact that the parties engaging in the contract are State or its instrumentalities, does not in itself make the issue relevant to public law. There is no determination of the rights relating to public law, nor is there a consideration relating to the public at large that needs to be factored in while deciding the dispute so argued by the parties. Issuance of the BGs by the petitioner at the instance of respondent no. 2 in the favour of respondent no. 3 and its encashment is purely governed by the terms of the BGs. The same is the commercial wisdom of the parties. It concerns the legal relationship between the parties involved, namely, the bank and the beneficiary of the guarantee. The enforcement is not the result of any administrative order or State act involving the exercise of State power.

...

35. This court cannot countenance the argument that, whereas, otherwise, a dispute owing to its private law origins ought to have been agitated before a civil court, merely because the entity so breaching the contract is a State or its functionary, the case is to be considered under Article 226 of the Constitution of India. Arbitrariness, under Article 14 of the Constitution of India needs to be pleaded in exclusion to claims of pure breach of contract. In the present petition, the petitioner has not been able to persuade this

³ Civil Appeal No. 1155 of 2021, Order dt. 20.04.2021.

⁴ 2023 SCC OnLine Del 2909.

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court that the breach so alleged on the part of respondents is of such a nature that it may be considered arbitrary and deserves to be entertained under the writ jurisdiction of this court alone.”

9. In the facts and circumstances of the case, and the law discussed above, given that disputed question of facts are involved in the present lis, and also because a civil suit presently subsists between the contesting parties, the Court does not deem it fit to entertain the present petition.”

11. Thus, Prayer 5 as well cannot be delved into or adjudicated upon by this Court under Article 226 of the Constitution.

12. However, the Court deems it fit to grant liberty in favour of the petitioners to agitate Prayer 4 and 5 before an appropriate forum/court.

13. Accordingly, the present writ petition stands disposed of.

14. All impleadment applications stand disposed of. The same liberty granted to the petitioners is granted to all the proposed impleadment applicants.

PURUSHAINDRA KUMAR KAURAV, J

FEBRUARY 11, 2026

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