

COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 13301 OF 2015

IN THE MATTER OF:-
Subrata Bhattacharya

Petitioner

Versus

Securities and Exchange Board of India

Respondent

Objections on behalf of Janlok Pratishthan (Petitioner in WP (C) No. 640/ 2016) to the
Lodha Committee Report

1. That the Committee must finalize the no. of claimants in respect of the CISOs of PACL and the exact figure of liability owed to the said claimants in line with the PACL database which SEBI claims to have.
2. That the SEBI (as per Para 9.4 of the Report) though has not yet rejected any claim(s), it has also, at the same time, not provided a specific timeline for the processing of the said claims. Para 9.2 of the Report states that out of 14,48,986 claim applications, only 1,89,103 claim applications have been verified and processed. Similarly, Para 9.3 of the Report states that out of 1,50,29,573 claim applications, only 2,54,525 claim applications have been processed. SEBI has not provided a timeline for the processing of the remaining claim applications which may have been unverifiable at the time.
3. SEBI claims that it has the PACL database. If so, then why is the registration of certain authentic PACL Claim Certificates numbers being denied/rejected on the basis that the said numbers are not available in the records available with SEBI. What could be done to address this issue? Should the claimants apply to SEBI directly?

It is pertinent to point out that there are problems associated with the registration of claims in the portal designed by SEBI and the same has been brought up time and again before this Hon'ble Court. It is also surprising to note that while certain authentic Claim Certificate numbers are being rejected from registration, there have been complaints that unrelated claims (by claimants of PGF or of other companies not associated with PACL) are being registered in the PACL portal.

4. In the year 2016, the Punjab Government had proposed to the Lodha Committee wherein
- ... the Government protects of PACL in the State

5000-7000 crore rupees could have been recovered till date (which is a lot more money than what is being offered by ARCIL and Prudent) which would have streamlined or atleast facilitated the refund process to an extent. Such shortsightedness by SEBI at the time has caused the investors unnecessary and unwarranted delays in recovering their due claims.

The Lodha Committee has also not looked into the next stage of realization of funds for the process of refund post the ARCIL/Prudent deal (if at all the deal goes through). It is a matter of record that the properties being bid for by ARCIL/Prudent are only prime PACL properties across India. The outstanding claim are in tens of thousands of crores whereas the amount to be realized through the ARCIL/Prudent deal is merely Rs. 2000 crores (approx.), a fraction of the amount that is owed to people. When is SEBI intending to realise the amount from the sale of the remaining properties? When will that process begin? Will there be buyers for all the remaining properties? Once the prime properties are given to one or two parties, will the remaining properties fetch enough funds to refund all the concerned investors? If not, what's the next step? What will be the timeframe to process the sale and subsequently, the refund? Considering all of the aforesaid factors, bulk sale of PACL properties must be given priority instead of selling off a handful of prime properties to multiple parties.

6. SEBI, despite being informed time and again about the illegal sale of PACL properties which have MR Nos. already issued to them, has done nothing to curb the same resulting in several third-party rights in respect of the said properties.
7. It is already a matter of record that there has already been a delay of 4 years till date and such a delay (which is continuing) for the processing of and subsequent refund of a persons' hard-earned money which is his legal right, is abhorrent and counterintuitive.
8. None of the bidders shortlisted by SEBI guarantee recovery of sufficient funds to refund all the concerned PACL investors in full.