(3)

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2014

IN THE MATTER OF A PUBLIC INTEREST LITIGATION:

**MEMO OF PARTIES**

ATUL AGARWAL

98, DARYA GANJ

NEW DELHI ...PETITIONER

V E R S U S

1. UNION OF INDIA

   THROUGH SECRETARY

   MINISTRY OF FINANCE

   NORTH BLOCK, NEW DELHI

2. SECURITIES AND EXCHANGE BOARD OF INDIA

   THROUGH ITS CHAIRMAN

   SEBI BHAVAN, BANDRA KURLA COMPLEX,

   BANDRA (E), MUMBAI - 400051.

.....RESPONDENTS

FILED BY:

Ms. Divya Garg, Advocate

For B.S. JAIN & CO.

(Law Offices)

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EXAMINER

**Office:**
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**Chamber:**
218, M.C. Setalvad Chambers
Supreme Court of India
Bhagwan Dass Road
New Delhi – 110001
Tel: 011-2378 1111

Date: 19.06.2014

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

\+ W.P.(C) 3952/2014, CMs No.7949/2014 (for stay) & 7950/2014 (for exemption)

ATUL AGARWAL ..... Petitioner

Through: Mr. Ajay Veer Sing Jain with Mr. Atit Jain & Ms. Divya Garg, Advs.

Versus

UNION OF INDIA & ANR ..... Respondents

Through: Mr. Jatan Singh, Adv. for R-1.
Mr. Gaurab Banerjee, Sr. Adv. with Mr. Neeraj Malhotra, Mr. Prithu Garg & Mr. Vyom Shah, Advs. for R-2.

**CORAM:**
**HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **08.07.2014**

1. This petition under Article 226 of the Constitution of India, filed as a Public Interest Litigation (PIL), i) seeks a direction to the respondent no.2 Securities & Exchange Board of India (SEBI) to refrain from continuing with the proposed de-recognition of Regional Stock Exchanges / Non-Operational Stock Exchanges without providing for the protection to the investments made by innocent public investors / shareholders in companies listed on stock exchanges proposed to be de-recognized; ii) seeks a direction to the respondent no.2 SEBI to withdraw the Circulars dated 29.12.2008,

30.05.2012 and 22.05.2014 of such de-recognition; and, iii) seeks a direction to the respondent No.1 Union of India to maintain direct control over the actions and conduct of the respondent no.2 SEBI.

2. The petitioner who describes himself as having the academic qualification of B.Com (Hons.), MBA, LL.B and claims to hold licence of a commercial pilot, admittedly is not a shareholder of any of the companies listed on such stock exchanges.

3. We have enquired from the petitioner whether any of the stock exchanges de-recognized or to be de-recognized or any of the shareholders of the companies listed thereon have made any grievance in this regard. The counsel for the petitioner states that he is not aware.

4. According to the petitioner also, the said process of de-recognition is going on since the year 2008 i.e. for the last over five years. It is intriguing that none, for whose benefit and on whose behalf the present PIL has been filed, would have approached the Court in the interregnum.

5. A perusal of the first of the aforesaid circulars viz. the Circular dated 29.12.2008 impugned in the petition shows the same to be providing that the companies exclusively listed on de-recognized stock exchanges were

required to either mandatorily seek listing at other stock exchanges or provide for exit option to the shareholders as per the SEBI's Delisting Guidelines / Regulations after taking shareholders' approval for the same within a time frame to be specified by SEBI.

6. It is thus not as if no provision was made for the persons for whose benefit this PIL has been filed.

7. The legal tool of PIL was invented by the Courts as an exception to the otherwise well established rule, of only a person having cause of action or *locus standi* being entitled to approach the Court. Such invention was deemed necessary finding that in certain situations, owing to social or economic backwardness or other reasons, the aggrieved parties were themselves unable to approach the Court (see ***S.P. Gupta Vs. UOI*** 1981 Supp.(1) SCC 87 and ***State of Uttaranchal Vs. Balwant Singh Chaufal*** (2010) 3 SCC 402). The field of operation of the said tool was expanded to cover situations where a general direction of the Court was deemed necessary, not for the benefit of any one person or a group of persons but for the benefit of the public generally viz. protection and preservation of ecology, environment etc. and for maintaining probity, transparency and

integrity in governance. The Supreme Court else has been repeatedly issuing warnings, of allowing the said tool of PIL to be misused (see ***Balco Employees Union (Regd.) Vs. Union of India*** (2002) 2 SCC 333). The petitioner has been unable to satisfy us as to how he is entitled to file this petition in public interest. The warnings issued by the Supreme Court, of PIL becoming Publicity Interest Litigation (see ***Neetu Vs. State of Punjab*** (2007) 10 SCC 614) and of allowing "meddlesome interlopers" to file PIL (see ***S..P. Gupta*** supra) is apposite in this regard. Similarly, in ***Holicow Pictures Pvt. Ltd. Vs. Prem Chandra Mishra*** AIR 2008 SC 913 it was held that PIL is to be used for delivering social justice to the citizens.

8. The present case falls in neither of the aforesaid categories. The investors in the companies listed on the stock exchanges which are being de-recognized can neither be said to be socially or economically backward nor can it be said that the impugned actions are such as affecting the general public without affecting anyone in particular. The petitioner has been unable to satisfy us as to how he is entitled to file the petition in public interest.

9. The Supreme Court, in ***Holicow Pictures Pvt. Ltd.*** supra has also held

that the Court has to act ruthlessly while dealing with such busybodies or meddlesome interlopers impersonating as public spirited persons and masquerading as crusaders of justice. Similarly, in ***Dr. B. Singh Vs. U.O.I.*** (2004) 3 SCC 363 it was held that Courts should not waste valuable judicial time which can be otherwise utilized for disposal of genuine cases, in deciding petitions which cannot legitimately be called PILs.

10. We are therefore not inclined to entertain this petition at the behest of the petitioner as a PIL and dismiss the same. We however refrain from imposing any costs on the petitioner.

**CHIEF JUSTICE**

**RAJIV SAHAI ENDLAW, J.**

**JULY 08, 2014**
'gsr'

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BY ORDER

THE SEAL OF DELHI HIGH COURT
NEW DELHI