

PINAK PANI MOHANTY

v.

UNION OF INDIA AND ORS.

(I.A. No. 56308 of 2023)

In

(Writ Petition (C) No. 191 of 2022)

MARCH 29, 2023

[M. R. SHAH* AND C. T. RAVIKUMAR, JJ.]

Directions – Union of India, sought directions to transfer an amount of Rs. 5,000 crores out of unutilized amount of Rs. 23,937 crores (lying in “Sahara-SEBI Refund Account”) to be disbursed against the legitimate dues of depositors of Sahara Group of Cooperatives Societies – Held: The amount lying in the “Sahara-SEBI Refund Account” is unutilized and the genuine depositors of the Sahara Group of Cooperative Societies are entitled to get back their money, the prayer in application is reasonable and in the larger public interest/interest of the genuine depositors of the Sahara Group of Cooperative Societies – Rs. 5,000 crores directed to be transferred to the Central Registrar of Cooperative Societies, who in turn, shall disburse the same against the legitimate dues of depositors of Sahara Group of Cooperative Societies – I.A. disposed of.

CIVIL APPELLATE JURISDICTION: I.A. No. 56308 of 2023 in Writ Petition (C) No. 191 of 2022

Under Article 32 of The Constitution of India

and

in the Matter of

Ms. Shailja Kulshrestha, Suresh Chandra Tripathy, Jitendra Mohapatra, Ms. Priyam Aggarwal, Dr. Kedar Nath Tripathy, Advs. for the Petitioner.

Tushar Mehta, SG, Ms. Aishwarya Bhati, Balbir Singh, A.S.Gs., Rajat Nair, Madhav Sinhal, Ms. Chitrangda Rastravara, Arvind Kumar Sharma, Mukesh Kumar Maroria, Pratyush Srivastava, Prasenjeet Mohapatra, Ms. Nitya Thakur, Tonmoy Dera, Rajeet Roy, Tarini Prasad Tripathy, Dhananjay Bhaskar Ray, Advs. for the Respondents.

* Author

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The Order of the Court was passed by

M. R. SHAH, J.

1. Present application being I.A. No. 56308 of 2023 has been preferred by the Union of India, Ministry of Corporation for appropriate directions to transfer an amount of Rs. 5,000 Crores out of unutilized amount of Rs. 23,937 Crores (lying in “Sahara-SEBI Refund Account”) to be disbursed against the legitimate dues of depositors of Sahara Group Cooperatives Societies.
2. Shri Tushar Mehta, learned Solicitor General has submitted that a total amount of Rs. 24,979.67 Crores is lying unutilized with the SEBI in “Sahara-SEBI Refund Account”, which has been deposited pursuant to the earlier direction issued by this Court. He has submitted that out of the aforesaid amount of Rs. 15,569.27 Crores deposited by Sahara India Real Estate Corporation Limited and Sahara Housing Investment Corporation Limited, Rs. 2253 Crores had been taken out from Sahara Credit Cooperative Society Ltd. and deposited with SEBI on account of the dispute of Sahara Real Estate Limited. It is submitted that, thus, the corpus which is lying in “Sahara-SEBI Refund Account” already includes the amount which belongs to the depositors of the aforesaid Sahara Group Cooperative Society Ltd.
 - 2.1 He has stated at the Bar that the amount deposited in “Sahara-SEBI Refund Account” is lying unutilized and in fact due to large number of continuing complaints against the Sahara Group of Cooperative Societies and the amount lying unutilized is also consisting of the amount of the depositors of Sahara Group of Cooperative Societies, if Rs. 5,000 Crores is transferred to the Central Registrar of Cooperative Societies and thereafter the same is disbursed against the legitimate dues of the depositors of the Sahara Group of Cooperative Societies, it will be just, proper and equitable.
 - 2.2 He has stated at the Bar that on the aforesaid amount, there is no charge and/or attachment of any other agency. He has stated at the Bar that the present application has been filed for appropriate direction as prayed, after the series of meetings with the different authorities / departments, which shall be in the larger interest of the depositors of the Sahara Group of Cooperative Societies. He has

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also prayed that a suitable direction be also issued that the amount due and payable to the respective depositors of the Sahara Group of Cooperative Societies may be disbursed in the most transparent manner and the same shall be paid to the genuine depositors on proper identification and on submitting their proof of deposits. He has also requested that for that a suitable direction be also issued that the amount shall be disbursed to the respective depositors under the supervision of the Former Judge of this Court.

3. Having heard Shri Tushar Mehta, learned Solicitor General appearing on behalf of the Union of India and taking into consideration the facts narrated hereinabove and when it is reported that Rs. 2253 Crores had been taken out of the Sahara Credit Cooperative Society Ltd., i.e., one of the four Sahara Group Multi-State Cooperative Societies and deposited with SEBI in the “Sahara-SEBI Refund Account” and the amount lying in the “Sahara-SEBI Refund Account” is lying unutilized and the genuine depositors of the Sahara Group of Cooperative Societies, which otherwise, shall be entitled to get back their money, the prayer sought in the present application seems to be reasonable and which shall be in the larger public interest / interest of the genuine depositors of the Sahara Group of Cooperative Societies. Therefore, the present application stands disposed of with the following directions:-
 - (i) Out of the total amount of Rs. 24,979.67 Crores lying in the “Sahara-SEBI Refund Account”, Rs. 5000 Crores be transferred to the Central Registrar of Cooperative Societies, who, in turn, shall disburse the same against the legitimate dues of the depositors of the Sahara Group of Cooperative Societies, which shall be paid to the genuine depositors in the most transparent manner and on proper identification and on submitting proof of their deposits and proof of their claims and to be deposited in their respective bank accounts directly.
 - (ii) The disbursement shall be supervised and monitored by Justice R. Subhash Reddy, Former Judge of this Court with the able assistance of Shri Gaurav Agarwal, learned Advocate, who is appointed as Amicus Curiae to assist Justice R. Subhash Reddy as well as the Central Registrar of Cooperative Societies in disbursing the amount to the genuine depositors of the Sahara Group of Cooperative Societies. The manner and modalities for making the payment is

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to be worked out by the Central Registrar of Cooperative Societies in consultation with Justice R. Subhash Reddy, Former Judge of this Court and Shri Gaurav Agarwal, learned Advocate.

- (iii) Rs. 15 lakhs per month be paid to Justice R. Subhash Reddy, Former Judge of this Court and Rs. 5 lakhs per month be paid to Shri Gaurav Agarwal, learned Amicus Curiae towards their honorarium.
- (iv) We direct that the amount be paid to the respective genuine depositors of the Sahara Group of Cooperative Societies out of the aforesaid amount of Rs. 5,000 Crores at the earliest, but not later than nine months from today. The balance amount thereafter be again transferred to the "Sahara-SEBI Refund Account".

4. The present I.A. stands disposed of in terms of the above.

Headnote prepared by: Ankit Gyan
(Assisted by: Aarsh Choudhary, LCRA)

Result of the case: I.A. disposed of.