

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 26/03/2018

Appeal No.68 of 2018

Sribas Chandra Das
Chakraborty Para,
22 No. Sonarpur,
District : 24 Parganas (South),
West Bengal – 743 358.

... Appellant

Versus

1. Securities and Exchange Board of India
Plot No.C4-A, 'G' Block,
Bandra Kurla Complex,
Bandra (East),
Mumbai – 400 051.
2. Whole Time Member
Securities and Exchange Board of India
Plot No.C4-A, 'G' Block,
Bandra Kurla Complex,
Bandra (East),
Mumbai – 400 051.
3. IDOL India Projects Limited
28, Pranabananda Road,
1st Floor, Post Office Garia,
Kolkata – 700 084.
4. Bappadiya Mazumdar
Byasali Road,
17, Sonarpur, Dist. 24 Parganas (South),
West Bengal – 743 369.
5. Ajoy Kumar
88, Nai Saray Vard No.11,
Anchal – Biharsharif,
Nalanda, Bihar,
Pin – 803 101.

... Respondents

Mr. Om Narayan Rao a/w Mr. Saikat Ray Chowdhury, Advocates
for the Appellant.

Mr. Mustafa Doctor, Senior Advocate a/w Mr. Pulkit Sukhramani and
Ms. Vidhi Jhawar, Advocates i/b The Law Point for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer
Dr. C.K.G. Nair, Member

Per : Justice J.P. Devadhar (Oral)

1. This appeal is filed to challenge the order passed by the Whole Time Member ("WTM" for short) of Securities and Exchange Board of India ("SEBI" for short) on December 21, 2017. By that order, IDOL India Projects Limited ("company" for convenience) and its directors including the appellant are directed to refund the money collected through the redeemable preference shares from the investors with interest @ 15% per annum and further the company and its directors including the appellant are restrained from accessing the securities market, directly or indirectly, till the amounts are refunded with interest.

2. Basic grievance of the appellant is that by a letter dated 19th October, 2016, personal hearing fixed on 20th October, 2016 was postponed by SEBI, but the next date of hearing was not communicated. In such a case, it is submitted that the ex-parte order passed against the appellant deserves to be set aside.

3. It is contended on behalf of SEBI that on 15/10/2017 it had published in two newspapers viz. Times of India, Kolkata and Anand Bazar Patrika stating therein that the next date of hearing is fixed on 6/12/2017.

4. Having given specific notice to the appellant fixing personal hearing on 20/10/2006 and again having personally intimated to the appellant that the hearing fixed on 20/11/2016 is postponed, in our opinion, SEBI is not justified in fixing the next date for personal hearing by way of an advertisement in the newspapers.

5. In these circumstances, we quash and set aside the impugned order qua the appellant and restore the matter back to the WTM of SEBI for passing fresh order on merits and in accordance with law.

6. However, it is made clear that directions contained in para 43(d) and (h) of the impugned order dated December 21, 2017 shall continue to be in force till fresh order is passed by SEBI. Appellant is directed to furnish list of his assets to SEBI within one week from today.

7. Appeal is disposed of in the aforesaid terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Dr. C.K.G. Nair
Member

26/03/2018
prepared & compared by-dg