

# SUPREME COURT OF INDIA

Jagriti Upbhogta Kalyan Parishad

Vs.

Union of India (Uoi)

(J Verma, S Majmudar and B Kirpal JJ.)

17.11.1997

## ORDER

1. This matter has been pending in this Court for quite some time. The fact that such a matter had to be entertained by this Court itself is a serious reflection on the nature of functioning of the government agencies concerned whose job primarily it is to ensure that the things complained of in this writ petition do not happen and if they do then the wrongdoers are identified and dealt with in accordance with law correcting the aberrations in the working of the system which have enabled a few persons as alleged in the writ petition to do several acts largely detrimental to public interest. We had hoped that after the matter was entertained by this Court and notice was issued also to the Central Government, the agencies of the Central Government would be activated at least then and this Court would not be required to make any specific order for getting the needful done since it is primarily for the Executive to correct this aberration. However, we find that nothing significant has been done by any of these agencies so far inasmuch as there is no indication given as yet on behalf of the Central Government of any step being taken to even examine the action, if any, required to be taken for exercise of its powers under the Companies Act. The allegations made in this writ petition, if found to be true, suggest the mismanagement in the affairs of the Company and, therefore, irrespective of the outcome of this writ petition, that is a matter requiring independent examination by the authorities concerned.

2. The learned Additional Solicitor General informs us that on account of the pendency of this writ petition, the agencies of the Central Government appear to have deferred taking any definite steps to await the outcome of this writ petition. To say the least, we are surprised if this is the cause for their

inaction. In the first place such a matter was not required to be brought to the Court to invoke the judicial process inasmuch as it was primarily for the Executive authorities concerned to deal with this matter. It was complete inaction on their part which was the occasion for the filing of this writ petition and, therefore, the Court invoking its jurisdiction under Article 32 read with Article 142 of the Constitution to find a proper solution in a matter of this kind involving large public interest and a very large number of persons whose interest appears to have been adversely affected on account of the alleged acts and omissions of the Company in question. We had expected that at least after this Court had taken cognizance of this matter, the Executive process would be activated so that the needful is done by the agencies concerned of the Government and the Court is not called upon to issue any specific direction or make orders for achieving the desired results. We are constrained to place this on record on account of the existing situation even now.

3. An affidavit has been filed on behalf of the Company and some documents have also been produced pursuant to our order dated 20-10-1997. The contents of these documents do not give a clear picture of the kind required by our order dated 20-10-1997. In these circumstances, we consider it appropriate to appoint a Chartered Accountant to examine the accounts of the Company and give its report with particular reference to the details sought from the Company in our order dated 20-10-1997. M/s. A.F. Ferguson & Co., Delhi is appointed for the purpose. The fees and expenses are to be paid by the Company. A sum of Rs. 5 lakhs on account be deposited by the Company within two weeks.

4. A copy of the orders made by this Court and copy of the writ petition be supplied to the Chartered Accountants. Their report is to be given taking note of the contents of the writ petition and all other documents and the orders made in the writ petition within 10 weeks. In the meantime, the fixed assets (mentioned at pp. 253-54 of the paper-book) of the Company would not be alienated or in any manner encumbered by the Company nor any third-party interest be created therein.

5. We also direct that an affidavit of a senior officer be filed on behalf of the Central Government giving details of the action, if any taken by the Central Government or its agencies in this matter.

6. List after the report is submitted by the Chartered Accountants.