

**SUPREME COURT OF INDIA**

Pranab Kumar Pal

Vs.

LTZ. Investment Pvt. Ltd.

C.A.No.2654 of 2009

(Dr. Arijit Pasayat and V.S. Sirpurkar JJ.)

20.04.2009

**JUDGEMENT**

**Dr.Arijit Pasayat, J.**

1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Delhi High Court. By the impugned Judgment the High Court held as follows:

“1. In respect of this contract awarded by Tui-Nordic to Across India, Across India shall file its statement of account every month giving the income/receipts and expenditure on the said project.

(2) It shall also give every three months, statement indicating the progress in the said project (3) Across-India and/or Mr. Pal shall jointly and severally furnish security of Rs.2.85 crores with the CLB to its satisfaction, so that in the event the petition succeeds and it is held that these appellants have made unlawful gains at the cost of the company, the company is able to recover the said loss without any further process. In such form such a security is to be given is to be decided by the CLB.

(4) CLB would be entitled to put the appellant to such other similar terms, as it thinks fit, in order to protect the rights of the respondents herein.”

3. By order dated 23.1.2006 certain clarifications were made.

4. Factual position as highlighted by the appellant is as follows:

“The Respondent No. 1 filed a Petition before the Company Law Board under Sections 398, 402, 403, 235 and 237 of the *Companies Act, 1956* (in short the `Act') alleging inter alia, diversion of corporate opportunity by the appellant herein. The Company Law Board vide its Order dated 09.06.2005 held that it prima facie finds

that a possible corporate opportunity had been taken away from the Respondent No.1 company and thereafter directed that the Respondent No.1 should nominate three Directors on the Board of Respondent No. 10 company and that status quo be maintained. The Company Law Board further directed that the Petitioner should be restrained from resigning as a Director of the Respondent No.2 company.

The appellant being aggrieved by the said Order filed an Appeal before the High Court being Co. A. (SB) No. 12 of 2005 and Respondent No.10 company filed an Appeal being Co. A. No.(SB) 13 of 2005. After hearing, the High Court vide its composite Order dated 05.12.2005 in Co. A. No. (SB) No. 12 of 2005 and Co. A. No.(SB) 13 of 2005 set aside the Order dated 09.06.2005 passed by the Company Law Board. The High Court has further held that the appellant has a right to resign as a Director of the Respondent No.2 company. However, several conditions have been imposed by the High Court. Pursuant to the said Order, the appellant resigned on 12.1.2006. Thereafter the Respondent No.1 filed a Clarification Application which was disposed of by the High Court vide the impugned Order dated 23.01.2006, by holding that "it is also informed that he has already resigned as a Director. It is made clear that his resignation would come into force on the date security is accepted by the CLB. This CA is disposed of."

5. The appellant's stand is that he is gravely prejudiced by the impugned orders dated 05.12.2005 and 23.01.2006 which is completely antithetical to the freedom of employment of an individual enshrined in Section 27 of the *Indian Contract Act, 1872* (in short 'Contract Act') read with Section 14 and Section 41 of the *Specific Relief Act, 1963* (in short 'Specific Relief Act') in that it purports to fetter the same by the imposition of conditions such as the provision of security.

6. After hearing learned counsel for the parties we dispose of the appeal with the following directions:

“(1) CLB shall decide the matters afresh within a period of three months from today.

(2) All issues placed before the parties shall be decided by the CLB.

(3) The directions to deposit as given by the High Court will be subject to the decision of CLB.

(4) The contempt proceedings shall remain in abeyance till the decision is given by CLB.”

7. We make it clear that we have not expressed any opinion on merits because of the protection given by this Court.

8. The appeal is accordingly disposed of.