

**BEFORE THE NATIONAL COMPANY TRIBUNAL
HYDERABAD BENCH, AT HYDERABAD**

**CP.No.04/425/HDB/2017 in
CP NO.69/2015**

Date of Order: 20/03/2017

Between:

1. Mr IVS Raju, Managing Director,
Aswani Power Projects (P) Ltd.,
502, Srinilaya Estate
Ameerpet, Hyderabad

....Petitioner

AND

1. Aswani Power Projects Private Limited,
502, Srinilaya Estate,
Ameerpet, Hyderabad.

2. Mr.K.Subba Reddy, Director,
B-102, Ameya Residency
Madhuranagar
Hyderabad – 500038

Mr. M. Dattu Vara Prasad Rao, Director
H.No.31, Survey No.267/1 & 262/2,
Luxura Greens, Opp. Kendriya Vidyalaya
Bowenpally, Secunderabad – 500011

4. Mr. I Vijay Kumar Raju, Director,
26 C, Tower-1, The Belchers
No.89, Pok Fu Lam Rd,
Pk Fu Lam, Hongkong

5. Mr. I Sinivasa Vinod Varma, Director,
B-204, Ramky Towers
Gachibowli, Hyderabad

....Respondents



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OF THE ORIGINAL**

Parties present

Counsel for the Petitioner

: Shri G. Bhupesh, Advocate
:
Shri IVS Raju in Person

Counsel for the Respondent

: Shri B. Dhanaraj, Advocate

CORAM;

Hon'ble Mr.Rajeswara Rao Vittanala, Member (J)
Hon'ble Mr.Ravikumar Duraisamy, Member (T)

ORDER

(AS PER RAJESWARA RAO VITTANALA, MEMBER (J))

1. The present Contempt Petition bearing CP No.4/2017 is filed by Shri IVS Raju, under Section 10 to 12 and other applicable provisions of Contempt of Courts ACT, 1971, by seeking directions to hold the Respondents guilty of the contempt of the orders of the Hon'ble Tribunal and punish the Respondents for gross violation of the orders of the Hon'ble Tribunal dated 11/11/2016 passed in CP No.69 of 2015 (TP.No.82/HDB/2016) and pass such order or orders as this Hon'ble Tribunal may deem fit and proper in the said circumstances of the case.
2. Heard Shri G.Bhupesh, Learned Counsel for the Petitioner, and Shri B. Dhanaraj, Learned Counsel for the Respondents.
3. The brief facts, as mentioned in Contempt Petition, are as follows:-
 - (a) The Petitioner has filed CP No.69/2015 and the same was disposed of by an order dated 11.11.2016, by, inter-alia, directing Respondent No.1 Company to allot shares equivalent to share application money received from the Petitioner and also from others, if any, who have invested in the Respondent No.1 Company; to continue the Petitioner as Managing Director; to involve him in the affairs of the Company and utilize his experience for the better management of Company affairs etc.
 - (b) In pursuant to above directions, the Petitioner issued notices on 23/11/2016, calling for a Directors Meeting on 02/12/2016.



Accordingly, meeting was held. It is alleged that the Respondents have opposed the order passed by this Tribunal during the meeting and made the following endorsements in the attendance register:-

"The resolution made by the majority of the Directors, has been given to Mr. IVS Raju. But, he has rejected to receive the same and asked us to send by registered post. We have asked him to give the common seal of the Company for which he denied to give.

Coming to the shares allotment, he has misguided the Court as well as the Directors. The truth is that (1) Mr. CV Srinivas Reddy has given an amount of Rs. 12,50,000/- towards share application money on 02/07/2013. (2) Mr P. Murali Krishna has paid an amount of Rs.12,50,000/- on 9/7/2013. Both the above amounts, he has included as his own share application money. We are ready to sign on any day to allot the shares to the individuals only but not for others. We are ready to allot 2,81,000 shares to Mr IVS Raju and balance 12,500 shares to CV Srinivas Reddy and P. Murali Krishna, another 12500 shares each worth Rs.10/-. We are also ready to sign the share certificates as per the bank statement of Aswani Power Project Pvt Ltd as when they are ready."



4. A reply dated 2nd March, 2017, was filed on behalf of Respondents No. 2 to 5 by, inter-alia, contending as follows:-
 - (a) In pursuant to the order passed by this Tribunal, the Respondents discussed among themselves to implement the order of this Tribunal. Further, the Petitioner issued notices on 23/11/2016 to convene a meeting to allot him shares.

- (b) After discussing the issue with the 4th Respondent, it was proposed to allot shares in terms of the orders of this Tribunal. The Company stated to have received from the Petitioner, the following amounts, as share application money.

a	8/4/2013	IVS Raju (S.Application)	Receipt	Rs. 50,000
b	6/5/2013	IVS Raju (S.Application)	Receipt	Rs. 10,00,000
c	7/5/2013	IVS Raju (S.Application)	Receipt	Rs. 10,00,000
d.	8/5/2013	IVS Raju (S.Application)	Receipt	Rs. 3,10,000
e	2/7/2013	IVS Raju (S.Application)	Receipt	Rs. 4,50,000
		Total		Rs. 28,10,000

This amount entitled for allotment of total 2,81,000 shares at a nominal value of Rs. 10/- each.



- (c) It is contended that in order to comply with directions of Tribunal, Board of Directors of the Company has passed resolution on 01.12.2016, by, inter-alia resolving to allot shares equivalent to the share application money received by the Company and consequently allotted shares to investors namely IVS Raju (Petitioner) 28,10,000, M. Dattu Varaprasada Rao, 1,00,000 and K. Subba Reddy 1,00,000. However, it is contended that there after the accounts of Company were checked and found that there was no share application money received from the Petitioner.
- (d) Therefore, the Respondents contend that they have sincerely tried to allot shares to the Petitioner provided share application money was received by the Company. In the absence of share application, the petitioner is not entitled for allotment of shares as per said Board Resolution. The allegations/contentions made by the Petitioner are baseless and not tenable.

5. The Learned Counsel for the Petitioner has filed a rejoinder dated 18th March, 2017, by denying the contentions of Respondents. He has asserted again that he has invested a total amount of Rs.49,98,561/- including the amount of Rs.10,00,000/- being the amount returned to P. Muralikrishna and M/s S.V.S. Biotech Pvt. Ltd. He tried to explain as to how the amount invested by him was spent for the Company.
6. After examining various contentions of both parties along with documents filed in their support, the main grievance raised in Contempt petition is non-allotment of shares as directed by the Tribunal. As stated supra, the Tribunal's direction with regard to share allotment to the petitioner is concerned, it is conditional i.e subject to receiving share application money. Admittedly, the Tribunal has not given any findings with regard to the quantum of investment of Petitioner into the Company. However, it is surprising to note, that after passing a Board Resolution on 01.12.2016, allotting shares to Petitioner, they have verified accounts of the Company to see whether share application money was actually received by the Company or not. Whereas the Respondents should have verified bank accounts before passing any Resolution to allot shares. The Respondents have filed a copy of balance sheet as on 31/03/2014 along with their reply, which shows share application money pending allotment is 'Nil', whereas for the previous financial year as on 31/03/2013, share application money pending allotment was Rs. 63,40,000/-.
7. The Petitioner has tried to explain about the share application money in his rejoinder. However, since scope of contempt petition is limited to question (s) of violation of orders passed by a court of law, that too intentionally and deliberately, we are not convinced that there is a violation of orders of this Tribunal passed in the instant case. In the instant case, admittedly, there is no finding given by the Tribunal with regard to the payment of share application money by the Petitioner. Therefore, we cannot go into the disputed question of receiving share application money in the Contempt



petition. Hence, there is no contempt committed by the Respondents as alleged by the Petitioner and it is liable to be dismissed.

8. In view of the above facts and circumstances of the case, CP No. 4/425/HDB/2017 filed in CP No. 69/2015 is hereby dismissed.

No order to costs.



Sd/

RAVIKUMAR DURAISAMY
Member (T)

Sd/

RAJESWARA RAO VITTANALA
Member (J)

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68

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*Orders Received by the
Registry : 12-06-2017*