

THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

I.A. 176 OF 2022

In

C.A. 3428 OF 2018

Under Rule 11 of NCLT Rules 2016

Pradeep Puri

...Applicant

V/s

The Union of India

... Respondent

In the matter of

C.P. No. 3638/MB/2018

Union of India

...Petitioner

V/s.

Infrastructure Leasing & Financial
Services Limited & others

... Respondents

Order delivered on: 16.02.2024

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Mr. Piyush Joshi, Advocate

For the Respondent : Mr. Aditya Sikka, Advocate

ORDER

Per:

1. This Company Application IA 176/2022 is filed by Mr. Pradip Puri in the Company Petition (IB) No. 3638 of 2018 ("Petition") seeking an order from this Tribunal seeking directions for discharge of the Applicant, who is Respondent No. 316 in Company Petition No. 3638 of 2018 pending adjudication before this Tribunal. The Applicant has also prayed for any such other order as is deemed fit and proper under the circumstances.

2. The Applicant states that the Applicant is suffering since 03.12.2018 due to the Interim orders passed in the captioned proceedings, even when no specific allegations have ever been made against the Applicant.
 - 2.1. It is important to note that in December 2019, the lookout circular (LOC) issued against the Applicant was removed by the Union of India. Therefore, this itself demonstrates that the Applicant was no longer a material party in the proceedings against ITNL/ IL&FS case and hence, in the interest of justice, the captioned Application be allowed and the Applicant be discharged from the captioned Company Petition.

3. The Union of India has filed reply stating that the Applicant was impleaded into the captioned Petition on the basis of the fact that (i) the Applicant was a director on the board of various key subsidiaries of IL&FS for long period of time; (ii) these subsidiaries were being investigated by the SFIO; and (iii) various illegalities and/or fraudulent conduct of business in respect of these entities was clear from the face of the record. It is also submitted that apart from IL&FS Transportation Networks Limited (ITNL), the Applicant was a director on the board of the other companies in the IL&FS Group, the investigation in respect of

which is still going on. It is also submitted that the investigations Report in respect of ITNL has been submitted by SFIO and directions to launch prosecution have been issued by MCA. These proceedings are pending before the learned Trial court. Accordingly, the Applicant should not be discharged unless the investigation report is placed before this Tribunal for consideration to take appropriate decision in relation to involvement of the Applicant.

4. Heard learned Counsel and perused the materials available on record.
 - 4.1. On perusal of the Application, it is noted that the Applicant has made the withdrawal of lookout circular as the basis of discharge stating that after filing the investigation report in the ITNL, the said withdrawal was ordered. However, it is the case of Union that prosecution is still under Trial stage. Besides, the Applicant is Director under 6 other companies of IL&FS group and remains so for a period ranging from 1 to 3 years.
 - 4.2. We also find that Union has already informed this Tribunal that after adoption of the SFIO report in ITNL case, the Respondents who are not found guilty of involvement in the investigation report shall be discharged by filing suitable application in so far as their involvement in affairs of ITNL is concerned. It is undisputed fact that a mammoth financial fraud had take place in the affairs of IL&FS and group companies and the Union of India had filed a Petition against the Directors of IL&FS and its group companies as well as persons having key role in the management of affairs of IL&FS group.
 - 4.3. This Bench is of considered view that withdrawal of lookout circular is based on the cooperative conduct of the applicant in so far as the investigation is concerned and the decision to withdraw cannot be

equated or tantamount to discharge from the allegations which are still under investigation.

4.4. In view of this we do not find any merit in the contention and dismiss this Application i.e. IA 176/2022 as premature.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)