

**IN THE COURT OF SHRI HASAN ANZAR,
SPECIAL JUDGE, PC ACT (CBI-03),
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

CBI Vs. Rakesh Kumar Jain @ R.K. Jain & Ors.

R.C. No. 18(A)/13

C.C. No. 327/2019

11.07.2024

ORDER

Application of the applicants/accused persons namely Rakesh Kumar Jain (A-1) and Reema Jain (A-2) for release of share certificates for the purposes of de-materialisation of shares.

1. The brief relevant facts for disposal of the present application are that CBI, ACB, New Delhi registered an FIR dated 02.08.2013 bearing No. RC 2013-A-0018 against the applicants and in furtherance thereof, final report under section 173 Cr.P.C. dated 13.05.2016 was filed by the prosecuting agency. During investigation, prosecuting agency seized several documents from the applicants/accused including share certificates purported to be in the name of A-1 & A-2. It is urged that different names mentioned in the share certificates are that of accused no. 2. It is contended that physical share certificates relied upon by the prosecution in the charge sheet were admitted by the applicants during the admission/denial of documents and the applicants also do not dispute the ownership of share certificates issued in their favour and the plea of the same is also reiterated in the application.

2. It is also contended that vide Circular dated 02.12.2020 physical share certificates shall cease to have any value after 01.04.2023 unless the shares are converted into Demat of shares and encashing of share

certificate is no longer possible. It is also contended that vide SEBI's guidelines dated 03.11.2021, it is mandatory for the shareholder holding a share in physical form to furnish details to the Registrar & Transfer Agent of the company. The present application is filed by the applicants seeking release and conversion of physical share certificates into dematerialized form as the physical share certificates form part of the court record, and the details of the shares are provided in paragraph 8 of the application at page no. 3 & 4.

3. It is also contended that some of the share certificates were in the name of Manju Rani/Manju Jain who is none but Reema Jain (A-2). It is also contended that the applicants/accused persons have not disputed the physical share certificates and are ready and willing to abide by all the conditions.

4. Reply to the application has been filed on behalf of the CBI in which the stand of the CBI is that the share certificates for which the applicants/accused have prayed for the release are the relied upon documents D-229 to D-241, D-243 to D-248 and D-251 to D-254 and share certificates are the case property and is under the custody/control of the court. It is contended that the confiscation or otherwise share certificates having monetary value is the subject matter of trial before the court and hence the request of the applicants/accused persons cannot be entertained. It is contended that if the share certificates are released to the applicants/accused persons for the purpose of converting the physical shares into the Demat share, the applicants/accused persons may pledge or sell them.

5. It is also contended on behalf of the applicants/accused persons that share certificates at Sr. No. 1 & 2 (Piramal Enterprises Ltd) and at Sr. No. 21 (Rupin Ltd.) were issued after the check period, whereas share certificates at Sr. No. 4 & 6 (Piramal Healthcare Ltd.), 15 & 22 (Lakme Ltd.), 23 & 24 (Torrent Pharmaceutical Ltd) were before the check period. The share certificates at Sr. No. 3 (Piramal Glass Ltd.), 5 (Piramal Healthcare Ltd.), 7 (Kojam Fininvest Ltd.), 8 (DCM Shriram Industries Ltd.), 9 (Trent Limited), 10 (Lupin Limited), 11 (Maharashtra Seamless Ltd.), 12 (Alpha Drug India Ltd.), 13 (Gujrat Glass Ltd.), 14 (Lupin Ltd.), 16 & 17 (Torrent Pharmaceutical Ltd.), 18 (Kojam Fininvest Ltd.), 19 (Max India Ltd.) and 20 (Piramal Life Sciences Ltd.) pertain to the check period. It is also contended on behalf of the applicants/accused persons that the shares were procured from the bonafide income of the applicant/accused and were wrongly seized by the CBI in the present case.

6. On 18.05.2024, a clarification was also obtained from the applicants/accused persons as share certificates were showing the name of Manju Rani and Reema Rani. Pursuant to which, an affidavit was filed by A-2 to the effect that she is known by the names of Manju Rani, Manju Jain and Reema Rani alongwith the copy of the Gazette of India dated 22.04.2006 in this regard was also filed on behalf of A-2 and one of the share certificate is in the name of applicant/A-1.

7. A status report was also filed by the CBI pursuant to the affidavit and Gazette notification of the applicant. In the status report filed by the CBI, it is contended that :

“On 30.05.2024, accused Reema Jain had filed an affidavit before this court declaring Reema Jain is the same person who is also known as

Manju Rani, Manju Jain and Reema Rani. Name of the applicant as A-2 mentioned in the charge sheet filed by the CBI on 13.05.2016 is Reema Jain @ Manju Jain. The name (*sic*) of the applicant was also supported by affidavit as well as by the Gazette of India dated April 22 – April 28, 2006 (Registered No. DL(N)-04/0007/2003-05).”

8. I have considered the submissions made on behalf of both the sides and perused the application, reply and the relevant documents annexed thereto.

9. 24 share certificates of different companies were seized during the investigation in the names of Manju Rani, Manju Jain and Reema Rani and Rakesh Kumar Jain and it is also apparent from the record that some of them were prior to check period and some of them were post check period and some of them were during the check period. Since the trial of the case is in progress and therefore, the present application is being considered on wholesome basis so as to rule out any technical objection or some facts emerging during the trial. Since the stand of the applicants is that Manju Rani, Manju Jain and Reema Rani are one and same person and this stand was stated and specified by the applicant/accused no. 2 in the affidavit filed in respect of the two names, the official gazette has also been annexed. The applicant was having different names, was also not disputed by the CBI and the charge sheet itself refers that the share certificates were seized from the applicant/accused, however, at this stage the applicant(s) asserted their claim over the share certificates and to deal with them appropriately with the respective companies.

10. The precise relief as sought in the present application is to permit the applicants to take the aforesaid 24 physical share certificates of

different values for the purposes of de-materialization and reference was also made to Circulars dated 02.12.2020 and 03.11.2021 issued by SEBI. Perusal of both the circulars as referred in the application would indicate that the same provide a methodology by which the physical share certificates are to be de-materialized by different Companies/Registrar and the circulars details the various formalities that are required to be fulfilled. A Gazette notification dated 27.10.2023 by Ministry of Corporate Affairs was also filed on behalf of the applicant in which by exercise of power 29 r/w Section 469 of the Companies Act 2013 (18 of 2013) the rule was amended. As per the amended Rule 9, every private company was obligated to issue the securities in de-materialized forms and to facilitate the de-materialization of all securities. Amended Sub Rule 2 provides that the bearer of the share warrants are required to surrender their warrants to the company and to get the same de-materialized. Sub Rule (3) further provides that if a bearer of the share warrant does not convert the share warrants into de-materialized form then such a share shall be transferred to Investor Education & Production Fund under section 125 of the Act.

11. It appears from the perusal of the circulars as well as notification dated 27.10.2023 issued by Ministry of Corporate Affairs that any bearer who is in possession of the physical share is required to convert the share into de-materialized form. The objection of the CBI is to the effect that different share certificates in physical form are the case properties and thus, same cannot be given to the applicant(s) and it is also submitted that the share certificates were seized during the investigation of disproportionate case against the accused persons and since the share certificates of the case properties and being the material

piece of evidence, the same cannot be given to the applicants/accused persons, whereas the applicants/accused persons asserts that if they are not permitted to de-materialized the share then in the event of acquittal they shall suffer the loss.

12. It is necessary to observe that physical share certificates were seized from the accused persons during investigation and during the trial, they have not disputed the possession of the share certificates and rather, claimed its ownership by submitting that same were purchased from their hard earned money. Even during the admission and denial, the physical share certificates were admitted on behalf of the applicants/accused persons.

13. The share certificates have been admitted on behalf of the applicant/accused persons and once the same have not been disputed, this court sees no reasons not to provide the same to the applicant *albeit* with some conditions as non-conversion of the physical share certificates would cause extreme prejudice to the applicant/accused persons and no prejudice would be caused to the prosecution as the certified copy of the physical share certificates can always be placed into the record and moreover, the appropriate directions in respect of the monetary benefits can always be passed to protect the interest of the prosecution so as to ensure that during the trial, the value of the share certificates are not transferred to any third person, or to the benefit of the accused persons during the trial.

14. In view of the above-mentioned discussions, the above captioned application is allowed subject to the following terms and conditions :

i) The applicant shall place on record and file the certified copies of the 24 share certificates of different values in the court and upon filing of the same, the physical share certificates shall be released to the applicant/accused persons against an acknowledgment.

ii) The applicants/accused persons shall file *superdaginama* of the current value of the shares as on date.

iii) The applicant/A-2 shall also file an FDR of Rs. 2.5 Lakhs in the court and applicant/A-1 shall file FDR of Rs.50,000/-.

iv) It is further ordered that applicant shall not transact the subject shares from the Demat Account which is furnished in the court and an undertaking in this regard shall be filed on behalf of the applicant. The applicant(s) shall file an undertaking to the court indicating in clear terms in respect of the ownership of the share certificates. The applicants/accused persons shall place on record the Demat Account Number to the court and shall also file monthly statement.

v) The applicant/accused shall provide the Demat Account and also intimate, in writing, to the court as well as the investigating officer in respect of the date of the deposit of the respective share certificates to the respective Companies/Registrar & Transfer Agent of the companies Piramal Enterprises Ltd., Lupin Ltd., Piramal Healthcare Ltd., Lakme Ltd., Torrent Pharmaceutical Ltd., Piramal Glass Ltd., Kojam Fininvest Ltd., DCM Shriram Industries Ltd., Trent Limited, Maharashtra Seamless Ltd., Alpha Drug India Ltd., Gujrat Glass Ltd., Max India Ltd. and Piramal Life Sciences Ltd. or their representatives.

vi) The applicants/accused persons while submitting the application for conversion of share into de-materialized form to the respective companies shall annexed the copy of the order passed by this court.

vii) It is further ordered that the respective Companies/Registrar & Transfer Agent of the companies,

as referred above, shall retain the physical copy of the share certificates with them and shall not part or destroy with any person without express permission of the court.

viii) The CBI is also directed to intimate the order of this court to the respective Companies/Registrar & Transfer Agent of the companies as referred above.

ix) It is specified that this order be not construed as a direction for conversion of the physical share into dematerialized form in the name of the applicant(s). The same shall be dealt by the appropriate Authorities/Registrar & Transfer Agent of the companies as referred above, as per the extant rules or regulations.

15. With these observations, the present application stands disposed of.

Copy of the order be provided *dasti* to both the parties.

(Announced in the open court
today i.e. 11.07.2024)

(Hasan Anzar)
Special Judge (PC Act) CBI-03,
RADC/New Delhi/11.07.2024