(2021) 08 SEBI CK 0050

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 896, 897 Of 2021, Appeal No. 525 Of 2021

Rana Kapoor APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 06-08-2021

Acts Referred:

Citation : (2021) 08 SEBI CK 0050

Hon'ble Judges : Tarun Agarwala, Presiding Officer;M. T. Joshi, J

Bench : Division Bench

Advocate : Somasekhar Sundaresan, Abishek Venkataraman, Rushin Kapadia, Pradeep Sancheti, Mihir Mody, Arnav Misra, Mayur Jaisingh

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated July 06, 2021 whereby the appellantâ??s request for inspection of documents and to

cross-examine certain witnesses has been rejected.

2. We have heard Shri Somasekhar Sundaresan, the learned counsel for the appellant and Shri Pradeep Sancheti, the learned senior counsel for the

respondent.

3. We find from the copy of the Writ Petition filed before us that a Writ Petition was filed by the appellant before the Bombay High Court in which

one of the prayers prayed by the appellant was for inspection of certain documents. The Writ Court while disposing of the Writ Petition by an order

dated May 04, 2021 noted that the appellant was granted inspection of the documents relied upon by Securities and Exchange Board of India (â??SEBIâ? for convenience) and further noted that if there was any further document on which SEBI was relying upon, then inspection of those

documents shall be provided to the appellant by SEBI. The statement of the counsel for the respondent SEBI was also recorded to the effect that the

decision on the show cause notice shall be taken only on the basis of the documents relied upon by the SEBI in the show cause notice.

4. In view of the aforesaid, we find that the appellantâ??s request for inspection of certain documents by letter dated March 19, 2021 and again by a

letter of April 26, 2021 are part of the inspection of documents which was considered by the Writ Court and therefore at this stage it is not appropriate

for the appellant to contend again before this Tribunal that inspection has been denied of certain documents. Once the matter has been considered by

the Writ Court it is not appropriate for the appellant to choose another forum for raising the same relief. Accordingly, we are of the opinion, that the

prayer of the appellant for requesting inspection of the documents cannot be considered as the same has been considered by the Writ Court.

5. The second prayer of the appellant is with regard to the cross-examination of the witnesses whose statements are alleged to be relied upon by the

respondent. We find that till date the appellant has not filed any reply to the show cause notice. We are of the opinion, that the question of cross-

examination of witnesses will only arise after a reply is filed by the appellant. A statement has been made by the learned counsel for the appellant that

the reply would be filed within two weeks from today.

6. In view of the aforesaid, we direct the appellant to file a reply of the show cause notice on or before August 20, 2021. Thereafter it would be open

to the appellant to move a fresh application for cross-examination of the witness/ witnesses. If such an application is filed indicating reasons for cross-

examination, the same shall be considered by the Adjudicating Officer and appropriate orders will be passed by giving reasons without being

influenced by the earlier order passed by him on July 06, 2021.

7. The Appeal and the Misc. Applications are accordingly disposed of.

8. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a

certified copy of this order could be issued by the Registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally

signed copy sent by fax and/or email.

