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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 15 July 2025
Pronounced on: 3 November 2025

\+ W.P.(C) 4123/2025, CM APPLs. 19111/2025 & 19112/2025

INFRASTRUCTURE WATCHDOG .....Petitioner
Through: Mr. Prashant Bhushan, Mr. Pranav Sachdeva, Mr. P. Rohit Ram, Mr. Abhay Nair and Mr. Sanyam Jain, Advs.

versus

UNION OF INDIA AND ORS .....Respondents
Through: Mr. Amit Tiwari, CGSC with Mr. Himanshu Bidhuri and Mr. Ayush Tanwar, Advs. for Union of India

Mr. N. Venkatraman, ASG with Mr. Nishant Awana, Mr. Abhishek Singh and Mr. S.K. Rout, Advs. for R-4 with Mr. Gaurav Tyagi DGM (Legal) and Mr. Vaibhav Yadav, CM (SAMB, Delhi)

Mr. R. Venkataramani, Attorney General of India with Mr. Alok Kumar, Ms. Parnika Jolly and Mr. Tarun Kumar, Advs. for R5/PNB with Mr. E.J. Jerome, AR for PNB

Mr. Mukul Rohatgi and Mr. Rajiv Nayar, Sr. Advs. with Mr. Sidhant Kumar, Mr. Saurabh Seth, Mr. Arpit Singh Arora, Ms. Devanshi Singh, Mr. Akshit Mago, Mr. Om Batra, Ms. Molly Agarwal and Mr. Pratyush Srivastava, Advs. R-6

Mr. Ravinder Agarwal, Mr. Manish Kumar Singh and Mr. Vasu Agarwal, Advs. for CVC

Mr. Anupam S. Sharma, SPP with Ms. Harpreet Kalsi and Mr. Vashisht Rao, Advs. for CBI

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

% **JUDGMENT**
03.11.2025

C. HARI SHANKAR, J.

1. The contours of public interest litigation, premised on allegations of perceived corruption in purely commercial dealings between private parties, are required to be delineated by us in this writ petition.

2. We have heard Mr. Prashant Bhushan, learned Counsel for the petitioner, Mr. R. Venkataramani, the learned Attorney General for the Punjab National Bank[1], Mr. N. Venkatraman, the learned Additional Solicitor General[2] for the Bank of Maharashtra[3], Mr. Amit Tiwari, learned CGSC for the Union of India through the Ministry of Finance[4], Mr. Mukul Rohatgi and Mr. Rajiv Nayar, learned Senior Counsel for Asian Hotels (North) Pvt Ltd[5], Mr. Ravinder Agarwal for the Central Vigilance Commission[6] and Mr. Anupam S. Sharma for the

[1] "PNB" hereinafter
[2] "ASG" hereinafter
[3] "BOM" hereinafter
[4] "MOF" hereinafter
[5] "AHN" hereinafter
[6] "CVC" hereinafter

Central Bureau of Investigation[7], of whom the CBI and CVC are *pro forma* parties, and have not contested the writ petition.

3. The respondents have, in one voice, opposed issuance of notice in the writ petition, submitting, *inter alia*, that even entertainment of this writ petition would throw the entire system of *bona fide* commercial dealings through banking channels into complete disarray.

4. Detailed written submissions have also been filed by the petitioner, the Union of India, the BOM, the SBI and AHN.

Facts

5. Case of petitioner in the writ petition

5.1 The case set up by the petitioner in the writ petition, is as follows.

5.2 AHN availed loans from six banks, including BOM and PNB. Four of the banks sold their loans to third parties, and the said loans are not subject matter of the writ petition. The petition is concerned with the loans advanced by BOM and PNB to AHN.

5.3 AHN owns the Hyatt Regency Hotel[8] at Madame Bhikaji Cama Place, New Delhi. On 3 June 2021, BOM wrote to AHN, agreeing to extend, to AHN, the moratorium on loans put in place during the

[7] "CBI" hereinafter
[8] "the Hotel" hereinafter

COVID-19 pandemic. The said letter referred to the valuation of the Hotel by two valuers, B.D. Sahni[9] and Ratan Dev Garg[10]. Sahni valued the hotel at ₹ 2600.12 crores and Garg valued the hotel at ₹ 2651.39 crores.

5.4 Pleading that it was not financially in a position to liquidate the loans availed by it, AHN approached the Bank for a One Time Settlement[11] in 2024. PNB appointed Garg as the valuer to value the hotel, which AHN offered as security. Garg valued the hotel at ₹ 970.11 crores. The net value, after deducting property tax payable to the Municipal Corporation of Delhi[12], was ₹ 865.77 crores. The valuation was done a day after inspection of the property.

5.5 On 30 September 2024, AHN also approached BOM for an OTS. It valued the hotel, in the said proposal, on the basis of the valuation done by M/s Cushman & Wakefield, valuers, at ₹ 1019.50 crores from which, after excluding tax payable to the MCD and Tower A, the remainder was valued at ₹ 750.66 crores. 25.39% of this amount was attributable to BOM, which worked out to ₹ 190.59 crores. AHN offered an amount of ₹ 245 crores for OTS, to BOM.

5.6 The proposals for OTS, advanced by AHN, was accepted by BOM, whereas the response of PNB was awaited at the time of filing the writ petition.

[9] "Sahni" hereinafter
[10] "Garg" hereinafter
[11] "OTS" hereinafter
[12] "MCD" hereinafter

5.7 The petitioner alleges that the hotel was undervalued, in the negotiations relating to the OTS between AHN and BOM on the one hand and PNB on the other, resulting in loss to the public exchequer. The allegation of undervaluation is predicated on the following facts, as pleaded in the writ petition:

(i) For paying PNB, AHN availed a loan from Evaan Holdings Pvt Ltd[13]. EHPL had taken money from Panipat Projects Pvt Ltd[14]. PPPL was promoted by Mr. Naveen Jindal, who is a Member of Parliament. This shows that the hotel was not a bad asset, which could be said to have reduced in value.

(ii) The uppermost four floors of the hotel were sold by AHN to IndusInd Bank for ₹ 350 crores in 2020, which worked out to ₹ 72917 per sq ft.

(iii) In or around 2021, AHN received an offer through JLL India, a global real estate firm, for the shopping arcade in the hotel, for ₹ 400 crores. The shopping arcade spanned 58000 sq ft. The offer, therefore, was @ ₹ 69000 per sq foot. However, the offer did not materialise.

(iv) NBCC (India) Ltd sold offices at Nauroji Nagar, adjoining the Hotel, @ ₹ 62261 per sq foot, as per a press release issued by NBCC on 16 August 2024.

[13] "EHPL" hereinafter
[14] "PPPL" hereinafter

5.8 These are the sole allegations in the writ petition.

5.9 The petition alleges that complaints made by the petitioner on 13 March 2025 and 14 March 2025 to the CVC and on 14 March 2025 to the Minister of Finance, BOM, Central Board of Direct Taxes, CBI, Securities & Exchange Board of India, and the Enforcement Directorate, met with no response.

5.10 The petitioner has, therefore, instituted the present writ petition as a public interest litigation, praying that

(i) the OTS dated 24 January 2025 between AHN and BOM be quashed, and

(ii) the MOF, CBI and CVC be directed to investigate into the OTS deals entered into by AHN with PNB and BOM.

6. Additional Affidavit and Supplementary Affidavit

6.1 The petitioner followed up the writ petition with an additional affidavit and a supplementary affidavit, incorporating further allegations and assertions against the respondents.

6.2 In its additional affidavit, the petitioner referred to a proposal extended by AHN, in early 2021, for a One Time Resolution[15] of its loans. In the said proposal, AHN indicated the market value of the hotel to be ₹ 2600 crores. Additionally, it was submitted that the hotel

[15] "OTR" hereinafter

had been allowed additional FAR[16] valued at ₹ 1000 crore, for which it was required to pay only ₹ 150 crores. It was further stated, by AHN, in the proposal, that AHN was promoted by Shiv Kumar Jatia and his son Amritesh Jatia[17], through their overseas holdings.

6.3 The additional affidavit further averred that the credit facilities extended to AHN were secured by the personal guarantees of the Jatias, but they were permitted to sell their shares to the Agrawal group and one N.R. Raval, thereby reducing their shareholding in AHN from 50.69% to 0.16%.

6.4 It was further reiterated, in the additional affidavit, that, in violation of the instructions dated 8 June 2023 of the Reserve Bank of India[18], requiring maximisation of recovery in the case of OTSs, recovery in the present case had been minimised by undervaluation of the assets of AHN and permitting the Jatias to sell their stake in the hotel, despite having provided Personal Guarantees.

6.5 Para 9 of the Additional Affidavit purports to disclose the sources of the information on the basis of which the writ petition had been filed, as required by the rules applicable for filing of Public Interest Litigations[19] before this Court. Suffice it to state that, of the various annexures to the writ petition which are not public documents or to which the petitioner was not a party, it is averred that letters dated 3 June 2021 and 24 January 2025 from BOM to AHN, letter

[16] Floor Area Ratio
[17] "the Jatias" hereinafter
[18] RBI
[19] "PILs" hereinafter

dated 30 September 2024 from AHN to BOM, filed as Annexures P-1, P-4 and P-3 to the writ petition were "received from a reliable whistleblower". The identity of the "reliable whistleblower" is not disclosed.

6.6 Via the Supplementary Affidavit, the petitioner has further alleged that, prior to execution of the OTS Agreement with AHN on 24 January 2025, BOM had invited bids for sale of non-performing accounts on 5 September 2023 and 29 November 2023. However, owing to fixation of high Reserve Prices and limited time provided for making payment by any proposed bidder, no bidder came forward. BOM, however, later entered into the OTS Agreement dated 24 January 2025 with AHN for a much lower amount of ₹ 263.45 crores.

6.7 The Supplementary Affidavit also raised allegations with respect to diversion of investments made by AHN in Fineline Hospitality and Consultancy Pte Ltd, Mauritius and Newtown Hospitality Pvt Ltd in 2011 and 2014. We are not inclined to enter into these aspects in the present petition, for various reasons. Firstly, they travel widely beyond the prayers in the writ petition. Secondly, they are being raised before this Court without the petitioner having chosen to address any representation to any authority, or even include these allegations in the complaints to the MOF, the CVC and the CBI, to which the petition alludes. This Court cannot be converted into an inquiry authority, to inquire into such issues without the competent statutory authorities having first been approached in that regard. Thirdly, these pertain to transactions much prior to the advancing of

loans by the Banks to AHN, which is the basis of the grievance in the writ petition.

7. Stand of the BOM in its written submissions

7.1 The BOM, in its written submissions, pointed out that, as a consequence of the OTS executed between BOM and AHN, BOM had managed to recover 116% of the ledger balance. It is further pointed out that BOM has a two-tier system of consideration of OTS proposals by any distressed buyer. The proposal is first considered by a Settlement Advisory Committee[20] comprising a retired Judge of a High Court and a retired General Manager of another PSU bank. Any proposal which is approved by the SAC is further considered and approved by the Special Committee of the Board for Compromise[21], which comprises independent directors nominated by the RBI, the Government and the shareholders, apart from the managing director of the bank and both its executive directors. It is after such an intensive degree of scrutiny that an OTS is approved. The OTS of AHN was also approved after scrutiny by the said committees. The sanction and approval of the OTS was, therefore, in accordance with the directives of RBI and the policy of BOM.

7.2 It is contended that the writ petition essentially seeks to use this Court to initiate a roving inquiry into contractual financial matters without any substantial basis for suspecting any wrongdoing therein. It is reiterated that 116% of the ledger balance, to the extent of ₹

[20] "SAC" hereinafter
[21] "Special Committee" hereinafter

263.45 crores, was recovered by BOM which cannot, by any measurable standards, be regarded as suspect. As such, it is contended that the present case is one of recovery beyond expectations, and not one of a haircut, as the petitioner would allege.

7.3 The written submissions further point out that approval of an OTS is an involved exercise, which requires consideration of several factors including enforceability, the time that would be taken to recover the dues by any other mode of recovery, the net present value of the property put up as security and the net present value of the OTS proposal. There is no basis, whatsoever, to even suspect, much less hold, that BOM exercised its commercial wisdom irregularly, as to justify grant of the prayers in the writ petition. The writ petition essentially seeks institution of an inquiry into a commercial contract between independent private parties, without any justification whatsoever. Such an attempt has specifically been frowned upon, by a coordinate Bench of this Court, in its judgment in ***Dr. Subramanian Swamy v Union of India***[22]***.***

7.4 A formal objection has also been raised by BOM to the effect that the writ petition does not disclose the sources of the information on which it has been based, as required by Rule 9(i)(c) of the Delhi High Court (Public Interest Litigation) Rules 2010[23]. Merely stating that the information was provided by a "reliable whistleblower" does not satisfy the mandate of the said provision.

[22] **2024 SCC OnLine Del 5706**
[23] "the PIL Rules" hereinafter

7.5 It is further pointed out that the prayers in the writ petition have been rendered infructuous, as the OTS stands implemented, no dues certificate has been issued by BOM and the charge of BOM over the assets of AHN has been released in terms of the directions issued by this Court in its order dated 5 May 2025 in WP (C) 5887/2025.

7.6 Apropos the allegation of discrepancy between various valuation reports issued in respect of the hotel, BOM submits that the JLM, consisting of six lenders, had obtained valuation of the hotel from two different valuers, M/s R.K Associates[24] and M/s Kanti Karamsey and Co[25]. These valuations were the basis of the decision to approve the OTS suggested by AHN. RKA and KKC had also examined the earlier valuation reports of Garg and Sahni. Various errors in the said reports were found to exist. *Inter alia,* it was noticed that the valuation reports prepared by Garg and Sahni treated the hotel property as commercial property with no user restrictions, whereas there was a restriction of use as a hotel, and also failed to notice that Tower A of the property had not been mortgaged to the banks, and included the said Tower in their valuation. These considerations substantially altered the valuation of the property.

7.7 As per the policy of the BOM, the two latest valuation reports, obtained from two different panel valuers, were taken into consideration after excluding Tower A. Once these factors were taken into account, no substantial reduction in the valuation of the hotel was found to exist.

[24] "RKA" hereinafter
[25] "KKC" hereinafter

7.8 It is, therefore, submitted by BOM that the entire case of considerable reduction in the value of the hotel and of a large haircut having been suffered by the banks is, therefore, imaginary.

7.9 It is also pointed out that, in its order dated 6 February 2024 in CS (Comm) 128/2022, this Court had appointed M/s Jain Jagawat Kamdar and Co. as the forensic auditor of AHN and that the reports submitted by the said forensic auditor clearly concluded that there were no siphoning or diversion of funds or fraudulent transactions involved.

7.10 In these circumstances, BOM submits that the writ petition, which is merely an exercise in adventurism, based on wholly imaginary and speculative assertions and allegations, ought to be dismissed with costs, so as to maintain the sanctity of the banking system and ensure protection of the morale and confidence of banks in taking *bona fide* commercial decisions.

8. Stand of PNB in its written submissions

8.1 PNB, in its written submissions, echoes BOM's stand that the writ petition is a frivolous exercise of speculative adventurism, which deserves to be thrown out at the outset. It is pointed out, at the very commencement of the submissions, that the OTS offer of AHN was approved by PNB *vide* its letter dated 15 October 2024, whereafter AHN paid the entire OTS amount and a no dues certificate was issued by PNB to AHN.

8.2 It is further pointed out that PNB had engaged three independent valuers, namely Garg, M/s Sapient Services Pvt Ltd and M/s Universal Consultants and Valuers LLP to provide a fresh valuation of the hotels for consideration of the OTS proposal extended by AHN. The realisable value of the property was worked out at ₹ 876 crores. The reasons for change in valuation were highlighted by the various valuers and included

(i) exclusion of FAR of 3.75 in 2024 as the Airport Authority of India had rejected additional height clearance,

(ii) levy of a charge of approximately ₹ 232 crores on the hotel by MCD,

(iii) overdue property tax claim of ₹ 104.34 crores demanded by MCD,

(iv) valuation of the property as hotel property instead of commercial property,

(v) over ₹ 300 crores necessary refurbishments required to maintain sustainable and steady business levels and

(vi) outstanding litigations.

8.3 Relying on the judgments of the Supreme Court in ***Balco Employees Union v Union of India***[26] and ***Vivek Narayan Sharma v Union of India***[27], PNB contends that courts do not possess the requisite wherewithal to examine intricate decisions of economic policy or considerations which are relevant while entering into commercial contracts in such cases. Merely on imaginary allegations, it is submitted that the Court process cannot be vitalized to conduct a

[26] **(2002) 2 SCC 333**
[27] **(2023) 3 SCC 1**

roving and fishing enquiry. For this purpose, PNB further relies on ***State of MP v Narmada Bachao Andolan***[28] and ***Manohar Lal Sharma v Narender Damodar Das Modi***[29]. It is submitted, in conclusion, that entertainment of such a writ petition would impact all OTS proceedings and cause incalculable public harm.

9. Stand of AHN in written submissions

AHN has, in its written submissions, broadly echoed the submissions of PNB and BOM.

Analysis

10. We have no doubt in our mind that, with the expansion of the scope of public interest litigation, it is open to any public spirited citizen to petition the Court, bringing to its notice acts of financial impropriety or corruption which may impact the public at large. If the Court is petitioned by any such *competently* and *properly instituted* writ petition, it becomes the duty of the Court to take cognizance and, if necessary, even institute an investigation into the matter.

11. There is, however, as always, a flip side to the coin. In its zeal to take cognizance of such allegations, the Court should not permit itself to be petitioned by entities, even if purportedly acting in public interest, who are unfamiliar with all the relevant facts, and seek to initiate investigation, by the CBI or any other investigating agency, on

[28] **(2011) 7 SCC 639**
[29] **(2019) 3 SCC 25**

the basis of speculative apprehensions. The reason, to our mind, is obvious. Issuance of notice in a petition seeking investigation, into the affairs or a corporate entity by the CBI is a serious matter. It throws the affairs of the entity itself into disarray, and may seriously impact, not only its reputation, but also its corporate standing, within India and at times globally.

12. We are acutely conscious of the fact that we live in an age of social media overreach. We say so without any fear of being accused of exaggeration. Every aspect of public life, especially where it is subject to judicial scanner, is up for debate in the public domain. Speculations abound. Reputations, built over years, crumble in an instant. Molehills metamorphose into mountains, in the virtual universe. While these considerations cannot impact the decision of the Court to institute an investigation into corporate affairs, where misconduct or malfeasance in such affairs is brought to the notice of the Court in properly instituted proceedings, the Court should, to our mind, be wary of setting the criminal – or even investigative – ball rolling, against any entity, corporate or otherwise, merely on being petitioned by speculators, howsoever well-intentioned they may be. The Court has to be aware of the ease with which it is possible, in the times in which we live, to reduce the reputation as well as financial and social wherewithal of any entity, corporate or *homo sapiens*, to rubble. The damage so caused would, almost in every case, be irreparable. The right to reputation, it must be remembered, has been consistently read, by the Supreme Court, into Article 21 of the

Constitution of India.[30]

13. Still more circumspect has the approach of the Court required to be, where the petitioner alleges complicity, in financial misfeasance, by nationalized banks. Unwarranted entertainment of such petitions is, as the learned Attorney General and the learned ASG submit, likely to seriously prejudice the entire system of advancing of loans to distressed entities by financial institutions, which would have an adverse economic impact on the entire financial corporate infrastructure of the country. The banking sector constitutes the backbone of our economy – as it does the economy of every nation. Easy allegations of financial impropriety by banks should not be entertained by courts. Banks, acting *bona fide*, cannot be made answerable to the judiciary regarding the economic expediency of their decisions, except where the attention is drawn, by the court, to cogent material which seems to point in that direction. Even in such cases, it is the duty of the court to apprise itself of the actual facts, by calling on the banks and other associated or involved enterprises to answer the allegations, before setting the inquisitorial ball rolling.

14. Viewed from the above perspective, it becomes immediately apparent that the present proceedings are purely speculative in nature. The petitioner has, merely on the basis of a valuation report submitted in respect of the hotel, presumed that the property was undervalued and, what is worse, that BOM and PNB were complicit in that regard. As against this, the stance adopted before us by PNB and BOM

[30] **Subramanian Swamy v Union of India, (2016) 7 SCC 221**

indicate that several valuers' opinions were taken before the OTS proposed by AHN was approved, and the proposal was examined by committees at two layers, of which the first tier also included the participation of a retired High Court Judge.

15. Mr. Prashant Bhushan exhorted this Court to issue notice to the respondents so that all these facts could come on affidavit. We are not inclined to do so. As we have already observed, issuance of notice in such matters can have a serious debilitating effect on the entire banking and commercial infrastructure of this country, as it sets the judicial ball rolling. If a high value commercial transaction is sought to be subject matter of a public interest litigation, by persons who are uninformed of all the relevant facts, and the Court is to embark on a roving inquiry, the damage to public interest could be incalculable. It is only, therefore, where the Court is of the view that the public interest litigant has approached the Court after apprising itself of all the facts, and there is apparent want of transparency from the side of respondent, that Court would itself look into the matter.

16. The Supreme Court has also held, in ***Rajeev Suri v DDA***[31] and ***Jagdish Mandal v State of Orissa***[32] that it is not open to anyone to institute a public interest litigation questioning the commercial expediency of private contracts, even if one of the parties to the contract is a public sector undertaking like a bank, without, in the first instance, approaching the concerned administrative authorities in that regard. In the present case, the only such exercise, conducted by the

[31] **(2022) 11 SCC 1**
[32] **(2007) 14 SCC 517**

petitioner, is by way of complaints addressed on 11 March 2025, 13 March 2025 and 14 March 2025 to various authorities. Without even awaiting a response to the said complaints, the petitioner has approached this Court less than a month after the complaints were submitted, on 2 April 2025. The addressing of the complaints to the authorities, therefore, appears to have been a mere formality, so as to justify approaching this Court and instituting a roving inquiry into the affairs of the respondents.

17. The issue in fact stands covered by the judgment of a Division Bench of this Court in ***Subramanian Swamy***. The nature of the litigation, in that case, is similar to that in the present. The petitioner, unarguably a citizen of eminence, and a recognized expert in economics, approached this Court by means of a Public Interest Litigation. It was alleged by the petitioner in that case that fraudulent acts had been committed by Max Life Insurance Company Ltd[33] and Max Financial Services Ltd.[34], in allowing their shareholder Axis Bank Ltd[35] and its group companies to make undue profits and illegal gains from purchase and sales of equity shares of Max Life in a non-transparent and illegal manner.

18. It was specifically submitted, before this Court, that the said respondents were attempting to acquire shareholdings in Max Life by using their experience in the insurance sector to manipulate records *and valuations* to serve their interests. The exact stand of the

[33] "Max Life" hereinafter
[34] "Max Financial" hereinafter
[35] "Axis Bank" hereinafter

petitioner before this Court in the said case is thus reflected in paras 2 and 3 of the judgment, thus:

> "2. Mr. Rajshekhar Rao, learned senior counsel for the Petitioner states that the Respondents No. 5 to 9 are attempting to acquire shareholding in Max Life, an insurance company, by unfair and non-transparent ways using their experience in Insurance sector to manipulate the records and valuations to serve their interests. He states that Axis Bank in accordance with Insurance Regulatory and Development Authority of India (hereinafter referred to as 'IRDAI') Regulations, 2015 is acting in the capacity of a corporate agent for Max Life and is also a shareholder in Max Life. He states that as per the disclosure made on 09th August, 2023, the Board of Directors of Axis Bank/Respondent No. 5 approved the infusion of Rs. 1612 crores in Max Life/Respondent No. 9 by way of preferential allotment, resulting in Axis Bank's direct stake in Max Life increasing to 16.22% and collective stake of Axis entities increasing to 19.02% as proposed in letters issued to stock exchanges. He states that Axis Bank sold its stake of 0.998% shares of Max Life in March 2021 to Max Financial and Mitsui Sumitomo International (hereinafter referred to as 'Sumitomo') for INR 166/- per share and subsequently, in March-April 2021 itself, Axis Bank and its group entities acquired 12.002% shares from Max Financial at price range of INR 31.51 - INR 32.12 per share. He states that Axis Bank has gained substantially while selling shares as the selling price has been exponentially more than the purchasing price which is contrary to the directions issued by the IRDAI in its letter dated 28th January, 2021.
>
> 3. He states that promoters of the insurer i.e. Max Financial and Sumitomo have been engaging in transfer of shares of the insurer to Axis Bank at a price, which is substantially lower than the fair market value and subsequently buying the same share from Axis Bank at a substantially higher price."

19. Dealing with the issue, this Court observed, in para 10 of the judgment, that the petitioner before it was challenging purely commercial transactions undertaken by and between private entities, involving acquisition of shares of Max Life, which was itself

regulated by the Insurance Regulatory and Development Authority of India.

20. The Court went on to hold, in paras 11 to 16 of the judgment, thus:

> "11. This Court is of the view that where a field is regulated and where an appropriate regulator has either already taken note of and addressed the transaction or is investigating the said transaction, the Court in writ jurisdiction should not interfere. In such a situation, the regulator must be allowed to do its job.
>
> 12. Further, the writ of Mandamus being a public law remedy may be issued against a private body discharging public functions, however, it cannot be used for enforcement of purely private contracts between parties.
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> 13. The tendency to examine commercial transactions from the perspective of reasonableness in Article 226 jurisdiction is to be eschewed as it would make every valuation, sale, purchase of shares or property or every merger, acquisition, de-merger, subject to judicial review.
>
> 14. If according to the petitioner, there is a criminality involved in the aforementioned transactions, as seems to be unarticulated submission, the petitioner is always at liberty to file appropriate proceedings in accordance with law.
>
> 15. This Court also finds that though a personal allegation has been made against Chairperson SEBI, yet neither the writ petition has been amended nor she has been impleaded as a respondent. This Court is of the view that even if the Chairperson of SEBI has had a professional relationship with Max group in the past, it will not take away the Regulator's obligation and duty to decide the matter in accordance with law. Also, if the final decision of SEBI is in any manner influenced or affected because of the alleged erstwhile professional relationship of its Chairperson, the Petitioner shall surely be entitled to agitate the said ground at that stage.
>
> 16. Consequently, keeping in view the fact that the Petitioner challenges private commercial transactions between commercial entities as well as the fact that shareholders of the public limited company have approved the transactions and in addition insurance and banking sectors are regulated and the independent sectoral

> regulators, namely, SEBI and RBI are seized of the controversy, this Court is of the view that it should not act as a 'super regulator' and interfere in exercise of Article 226 jurisdiction."

21. The situation before us in the present writ petition is visually identical to that which was before the Court in ***Subramanian Swamy***. The petitioner is challenging a purely commercial contract executed between BOM and PNB with AHN. The writ petition does not dispute the fact that AHN did not possess the financial wherewithal to liquidate the loans availed from PNB and BOM.

22. The grievance of the petitioner is with respect to OTSs executed by AHN with PNB on the one hand and with BOM on the other. It is alleged that, while executing the said OTSs, the valuation of the hotel was unreasonably depressed, resulting in huge haircuts having to be borne by the banks.

23. We have already noted the grounds on which this allegation has been made in the writ petition as in para 5.7 *supra*. A bare glance at the said grounds would reveal that they are entirely insufficient to make out even a *prima facie* case of any kind of financial impropriety in the acceptance of the OTSs as proposed by AHN, by PNB or BOM or in the valuation of the hotel for the said purpose. There is not a single credible basis for the said allegation, as would even persuade us to call for a response from the respondents in that regard. The fact that AHN had availed a loan from EHPL, which had in turn borrowed from PPPL which was promoted by Navin Jindal, cannot constitute any basis to surmise on the value of the hotel as an asset or to doubt

the fact that its value had depreciated. The sale price of the upper floors of the hotel is of 2020, which is more than four years prior even to the proposals for OTS as advanced by AHN to PNB and BOM. Similarly, the offer received through JLL India by AHN is also of 2021, and never materialized. The only other basis for the allegations in the writ petition is the price at which NBCC sold offices from a plot of land adjoining the hotel. The nature of the offices is not known. The nature of the plot of land is not disclosed. The purpose of sale is indeterminate.

24. We may also observe, here, that earning of a profit in every commercial transaction into which they embark cannot be regarded as a solemn legal duty of banks. All that is expected is that all efforts should be made to ensure that the necessary checks, enquiries, and due diligence is observed in such cases. Once this is done, the transaction cannot be called into question, in a court, on the ground that it was not financially expedient, or that it resulted in a loss which might have been avoided, had another avenue been explored.

25. That said, in the present case, we are satisfied, from the material placed on record by the BOM and PNB, that the requisite degree of financial prudence was exercised before entering into OTSs with AHN. The amounts earned by the banks, as a consequence, were far in excess of the predicted ledger balance. The decisions were taken after subjecting the valuation of the hotel to multiple degrees and stages of examination and assessment. Various valuers were involved

and not, as the petitioner assumes in the petition, Garg and Sahni alone.

26. The petition has, therefore, been instituted without the petitioner familiarizing itself sufficiently with the facts.

27. For this Court to call upon the respondents to respond in such a case, the petitioner is required at least to set up a credible challenge to the decision of the respondent. Mere speculations, doubts and suspicions cannot vitalize this Court into calling for a response in such cases. The Court has to be alive to the result, even if notice were to be issued to the respondents. As the learned Attorney General as well as the learned ASG pointed out, entertaining such petitions could throw the entire banking system into jeopardy, and disincentivise banks and financial institutions from entering into *bona fide* commercial transactions.

28. Without meaning, in any manner, to doubt the *bona fides* of the present petitioner, the Court has also to be alive to the fact that entertainment of a litigation such as this would provide fodder for unscrupulous quasi-public interest litigants to call high value commercial transactions into question and seek investigations into such transactions by the CVC, CBI etc. The possibility of blackmail, in the garb of public interest litigations, looms large. The deleterious and debilitating effect that any such directions could cause, can well be imagined. Every such transaction would become vulnerable to be dragged into Court at the instance of persons who claimed to be public

spirited citizens, with fragmentary information, on the basis of which a case for investigation by agencies such as the CVC and CBI is sought to be made out. We are clear in our minds that such attempts must be nipped in the bud. The Court should satisfy itself that a case for taking cognizance is made out, rather than select the easy way out by mechanically issuing notice and calling for responses.

29. As has been noted by the Division Bench of this Court in ***Subramanian Swamy***, there are, in place, sufficient safeguards to deal with such situations. Regulatory authorities, who can be approached in such cases, exist. It is only after such authorities are approached with all the material that the litigant has with him, and the authorities failed to answer, or the response of the authorities is thoroughly unsatisfactory, that the Court can be sought to be vitalized in such cases.

30. Before concluding, we may also take note of the judgment of the Supreme Court in ***State of Jharkhand v Shiv Shankar Sharma***[36] and in ***Kunga Nima Lepcha v State of Sikkim***[37] on which the Supreme Court placed reliance in ***Shiv Shankar Sharma.***

31. In ***Kunga Nima Lepcha,*** the petitioner alleged that the Chief Minister of Sikkim had amassed assets disproportionate to his known sources of income at the cost of the Govt. of India and the Govt. of Sikkim. The petitioner, therefore, sought an investigation into the matter by the CBI. The prayer was declined by the Supreme Court,

[36] **(2022) 19 SCC 626**
[37] **(2010) 4 SCC 513**

observing, thus, in paras 14 to 17 of the decision:

> "14. In the present petition, the petitioners have made a rather vague argument that the alleged acts of corruption on part of Shri Pawan Chamling amount to an infringement of Article 14 of the Constitution of India. We do not find any merit in this assertion because the guarantee of "equal protection before the law" or "equality before the law" is violated if there is an unreasonable discrimination between two or more individuals or between two or more classes of persons. Clearly, the alleged acts of misappropriation from the public exchequer cannot be automatically equated with a violation of the guarantee of "equal protection before the law".
>
> 15. Furthermore, we must emphasise the fact that the alleged acts can easily come within the ambit of statutory offences such as those of "possession of assets disproportionate to known sources of income" as well as "criminal misconduct" under the Prevention of Corruption Act, 1988. *The onus of launching an investigation into such matters is clearly on the investigating agencies such as the State Police, Central Bureau of Investigation (CBI) or the Central Vigilance Commission (CVC) among others. It is not proper for this Court to give directions for initiating such an investigation under its writ jurisdiction.*
>
> 16. While it is true that in the past, the Supreme Court of India as well as the various High Courts have indeed granted remedies relating to investigations in criminal cases, we must make a careful note of the petitioners' prayer in the present case. *In the past, writ jurisdiction has been used to monitor the progress of ongoing investigations or to transfer ongoing investigations from one investigating agency to another. Such directions have been given when a specific violation of fundamental rights is shown, which could be the consequence of apathy or partiality on the part of investigating agencies among other reasons.* In some cases, judicial intervention by way of writ jurisdiction is warranted on account of obstructions to the investigation process such as material threats to witnesses, the destruction of evidence or undue pressure from powerful interests. *In all of these circumstances, the writ court can only play a corrective role to ensure that the integrity of the investigation is not compromised. However, it is not viable for a writ court to order the initiation of an investigation. That function clearly lies in the domain of the executive and it is up to the investigating agencies themselves to decide whether the material produced before them provides a sufficient basis to launch an investigation.*

> 17. It must also be borne in mind that there are provisions in the Code of Criminal Procedure which empower the courts of first instance to exercise a certain degree of control over ongoing investigations. The scope for intervention by the trial court is hence controlled by statutory provisions and it is not advisable for the writ courts to interfere with criminal investigations in the absence of specific standards for the same."
>
> (Emphasis supplied)

32. Thus, in ***Kunga Nima Lepcha,*** the Supreme Court held that, unlike cases where investigations by other agencies were already in progress, and a prayer was made to transfer the investigation to the CBI or the CVC, *a prayer for a direction to the CBI or CVC to initiate an investigation could not be sought in a writ petition*. There is, in the said decision, a clear proscription against the Court issuing such directions. It was also noted that Criminal Procedure Code – or in its present *avatar* the Bharatiya Nagarik Suraksha Sanhita – contains sufficient provisions to safeguard public interest in such cases.

33. ***Shiv Shankar Sharma*** was a case arising out of a purported public interest litigation instituted by the respondent Shiv Shankar Sharma[38] before the High Court of Jharkhand. Sharma alleged that the Soren family, of which the Chief Minister Mr. Hemant Soren was a member, had transferred huge amounts in the name of private respondents through shell companies. In connection with this, it was also alleged that, using his influence, Mr. Hemant Soren had managed to secure mining leases in his name by making belated applications for their renewal, and after the leases had lapsed.

[38] "Sharma" hereinafter

34. Relying, *inter alia,* on its earlier decision in ***Kunga Nima Lepcha,*** the Supreme Court held as under in ***Shiv Shankar Sharma:***

> "11. Regarding the first Writ Petition No. (PIL) 4290 of 2021 the allegations which had been made of money laundering and money being invested in shell companies are again mere allegations. The petitioner has actually sought an investigation by the Court. It prays for a writ of mandamus in this regard to the investigating agencies such as CBI or Enforcement Directorate to investigate. This in our view is again an abuse of the process of the court, as the petition is short of wild and sweeping allegations, there is nothing placed before the court which in any way may be called to be prima facie evidence. Moreover, the locus of the petitioner is questionable and the clear fact that he has not approached the court with clean hands makes it a case which was liable to be dismissed at the very threshold.
>
> *****
>
> 16. Public interest litigation was a novel form adopted by this Court in the late 1970s and the early 1980s to hear the grievances of the vast section of the society which were poor, marginalised and had no means to reach the Supreme Court for articulating their grievance. It was thus the public interest litigation which became the means by which a voice was given to this large voiceless section of our society. The strict procedures of the Court were dispensed in a PIL, and in its early stages a PIL could also be entertained on a mere letter, or a postcard! It is for these reasons it has also come to be known as epistolary jurisdiction.
>
> 17. This Court in ***Balwant Singh Chaufal***[39] while dealing with origin and development of PIL in this country has divided its growth into three phases which has been given in its para 43 as under : (SCC p. 427)
>
> > "*43*. … *Phase-I* : It deals with cases of this Court where directions and orders were passed primarily to protect fundamental rights under Article 21 of the marginalised groups and sections of the society who because of extreme poverty, illiteracy and ignorance cannot approach this Court or the High Courts.

[39] **State of Uttaranchal v Balwant Singh Chaufal, (2010) 3 SCC 402**

Phase-II : It deals with the cases relating to protection, preservation of ecology, environment, forests, marine life, wildlife, mountains, rivers, historical monuments, etc. etc.

Phase-III : It deals with the directions issued by the Courts in maintaining the probity, transparency and integrity in governance."

This Court then traced the abuse of the public interest litigation and observed that this important jurisdiction has come to be abused, at the hands of ill motivated individuals, busybodies and publicity seekers.

18. A reference was then made to ***BALCO Employees' Union v Union of India*** and ***Neetu v State of Punjab***[40]where frivolous cases filed as PILs were discouraged and even costs were imposed on the petitioner in such cases. The credentials of the applicant who files a PIL was held to be of extreme importance as also the correctness of the nature of information given by the petitioner which had to be clear, not vague or indefinite or even generalised. It was also held that nobody should be allowed to indulge in wild and reckless allegations, demeaning the character of others.

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36. Now let us see what are the nature of allegations which have been made by the petitioner in the PIL filed before the Jharkhand High Court. The petitioner alleges that one of the respondents who is the present Chief Minister of Jharkhand has amassed huge wealth by corrupt means by abusing his position as a Chief Minister and has invested this money in about 32 companies of which description has been given. The petitioner then gives details of these companies as to who are the Directors, etc. The respondent or his relatives are not the Directors of the companies. But then the petitioner states that he has information that he has been siphoning off this money and investing it in these shell companies through one Ravi Kejriwal who is allegedly a close associate of the Chief Minister.

37. The allegations of the respondent of money laundering through shell companies have not been supplemented by any kind of evidence, whatsoever. The names of persons who are allegedly responsible for the operation of these companies have been mentioned, but without producing any concrete evidence, it has

[40] **(2007) 10 SCC 614**

been stated that these persons are connected/close aides or related to the Chief Minister. Further, none of the companies have been made a party to the present PILs, before the Jharkhand High Court. Thus, an order is sought from the High Court to direct the Enforcement Directorate to investigate these so-called "shell companies" without even making the companies a party in the writ proceedings. It is also an admitted fact that in relation to present two PILs, no FIR or complaint has been filed with the police or any authority agitating the grievances and these petitions have been filed before the High Court, without availing the statutory remedies.

38. We are not for a moment saying that people who occupy high offices should not be investigated, but *for a High Court to take cognizance of the matter on these generalised submissions which do not even make prima facie satisfaction of the Court, is nothing but an abuse of the process of the Court.* The non-disclosure of the credentials of the petitioner and the past efforts made for similar reliefs as it has been mandated under the 2010 Rules further discredits these petitions. The petitioner in the PILs did not go with clean hands before the High Court. In our view, such a petition was liable to be dismissed at the very threshold itself.

39. *If the petitioner has a genuine reason to pursue the matter, he has his remedies available under the Companies Act or under other provisions of the law where he can apprise the relevant authorities of the misdeeds of the Directors or Promotors of the companies. But on generalised averments which are nothing but mere allegations at this stage, the Court cannot become a forum to investigate the alleged acts of misdeeds against high constitutional authorities. It was not proper for the High Court to entertain a PIL which is based on mere allegations and half baked truth that too at the hands of a person who has not been able to fully satisfy his credentials and has come to the Court with unclean hands.*

(Italics in original; underscoring supplied)

35. Thus, in ***Shiv Shankar Sharma,*** the Supreme Court has proscribed even taking of cognizance, by High Courts, of allegations of financial impropriety, based on flimsy material or material which is insufficient to justify institution of an investigation. The remedy with

the petitioner in such cases is to approach the concerned authorities and, thereafter, proceed in accordance with the established legal procedures.

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36. In cases in which the material placed on record by the purported public interest litigant is insufficient to justify the prayer for institution of an investigation by the CBI, CVC or any other such authority, the Court is, therefore, proscribed even from taking cognizance of the matter.

37. We have already set out, in detail, the reasons for our opinion that the present petition is merely in the nature of a shot in the dark, based on surmises, conjectures and assumptions.

38. The respondents have in fact questioned the bonafides of the petitioner. We do not propose to enter into that arena. What the petitioner is seeking from this Court is, however, clearly a roving inquiry, on the basis of skeletal facts, without being aware of the complete nature of the transactions which form subject matter of the petition.

39. We reiterate that the contents of the written submissions filed before us by the BOM and PNB and the submissions made at the Bar by the learned Attorney General and learned ASG have more than convinced us that there is no contumacious or culpable financial

impropriety in the decision of the PNB and the BOM to enter into the OTSs with the AHN.

40. Besides, the fact that, even otherwise, a writ court cannot set aside a private contract executed between the parties, as is prayed in the present petition, we are also of the view that no case for granting the prayer for institution of an investigation into these matters by the CBI, CVC or any other agency is made out.

41. Before bidding adieu, we may also take stock of an objection, by the BOM and PNB, predicated on Rule 9(i)(c) of PIL Rules. The Rule requires a specific averment, in the writ petition, as to the source of knowledge of the fact alleged. The respondents have contended that a mere reference to the source as "a reliable whistleblower" cannot satisfy the requirement of Rule 9(i)(c).

42. We are, *prima facie*, inclined to agree. The disclosure, under Rule 9(i)(c) of the PIL Rules, has to be a meaningful disclosure. In an extreme case, where, for example, disclosure might endanger the life or limb of the petitioner, the Court may permit the disclosure to be made in a sealed cover, or confidentially to the Court. There can, however, be no secrecy from the Court, and the reference to the source of the petitioner's information as a "reliable whistleblower" cannot, to our mind, be said to conform to the mandate of Rule 9(i)(c) of the PIL Rules.

Conclusion

43. For the aforesaid reasons, we do not find a case made out for issuance of notice in this writ petition.

44. The writ petition is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

NOVEMBER 3, 2025
AR/DSN