

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2743 OF 2014**

Financial Technologies (India) Limited
& Others

..... Petitioners.

V/s

The Union of India & Others

.....Respondents.

**ALONGWITH
WRIT PETITION NO.2985 OF 2014**

Mr. Ravi Sheth & Anr.

.....Petitioners.

V/s

Union of India & Others

.....Respondents.

**ALONGWITH
NOTICE OF MOTION (L) NO.69 OF 2015
IN
WRIT PETITION NO.2743 OF 2014**

Sanjeevan C.V. Joint Director
for Union of India

..... Applicant.

In the matter between

Financial Technologies (India)
Limited & Others

.....Petitioners.

V/s

The Union of India & Others

.....Respondents.

**ALONGWITH
NOTICE OF MOTION NO.33 OF 2015
IN
WRIT PETITION NO.2743 OF 2014**

Mr. Pravin Sawant & Others

.....Applicants.
(Interveners)

In the matter of

Financial Technologies (India)
Limited & Others

.....Petitioners

V/s

The Union of India & Others

..... Respondents.

**ALONGWITH
WRIT PETITION (L) NO. 115 OF 2015**

Mr. Jignesh Shah & Others

..... Petitioners.

V/s

The Union of India & Others.

.....Respondents.

**ALONGWITH
NOTICE OF MOTION (L) NO.73 OF 2015
IN
WRIT PETITION (L) NO. 115 OF 2015**

Paras Shah & Others

.....Applicants.
(Interveners)

In the matter between

Mr. Jignesh Shah & Others

..... Petitioners.

V/s

The Union of India & Others.

.....Respondents.

Mr. Abhishek Singhavi, Sr. Counsel a/w Mr. Amit Bhendari, Mr. T.K. Cooper, Ms. Shaleen Parikh, Mr. Nooruddin Dhilli, Ms. Namrata Rao i/b Amarchand & Mangaldas & S.A. Shroff & Co. for the Petitioners in Writ Petition No.2743 of 2014 and for Respondent No.4 in Writ Petition No.2985 of 2014.

Mr. D.D. Madon Senior Counsel a/w Mr. Amit Vyas i/b Economic Laws Practice in Writ Petition No.2985 of 2014.

Mr. Janak Dwarkadas, Senior Counsel i/b Amarchand Mangaldas & S.A. Shroff & Co. for the Petitioners in Writ Petition (L) No.115 of 2015.

Mr. Ranjit Kumar, Solicitor General a/w Mr. A.A. Ansari and Mr. A.S. Rao i/b Jay Bhatia for Respondent No.1 in Writ Petition No.2743 of 2014.

Mr. G.R. Sharma a/w Mr. D.P. Singh for Respondent No.1 in Writ Petition No.2985 of 2014.

Mr. Iqbal Chagla, Senior Counsel a/w Mr. Shiraz Rostomjee, Senior Counsel, Mr. Shyam Mehta, Senior Counsel, Mr. Chirag Balsara, Mr. Simil Purohit a/w Solicitor Mr. Jayesh Ashar & Solicitor Mr. Mihir Mody and Mr. Rushin Kapadia and Mr. Bhoomen Badani i/b K. Ashar & Co. for Respondent No.2 in Writ Petition No.2743 of 2014 and in Writ Petition No.2985 of 2014.

Mr. Virag Tulzapurkar, Senior Counsel a/w Mr. S.U. Kamdar, Senior Counsel, Mr. Ameet Naik, Anuja Jhunjunwala, Mr. Abhishek Kale, Mr. Vaibhav Bhure, Mr. Asadulla Thangal for Respondent No.3 in Writ Petition No.2743 of 2014, Writ Petition No.2985 of 2014 and Writ Petition (L) No.115 of 2015.

Mr. Gaurav Joshi, Mr. Piyush Raheja, Ms. Tanvi Gandhi, Ms. Nupur Desai i/b M/s. Markand Gandhi & Co. for Respondent No.4 in Writ Petition No.2743 of 2014.

Ms. Poornima Advani i/b Law Point for Respondent No.5 in Writ Petition No.2743 of 2014.

Mr. M.P.S. Rao, Senior Counsel a/w Bijal Mehta, Ms. Nidhi Shukla i/b Deven Dwarkadas & Partners for Respondent No.6 in Writ Petition No.2743 of 2014.

Ms. Rajani Iyer, Senior Counsel i/b Mr. Saubhabhrata Chakraborty for Respondent Nos. 7 to 11 in Writ Petition No.2743 of 2014.

Mr. E.P. Bharucha, Senior Counsel a/w Ms. Ferzana Behram Kamdin a/w Ms. Shinani Khanna i/b FZB & Associates for Intervener in Notice of Motion (L) No.73 of 2015. in Writ Petition (L) No.115 of 2015.

Mr. Mustafa Doctor, Senior Counsel a/w Mr. Akshay Patil, Ms. Pooja Kothari, Ms. Hiralal Thakkar i/b Federal Rashmikant for Intervener - Modern India Ltd.

Mr. Zubin Behramkamdin i/b Madekar & Co. for Intervener in Notice of Motion No.33 of 2015 in Writ Petition No.2743 of 2014.

**CORAM: V. M. KANADE &
REVATI MOHITE DERE, JJ.**

DATE: 4th February, 2015

P.C.:-

1. Respondent - Union of India has filed Notice of Motion for vacating the interim order of status quo and is also seeking further interim reliefs which are more specifically mentioned in the Notice of Motion. We have heard all the

parties at length on the question of continuation of the status quo order.

2. Mr. Singhavi, the learned Senior Counsel appearing on behalf of the Petitioners has reiterated the submissions which he has made on the earlier occasion i.e. on 27/11/2014. He has also relied on several judgments of the Apex Court in support of his submissions. Mr. Dwarkadas, the learned Senior Counsel appearing on behalf of the Petitioner in Writ Petition (L) No.115 of 2015 has accepted the submissions made by Mr. Singhavi the learned Senior Counsel appearing on behalf of the Petitioners in Writ Petition No.2743 of 2014 and he has also relied upon some additional judgments in support of his submissions.

3. The learned Solicitor General Mr. Ranjit Kumar appearing on behalf of Respondent - Union of India has submitted that the order which has been passed by the Central Government is a draft order and the Central Government has taken a prima facie view which has not yet been finalized. He submitted that all the contentions which have been raised by the Petitioners - Financial Technologies (India) Limited and its shareholders and NSEL can be raised before the Central Government and after hearing all the parties, final order shall be passed. He has submitted that, therefore, the order of status quo which has been granted

may be vacated.

4. Mr. Chagla, the learned Senior Counsel appearing on behalf of the Respondent - Forward Market Commission has invited our attention to Section 396 of the Companies Act. He has submitted that sub-section (4) of section 396 itself makes it clear that no order under section 396 can be passed unless sub-clauses (a), (aa) and (b) of sub-section (4) are complied with. It is, therefore, submitted that final order is not yet passed by the Central Government.

5. In our view, taking into consideration the submissions made by the learned Solicitor General appearing on behalf of the Respondent - Union of India and Mr. Chagla, the learned Senior Counsel appearing on behalf of Forward Market Commission, the Central Government may consider passing a final order after hearing contentions of Petitioners and Respondent - National Spot Exchange Limited and all other interested parties. Petitioners and all other interested parties may file their objections within thirty days and within four weeks thereafter Central Government may pass appropriate order after giving brief hearing to all the interested parties. It is, however, clarified that all contentions raised by the Petitioners - Financial Technologies ((India) Limited in this Petition and by the shareholders of NSEL and all other parties regarding jurisdiction of the

Central Government to issue the said order as also regarding challenge to the validity of the said sections are kept open and, therefore, we propose to keep these Petitions pending. It is further clarified that if any adverse order is passed, the same shall not be notified for a period of two weeks after the order is communicated to the Petitioner. It is clarified that Central Government may give brief hearing to the parties mentioned in section 396 of the Companies Act.

6. In view of the above, the order of status quo passed by us on 27/11/2014 is vacated. It is clarified that Central Government may pass such other orders which the Central Government deems fit and proper in accordance with law.

7. Notice of Motion (L) No.69 of 2015 taken out by Respondent - Union of India in Writ Petition No.2743 of 2014 is accordingly disposed of.

8. Notice of Motion (L) 73 of 2015 in Writ Petition (L) No.115 of 2015 though not on board is taken on board and the same is allowed and the applicants therein are allowed to intervene in this matter. The said Notice of Motion (L) No.73 of 2015 is accordingly disposed of.

9. Notice of Motion No.33 of 2015 in Writ Petition No.2743 of 2014 though not on board is also taken on board and the

same is allowed and the applicants therein are allowed to intervene in this matter. The said Notice of Motion No.33 of 2015 is accordingly disposed of.

10. The main Petitions shall be heard finally, if possible, at the admission stage. In the meantime, all the pleadings may be completed by the parties.

11. Stand over for 10 weeks. Liberty is given to the parties to apply for a fixed date of hearing.

(REVATI MOHITE DERE, J.)

(V.M. KANADE, J.)