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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2187 OF 2015**

Financial Technologies (India) Ltd.Petitioner
versus
State of MaharashtraRespondent

Mr. Ashok Mundargi, senior counsel with Mr. Vineet Naik, senior counsel, Mr. Abad Ponda, advocate along with Ms.Manik Joshi, Ms. Nimisha Rao and Ms. Pragya Khaitan i/b. M/s.Crawford Bayley and Co., advocates for the petitioner.

Mr. Avinash Avhad, Special Public Prosecutor for the State.

Mr. Sandeep R. Karnik, applicant in criminal application No.254 of 2015.

Mr. Bijal Mehta i/b. Mr.Devan Dwarkadas, a partner/intervenor.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 12th JUNE, 2015.

P.C.:

Heard Mr. Mundargi, learned senior counsel for the petitioner and Mr.Avhad, learned special public prosecutor for the respondent.

2. The petitioner has been declared as "not fit and proper person" by Forward Market Commissions which is a Regulatory Authority under the Forward Contract Regulations Act, 1952. In pursuance of this order, several Regulatory authorities including the Central Electricity Regulatory Commission, a quasi judicial body, has directed the petitioner to divest its shareholdings from India Energy Exchange Ltd.(for short "IEX") latest by 9th May, 2015 and this deadline is extended till 18th June, 2015.

3. The ACP and Chief IO, SIT, EOW, CB, CID, Mumbai, who is investigating the EOW CR No.89/2013 filed under Sections 409, 465, 467, 468, 471, 474, 477(A), 120(B) of the Indian Penal Code, 1860 read with Sections 3 and 4 of the MPID Act, 1999 has issued notice dated 28th February, 2015, to the petitioner pointing out that during the course of investigation it is revealed that the petitioner is the promoter/owner of NSEL and hold 99.9998% shares of NSEL and has received Rs.84 crores from NSEL, which is investor's money. By this notice, the petitioner is directed to:

1. To earmark the amount of Rs.84 crores and furnish the particulars of bank account wherein this amount is deposited.
2. Not to dispose of, alienate, encumber, part with possession of or create any third party right, title and/or interest in, upon or in respect of any of the assets of Financial Technologies (India) Ltd, its subsidiaries and its step down subsidiaries, except for the payment of statutory dues, amounts for the preservation, maintenance and protection of their assets and wages and salaries under intimation to the investigating agency.
3. Send immediately a list of all assets, investments and bank balances of Financial Technologies (India) Ltd., its subsidiaries and its step down subsidiaries.

4. Give details of all assets, investments, bank balances as on July 1, 2013 of Financial Technologies (India) Ltd., its subsidiaries and its step down subsidiaries and their status of usage thereafter and full details of usage of proceeds of sale of any asset, investment or income earned thereon.

5. To furnish a certified full list of all bank accounts, bank statements in hard and soft copies of all such accounts from 1st July, 2013.

The above said notice is impugned in the present petition.

4. Having considered the rival submission of learned senior counsel and learned special public prosecutor, we are of prima-facie opinion that direction No.2 issued under the impugned notice to the petitioner will prevent the petitioner from complying the orders of the quasi judicial authority. At the same time, we are of opinion that the interest of the investors are required to be protected. Hence, without going into the merits of the matter, we intend to protect the interest of the investors as well as permit the petitioner to comply with the order of the quasi judicial authority. We therefore, pass the following interim order :

1. Direction in the impugned notice dated 28th February, 2015 issued by the ACP and Chief IO, SIT, EOW, CB, CID, Mumbai, which is reproduced at serial No.2 above, is stayed on the condition that the petitioner shall

deposit before this Court an amount of Rs.84 crores from the sale proceeds of IEX, within a period of four weeks from completion of the sale.

2. The Registry is directed to invest this amount in any Nationalised Bank initially for a period of six months with further renewal as and when necessary.

5. This interim order is passed without prejudice to the rights and contentions of the respective parties and all points on merits are kept expressly open.

6. Stand over to 8th July, 2015.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)

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