



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
APPELLATE BENCH REGISTRY

BEFORE APPELLATE BENCH NO. III

In the matter of

Appeal No. 2 of 2008

Ali Akbar Jamani
Flat No 15, Hina Center
Rasala Road, Saddar
Hyderabad

Appellant

Versus

Joint Director (S.M.D)
Securities and Exchange Commission of Pakistan
NIC Building Jinnah Avenue, Islamabad.

Respondent

Date of Hearing

11-8-08

ORDER

Present:

For the Appellant:

Ali Akbar Jamani

Zulfiqar Ali Jamani
(Brother of the Appellant)

For the Respondent:

Mr. Amir Khan Afridi
Director (C.I)

Appeal No 2 of 2008

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1. This order will dispose of a, peal No. 2 of 2008 filed by Mr. Ali Akbar Jamani (the "Appellant") against the order dated September 17, 2008 ("Impugned Order") passed by Joint Director, Securities Market Division ("Respondent")
2. Ordinary shares of Pakistan Petroleum Limited ("PPL") were offered to general public by Privatization Commission, Government of Pakistan (the "Offerer"). Share subscription applications in this regard were invited by the Offerer from general public through bankers to the offer. Elixir Securities Pakistan (Pvt.) Ltd was appointed as consultant to the offer.
3. Elixir Securities Pakistan, vide letter dated September 15, 2004 furnished to the Commission list of such applicants who submitted applications for subscription of shares of PPL in violation of Section 18A of the Securities and Exchange Ordinance, 1969 ("Ordinance"). The Appellant's name appeared in the aforementioned list. Two applications bearing No. 07-01-3270 and No.04-1010-469 were submitted through account No. 3477-2 maintained with Askari Commercial Bank Ltd., Main Branch, Hyderabad and account No.1124 maintained with Bank Al Habib Limited, Saddar Branch, Hyderabad respectively. Both the applications were submitted under the same name, NIC number and father's name but with different addresses and signatures.
4. A show cause notice ("SCN") was therefore issued to the Appellant by the Commission under section 18A of the Ordinance calling upon the Appellant to show cause why the application money should not be confiscated for the violation of said section. The Appellant in response to the show cause notice stated that making more than one application was based on misunderstanding. The Appellant was also given an opportunity of hearing, in which the Appellant appeared and presented his NIC in original along with that of his brother, Mr. Zulfiqar Ali Jamani and friend, Mr. Sajjad Hussain. The Appellant argued that one application bearing No.07-01-3270 was submitted by his elder brother



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whereas application bearing No. 04-1010-469 was submitted by him through his friend.

5. The Respondent passed the Impugned Order after hearing the Appellant and held that since the applications have been submitted by two different persons using the same name, NIC number and father's name but different signatures and addresses, none of the applications had been submitted by the applicant, hence, both the applications were fictitious, as such the subscription money of both the applications were confiscated under subsection (2) of Section 18-A of the Ordinance.
6. The Appellant dissatisfied with the Impugned Order has preferred the instant appeal. The Appellant along with his brother, Zulfiqar Ali Jamani appeared before the Bench on the date of hearing and stated that the application bearing No.07-01-3270 submitted through account No.3477-2 maintained with Askari Commercial Bank Ltd, Main Branch, Hyderabad was submitted by his elder brother. The brother of the Appellant admitted that he had signed the application on behalf of his brother and it was done without the knowledge of the Appellant.
7. The Appellant maintained that the application bearing No 04-1010-469 made through account No.1124 maintained with Bank Al Habib Limited, Saddar Branch, Hyderabad was submitted by him through his friend. The Appellant, however rebutted the claim of the Respondent that application was signed by his friend and insisted that it was the Appellant who had signed the application. The Appellant also produced his ID card and referred to the application form stating that the signature matched the signatures on the ID card.
8. We shall first take the issue arising out of application bearing No.07-01-3270 made by the Appellant's brother. The Appellant has admitted that his brother has made the said application in his name and brother has accepted the position. The application money in the Impugned Order has been confiscated on the ground that




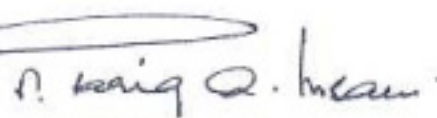
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the application is fictitious. We don't see the need to interfere with the Impugned Order to this extent; as the application admittedly was fictitious.

9. As for the application bearing No 04-1010-469, we are of the view that the application may have been submitted by the the Appellant's friend. However, it had been made through the account of the Appellant and bears the signature of the Appellant. We have closely examined the signature of the Appellant appearing on the application form and have cross matched them against his signature on the ID card and that on the , tence sheet. The signatures of the Appellant match those on all the documents presented before us and we have no reason to believe that the signatures made on the application are not genuine. We therefore, do not agree with the view taken in the Impugned Order that the instant application was fictitious.

13. In view of the above, we hereby modify the Impugned Order and direct that the shares against application bearing No 04-1010-469 be handed over to the Appellant.


(MR. RAZI-UR-REHMAN KHAN)
Chairman


(S. TARIQ, A HUSAIN)
Commissioner (L.D)

Announced on: 27-8-08