

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION (L) NO.4055 OF 2021

...
Schneider Electric President Systems Ltd. ...Petitioner
v/s.
Securities and Exchange Board of India & Ors. ...Respondents

...
Mr.Janak Dwarkadas, Senior Counsel a/w Mr.Kunal Dwarkadas, Ms.Sonali Mathur, Ms.Trisha Sarkar, Mr.Niket Jain and Ms.Ambareen Maujwar i/b AZB & Partners for the Petitioner.

Mr.Mustafa S. Doctor, Senior Counsel a/w Mr.Anubhav Ghosh and Mr.Ravishekhar Pandey i/b The Law Point for the Respondent No.1.

Mr.Sumit Agrawal a/w Ms.Nidhi Chheda i/b Regstreet Law Advisors for Respondents Nos.2 to 32.

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**CORAM : A.A. SAYED &
MADHAV JAMDAR, JJ.**

DATED : 15 FEBRUARY 2021

P.C.:

The Petition has been filed seeking the following reliefs:

- (a) That this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ, order or direction quashing and setting aside the impugned order dated January 19, 2021.

(b) That pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to stay the effect and operation of the impugned order dated January 19, 2021, including from requiring the Petitioner to inform the shareholders as also the designated stock exchanged regarding the option to list on a nationwide exchange or delist the company.

2. It is not disputed that the Petitioner has a remedy to challenge the impugned order of the Securities Exchange Board before the Securities Appellate Tribunal under section 15T of the Securities and Exchange Board of India Act, 1992.

3. It is however submitted by the learned Senior Counsel for the Petitioner that, that remedy would not be an efficacious remedy, since the Securities Appellate Tribunal has already formed an opinion vide order dated 26-11-2019 in the earlier round of litigation whereunder, the Securities Appellate Tribunal has remitted the matter back to the Securities Exchange Board. It is pointed out that the said order dated 26-11-2019 of the Securities Appellate Tribunal was challenged by the Securities Exchange Board before the Supreme Court and while dismissing the Civil Appeal, the Supreme Court by order dated 15-10-2020 directed the Securities

Exchange Board to decide the matter without being influenced by any observations made by the Securities Appellate Tribunal. After remand, Securities Exchange Board has now decided the matter by the impugned order dated 19-01-2021, which order can be challenged by filing Appeal to the Securities Appellate Tribunal as indicated in paragraph 2 above. The directions of the Supreme Court in the order dated 15-10-2020, in our view, should equally apply to the Securities Appellate Tribunal.

4. Considering the composition of the Securities Appellate Tribunal (see section 15M of the SEBI Act), which comprises of three members, two of whom are former Judges (a Judge of the Supreme Court or a Chief Justice of a High Court or a Judge of High Court for at least seven years, in the case of the Presiding Officer and a Judge of High Court for at least five years, in the case of a Judicial Member), we do not think there is any basis in the apprehension expressed by the learned Senior Counsel that the remedy of the Appeal may not be efficacious. However, only to satisfy and allay the concerns of the Petitioner, we only say that in the event the Appeal is filed by the Petitioner, the same would be decided by the Securities Appellate Tribunal without being influenced by its earlier order dated 26-11-2019 and its observations made therein shall be treated as prima facie. We also note that as per section 15Z of SEBI Act, an Appeal

lies to the Supreme Court from the order of the Securities Appellate Tribunal.

5. In light of the above, the **Writ Petition is disposed of** with liberty to the Petitioner to approach the Securities Appellate Tribunal.

6. Having regard to the facts and circumstances of the case, we direct that no coercive steps be taken by the SEBI against the Petitioner for a period of three weeks from today.

(MADHAV JAMDAR, J.)

(A.A.SAYED, J.)