

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date : 13.06.2023

Misc. Application No. 11 of 2023
And
Misc. Application No. 12 of 2023
And
IRDAI Appeal No. 4 of 2023

Sahara India Life Insurance Company Ltd. ...Appellant

Versus

Insurance Regulatory and Development
Authority of India ...Respondent

Mr. J.P. Sen, Senior Advocate with Mr. Kunal Vaishnav, Ms. Almira Lasrado, Mr. Gautam Talukdar, Ms. Simranjeet Singh and Ms. Afreen Thanevala, Advocates i/b Vis Legis Law Practice for the Appellant.

Mr. Rafique Dada, Senior Advocate with Mr. Shrinivas Bhave, Ms. Dipali Kadam, Mr. Indranil Deshmukh, Mr. Indranath Bishnu, Mr. Animesh Bisht, Ms. Drishti Das and Mr. Karan Sangani, Advocates i/b Cyril Amarchand Mangaldas for the Respondent.

ORDER:

1. The present appeal has been filed against the order dated June 2, 2023 passed by the Member (F&I) of Insurance

Regulatory and Development Authority of India ('IRDAI' for short) whereby a slew of directions have been issued for transferring the policies of the appellant to SBI Life Insurance Company Limited ('SBI Life' for short). Further, the books of accounts, bank accounts etc. have also been directed to be transferred.

2. The facts leading to the filing of the present appeal is, that pursuant to a show cause notice dated March 9, 2017, the Investigating Authority submitted a report pursuant to which IRDAI appointed an Administrator under Section 52(A) of the Insurance Act, 1938 on June 12, 2017. Another order dated June 23, 2017 was passed under Section 52(B)(2) directing the appellant to only serve the existing policy holders and collect renewal premium but were restrained from collecting new deposits. A third order dated July 28, 2017 was again passed under Section 52(B)(1) of the Insurance Act directing the transfer of the business of the appellant to ICICI Prudential Life Insurance Company.

3. All these three orders were challenged in Appeals no. 4, 5 and 6 of 2017 before this Tribunal wherein a composite order dated January 11, 2018 was passed and the order dated July 28,

2017 directing the transfer of business of the appellant to ICICI Prudential Life Insurance Company was quashed. The matter was remitted to the Administrator to proceed from the stage of seeking a representation and deciding the same after providing an opportunity of hearing within three months.

4. Subsequently an order dated December 30, 2020 was passed holding that the appellant was no longer a “fit and proper” promoters and that the shareholding of the four entities, namely, the promoters should be transferred to any other “fit and proper” promoter within six months and further directed the appellant to recover a sum of Rs. 78 crore from Sahara India. This order has been challenged by the appellant in Appeal no. 4 of 2022 which is pending consideration before this Tribunal.

5. Pending consideration of this appeal, the impugned order dated June 2, 2023 has been passed *ex parte* mainly on the ground that the order dated December 30, 2020 has not been complied by the appellant.

6. Considering the aforesaid and the fact that the earlier direction of the respondent in transferring the business to ICICI Prudential Life Insurance Company was set aside in 2018 and

since then no steps had been taken to transfer the policies, we find it strange that such steps have been taken after a gap of 5 years and that too without granting an opportunity of hearing. We find that there was no tearing urgency in transferring the policies when the respondent had earlier directed by its order dated June 23, 2017 to service existing policy holders and collect renewal premium was still continuing.

7. In the light of the aforesaid, let the present appeal be connected with Appeal no. 4 of 2022. The respondent is allowed three weeks time to file a reply. Rejoinder may be filed within three weeks thereafter. The matter would be listed for admission and for final disposal along with connected Appeal on August 3, 2023.

8. Considering the aforesaid, we stay the effect and operation of the impugned order dated June 2, 2023 till further orders of this Tribunal. The exemption application and the stay application are disposed of.

9. This order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Certified copy of

this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala
Presiding Officer

Ms. Meera Swarup
Technical Member

13.06.2023
msb