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**W.P. 1389 (W) of 2017**

**Ajoy Kumar Das v. Union of India**

**2017 SCC OnLine Cal 21088**

**In the High Court of Calcutta**
(BEFORE ANIRUDDHA BOSE AND JOYMALYA BAGCHI, JJ.)

W.P. 1389 (W) of 2017

Ajoy Kumar Das & ors.
*v.*
Union of India & ors.

With
C.A.N. 4192 of 2017
C.A.N. 11883 of 2017
With
C.A.N. 7613 of 2017
With
C.A.N. 7811 of 2017
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C.A.N. 7851 of 2017
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C.A.N. 7878 of 2017
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Humayun Seikh & ors.
*v.*
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W.P. 12740 (W) of 2017

Ajay Kr. Pradhan & anr.
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U.O.I. & ors.

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Biswajit Pradhan & ors.
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Rina Bera & anr.

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*v.*
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Anima Das & anr.
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U.O.I. & ors.

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Ashok Kr. Maity
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CBI & ors.

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Decided on December 21, 2017

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate Mr. Subhasis Chakraborty …for the petitioners

Mr. Tarak Karan, Ms. Munmun Tewary ….for the State

Mr. Sandip Chakraborty …for the petitioners in W.P. 9248 (W) of 2017

Mr. Pradyot Kumar Das …for the petitioners in W.P. 30055 (W) of 2017 W.P. 30056 (W) of 2017 W.P. 30058 (W) of 2017 W.P. 30060 (W) of 2017

Mr. Shashanka Sekhar Saha …for the petitioner in W.P. 29325 (W)/2017

Mr. Shyamal Sarkar, Mr. Meghajit Mukherjee …for the Company

Mr. Kumar Jyoti Tewari, Ms. Rajlakshmi Ghatak …for the petitioner in W.P. 7093 (W) of 2017

Mr. Kingsuk Mondal …for the petitioner/applicant in W.P. 27065 (W) of 2017 C.A.N. 11686 of 2017 C.A.N. 11689 of 2017

Mr. K.B.S. Mahapatra, Mr. Kashinath Bhattacharya ….for the petitioner in W.P. 10774 (W) of 2017

Mr. Dibyendu Chatterjee, Mr. Siddhartha Roy …for the petitioner in W.P. 25884 (W) of 2017

Mr. Dibyendu Chatterjee, Mr. Vishak Bhattacharya, Ms. Ruchira Chatterjee …for the petitioner in W.P. 27781 (W) of 2017

Mr. D.N. Bose, Mr. Sujit Chowdhury …for the petitioners in W.P. 30070 (W) of 2017 W.P. 30071 (W) of 2017 W.P. 30072 (W) of 2017 W.P. 30534 (W) of 2017

Md. Idrish …for the petitioners in W.P. 27554 (W) of 2017 W.P. 27546 (W) of 2017 W.P. 30416 (W) of 2017

Mr. Arnab Sengupta, Mr. Souvik Dutta …for the petitioner in W.P. 29731 (W) of 2017

Mr. Sanjib Kumar Ghosh …for the Union of India in W.P. 14332 (W) of 2017

Mr. Priyabrata Ghosh, Mr. Dilip Kr. Das …for the applicants in C.A.N. 7811 of 2017 and C.AN.8364 of 2017

Mr. Rajdeep Bhattacharya …for the applicants in C.A.N. 9328 of 2017, C.A.N. 9339 of 2017 C.A.N. 9323 of 2017, C.A.N. 9325 of 2017, C.A.N. 9249 of 2017

Mr. Lokenath Chatterjee, Mr. S. Sarkar …for the applicants in C.A.N. 8241 of 2017

Mr. Priyabrata Gupta …for the applicants in C.A.N. 7811 of 2017 C.A.N. 8364 of 2017

Mr. Mihir Kumar Das …for the applicant in C.A.N. 9975 of 2017

Mr. Tapas Kumar Kundu …for the applicant in C.A.N. 9228 of 2017

Mr. Pradyat Saha …for the applicants in C.A.N. 11564 of 2017, C.A.N. 11566 of 2017 C.A.N. 11569 of 2017, C.A.N. 11565 of 2017

Mr. Aniruddha Bhattacharya …for the applicants in C.A.N. 10891 of 2017, C.A.N. 10897 of 2017 C.A.N. 10896/2017, C.A.N. 10895/2017 C.A.N. 10989 of 2017

Mr. Tridip Chakraborty …for the applicant in C.A.N. 10983 of 2017

Mr. Ashis Santra …for the applicant in C.A.N. 11047 of 2017

Ms. Srijani Mukherjee …for the applicant in C.A.N. 11477 of 2017

Ms. Sikha Saha …for the applicant in C.A.N. 8099 of 2017

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Mr. Sanjoy Bhattacharya …for the applicants in C.A.N. 8230 of 2017, C.A.N. 7946 of 2017

Mr. Dipanjan Datta, Mr. Sayan Datta …for the applicant in C.A.N. 11945 of 2017

Ms. Puja Goswami …for the applicants in C.A.N. 9309 of 2017, C.A.N. 9312 of 2017 C.A.N. 9313 of 2017, C.A.N. 9314 of 2017

Mr. D.P. Mukherjee, Sr. Advocate

Mr. Ardhendu Sekhar Bose …for the applicants in C.A.N. 7613 of 2017 C.A.N. 7851 of 2017

Mr. Dilip Kr. Chakraborty …for the Union of India in W.P. 27781 (W) of 2017

Mr. Subrata Roy …for the Union of India in W.P. 12740 (W) of 2017

Mrs. Bijoylakshmi Sil …for the Union of India in W.P. 25875 (W) of 2017

Mr. D.K. Kundu, Mr. Arjun Basu …for the R.B.I.

Mr. Prasanta Kumar Dutt, Mr. Susanta Kumar Dutt, Mr. Syamantak Banerjee …for the SEBI

Mr. S. Datta, Mr. Debsoumya Basak, Mr. Ashutosh Mukherjee …for the U.O.I. in C.A.N. 8500 of 2017, C.A.N. 8501 of 2017, C.A.N. 8502 of 2017, C.A.N. 8503 of 2017, C.A.N. 9003 of 2017, C.A.N. 9004 of 2017, C.A.N. 9118 of 2017 & C.A.N. 9119 of 2017

Mr. Shamik Chatterjee, Mr. Souma Subhra Roy …for the U.O.I. in C.A.N. 7811 of 2017, C.A.N. 8364 of 2017, C.A.N. 9986 of 2017, C.A.N. 9650 of 2017, C.A.N. 11686 of 2017, C.A.N. 10983 of 2017, C.A.N. 11901 of 2017, C.A.N. 11900 of 2017, C.A.N. 11902 of 2017, C.A.N. 12029 of 2017

Mr. Rohit Das, Mr. Aniruddha Bhattacharya …for the applicants in C.A.N. 8211 of 2017, C.A.N. 8213 of 2017 C.A.N. 11247 of 2017

Mr. Asis Mukherjee …for the U.O.I. in W.P. 27065 (W) of 2017, W.P. 9284 (W) of 2017. W.P. 10774 (W) of 2017, W.P. 22865 (W) of 2017

Mr. Siddhartha Banerjee …for the U.O.I. in W.P. 39325 (W) of 2017

Mr. Santanu Chatterjee …for the U.O.I. (ED) in W.P. 23518 (W) of 2017

Mr. Ranajay Chatterjee, Mr. Deb Sankar Das …for the Union of India in W.P. 18425 (W) of 2017, W.P. 19051 (W) of 2017, W.P. 27065 (W) of 2017, W.P. 26664 (W) of 2017, W.P. 27781 (W) of 2017, W.P. 27783 (W) of 2017, W.P. 27546 (W) of 2017, W.P. 27554 (W) of 2017, W.P. 27065 (W) of 2017, W.P. 30055 (W) of 2017, W.P. 30056 (W) of 2017, W.P. 30058 (W) of 2017, W.P. 30060 (W) of 2017

**JUDGMENT**

**1.** Several applications have been filed by individual investors who, in substance, claim refund of their deposits in whatever form such deposits were made. These applications were filed after we had permitted the main writ petition to be transformed into a representative proceeding and on behalf of different companies of Alchemist Group, it was submitted before us that they were inclined to make payment in respect of depositors whose deposits had matured. On 21st November, 2017 we had passed an order to the following effect:

> *"The applicants in this set of writ petitions and applications are primarily persons who have invested in various financial schemes of different companies belonging to the Alchemist Group. The main prayers of the applicants and writ petitioners involve refund of their deposit in terms of schemes and financial devices through which such deposits were made.*
>
> *Mr. Sengupta, learned Senior Counsel and Mr. Sarkar, learned counsel appearing for different companies of that group submit before us that their clients want to repay the dues of the depositors whose deposits have matured. Mr. Sengupta, learned Senior Counsel appearing for some of the group companies have further*

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*suggested that the individual applicants may inform particulars of their dues to the Advocate-on-record of these companies, Meghajit Mukherjee in the office of M/s. Dubey and Company, 10, Old Post Office Street, Kolkata-700 001 and on receiving these applications the repayment is made upon verification. It is also submitted by both Mr. Sengupta and Mr. Sarkar that for those depositors whose claims are yet to mature, the companies would be willing to repay the principal amount deposited and such payment would be made on the basis of furnishing an indemnity bond. So far as legality of deposits obtained by the companies are concerned, learned counsel for SEBI has apprised us that the Appellate Board is still in seisin over that issue.*

*In view of the stand taken by the different companies of Alchemist Group we adjourn further hearing of these writ petitions and applications till* ***18th December, 2017****. In the event any of the applicants desire to accept the offers of the companies concerned, they shall be at liberty to do so on their own volition or choice.*

*On the next date of hearing the respective companies of the Alchemist Group shall file individual affidavits disclosing therein the number of settled claims, if any, in respect of depositors of each company."*

**2.** As the number of applicant depositors are increasing, it is now the joint submission of the learned counsel appearing for the parties that so far as supervising the process of refund is concerned, these matters may be sent to the Committee. We have laid down the parameters as regards the manner in which payment shall be released or disbursed to the applicant-depositors in our order of 21st November, 2017. We now request the Committee to coordinate the refund process following the seniority of the matured deposits. As regards the claimants who are willing to receive refund of the principal amount only and whose deposits have not otherwise matured, the same principle, that is the seniority of the deposits, shall be followed to the extent practicable. Otherwise, our directives contained in the order of 21st November 2017 shall be followed.

**3.** Let a report be filed by the Committee on 29th January, 2018 stating therein the refund status in relation to claims of the individual applicants.

**4.** These matters shall be listed again on **29th January, 2018**.

**5.** Mr. Sarkar, learned counsel appearing for the aforesaid Companies submitted that in some cases his client has already cleared payment. Let the Committee look into that aspect also and the particulars of payment made in relation to individual applicants shall form part of the report the Committee is to file.

**6.** Liberty to mention.

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