NON-REPORTABLE

2025 INSC 189

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(arising out of SLP(C) No. of 2025)
(@ Diary No. 6576/2025)

DIGVIJAY LAXHAMSINH GAEKWAD (DANNY GAEKWAD) ..... **APPELLANT(S)**

VERSUS

SAPNA GOVIND RAO & ORS. ..... **RESPONDENT(S)**

With

CIVIL APPEAL NO. OF 2025
(arising out of SLP(C) No.3726 of 2025)

O R D E R

We have heard learned counsel for the parties, including the learned Solicitor General appearing for the Securities and Exchange Board of India[1], at some length on the question of competing offers in terms of Regulation 20 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011[2]. Regulations 20(1) and 20(9) of the 2011 SEBI Regulations read as under: -

> "20. (1)Upon a public announcement of an open offer for acquiring shares of a target company being made, any person, other than the acquirer who has made such public announcement, shall be entitled to make a public announcement of an open offer within fifteen working days of the date of the detailed public statement made

1 "SEBI", for short.
2 "2011 SEBI Regulations", for short.

by the acquirer who has made the first public announcement.

xxx xxx xxx

(9) Upon the public announcement of a competing offer, an acquirer who had made a preceding competing offer shall be entitled to revise the terms of his open offer provided the revised terms are more favourable to the shareholders of the target company:

Provided that the acquirers making the competing offers shall be entitled to make upward revisions of the offer price at any time up to one working day prior to the commencement of the tendering period."

The primary issue which arises for consideration is the date on which a public announcement of an open offer, in terms of clause (1) to Regulation 20, has been made. It is the case of the private respondents, M/s. Puran Associates Private Limited, M/s. VIC Enterprises Private Limited, M/s. M.B. Finmart Private Limited and M/s. Milky Investment and Trading Company,[3] that the said date would be 25.09.2023. It is the case of the appellants that the date on which the public announcement was made would be 18.01.2025. It is highlighted by the appellants that the private respondents, being non-banking financial companies, had to seek approval from the Reserve Bank of India, which was initially not given but was finally granted on 09.12.2024. It is also highlighted by the appellants that the object and purpose of making a public offer is to ensure that the members of the public, who hold shares, can

3 "private respondents", hereinafter.

offload and sell their shares to the group which is acquiring shares at the threshold limit and which may, thereupon, have a say or control over the management of the company.

It may be noted that the appellants had made an application before SEBI on 22.01.2025 and it is their submission that, as the public offer was dated 18.01.2025, their application would be within the time period, as prescribed by Regulation 20 of the 2011 SEBI Regulations. It is obviously the case of the private respondents that the public offer date must be taken as 03.10.2023 and, therefore, the application filed by the appellants is belated and beyond time. SEBI has yet to decide the said aspect. SEBI had also asked the appellants to move an application for exemption under Regulation 11 of the 2011 SEBI Regulations. As per the appellants, they have moved the said application out of abundant caution on the request made by the SEBI. Further, the appellants plead that the public offer should be the higher of the two – the acquisition price (as on 25.09.2023) or the market price prevailing at the time of the public offer (as on 18.01.2025).

Clause (9) of Regulation 20 states that, upon the public announcement of a competing offer, an acquirer who had made the preceding offer shall be entitled to revise the terms of his open offer provided the revised terms are more favourable to the shareholders of the target company. Further, the acquirers making the competing offers shall be entitled to make upward revisions of

the offer price at any time up to one working day prior to the commencement of the tendering period.

The tendering period, we are informed, has come to an end today, that is, on 07.02.2025. During the course of arguments, it was noted that there have been several attempts to stall the public offer, but without success. We have noted the said aspect, but at the same time, we have also taken into account the fact that the application filed by the appellants is still pending consideration by the SEBI and has not been disposed of. SEBI would be more concerned about public investors and their rights and interests.

The main question that arises and has to be decided by the SEBI relates to the date of public announcement of the open offer, as contemplated in Regulation 20(1) of the 2011 SEBI Regulations. The second question would be whether or not to grant exemption, if the situation requires it. Third issue relates to the public offer price.

It is pointed out by the private respondents that they deposited a sum of ₹330 crores way back on 26.09.2023 in an escrow account.

Keeping all the aforesaid facts in mind, we are inclined to pass the following order: -

1. The appellant, Digvijay Laxhamsinh Gaekwad (Danny Gaekwad) or their nominee/applicant before SEBI, as suggested by his counsel, shall deposit a sum of ₹600

crores in terms of the 2011 SEBI Regulations, in the form of cash and/or bank guarantee, on or before 12.02.2025. In case the amount is not deposited by the said date, the directions in the present order shall be automatically vacated without further reference to the Court.

2. The public offer, which is to close today, will be continued till 12.02.2025. In case the appellant, Digvijay Laxhamsinh Gaekwad (Danny Gaekwad) or their nominee/applicant before SEBI, deposits ₹600 crores in terms of the 2011 SEBI Regulations, the offer will continue till the end of third day post the date of the order to be passed by SEBI on the application of the appellants.

3. A party aggrieved by the order passed by SEBI would be entitled to take recourse to an appropriate remedy.

Present directions are in the nature of an interim order. Proceedings pending before the High Court and SEBI will be decided on merits and as per law. Further, this order is without prejudice to the rights and contentions of the parties and will not be construed as an expression of opinion as to any of the issues and contentions noted above. Lastly, this order has been passed in the peculiar facts and circumstances of the present case and shall not be read as a precedent.

The appeals are disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

.....CJI.
(SANJIV KHANNA)

.....J.
(SANJAY KUMAR)

NEW DELHI;
FEBRUARY 07, 2025.