

In the matter of Mr. Ankit Bansal & Ors.

Interim Order dated 28.5.2021

The Bench has made the following Orders:

1. Heard Shri Srinivasa Raghavan, learned Senior Counsel for the Applicant/Respondent and Shri S. Vivekananda, learned Counsel for the Respondent/Petitioner, through Video Conference.
2. Shri Srinivasa Raghavan, learned Senior Counsel, while arguing the merits of case at length, has interalia submitted that interim orders even dated 6.4.2021 passed in all three batch cases Viz CP/44(BEN)2021, CP/45(BEN)2021 and CP /46(BEN)2021 by the Tribunal, are ad-interim orders without hearing the Respondents. By taking advantage of the interim orders, the Respondent/Petitioner is interfering in the affairs of the Company and disturbing its peaceful functioning hitherto maintaining in the Company. The Respondents have filed reply to the main Company petition interlia contending that the main petitions themselves are not maintainable and interim order are obtained behind back of the Respondents. The Petitioner, being a Director of the Company, in fact, cannot make the Petition for the acts of oppression and mismanagement of the Company and he is also under obligation that affairs of the Company being run in accordance with law. Therefore, he has urged the Tribunal to vacate the interim orders in the interest of justice and for smooth functioning of the family run Company.
3. Shri S. Vivekananda, learned Counsel for the Respondent/Petitioner, on the other hand, has strongly opposed the contentions raised by the Shri Srinivasa Raghavan and denied the allegations made in the instant vacate stay petitions. And the Petitioner is fully cooperating for smooth running the affairs of the Company but in fact the Respondents themselves are resorting to various acts of oppression and mismanagement forcing him to approach the Tribunal by seeking to protect his interest being minority shareholder of the Company. Therefore, he has sought to dismiss the vacate stay petitions and also urged to appoint administrators for the Company pending disposal of the main company petitions.



4. It is not in dispute that three (3) Companies in question are family owned Companies, and the Petitioner admittedly being a Director of the Company and also sought not to remove him from the Board of Directors. Therefore, while seeking to be part of affairs of the Company, the Petitioner is making various allegations of acts of oppression and mismanagement against the Company. He can make such allegations as ordinary share holders by quitting from the Board of Directors. Therefore, prima facie he is not eligible to file main company petitions making allegations of acts of oppression and mismanagement. As long as he continue to be Director the Companies, he is bound by decisions taken by Board of Directors, duly following law and those decisions too bind all shareholders and stakeholders of the Companies. Since the interim orders passed are ad interim, without hearing the Respondents, and they are causing severe hardship to the Respondents the Petitioner is alleged to be misusing the interim orders in question, it is just and proper to vacate the interim orders passed in the case. The Tribunal will take up main company Petitions for final hearing, and the Parties, in the meanwhile, can complete their respective pleadings. Appointment of Administrator, as sought by Sri Vivekanand, without considering the merits of case is not tenable.
5. Hence, IA Nos. 34 & 41 of 21 ,35 & 40 of 201 and 36 & 42 of 21 filed in CP/44(BEN)2021,CP/45(BEN)2021 and CP /46(BEN)2021 are hereby disposed of by vacating ad -interim orders even dated 06.04.2021 passed in the cases with immediate effect. However, we make it clear that all actions taken by the Respondents after filing of the instant Company Petition are subject to result of final orders to be passed in the main Company Petitions. List all CPs for final hearing on 11.6.2021, and in the meanwhile, the Parties are directed to complete their respective pleadings..



MEMBER (T)



MEMBER (J)