

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 05
78/241-242/PB/2021

IN THE MATTER OF:

Vishal Sharma	Applicant/Petitioner
v.		
Hands on Hands Ventures Pvt. Ltd.	Respondent

Order under Section 241-242 of Companies Act

Order delivered on 29.04.2021

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner	Mr. Aditya Dewan, Mr. Saikat Sarkar, Mr. Hussain Zubair Waris, Mr. Satendra Rai, Advs.
For the Respondent	-

ORDER

It is a Company Petition filed by the Petitioner having 1/4th shareholding in the company and continue to act as a Director in the Board having two Directors stating that the other Director and remaining Respondents unilaterally taking decisions without even notifying the same to the Petitioner herein.

2. Upon which, the Petitioner filed this Company Petition under Sec. 241 & 242 of the Companies Act, 2013 on 20.04.2021 stating that R2, continuing as another director of the Company, issued a requisition notice to hold EGM on 26.04.2021 for removal of the petitioner as director of R1 Company and for appointment of Mrs. Sruthi Ram Kochar as director of R1 Company without even requesting the Board to hold EGM as contemplated under the Companies Act 2013. Upon looking at this notice, it is apparent on

record that the very director of the Company issued the notice in the capacity of shareholder to hold EGM on 26.04.2021.

3. For holding such meeting on requisition, first it shall be put to the Board to hold EGM, if the Board fails to hold meeting within 21 days of receipt of valid requisition, then such requisitionist can proceed to call for a meeting for consideration of the agenda items on a day not later than 45 days from the date of receipt of such requisition. R2, who is member of the company and director of the Board, despite knowing well that a requisitionist shall not issue notice for holding EGM without making a request to the Board as contemplated u/s 100 of the Act, appears to have wished to out-vote the Petitioner from the Board by addressing directly to the shareholders without giving any requisition to the Board of Directors which is in-contravention to the procedure laid down under Sec. 100 of the Companies Act, 2013.

4. This kind of approach being oppressive in nature, this Bench, having prima facie found that it falls under Sec. 241 & 242 of the Companies Act, 2013, hereby directs the Respondents not to remove the petitioning director from the Board until further orders.

5. While this Bench passing this order, R2 Counsel has stated that this Bench shall dismiss the petition for the main reliefs and the interim reliefs are one and the same. And he has also stated that no such meeting was held on 26.04.2021.

6. Whether meeting is held or not is not the criteria, when the conduct of the Respondent is reflecting oppressive against one of the shareholders, we are of the view that it is to be construed that prima facie case is made out because in this case R2 has already made an attempt to remove the petitioner as director without even

following the procedure, therefore the Respondents shall not remove the petitioning director until further orders. It is pertinent to mention it is a company with four shareholders each having 1/4th shareholding and with two directors.

7. As to the contention that main relief and interim relief being the same the petition shall be dismissed has no merit because the point for consideration is as to whether or not case is made out to grant a relief. It can't be simply relief being the same, the petition shall be dismissed.

8. The Respondents are directed to file reply within 4 weeks hereof and rejoinder, if any, within 4 weeks thereof.

9. List the matter on **09.07.2021** for further hearing.

(S/d)
(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

(S/d)
(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)