

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, KOLKATA.

C.P. No. 418/KB/2017

CORAM : Shri V.P. Singh

Hon'ble Member (J)

Shri Jinan K.R.

Hon'ble Member (J)

In the matter of Section 14(1) of the Companies Act, 2013, read with Rule 68 of the National Company Law Tribunal Rules, 2016.

And

In the matter of :

Agro Chemicals & Fertilizers Limited, a Company incorporated under the Companies Act, 1956 and having its registered office at 25, Ganesh Chandra Avenue, Kolkata.

.....Petitioner.

For the Petitioner

Shri Mohan Ram Goenka, Pr. C.S.

Order delivered on : 11-1-18

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ORDER

Per Shri V.P. Singh, Member (Judicial)

Heard the Ld. Pr. C.S. representing the petitioner company and perused the records.

2. The petitioner has averred in the petition, inter alia, that the company is a closely held company with a very few shareholders; there are 52 members personally present at the EOGM held on 22.02.2017 out of total number of 52 members of the company (including proxy/nominee members of the body corporates) and that all the members attended EOGM voted unanimously in favour of the Special Resolutions for the change of name "Agro Chemicals and Fertilizers Limited to "Agro Chemicals Fertilizers Private Limited" and to alter the Articles of Association of the company subject the approval of the concerned regulators. In the affidavit dated 20.09.2017 it has been stated that out of 52 members in the company, 7 members attended the EOGM of the shareholders of the company held on 22.02.2017 and 7 members voted for and no members voted against and approved the resolution for conversion of this status of the company. However, from the copy of the attendance sheet furnished by the petitioner company, it appears that only 6 bodies corporate attended the EOGM held on 22.02.2017. Moreover, there is no mention in the petition as to whether the proposed conversion of status of the

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company from public to private would cause prejudice the rights or interests of the creditors or members of the petitioner company. Further, there is no mention in any of the affidavits filed in support of the petition as to whether the company has received any objection or representation from any member or creditor or any other person concerned with the instant petition after publication of news paper advertisement came out on 15.09.2017.

3. In view of the above position we hereby direct the petitioner company to comply with the followings:

a. To obtain consent/no objection letters from other shareholders who have not attended the EOGM held on 22.02.2017 and file an affidavit enclosing those documents.

b. To file an affidavit to the effect that the proposed conversion of status of the company from the public to private would not prejudice the rights or interests of any creditors or members of the company and shall not affect any debts, liabilities, obligations, or contracts incurred or entered into by and on behalf of the petitioner company, if any.

c. To file an affidavit to the effect that the petitioner company has not received any objection/representation from any creditor or member of the company after publication of newspaper advertisement on 15.09.2017

4. The petitioner shall file all the above affidavits within 10 days hereof

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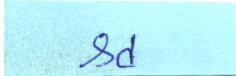
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and serve a copy of each affidavit to the Registrar of Companies, West Bengal and file proof of such service.

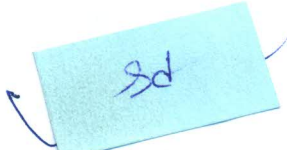
5. The Registrar Companies, West Bengal to file a Supplementary Report in the matter in continuation of his report dated 06.10.2017 within 10 days, after receipt of the said affidavits from the petitioner company.

List the matter on 13th February, 2018

Urgent certified copy of this order be supplied to the party, if applied for, upon compliance of requisite formalities.


(Jinan K.R.)

Member (Judicial)


(V.P. Singh)

Member (Judicial)

Signed on this 11th day of January, 2018.