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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**T.P. No. 72/58-59/NCLT/AHM/2016 (New)
Co. Appeal No. 32/58-59/CLB/MB/2014 (Old)**

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 07.04.2017**

Name of the Company:


Kamlesh K. Shah

V/s.

Gujarat Gas Company Ltd. & Ors.

Section of the Companies Act:

Section 58-59 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Rishi Malik	Advocate	Petitioner	
2.				

ORDER

Learned Advocate Mr. Rishi Malik present for Appellant.

Order pronounced in open Court. Vide separate sheet.

Dated this the 7th day of April, 2017.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL
AMEDABAD BENCH
AHMEDABAD**

CORAM: SRI BIKKI REVEENDRA BABU, MEMBER JUDICIAL

**TP No. 72/58-59/NCLT/AHM/2016 (New)
Company Appeal No. 32/58-59/CLB/MB/2014 (Old)**

**IN THE MATTER OF
GUJARAT GAS COMPANY LIMITED.**

1. Mr. Kamlesh Kalidas Shah **Petitioner**
R/o. No. 5, Parthna Vihar Society
Opp. Ambawadi Post Office
Ambawadi
Ahmedabad 380 15

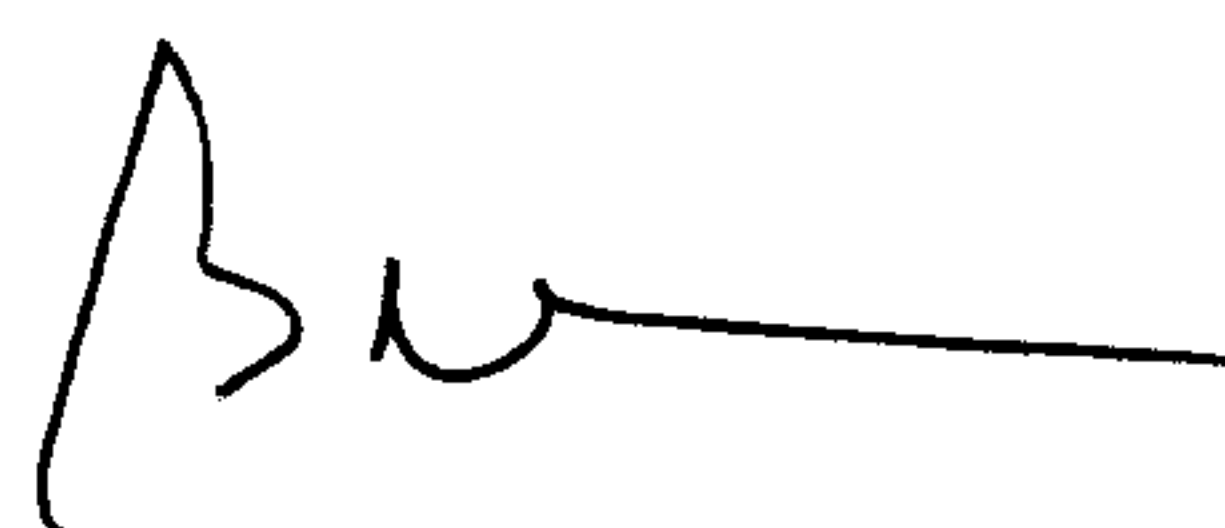
Versus

1. M/s. Gujarat Gas Company Limited.
2, Shanti Sadan Society
Near Parimal Garden, Ellisbridge
Ahmedabad 380 006
2. Mr. Fagun Chanvan
Saibaba Enterprises
Room No. 3, Pitamber Lane
Mahim, Mumbai 400 016.
3. Ms. Susheela Maheshwari
X-3, Ambabari
Jaipur – 302 012
4. Shri Shrenik J. Shah
1017, Stock Exchange Building,
Fort
Mumbai 400 001

Respondents

Appearance:

1. Mr. Rishi Malik, learned advocate for petitioner



FINAL ORDER

Dated: 07-04-2017

1. This petition is filed under section 58 (4) And 59 of the Companies Act, 2013 seeking relief of transfer of 200 shares of the first respondent company in the name of petitioner and for direction to the 1st respondent company to rectify the Register of members accordingly and further grant any corporate benefit on the impugned shares.
2. Respondent No. 1 is a public limited company registered under the Companies Act, 1956 having its registered office in Ahmedabad.
3. Respondent No. 2 is Registered holder in respect of 100 shares of the first respondent company bearing share certificate No.00012086.
4. Respondent No. 3 is also another registered holder of 100 shares of the first respondent company bearing share certificate No. 00045222.
5. Respondent No. 4 is a share broker from whom petitioner purchased the shares belonging to respondents 2 and 3.
6. Petitioner filed copies of share certificates purchased by him along with petition. It is stated by the petitioner that the transfer form has been lost or misplaced.
7. Petitioner is also a share broker and dealing in securities of various companies. Petitioner, as a part of his business, sold 100 shares belonging to the second respondent in the market. But due to difference in signature of the seller, 1st respondent company refused to transfer the shares and issued objection memo dated 21.04.1993. Petitioner received back the said shares as bad delivery and paid consideration to buyer broker.
8. On 14.02.1994, petitioner vide letter No. 632, sent transfer deed along with company objection memo to respondent No. 4, from whom the shares were purchased, for rectification and removing objection.

Transfer deed was returned without removal of objection by respondent No. 4.

9. Petitioner issued reminder letter dated 26.06.2001 to 1st respondent enclosing photo copy of the share certificate requesting to provide address of shareholders so as to enable the petitioner to contact the original shareholders for executing fresh transfer deed. The said letter is annexure "C". No reply has been received by the petitioner from the first respondent company. Petitioner, again sent another letter to the first respondent company on 01.01.2003 enclosing therewith two share certificates duly affixing stamp. The said letter is annexure "D". Petitioner got issued legal notice dated 25.04.2005 to respondent No. 4 vide annexure "E". Petitioner on 29.07.2011 again sent another letter to first respondent company with a request to transfer impugned shares under section 108 of the Companies Act, 1956 in the name of the petitioner with reference to two share certificates No. 12086 and 45222 vide annexure "F". Petitioner also addressed another letter dated 16.08.2014 to the first respondent company to consider his request for transfer of impugned shares vide annexure "G".
10. According to the petitioner, he is a genuine and bona fide purchaser of the said shares having paid full amount. Original share certificates are in lawful possession of the petitioner. As per law, respondents 2 and 3 do not have any right over the impugned shares. The petitioner tried to contact respondent 2 and 3 but he could not trace them. Petitioner has no dispute with regard to title of the said shares with the first respondent company. Neither respondent 2 and 3 have lodged any grievance for not transferring the impugned shares in the name of petitioner.
11. First respondent company, filed reply stating that, petitioner is not a member of the first respondent company. According to the first respondent company, the impugned shares are in the name of respondents 2 and 3, each 100 shares. First respondent company had split the equity shares of the company having original face value of Rs. 10/- each to Rs. 2/- each in the year 2007. After splitting the shares, the first respondent company issued new share certificates of 500 equity shares each to respondent 2 and 3 in place of the original share certificates of 100 equity shares each held by them.

Subsequent to the split in shares, 2nd and 3rd respondents each are having 500 shares vide certificate No. 100639 and 102092.

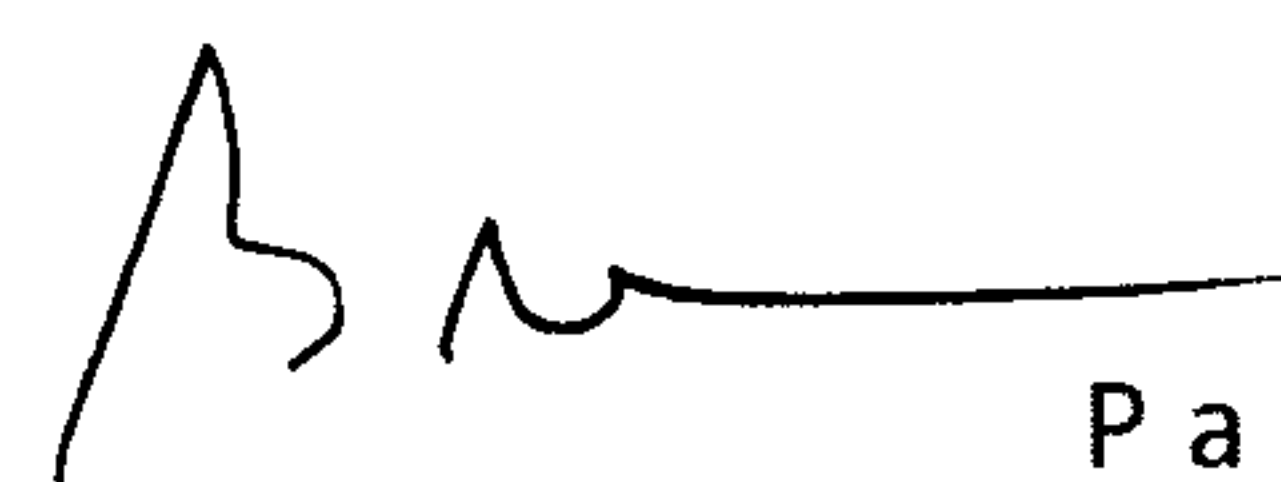
12. In the year 2009, first respondent company declared bonus shares in ratio of 1:1 and issued share certificates of 500 equity shares each to respondent 2 and 3 for their respective shareholding of 500 shares each. Details of bonus share certificates are as follows: -

Sr. No.	Name of the shareholder	No.of shares	Folio No.	Certificate No.	Distinctive No.
01	Fagun Chanvan	500	F00007	104333	119768711-119769210
02	Susheela Maheshwari	500	S07286	104287	119742711-119743210

13. According to the first respondent company, the present shareholding of respondent 2 and 3 are as follows: -

Name & address of the shareholder	Folio No.	No. of shares	Certificate No.	Distinctive No.
Fagun Chanvan (Respondent No. 2)	F00007	500	100639	54972851-54973350
Saibaba Enterprises, ROM-LUI Shop No. 3, Pitamber Lane, Mahim, Mumbai 400 016		500	104333	119768711-119769210
Total		1000		

14. The first respondent company has no knowledge about purchase of shares by respondent 2 and 3 through respondent No. 4. Petitioner's averments itself show that, due to difference in signature of transferor, respondent No. 2 was not able to get the shares transferred in his name. The first respondent company has no knowledge about the letters dated 14th September, 1994, 26th June, 2001, 1st January, 2003 and 29th July, 2011. First respondent company received letter dated 16th August, 2014 but the said letter was not in compliance with the requirements of section 108 of the Companies Act, 1956.



15. It is further stated in the reply that as per provisions of section 108 of the Companies Act, 1956, a company shall not register a transfer of shares or debentures of the company, unless a proper instrument of transfer duly stamped and executed by or on behalf of the transferor and by or on behalf of transferee has been delivered to the company along with certificate relating to the shares or debentures. Petitioner did not place any evidence as required under section 108 of the Companies Act, 1956. First respondent company is maintaining status quo in respect of the impugned shares by virtue of the order of Company Law Board, dated 13th November, 2014. First respondent company undertake to abide the directions given by Company Law Board.
16. This petition is filed before the Company Law Board on 10th November, 2014 and it is registered as company appeal No. 32 of 2014. After the establishment of National Company Law Board, the same was transferred to this Tribunal and re-numbered as TP 72 of 2016.
17. This petition is filed under section 58 (4) and 59 of the Companies Act, 2013.
18. Section 59 of the Companies Act, 2013 deals with rectification of register of members. Section 59 can be invoked only in case where the name of any person without sufficient cause entered in the register of members or after having been entered in the register without sufficient cause omitted therefrom, or if a default is made, or unnecessary delay takes place in entering in the register. Section 59 can be invoked by the person aggrieved or by any member of the company.
19. In the case on hand, even according to the petitioner, he purchased impugned shares from respondent No. 4 and the original registered shareholders are respondents 2 and 3. The relief that is being prayed by the petitioner is to register the transfer of shares in his name. Therefore, section 59 of the Companies Act, 2013 that came into force with effect from 12.09.2013, is not applicable to the facts of this case. Section 58 (4) of the Companies Act, 2013 applies to public limited companies. First respondent company is a public limited company. Therefore, section 58 (4) is applicable in case of refusal to register

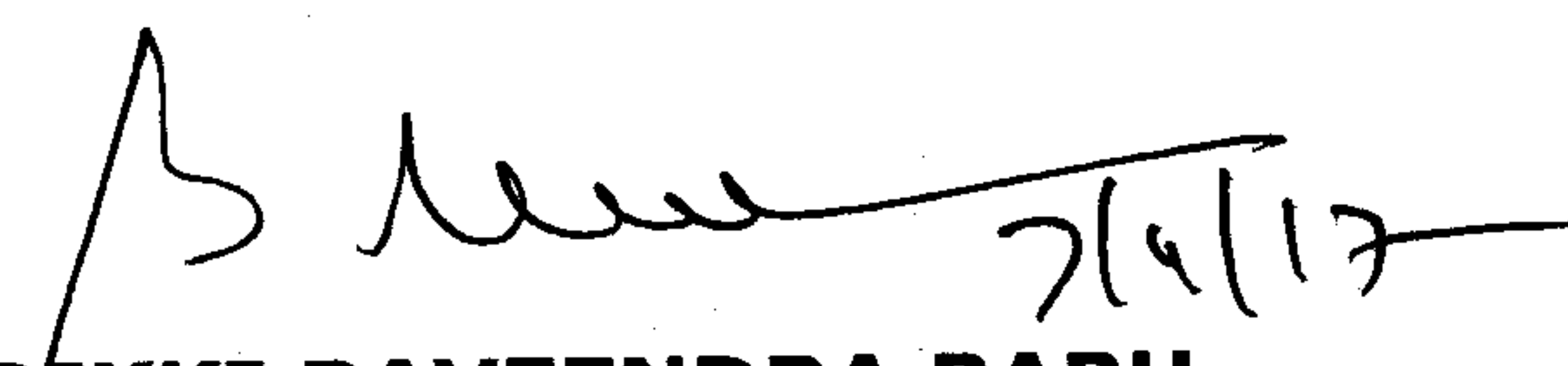
transfer of shares. It is pertinent to mention here that, section 58 came into force with effect from 12.09.2013. This petition is filed on 10th November, 2014. Section 58 (4) provides limitation for seeking relief against refusal of registration of shares in case of public limited companies. It provides 30 days' period for filing the petition seeking transfer of shares from the date on which the instrument of transfer or intimation of transaction, as the case may be, has been delivered to the company. In case of refusal to register, the transferee may, within a period of 60 days of such refusal, can file a petition seeking relief under section 59 of the Companies Act, 2013. In case, no intimation has been received from the company, the transferee can seek relief within 90 days of instrument of transfer or intimation of transmission to the company. Therefore, section 58 provides the following three types of period of limitation: -

- (1) 30 days from the date of delivery or instrument of transfer with the company.
- (2) 60 days in case of refusal
- (3) 90 days in case of no intimation received from the company from the date of delivery of instrument of transfer.

20. According to the petitioner's averments, petitioner wrote first letter to the first respondent company on 26th June, 2001, vide annexure "C". Petitioner, along with that letter, did not send share transfer form and original share certificates. In that letter, petitioner only requested the first respondent company to give address of the seller party so as to contact them for fresh transfer deeds. It is the case of the petitioner himself that, transfer form was returned on the ground that the signature of transferee on the share transfer form does not tally. It is for the first time on 01.01.2003 petitioner wrote letter to the first respondent company sending the shares. It is not even the case of the petitioner that he received any reply to his letter dated 01.01.2003 i.e. annexure "D". Petitioner again addressed letter dated 29.07.2011 to the Company Secretary of the first respondent company. Even for that letter there was no intimation from the first respondent company. Even for the letter dated 16.08.2014, written

by the petitioner, there was no response from the first respondent company.

21. A perusal of the letters sent by the petitioner to the first respondent company shows that he has not enclosed share transfer form along with share certificate. Moreover, it is the case of the petitioner that, signature on the share transfer form is not tallying with the specimen signature of the transferors i.e. respondent 2 and 3. In this case, the limitation starts running from the letter dated 01.01.2003. In spite of no intimation to letter dated 01.01.2003, the petitioner did not file any petition before the Company Law Board till 10.11.2013. Therefore, claim of the petitioner seeking transfer of impugned shares, is barred by limitation. Even assuming the relief claimed by the petitioner is within time, the petitioner has not submitted the original transfer deed to the first respondent company. Even now the petitioner is not in a position to submit original transfer form signed by respondents 2 and 3. It is the case of the petitioner shares were not transferred on the ground that, the signatures on the original transfer form differs from specimen signature of respondent 2 and 3 as per objection memo dated 21.04.1993. Therefore, there is no sufficient compliance of section 58 of the Companies Act, 2013.
22. Averments of the petitioner that, he lost the original transfer form is not substantiated by placing any evidence.
23. In view of the above discussion, petitioner is not entitled for any relief in this petition. In the result, the petition is dismissed. No order as to costs.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in open court on this 07th day of April, 2017.