

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Dy. No. 465 of 2017

Under Section: 241, 242, 244 of the Companies Act, 2013

In the matter of:

Dr. Jakir Hussain

... Petitioner

-versus-

Gauripur Hospital (P)Ltd & Ors.

... Respondents

Coram:

PRESENT

HON'BLE MR.JUSTICE P.K.SAIKIA , MEMBER (JUDICIAL)

For the Petitioner: Mr. Siddharth Sancheti, Advocate.

ORDER

Date: 12.09.2017

This application under Section 241, 242 and 244 of the Companies Act, 2013 is filed seeking, amongst other things, a declaration to the effect that the resolution adopted in the Extra Ordinary General Meeting (in short, "EOGM") held on 02.07.2016 by the members of the respondent No.1 company removing the petitioner from the Board of Directors of the Company is void and illegal since such a resolution was adopted in total violation of the prescription of law laid down in Sections 115 and 169 of the Companies Act, 2013.

For ready reference, the relevant parts of reliefs sought for in the aforesaid proceeding are reproduced below:

"a). The alleged invalid Board Meeting held on 09.05.2016 called by the respondent No.2 to 6 without any notice to the petitioner regarding the said Board Meeting be declared as void and not to give any effect to the said Board meetings and/or any alleged decision made therein and all other subsequent Board meetings , if any called by the respondent No.2 to 6 be declared as null and void.

"b) The documents filed by the respondent No. 2 to 6 in connection with the alleged and invalid Board Meeting dated 09.05.2016 be declared as void and /or withdrawn and/or recalled.

"c) Then alleged illegal and invalid 1st Extra Ordinary General Meeting held on 02.07.2016 by the members of the respondent No.1 in absence of the petitioner which was called in pursuance to an invalid and illegal meeting held by the respondent No.2 to 6 on 09.05.2016 be declared as void and not to give any effect to the said 1st Extra Ordinary General Meeting and/or any alleged decision made therein.

"d) The alleged illegal and invalid 1st Extra Ordinary General Meeting held on 02.07.2016 by the members of the respondent No.1 in absence of petitioner only on books be declared as an void, invalid, illegal and cannot be given any effect thereof the decisions and resolutions passed in the said 1st Extra Ordinary General Meeting".

It has further been stated that the petitioner had the requisite share qualification to file the proceeding in hand against the respondents, his shareholding in the company being the 13% of the entire shareholding of the company. In that connection, I have heard Mr. Siddharth Sancheti, learned Advocate appearing for the petitioner.

While taking me through the petition and other documents, attached therewith, the learned Advocate for the petitioner tries to show that the various Board Meetings which were held prior to the EOGM, held on 02.07.2016, were also conducted in total violation of the prescription of law. Therefore, the learned counsel for the petitioner submits this Tribunal to grant the reliefs, sought for, including the relief in the form of restoration of petitioner to the position which he held till the time of holding of "EOGM" held on 02.07.2016.

The learned counsel for the petitioner further submits that the copy of Company Petition along with all other connected documents had already been sent to all the respondents by registered post. While the copy of the petition and other connected documents, sent to respondent No.6, are returned unserved, the copies of the petition and copies of other connected documents, so sent to respondent Nos. 1 to 5, were served since A/Ds have not been received as yet.

In support of the aforesaid state of affairs, an affidavit has been submitted from the side of the respondents. In that connection, I have also perused the Registry's note dated 04.09.2017. The affidavit and the note of the Registry show that respondent Nos. 1 to 5 had in the meantime, received the copies of the petition as well as the copies of other connected documents.

On consideration of the submission, advanced by the learned Advocate for the petitioner, I find it necessary to admit the present proceeding and also to direct the petitioner to send the copies of petition as well as the copies of all connected documents to all the respondents once again requiring them to submit before this Bench their reply to the