

ATTENDANCE-CUM-ORDER SHEET OF HEARING

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

I.A.No.08/2017, I.A.No.11/2017, I.A.No.12/2017 & I.A.No.13/2017
In
T.P.No.25/397/398/GB/2016
(C P No.992/2011)

Deba Kumar Hazarika & Anr.

... Petitioners

Versus

M/S Assam Chemicals and
Pharmaceutical Pvt. Ltd. & Ors.

... Respondents

Present: Hon'ble Mr Justice P K Saikia, Member(J)

Date of Order: 7th April 2017.

Name of the Company	M/S Assam Chemical & Pharmaceutical Pvt. Ltd.		
Under Section	397/398		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with da

ORDER

I.A.No.08/2017

Heard Mr A. Das, learned counsel for the applicants seeking impleadment of the two applicants as party respondents in connected company petition. Such application is moved on the ground that they are necessary parties in the connected company petition since the said petition cannot be effectively disposed of without they being on the Board. In that connection, it has been submitted that each of the applicants had purchased 20 shares of Rs.100/ each in and of the company out



of the 6715 shares, allotted by the company to various persons on 20.02.2010 and 15.09.2010 which is also the subject matter of connected company petition.

2. It is also their case that Hon'ble Gauhati High Court had found reason to conclude that the allottees of aforesaid 6715 shares are necessary party for proper disposal of current company petition and as such, by its order dated 09.05.2016 in Co.App.No.03/2014 directed the appellant/petitioner to make necessary paper advertisement intimating the allottees of aforesaid shares about the pendency of connected company petition and also to take such further action (s) as they may deem it necessary.

3. The learned counsel for the applicants further submits that the applicants herein are very similarly situated with the applicants in I.A.No.1 & I.A.No 2 of 2017 and their prayers seeking impleadment in the connected company petition has already been allowed by the Tribunal vide order dated 17.02.2017.

4. In view of above, the learned counsel for the applicants has urged this court to allow the application.

I.A.No.13/2017

5. Mr N. Dasgupta, learned counsel for the applicant submits that the applicant herein is also similarly situated as the applicants in I.A.No.8/2017 or for that matter I.A.No.1 & I.A.No 2 of 2017. The learned counsel further submits that the applicant had already been allotted 20 shares long back and thereafter, another 400 shares were allotted to the applicant out of 6715 shares allotted on 20.02.2010 and 15.09.2010.

6. According to the learned counsel, the applicant was not at all aware of the newspaper advertisement made by the petitioners on being required by Hon'ble Gauhati High Court by its order dated 09.05.2016 in Co.App.No.03/2014. Mr Dasgupta further submits that he came to know about the aforesaid newspaper advertisement only recently and on coming to know about the same, he has taken steps to get himself impleaded in the aforesaid connected proceeding.

7. Referring to the various provisions of the Companies Act, 2013 as well as Order 1 Rule 10 CPC and also on relying on the decisions, rendered in (2009) 152 Com. Cas. 637 and the order rendered by this Bench on 17.02.2017 in I.A.No.01/2017

& I.A.No.02/2017, Mr Dasgupta submits that the applicant herein is a necessary party and he needs to be on the Board in the connected proceeding and unless his application is allowed and the applicant is made party in the connected proceeding, the applicant would stand to suffer enormous loss on all fronts which cannot be measured in terms of money.

8. Heard Mr A.K. Srivastava, learned Sr. counsel for the petitioner/non-applicant, assisted by Mr A. Baruah, Advocate who vehemently opposes the submissions advanced by learned counsel for the applicants in the I.A.s aforesaid stating that the applicants in those applications have structured their claim only on surmises and conjectures and not on facts and law.

9. In regard to I.A.No.13/2017, Mr Srivastava submits that the claim of the applicant that he came to know about the Notification as well as about the pendency of the present proceeding only recently is without any basis. Referring to Section 163 of the Companies Act, 1956, he submits that the applicant being a shareholder of the company since 1990, must be well aware of all the developments that have been going on in the company under consideration over last couple of years. That being so, claim of the applicant that he came to know about the pendency of the present proceeding only recently is nothing but a huge pack of lies.

10. His further contention is that the main motive of the applicants in all those applications is nothing but delay the disposal of connected company petition which was initiated as back as 2011. He, therefore, urges this court not to accept the applications otherwise the very purpose of initiating the connected company petition will get completely frustrated.

11. I have considered the submissions having regard to the statements made in the applications. In this connection, I have also perused the order dated 17.02.2017 rendered by this Bench in I.A.Nos.1 & 2 of 2017.

12. On considering the submissions, I have found that the applicants in I.A.No.08/2017 and I.A.No.13/2017 are similarly situated with the applicants in I.A.Nos.1&2 of 2017 and, therefore, in my opinion, their applications seeking impleadment in the connected company petition are required to be accepted. But then, there is reason to believe that the applicants in the aforesaid applications did not come

up before this Tribunal at the earliest possible opportunity and, therefore, their conduct had considerably delayed the disposal of connected petition.

13. In view of the above, I find reason to impose some cost on the applicants while allowing their applications. Therefore, the applicants are directed to pay a cost of Rs.2000/- each to the Registrar of this Bench within ten days from today. On such payment of cost by the applicants, same is to be paid to the petitioners.

14. Resultantly, the Registry is directed to amend the cause tile of the company petition by impleading the applicants in I.A.Nos.08 & 13 of 2017 as party respondents during the course of the day.

15. I.A.No.08/2017 & I.A.No.13/2017 are accordingly disposed of.

T.P.No.25/2016 (C.P.No.992/2011)

16. In view of the order passed in I.A.Nos.08 & 13 of 2017 allowing the applicants therein to be impleaded as party respondents in the company petition, the petitioners are directed to supply copies of the petition and all connected documents to the newly added respondents within three days from today.

17. Learned counsel for the newly added respondents are further directed to submit reply within four weeks from today furnishing copies thereof to the learned counsel for the petitioners at least one week ahead of the date fixed for hearing.

I.A.No.11/2017 & I.A.No.12/2017

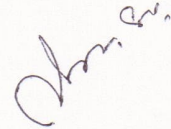
18. Mr A. Das, learned counsel for the applicants in I.A.No.11/2017 and Mr R. Sarma, learned counsel for the applicants in I.A.No.12/2017 submit that they require some time to submit their respective reply, stating that they could not collect the required information in the meantime to enable them to file the reply within the time frame fixed by the Tribunal.

19. Such prayer was strongly opposed to by Mr A.K. Srivastava, learned Sr. counsel for the petitioners/non-applicants stating that seeking adjournments on the

ground aforesaid are nothing but a ploy to delay disposal of the connected company petition. He, therefore, urges this court not to grant any time.

20. On consideration of the submissions advanced by the parties, I find reason to allow the parties to file their respective replies on the next date without fail.

21. List the matter along with other connected proceeding for hearing on 14.07.2017.



Judicial Member
National Company Law Tribunal,
Guwahati Bench,
Guwahati.

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