

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
MUMBAI

TCP No. 20/2013 to TCP No. 22/2013, TCP No. 24/2013, TCP No. 27/2013 to
TCP No. 29/2013

Coram: B.S.V. Prakash Kumar, Member Judicial & V. Nallasenapathy, Member Technical

In the matter of Companies Act, 1956 under Sections 163.

And

Between:

Mr. Anilkumar Poddar (the Petitioner is common in all the TCPs mentioned below)

v/s.

1. M/s Nessville Trading Pvt. Ltd. (Respondent in TCP No. 20/163/2013)
2. M/s Nidhivan Investments & Trading Co. Pvt. Ltd. (Respondent in TCP No. 21/163/2013)
3. M/s. Lochness Investments Pvt. Ltd. (Respondent in TCP No. 22/163/2013)
4. M/s. Sahara Investments Pvt. Ltd. (Respondent in TCP No. 24/163/2013)
5. M/s. Go Investment & Trading Pvt. Ltd. (Respondent in TCP No. 27/163/2013)
6. M/s. Havenkores Real Estates Pvt. Ltd. (Respondent in TCP No. 28/163/2013)
7. M/s. Heera Holdings & Leasing Pvt. Ltd. (Respondent in TCP No. 29/163/2013)

COMMON ORDER

(Heard on 17.10.2016)

(Dismissed on 7.11.2016)

The Petitioner filed these Company Petitions against different Companies, namely M/s Nessville Trading Pvt. Ltd. (TCP 20 /2013), M/s Nidhivan Investments & Trading Co. Pvt. Ltd. (TCP 21/2013), M/s. Lochness Investments Pvt. Ltd. (TCP 22/2013), M/s. Sahara Investments Pvt. Ltd. (TCP 24/2013), M/s. Go Investment & Trading Pvt. Ltd. (TCP 27/2013) M/s. Havenkores Real Estates Pvt. Ltd. (TCP 28/2013), M/s. Heera Holdings & Leasing Pvt. Ltd. (TCP 29/2013) for supply of full copy of Members' Register and Annual Returns for the year 2011-12, 2010-2011, and 2009-2010.

The petitioner has remained absent, but for pleadings are complete, since the point in this case being short regarding inspection and supply of copies thereof, this Bench has decided these three cases on merits basing on the pleadings and submissions made by the Respondent Company by invoking Rule 48 of N.C.L.T r/w Explanation to Rule 2 and Rule 3 of Order 17 of C.P.C.

The petitioner being common in all these Petitions, their reliefs being common, the counsel appearing on behalf of the Respondents being common, the

pleadings in all these Cases not being in variance, for the sake of brevity, this Bench hereby passed common order in all these Petitions.

The Petitioner submits that he sent emails on 16.06.2012 to the Company Secretary to all the Respondents Companies for inspection of Minutes of last AGM, Register of Members, and last Annual Return filed with RoC, on his visit to the registered office of all these Companies on 29.06.2012.

Initially, the companies refused to allow inspection by their letter dated 25.6.2012, thereafter, these companies, by seeing continuous request of this Petitioner, they allowed inspection of the statutory register and Annual Returns of the Companies on 30-11-2012, thereafter, this petitioner again sent another email on 01.12.2012 to the Respondent companies for copies of the entire Register of Members and copy of Annual Returns for the years 2011-12, 2010-11, and 2009-10 by sending a cheque of 200 rupees towards statutory fees. But when no reply came from these Companies for more than a month, then the Petitioner visited the Companies registered office several times for the copies of the documents.

When these companies failed to provide copies of the aforementioned documents, the Petitioner filed these Company Petitions against the respective companies for supply of copies of Statutory Registers and records of the company to the Petitioner as per the email dated 01.12.2012 and for imposing exemplary costs against the companies payable to the Petitioner herein for these companies violated the provisions of Section 163 of the Companies Act, 1956 for refusing to supply the copies as asked by the Petitioner.

The Respondents Counsel submits that this Petitioner has been targeting Wadia Group companies for last several years trying to extort monies in any and every manner, for which only, this Petitioner in the past also played this trick firstly by seeking inspection, thereafter when it was not provided, he used to circulate notice of resolution before AGM of Bombay Dyeing & Mfg. Company Ltd. and Britannia Industries Ltd. seeking removal of the Chairman of both these companies on the ground the Chairman was unable to reply to the letters of shareholders. That time this Petitioner had only one share each in both the companies. That time when the company filed Company Petition before Company Law Board seeking injunction against this Petitioner, the Hon'ble

Company Law Board was pleased to pass an order dated 30.6.2006 holding that the Petitioner's conduct was not bonafide and it was abuse of on the provisions of Companies Act. Now after seven years, he has come again with these Petitions seeking inspection in Wadia Group companies. The Petitioner filed its Company Petition on the footing that he is entitled to file these Company Petitions for he is one of the Members of Public having voter ID No. FLG0967788, therefore, these applications are not based on the ground that he is the shareholder of these companies. He is a man from Kolkata, whereas he keeps filing these kind of Petitions all over India against many of the listed companies and against some private companies as well so as to extort money if the companies compromise to his demands.

Knowing well the intention of the Petitioner, these Respondent Companies, to avoid litigations, already provided inspection of the documents aforementioned, since his intention is not for inspecting the documents, he sought for copies of the Register of Members and the Annual Returns for the year from 2009 to 2012. When these companies refused to supply copies on the demand made by him, he filed these Company Petitions against these three Wadia Group companies. The Respondents in all these companies refused to supply copies stating that since he is not a shareholder, he is not entitled for supply of copies of the documents this Petitioner asked by further stating that he is entitled to the copies of the same from the MCA portal as well.

The legal arguments advanced by the Counsel appearing on behalf of the Respondent is that he has no commercial interest, or for that matter any kind of interest in these companies because he is neither a shareholder or debenture holder nor even a person holding commercial interest in these companies.

To say that he is not entitled to supply of copies of documents, the Respondent Counsel relied upon doctrine of *eiusdem generis* saying the word "any other person" mentioned in Section 163(2) of the Companies Act, 1956 is limited to the person holding commercial interest such as creditor, financier, customer etc., because the preceding would the member and debenture holder to this word "any other person" being the persons having interest in the company, then the following word "any other person" cannot be said as

extendable to any person who has no interest in the company. normally, a person considered to aggrieved when his interest is affected by the act of somebody else, but whereas this Petitioner has no interest in these companies, therefore, he cannot be called aggrieved to file these Company Petitions against these companies. The Respondent Counsel without prejudice to the argument above submits that the mandate against the company cannot be construed as mandate against the Company Law Board to give a direction for supply of copies as and when any person sought a relief for supply of copy of any company. The statute has taken every caution leaving this discretion to the Company Law Board to pass an order when the reliefs sought is just and reasonable.

When this very Petitioner filed an Appeal u/s.10F of the Companies Act, 1956 challenging the order passed u/s. 163 of the Companies Act, 1956, the Hon'ble High Court of Calcutta held in *Philips Carbon Black Limited and Others V/s A.K. Poddar and Another (2011)163 Company Cases 181* that the Company Law Board can refuse to pass an order if the request is for corrupt purpose, if the requisite is shown to cause serious prejudice to the Company or its members or Officers, or if the request otherwise appears to be immoral and oppose to public policy.

The Respondent Counsel further submitted all these Respondent Companies are Private Limited Companies closely held among the family members, moreover he has not stated anywhere for what purpose this Petitioner required the Member of Register and the Annual Returns. These Companies not being either Listed Companies or Public Limited Companies, there cannot be any occasion to attribute violations of any regulations of any other Regulatory Bodies. The Counsel further submits that this Petitioner raised this frivolous and vexatious litigation against the Respondent Companies to suffer them by this litigation. Hence the Counsel prayed this Bench to dismiss these Company Petitions imposing heavy costs against the Petitioner.

For the reasons aforementioned, this Bench is therefore, of the opinion that this Petitioner is not being a shareholder of the company, this Bench, in agreeing with the argument of the Respondents' counsel, holds that he is not entitled to seek this relief under section 163 of the companies Act 1956 and there being no

purpose for granting such a relief to the Petitioner, these Petitions are hereby dismissed considering these litigations as misconceived, vexatious and frivolous.

Accordingly, dismissed without costs.

sd/-

B.S.V. PRAKASH KUMAR

Member (Judicial)

sd/-

V. NALLASENAPATHY

Member (Technical)