

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
MUMBAI

TCP. No. 43/2013 & TCP 26/2014

**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 below two TCPs mentioned)  
v/s.

1. M/s. Dhenu Buildcon Infra Ltd. (Respondent in TCP No. 43/163/2013)
2. M/s. Dhenu Buildcon Infra Ltd. (Respondent in TCP No. 26/163/2014)

**COMMON ORDER**

(Heard on 17.10.2016)

(Dismissed on 07.11.2016)

The Petitioner filed these two Company Petitions (**TCP 43/2013 & TCP 26/2014**) against M/s. Dhenu Buildcon Infra Ltd. for inspection of records and supply of copies thereof u/s 163 of the Companies Act 1956 in the year 2013 and 2014.

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 two 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 these two TCPs, their reliefs being interrelated and overlapping on the self-same subject, the professional appearing on behalf of the Company being same, for the sake of brevity, this Bench hereby passed common order in these Petitions.

**Averments in CP 43/2013:**

The Petitioner filed TCP 43/2013 against Dhenu Buildcon Infra Ltd. (Listed company) u/s.163 of the Companies Act, 1956 for inspection of records as follows:

- (i) Registers of Investments u/s.372A of the Companies Act, 1956 (from the date of incorporation of our company to till date)
- (ii) Register of Contract u/s.301 of the Companies Act, 1956 (from the date of incorporation of our company to till date)

- (iii) General Minutes Books (from the date of incorporation of our company to till date) u/s.196 of the Companies Act, 1956
- (iv) Last Annual Return filed with Registrar of Companies.
- (v) Register of Charges u/1.43 of the Companies Act, 1956 (from the date of incorporation of our company to till date)
- (vi) Register of Directors & Director's shareholding Register u/s.303 and 307 of the Companies Act, 1956 (from the date of incorporation of our company till date)
- (vii) Detailed annual accounts of all the subsidiaries companies of our company for the year 2011-12 and 2010-11.
- (viii) Last five years' annual reports of the company.

The Petitioner says that the company replied to his request dated 29.6.2013 stating that his Client ID Number was not matching with the company record, so he was requested to provide the proof of shareholding to enable the company to the request dated 29.6.2013. On seeing such a reply from the company, the Petitioner himself went to the Registrar of Companies on 3.7.2013 along with the proof of holding shares in the company. For he, there, noticed that the office remained closed, on his inquiry, he was told that the Registered office of this company would always remain closed except for 15 to 20 minutes daily. Then, when he contacted the Company Secretary of this Company, he was told that inspection could not be arranged on that day assuring that the company would give reply to the Petitioner by mail but there was no reply from the company for more than 21 days. For there being no reply, the Petitioner sent another mail on 25.7.2013.

When the company failed to supply copies of the above said documents, the Petitioner has been obliged to file this Company Petition seeking the supply of documents as mentioned above and also for awarding exemplary costs paid to the Petitioner by the Respondent company.

To which the Respondent company filed reply saying that the Registered Office address given by the Petitioner is incorrect by refuting the allegation of the company failing to provide inspection to the Petitioner. The company further

submits that the petitioner is at liberty to take inspection of these Statutory Registers and records as a shareholder on a mutually convenient date and time. Accordingly, they sought for dismissal of this Company Petition.

**Averments in CP 26/2014:**

This Petitioner, while the above Petition seeking relief u/s. 163 of the Companies Act, 1956 still pending, filed CP 26/2014 against the same Respondent Company stating that though the company, on 26.11.2013, provided inspection of 10 years Annual Reports, copy of minutes for last 10 years AGM, copy of full Register of Investments from the date of Incorporation to 20.6.2013, copy of full Register of Contracts from the date of incorporation to 20.6.2013 and last five years Annual Returns as submitted to ROC, the company later failed to supply copies of the above documents despite this Petitioner made a request in writing to the Company Secretary along with a cheque for Rs.5000/- towards the statutory fees in advance. For the copies not being served upon him, he sent another letter dated 15.12.2013 to the Chairman of the company to look into this matter within 24 hours failing which he would initiate legal action against the company and its Directors both in Criminal and Civil Law. For the company failed to accede to the request of the Petitioner, he filed this second Company Petition for supply of the copies abovementioned as the company violated the provisions of Section 163 of the Companies Act, 1956 and also for awarding exemplary costs to be paid by the Respondent company to the Petitioner shareholder.

To which the Respondent company has submitted that the company, with reference to the request made by the Petitioner, on 30<sup>th</sup> June 2014, provided Annual Reports from 1999-2000 till date, the Register of Contract u/s.301(1), (2) & (3) from 1971 till date, (i.e. Related Party Transactions, Disclosure of Directors Interest u/s.299(3), Register of Charges from 1963, Register on Investment, Minutes Book- Board Meeting Minutes and AGM / EOGM Minutes from 2004 till date, i.e., 30<sup>th</sup> June 2014. The Professional appearing on behalf of the company submits that for the Petitioner himself stated that the Respondent Company provided inspection of the documents aforesaid on 26.11.2013, and thereafter

when the company supplied the copies aforementioned on 30.6.2014 these two company Petitions could have been dismissed as infructuous, because the reliefs sought by the Petitioner in CP 43/2013 and CP 26/2014 have been complied with by the company. However, the Professional appearing on behalf of the company again submits for dismissal of these Company Petitions looking at the compliance the company made.

On perusal of both company Petitions aforementioned, it appears that it is a listed company reflecting its transactions on the MCA portal and the Company website. The Company, without looking at the point whether this Petitioner is entitled to inspection and copies thereof in the light of Section 610B of the Companies Act, 1956, provided inspection and supplied copies of records on the dates reflected above. In spite of it, the Petitioner still prosecuting these Company Petitions when the company already provided inspection and supply of the records inspected.

The Petitioner has nowhere revealed what purpose these documents were asked by him except saying non-supply of copies of records to him is in violation of Section 163 of the Companies Act, 1956. If at all he says denial for inspection and supply of copy of records covered u/s.163 of the Companies Act, 1956 is punishable u/s.163, he could have initiated criminal action against them because this Tribunal is not empowered to take cognizance over violation of section 163. At best, this Tribunal could give direction for providing inspection and supply of copies of records subject to itsP satisfaction by looking at the facts of the case. For the company has provided inspection and supplied copies of records, this Bench, without going into this Petition as to the entitlement of the Petitioners to seek relief u/s.163 (6) of the Companies Act, 1956, hereby dismissed this Company Petition as infructuous.

This Petition is dismissed making it clear that the Petitioner is not entitled for any exemplary costs for two reasons – one, the company provided inspection even before this Petitioner filed second Company Petition under the same Section against the company, and thereafter while second petition pending, the company supplied the copies of records on 30.6.2014; two, the Petitioner has not revealed

anywhere for what purpose he filed this Company Petition and what injury he sustained or grievances he has for denial of inspection and supply of copies of records.

Accordingly, these Company Petitions are dismissed without any costs.

sd/-

**B.S.V. PRAKASH KUMAR**  
Member (Judicial)

sd/-

**V. NALLASENAPATHY**  
Member (Technical)