

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI
BENCH, MUMBAI**

Transfer Company Application No. 16 of 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:

Shri Anilkumar Poddar

..... Applicant

V/s.

M/s. Mellenium Cybertech Ltd.

..... Respondent

Present on behalf of the parties:

1. None present for the Applicant and the Respondent.

ORDER

(Heard on 11.11.2016)

(Pronounced on 06.12.2016)

Applicant has filed this Company Application saying he sent email dated 11.01.2014 to the Company Secretary for inspection of the following documents on his visit to the registered office of the Company on 16.01.2014.

The documents this Applicant sought are as follows:

1. General Minutes Books (from the date of incorporation to till date) u/s 196 of the Companies Act 1956.
2. The Register of Investments under Section 372A of the Companies Act, 1956 (from the date of company incorporation till date)
3. Register of Contract under Section 301 of the Companies Act 1956 from the date of incorporation till date.
4. Register of Charges under Section 143 of the Companies Act, 1956.
5. Register of Directors and Directors' Shareholding Register u/s.306 and 307 of the Companies Act, 1956.

6. Copy of last year annual return as filed with Registrar of Companies u/s. 163 of the Companies Act, 1956.
7. Detailed Annual Report of all the subsidiary companies for the year 2011-12 and 2010-11.
8. Last five years Annual Reports of the Company.

The Applicant says he went to the registered office of the company on 16.01.2014 for taking inspection of the documents above mentioned, but he was refused to take inspection.

The Applicant says that since he has been refused to take inspection, the Respondent Company has committed offence u/s.143, 163, 196, 212, 219, 301, 303 and 372A of the Companies Act, 1956.

Since the company has not filed reply to this application, this Bench could not ascertain the reason for not providing inspection.

For inspection being refused, the Applicant has sought the Company Law Board to grant relief directing the Respondent company to provide inspection of statutory registers and the records of the company to the Applicant as mentioned in the email dated 11.01.2014, and for exemplary cost to be paid by the Respondent company to the Applicant.

Though the Respondent Company has been served upon notice to appear for this hearing, the Respondent has remained absent. For the Respondent is called absent, this case is set Ex-parte against the Respondents and passed the order below by invoking Rule 49 of NCLT Rules.

On perusal of the Company Application filed by the Applicant, this Bench has noticed that this Application is filed u/s.163 of the Companies Act, 1956 for inspection of General Minutes Book u/s.196 of the Companies Act, 1956, Register of Investment u/s.372A; Register of Contract u/s.301,

Register of Charges u/s.143 of the Companies Act, 1956, Register of Directors and Directors' Shareholding Register u/s.303 and 307 of the Companies Act, 1956, Last Annual Reports filed with the Registrar of Companies, detailed Annual Accounts of the Subsidiary companies for the years 2011-12 and 2010-11 and last five years Annual Reports of the company.

This Applicant has not said anywhere how many shares he has in this company, but for there being no reply from the Company as to the shareholding of the Applicant in this company, this Bench, as per Company Application, believes that the Applicant is one of the shareholders of this Respondent Company.

On reading Section 163 of the Companies Act, 1956, under which the Company Application is filed, the company is under obligation, as per Section 163 to keep Register of Members, the Index of Members, the Register of Index of the Debenture holders and copies of Annual Return made u/s.159 and 160. But the applicant asked inspection for almost all the documents of the company since inception, without assigning any reasons for seeking inspection.

It is not mentioned in subsection 1 of Section 163 that a shareholder is entitled to Register of Investments, Register of Contract, General Minutes Book, Register of Charges, Register of Directors, and Annual Accounts of subsidiaries companies.

It is needless to say that nowadays most of the information of every public limited company is available either on the website of the company or MCA portal, therefore, if the applicant is a shareholder, he is entitled for inspection of the same under Section 610 of the Companies Act 1956, and the copies of the same are admissible in evidence as of equal validity with the original documents, so the applicant can't say copies from Portal are of

no value. And it is not possible in normal course to provide registers since inception of the company.

Moreover, whenever any person comes before court of law, he must give reasons for inspection and if right of inspection is denied to him, and must say what injury he is going to sustain by such denial. Though a person is entitled for inspection as of right without assigning any reason, when it comes to seek relief under sub section 6 of Section 163, it is a discretionary relief, thereby, this Tribunal will apply its discretion to pass orders.

For no reason being assigned and for this Applicant has recourse for getting inspection of the documents under Section 610 of the Act 1956, this Bench has however limited this order to provide copies of the Annual Return of the years 2010-2011 and 2011-2012 filed with the Registrar of Companies which is shown as an item in the documents, the Applicant sought for inspection.

Therefore, the Respondent Company is hereby directed to provide last Annual Return that is for the year 2011-2012 filed with the Registrar of Companies in compliance of Sections 159 and 160 of the Companies Act, 1956 within 30 days.

Accordingly, this Company Application is hereby disposed of.

sd/-

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

sd/-

V. NALLASENAPATHY
Member (Technical)