

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

C. A. 18 of 2014

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

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

AND

Between:

Shri. Anilkumar Poddar ..... Applicant

Versus

M/s. Unistar Multimedia Ltd. .... Respondent

**Present on behalf of the parties:**

1. Shri. Anil Kumar Poddar, Petitioner in-person.
2. Shri. Vittal Tonsay, Manager of Respondent Company.

**ORDER**

(Heard and Pronounced on: 18-07-2016)

On the Company Application moved u/s 163 of the Companies Act, 1956 against the Respondent Company for inspection of Minutes of General Meetings, Registers of Instruments u/s 372A of the Companies Act 1956, Register of Contracts u/s 301 of the Companies Act 1956, Register of Directors shareholding u/s 303 and 307 of the Companies Act 1956 – all from the date of incorporation till date, copy of the last year Annual Return as filed with RoC, details of annual accounts of its subsidiaries for the year 2011-2012 and 2010 - 2011, last five year annual reports of this company, the Respondent Company provided inspection within one month of filing this Application before this Bench. Somehow this application, though inspection was given in 2014 itself, is still pending before this Bench.

Now, the petitioner, not being in a position to argue for inspection for it was already provided, has come up with a plea for imposition of exemplary costs against the Company for having not provided inspection immediately on

seeing the e-mail dated 18.4.2014 sent to the Company and for imposition of fine for non-compliance of the section 163 of the Act.

The Petitioner says since the Company refused inspection to the Petitioner on his e-mail dated 18.01.2014, he personally visited the registered office of the company on 22.1.2014 for the purpose of inspection, there, one Prasad and Vittal Tansey refused to allow inspection except providing annual report for the year 2012-2013 by saying the company could not provide inspection of other documents before 21 days. The petitioner, having not been satisfied with their reply, sent another mail on 23.1.2014 informing that he was refused inspection of documents as asked by him. Of course he says that inspection was given to him only after filing this application, hence forth sought costs and imposition of fine.

This Bench makes it clear that it is nowhere mentioned in Section 163 that inspection shall be provided in a stipulated period, therefore, it can't be held that the petitioner is entitled to exemplary costs for inspection not being provided as soon as it was asked, in fact, annual report was immediately provided, therefore one Prasad and Vittal Tansey stating that statement that 21 days' time required for providing documents as asked by the petitioner cannot even become refusal of providing inspection, however for having the company provided inspection, this Bench does not notice any reason for grant of exemplary costs in this case, hence this application is hereby dismissed as infructuous.

Since sub-section 5 of Section 163 says "*the person in default, shall be punishable with fine which may extend to Five Hundred rupees for every day during which the refusal or default continues,*" this Bench has not noticed anywhere that CLB is empowered to impose punishment u/s. 5 of Section 163 of the Companies Act, 1956. It is needless to say that Tribunal cannot exercise jurisdiction beyond the power conferred upon. The power conferred upon CLB under sub-section 6 is for compelling the company to provide inspection of documents, or extract of the documents to the aggrieved.

The Respondent counsel stated that this petitioner keeps filing Applications against various Companies u/s. 163, likewise here also this Petitioner filed more than 100 Applications against various Companies invoking Section 163 of the Companies Act, 1956, either saying Company has not provided inspection or not provided extracts of documents. Though he is a member having more than 1% shareholding in this Company, though the Company provided inspection to the Petitioner within one month after mentioning this Company Application, he has not proceeded against the company till date even after 3 years have already gone after availing information as to the allegations that the company violated the regulations of SEBI. What ultimately he now seeking is exemplary costs and fine against the Company for having not provided inspection immediately after he sent e-mail to the Company, which are not permissible, one inspection already given, two, this Bench has no jurisdiction to impose fine.

Even in Section 163 also, the power conferred upon Company Law Board is only to compel the Company to provide immediate inspection of the documents of the Company or direct the company to provide copies of documents as required by the Petitioner, not beyond the above.

Therefore, the other reliefs seeking exemplary costs or direction for imposing fine has no merit, hence, this Company Application is dismissed as infructuous.

**sd/-**

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

**sd/-**

**V. NALLASENAPATHY**  
Member (Technical)