

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

IA 161/2017 in C.P. No. 75/241/NCLT/AHM/2017


Coram:

Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 11.07.2017**

Name of the Company: Bhopal Motors Pvt. Ltd.
V/s.
Shakti Cold Storage (India) Pvt Ltd.

Section of the Companies Act: Section 241 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	VIJAYESH ATRE	ADVOCATE	PETITIONERS	

2.

ORDER

Learned Advocate Mr. Vijayesh Atre present for Petitioners. None present for Respondents.

Learned Counsel for Petitioner stated that vide letter dated 07.07.2017 informed Respondents no. 1 to 5 that he is going to file petition before this Tribunal on 10.07.2017 and seeking hearing on 11.07.2017 and said letter was sent by Email as well as speed post.

Petitioner also filed track reports issued by postal department.

Petitioner further stated that on 10.07.2017 again he informed the Respondents no. 1 to 4 about listing of this matter today before this Tribunal by email.



Heard learned counsel for the petitioner. Considering the averments made in the petition, this petition is admitted.

In this petition, the petitioner is seeking the following directions: -

- (i) To declare that the removal of the nominee directors from the Board of Directors of the 1st Respondent Company is null and void;
- (ii) To declare that the petitioner companies are having 50% equity shareholding in the 1st Respondent Company;
- (iii) To direct respondent No.5 to remove the disputed Form DIR-12 dated 15th June, 2017 from the records of MCA;
- (iv) To prohibit respondents 2 to 4 from passing any Board resolution or Members' resolution without following due process of law; and
- (v) To direct respondents 2 to 4 to place before the nominee directors of the petitioner companies complete statement of account for the financial year ending 31st March, 2017.

The petitioners also filed IA No.161 of 2017 seeking stay of the removal of three nominee directors; direction to the respondents not to hold Annual General Meeting on 12th July, 2017 in pursuance of the notice dated 16th June, 2017; to direct the respondents to recognize the nominee directors of the petitioner companies as directors of the 1st respondent company; and to direct the respondents not to alienate the assets of the 1st Respondent Company, not to alter the directorship and shareholding of the 1st Respondent Company, not to enhance the authorised share capital of the 1st Respondent Company and not to shift the registered office of the 1st Respondent Company.



Learned counsel for the petitioners submitted that the shares of the investors were transferred to the petitioner companies and thereby they are holding 50% of the paid up share capital of the 1st Respondent Company. In support of this contention, he brought to the notice of this Tribunal Register of Members, Share Transfer Forms, etc. vide Ex.P12, pages 142 to 149 of the petition. The petitioners allege that the nominee directors of the petitioner companies were illegally removed from the Board of Directors of the 1st Respondent Company. Learned counsel for the petitioners submitted that without giving any notice to the petitioners, respondents 1 to 4 are going to conduct the Annual General Meeting of the 1st Respondent Company on 12.7.2017, for which a notice dated 16th June, 2017 was issued and it was displayed as Ex.P19, at pages 211 to 235 of the petition. Learned counsel for the petitioners submitted that in the Annual General Meeting that is scheduled to be held on 12th July, 2017, the respondents are contemplating to increase the authorised share capital of the 1st Respondent Company.

A perusal of the notice dated 16th June, 2017 goes to show that a General Body meeting of the 1st Respondent Company is scheduled to be held on 12th July, 2017 to adopt the balance sheet as on 31st March, 2017, to appoint Auditors, to increase the authorised share capital, etc.


In spite of service of notice twice, the respondents did not choose to appear before this Tribunal. Considering the fact that the General Body meeting is scheduled to be held on 12th July, 2017, in which one of the agenda items is to increase the authorised share capital of the 1st Respondent Company, for which it is alleged that no notice was given to the petitioner companies, who are said to be the shareholders of the 1st Respondent company, it is necessary to issue the following directions to respondents 1 to 4.

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Respondents 1 to 4 are directed to postpone the Annual General Meeting of the 1st Respondent Company scheduled to be held on 12th July, 2017 till 9th August, 2017. Respondents 1 to 5 shall file their reply in the main petition and in IA No.161 of 2017 within two weeks after serving a copy in advance to the petitioners. The petitioners shall file rejoinder, if any, both in the petition and in the Interlocutory Application, within one week from the date of filing of the reply.

Petitioner is directed to serve a copy of this order by mail or by hand and by speed post and file proof of service before this Tribunal by 18th July, 2017.

List the CP and the IA for hearing on 4th August, 2017.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 11th day of July, 2017.