

National Company Law Tribunal
Allahabad Bench
Allahabad

CP No. 106 (ND)/2012

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.01.2017.

NAME OF THE COMPANY: Smt. Poonam Gupta

Vs.

M/s Janammandal Ltd.

SECTION OF THE COMPANIES ACT: u/s 397/398 of Companies Act, 1956.

Order dated 30.01.2017

Sl. No.	Name	Designation	Representation	Signature
	<u>CP No. 106(ND)/2012 Smt. Poonam Gupta Vs. M/s</u>			

1. Janammandal Ltd.

2.

The case is taken up today for passing appropriate direction to the respondents on their company applications filed by the applicants/petitioner in CP No.106,107&108/ND/2012 to ensure compliance of the previous direction/directions issued by the Company Law Board's order dated 04.03.2016 read with order dated 08.01.2016, whereby the CLB having heard the submission of both the parties pleased to pass such direction to the respondent company to provide inspection to the petitioner within fifteen days from the date of issuance of order. Further, the petitioner side also was equally directed to issue two days' prior notice to second respondent before proceeding for making inspection of the record of company. It is alleged by the petitioner that pursuant to such direction when the petitioner approached the office of the second respondent company was not allowed to make inspection of the records of the company along with his team of Chartered Accountants. In counter allegation made by the respondent company it is said the petitioner used criminal force to make of visit the office of the company as he was allegedly accompanied with some unauthorised persons, hence inspection work could not be done and order of the CLB could not be complied with.

For compliance
30.1.17

The Company Law Board after considering their rival submission made further direction without blaming either side by appointing two commissioners namely Advocate Mr. Ravi Shankar Singh, (Mob. No. 9415983399) and Advocate Mr. Vijay Kumar Singh, (Mob. No. 9335048767) to the facilitate inspection of record and raw materials located at the unit of the company by the petitioner No.3 along with his one Chartered Accountant Mr. Ashok Kumar Agarwal (9415127427). In this order the commissioner were suggested to fix a date for inspection within fifteen days from the order of the CLB and to submit their report on next date of hearing. Such inspection was to be completed within thirty days from the date of latest direction issued by the Company Law board i.e. 04.03.2016. It is pointed out by the counsel for both the parties that inspection of the relevant records of the respondent company could not been materialise and has not fully complied due to some serious dispute has arisen among the parties which lead to filing of criminal complaint against each other and are now subjudiced before a competent Criminal Court.

We carefully considered the facts and circumstances of the present case and issue involved therein. However, we don't want to express our opinion on the merits of the allegation counter allegation made against each other by the parties as the matter is subjudice before a Criminal Court.

Notwithstanding the above this tribunal express its concern about non-implementation of the CLB is earlier direction in its later and spirit to ensure the 'rule of law' otherwise the litigant may lack faith on the judicial system. Therefore, we have considered the prayer made in subsequent applicant filed by the petitioners for seeking police protection during the course of inspection work and for issue of necessary direction to the respondent company to provide access of the record to the petitioner and his team and allow the inspection.

The petitioner are prepared to bear the expenses of the police team which could be either be constituted by this tribunal or a proper direction can be given to the office of concerned Senior Superintendent of Police, Varanasi and or where the units of the respondent company (i.e. Printing Press) are situated. We have heard the submission of the Learned Counsel for both the parties on previous hearing in order to ascertain the circumstances behind non-implementation of this tribunal/ Company Law Board's and to find way for compliance of the direction for inspections.

Therefore, we reiterate the direction dated 04.03.2016 read with 08.01.2016 given by the CLB to all the parties concerned and this is to be complied with in a peaceful and smooth manner. The commissioners earlier appointed by Company Law Board (by order dated 04.03.2016 namely Shri Ravi Shankar Singh and Mr. Vijay Kumar Singh) is further instructed to facilitate the inspection of record etc. as per previous direction of the CLB and this tribunal the inspection to be carried by petitioner No.3 along with his one C.A. Mr. Ashok Kumar Agrawal. We hereby clarify that permission to make inspection through C.A. has already been granted to only one Chartered Accountant but if thinks appropriate commissioner may allow company of his junior/associate of Chartered Accountant for making/carrying inspection considering the nature and volume of work involved therein for prompt inspection. We also considered the law and order situation and to avoid any complication that may arise this tribunal appoints Regional Director, Ministry of Corporate Affairs, Northern Region (who has already been impleaded as a respondent in these company petitions) as an independent observer. He or his representative (a Senior Govt. Officer) shall visit and coordinate with the inspection work to ensure smooth and peaceful conduct of inspection and make compliance of this Tribunal's direction.

He or his representative shall also visit the office of the respondent company its units e.g. Printing Press personally along with the Oath Commissioners and the inspection team of CA and petitioner. He will submit his independent report about the compliance to this Tribunal at the earliest. The Office of Regional Director is further advised to issue at least three days prior notice as earlier (directed by the Company Law Board) to the respondent company about his proposed visit to their office for the inspection purpose. In case his office feels appropriate and necessary he may seek necessary assistance from the police for completing the task.

A copy of this order be communicated by the office of the of Regional Director as well as the registry of this Tribunal to the office of the Senior Superintendent of Police, Varanasi for information. The office of the Regional Director may also inform to other police offices, if necessary with request for seeking their cooperation to maintain law and order position in completing the task and for smooth conduct of the inspection work. A copy of this order also be forwarded by the petitioners to the Learned Oath Commissioners, CA as well as to the office of respondent company. The task of inspection to be initiated within two weeks from the date of the receipt of this order and a report of the Regional Director, (NR) as well as of the Oath Commissioners to be submitted at the earliest to this Tribunal.

List the matter for status report on 21.02.2017.


SH.V.S.R. AVADHANI (Judicial Member)


SH. H.P. CHATURVEDI (Judicial Member)

Dated 30.01.2017