

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

**C.P.No.03 of 2012
(T.P.No.61/HBD/2016)**

U/s 111/397/398/402/403 of Companies Act, 1956

In the matter of

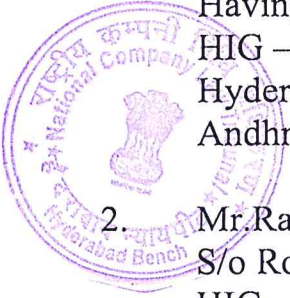
Mr. Venkat Sudhakar Sathur,
S/o. Late Appa Rao,
9-2-12/1, MIG-4/2, Pithapuram Colony,
Vishakhapatnam – 530003,
Andhra Pradesh.

.....Petitioner

Vs.

1. DICTASOL (INDIA) PRIVATE LIMITED,
Having its Registered Office at:
HIG – 33, 5th Phase, KPHB Colony,
Hyderabad – 500072,
Andhra Pradesh.
2. Mr.Ramakrishna Reddy Raya,
S/o Rosi Reddy Raya,
HIG – 76, 5th Phase, KPHB Colony,
Hyderabad – 500072
Andhra Pradesh.
3. Mr.Eturi Jagdeswara Rao,
S/o Eturi Venkata Ramana,
H.No.1-58/A & 1-58/B, F-303,
Earthcon Future Plaza,
Madinaguda, Hyderabad – 500072,
Andhra Pradesh.
4. Mrs. Sushma Arisetty,
W/o. Eturi Jagdeswara Rao
H.No.1-58/A & 1-58/B, F-303,
Earthcon Future Plaza,
Madinaguda, Hyderabad– 500072,
Andhra Pradesh.

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**



5. AMK Holdings Limited,
S.A, CP 32, 1294 Genthod,
Switzerland.
6. Mr. Kanwaljith Singh Bharj,
S/o. Pritam Singh Bharj,
Chemin De La Pralay 13
Genthod - 1294.
7. Mr.Roland Francois Ferdinnand Farina
S/o.Antonio Farina,
Chemin De La Tour-De-Chempel 6,
Geneva - 1206.

....Respondents

Date of Judgment : 29.08.2017

CORAM

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Counsels/Parties present

For the Petitioner :

Dr. K. S. Ravichandran, PCS with
Mrs. S.Manjula Devi, Advocate

For the Respondents No.1 to 6 :

Mr. B.V. Satish Kumar, with
N.Sudheer, PCS

Per: Rajeswara Rao Vittanala

JUDGEMENT

1. The present Company petition bearing CP No 03 of 2012 (TP No. 61/HDB/2016 is filed by Mr. Venkat Sudhakar Sathur, U/s111/397/398/402/403 of Companies Act, 1956 against Dictasol (India) Private Limited & others ("herein after referred to as the Company) by seeking the following multiple reliefs;

- a. To declare that the action of the Respondents No.2 and 3 in removing the directorship of the Petitioner is oppressive, unfair, invalid and illegal and consequently to (i) declare that he has been continuing as a director and managing director without any break; and (ii) direct the Ministry of Corporate Affairs to delete the relevant Form No.32 filed by the Respondents on 18/10/2011;
- b. To declare that the Respondent No.3 had lost his office on 28th September 2010 being the date of AGM 2010 when his appointment was not regularized.
- c. To declare the AGM 2010 purportedly held on 26th September 2010 as unauthorised, invalid and illegal and consequently set aside the proceedings thereof.
- d. To declare the Board Meeting purportedly held on 10th November 2010 and 20th January 2011 and other subsequent board meetings as unauthorized, invalid and illegal and consequently set aside the proceedings thereof.
- e. To declare the Board Meeting purportedly held on 27th October 2011 and 21st December 2011 as unauthorized, invalid and illegal and consequently set aside the proceedings thereof.
- f. To declare that the impugned allotment of 40,000 fully paid up equity shares purportedly allotted to Respondents 2, 3 and 4 on 27th October 2011 as oppressive, unfair, fraudulent, invalid, illegal, unlawful, null and void and consequently to (i) set aside the said allotment of shares; (ii) direct the Ministry of Corporate Affairs to delete the relevant Form No.2 and (iii) direct a rectification of the register of members to remove entries thereto.



- g. To declare the AGM 2011 purportedly held on 25th November 2011 as unauthorized, invalid and illegal and consequently set aside the proceedings thereof.
- h. To declare the EGM purportedly held on 7th December 2011 and 28th December 2011 as unauthorized, invalid and illegal and consequently set aside the proceedings thereof.
- i. To declare the impugned increase in authorized capital of the Company from Rs.5,00,000/- to Rs.50,00,000/- on 07th December 2011 as oppressive, unfair, fraudulent, invalid, illegal, unlawful, null and void and consequently (i) set aside the said allotment of shares; and (ii) direct the Ministry of Corporate Affairs to delete the relevant Form No.5 and 23 thereto.
- j. To declare that the impugned allotment of 2,69,834 fully paid up equity shares purportedly allotted to Respondent 5 on 21st December 2011 as oppressive, unfair, fraudulent, invalid, illegal, unlawful, null and void and consequently to (i) set aside the said allotment of shares; (ii) direct the Ministry of Corporate Affairs to delete the relevant Form No.2 and (iii) direct a rectification of the register of members to remove entries thereto.
- k. To declare that the Respondents No. 2 and 3 are unfit to continue as a director of the Company as they have perpetrated a big oppressive act and played a fraud on the Company and their conduct is highly prejudicial to the interests of the Company.
- l. To direct the Respondents No.2 and 3 to hand over the books of account, registers, records, title deeds, statements, documents, papers, vouchers and all equipments and things belonging to the Company to the Petitioner.



- m. To direct the Respondents No.2 and 3 to render account for the entire period from March 2010 to a date until disposal of the Company Petition.
- n. To set aside the appointment of Mr.Kanwaljith Singh Bharj (Respondent No.6) and Mr.Roland Francois Ferdinnand Farina (Respondent No.7) as directors of the Company in the alleged board meeting held on 3rd August 2012 and declare the said board meeting as illegal, null and void and consequently declare the Form 32 filed with the Registrar of Companies on 15th November 2012 as illegal, null and void.
- o. To set aside the allotment of shares purportedly issued to Respondent No.5 on 16th January 2012, 3rd August 2012 and 6th June 2013 and declare the said meetings as illegal, null and void and consequently Form 2 filed with the Registrar of Companies on 18th January 2012, 15th November 2012, 21st January 2014 as illegal, null and void.
- p. To declare the increase in authorized capital of the Company made in the EGM allegedly held on 24th January 2012 as illegal, null and void and consequently Form 5 filed with the Registrar of Companies on 24th January 2012 as illegal, null and void.
- q. To declare that the Board Meeting allegedly held on 27th January 2015 with respect to shifting of registered office as invalid and illegal and consequently declare the Form-INC 22 filed on 3rd March 2015 as illegal, null and void.
- r. To declare that all documents and returns filed by the invalid board of directors constituted by the Respondents with the Registrar of Companies after moving of the Company Petition ie. 10th January 2012 as illegal, null and void.



s. To direct an investigation into the source and origin of the funds allegedly pumped into the Company.

2. Brief facts of the case, which are relevant to present issue, are as follows:

a) Dictasol (India) Private Limited is a private limited Company incorporated under the Companies Act, 1956 on 08/09/2009 (Eighth September Two Thousand and Nine) with the Registration No.U74900AP2009PTC064965. Its Registered Office is situated at HIG-33, 5th Phase, KPHB Colony, Hyderabad – 500072.

b) The Capital Structure of the “Company as at 31st March 2011 is as under:

i. The Authorized Capital of the “First Respondent” is Rs. 5,00,000/- (Rupees Five Lakhs Only) divided into 50,000 (Fifty Thousand only) Equity Shares of Rs. 10/- (Rupees Ten Only) each.

ii. The issued, subscribed and paid-up capital of the “First Respondent” is Rs. 1,00,000/- (Rupees One Lakh Only) divided into 10,000 (Ten Thousand only) Equity Shares of Rs. 10/- (Rupees Ten Only) each. Subsequently through illegal issue of shares the paid up capital of the Company was increased twice which are under challenge in this Company Petition.

c) However, the authorized capital of the Company has been illegally increased from Rs.5,00,000/- to Rs.50,00,000/-in the alleged EGM held on 07th December 2011. The same is under challenge in this Petition.

d) The Company is presently engaged in the activity of providing outsourced customer service and technical support delivery



services, apart from undertaking to provide services for and on behalf of the clients to service its customers through its offshore (India based) services delivery arm. The only client of the Company is Duncan Lewis & Co. Solicitors Limited.

e) The Petitioner is a Post Graduate in Commerce and Business Management, and has accredited two decades of managerial experience and holds 9,900 [Nine Thousand and Nine Hundred only] equity shares aggregating to 99% shares in the capital of the Company. The stake of the Petitioner in the Capital of the Company has been reduced to mere 3.09% due to the impugned allotment of shares made on 27th October 2011, & 21st December 2011. As per Section 399 of the Companies Act, 1956, the Petitioner is eligible to file this Petitioner. There are only 5 shareholders, even after considering the impugned allotments of shares.



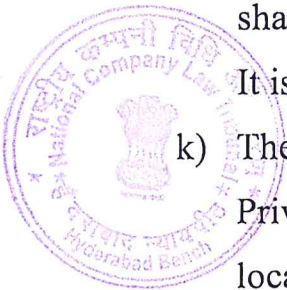
- f) It is stated that Petitioner is also one of the first and permanent Directors of the Company as per Clause 30 of the Articles of Association of the Company. He is also the Promoter and Managing Director of the Company. He was illegally removed from his Directorship with effect from 20/01/2011 and Form 32 was filed for the same purpose.
- g) Respondent No. 2 is a Director of the Company with effect from 08/09/2009. He holds 100 fully paid up Equity Shares of Rs.10 each constituting 1% of the share capital of the Company. 10,000 fully paid up shares have been allegedly allotted to him on 27th October 2011. This allotment is under challenge.
- h) Respondent No. 3 became a Director of the Company 20th February 2010 by virtue of an arrangement made by the Petitioner to meet requirements during his absence from India. The relevant

Form 32 was filed on 23rd February 2010. He is continuance as a Director of the Company is under challenge. He is also shown to be having 20,000 [Twenty Thousand Only] equity shares of the Company in the impugned share allotment purportedly made on 27th October 2011. It is also under challenge in this petition.

- i) Respondent No. 4 is the wife of Respondent No. 3 and is shown to be having 10,000 [Ten Thousand Only] equity shares of the Company in the impugned share allotment purportedly made on 27th October 2011. The same is under challenge in this Petition.
- j) Respondent No.5 has been added as a shareholder of the Company by virtue of the impugned allotment of 2,69,834 equity shares on 21st December 2011 This share issue is under challenge. It is a foreign Company situated in Switzerland.

- k) The Petitioner initially worked with M/s.GS Infocomm Data Private Limited., of Delhi as Office Manager of Hyderabad location during August 2008 to October 2009. During that period he got acquainted with Duncan Lewis & Co., of UK operations. The Petitioner is the founder, chief promoter and majority shareholder (99%) of the "First Respondent", which is handling the back office services like Finance & Accounts, HR, Legal transcription, Call handling and Scanning & Archiving works of the UK based company viz., Duncan Lewis, London, UK.

- l) Thus, Duncan Lewis of UK offered to give their assignment of outsourcing of back office services and extended their support and co-operation for establishment of infrastructure facilities for setting up fully equipped, Modern and state of art facilities for the proposed outsourcing business centre. With untiring efforts from his end, the Petitioner shaped up the Company with the co-operation and support derived from Duncan Lewis of UK. The



Company is his concept and baby. The Company had close to 145 employees and the salary bill alone is Rs.20 Lakhs per month. Billing per month is about Rs.30 Lakhs.

- m) At the instance of Duncan Lewis of UK and for his personal convenience, the Petitioner temporarily visited UK to join his family members. Meanwhile, with a view to strengthen the mutual co-operation, Duncan Lewis of UK also offered the Petitioner employment and supported his employment visa.
- n) It is stated that the Respondent No.3 has been appointed as an additional Director of the Company by the Petitioner. The Annual General Meeting for the year 2010 was not conducted at all. The Respondents No.2 and 3 have falsely signed the accounts and got it audited also. Even in the impugned AGM 2010 allegedly held on 26th September 2010, the Directorship of Respondent No.3 was not regularized. Thus he lost his office on the due date of AGM. Even assuming the AGM was held on 26th September 2010, he lost his office by operation of law contained in Section 260 of the Companies Act, 1956. Thus effectively from September 2010, or as the case may be, 1st October 2010, the due date for the AGM 2010, there were only 2 directors i.e., Petitioner and Respondent No.2. His continuance as a Director of the Company after the AGM is illegal, null and void.
- o) It is alleged that Respondents No.2 and 3 had colluded with each other and filed Form 32 on 18/10/2011 intimating cessation of Directorship of the Petitioner with effect from 20/01/2011. This action of the Respondent No.2 and 3 is accentuated by malafides. This is highly oppressive and unfair act besides being completely invalid and illegal.



- p) Since, only Petitioner and Respondent No.2 are Directors of the Company constituting the Board of Directors, without petitioner presence, there cannot be any valid Board meeting to contend that the Petitioner had lost his Directorship due to operation of Section 283(1)(g) of the Companies Act, 1956. Therefore the question of Petitioner vacating office does not arise at all. If Petitioner should be deemed to have vacated, Respondents No.2 and 3 too would follow suit.
- q) On 27th October 2011 the Respondents allegedly held a Board Meeting and in the said meeting the 40,000 equity shares of Rs.10 each totaling Rs.4,00,000 /- were allotted to Respondents No.2 to 4. The particulars whereof have been given below:

Sl.No.	Name of the Allottee	No. of shares	Value of the shares in Rs.	Status in the Petition
1.	Mr. Ramakrishna Reddy Raya	10,000	1,00,000	Respondent No.2
2.	Mr. Jagdeshwara Rao Eturi	20,000	2,00,000	Respondent No.3
3.	Ms. Sushma Arisetty	10,000	1,00,000	Respondent No.4
	Total	40,000	40,00,000	

- r) As a result of the above invalid and illegal allotment, the stake of the Petitioner was reduced from 99% to 20%. The allotment is highly oppressive, un-authorized, invalid, illegal, malicious, null, and void. It is liable to be set aside. When the AGM 2010 itself having been not validly and lawfully held, the Respondents have gone about calling and holding the AGM for 2011 on 25th November 2011. This AGM is invalid, illegal and is liable to be set-aside.



- s) The Petitioner was not aware of the above illegal and oppressive acts of the Respondents until he received the notice for Annual General Meeting [AGM] of 2011 on 2nd November 2011. As per the said notice, the Petitioner came to know that the Respondents are proceeding to call the AGM for 2011 on 25th November 2011. On receipt of the AGM 2011 notice, the Petitioner got surprised and immediately issued letter dated 11th November 2011. The Petitioner submits that the AGM 2011 is un-authorized, invalid and illegal due to several reasons.
- t) The Petitioner state that ever since he came back from UK in July 2011, the Respondents and one Mr.Sridhar,deemed Director of Duncan Lewis, UK who is only a relative of the Petitioner, had been coercing the Petitioner and intimidating him with dire consequences if he refuses to transfer his entire shareholding to others. The Petitioner attended the AGM 2011, and marked his presence by showing his protest. When he asked the Respondents for a copy of the audited accounts, the Respondents did not provide the same.
- u) On 27/10/2011, prior to the allotment of 40,000 equity shares, a Board Meeting was allegedly held. There was deliberate failure on the part of Respondents 2 and 3 to serve notice on the Petitioner. This is a statutory default as the Petitioner is the majority shareholder and Managing Director of the Company. Thus the share allotment made to Respondents No. 2 to 4 on 27th October 2011 is oppressive, unauthorized, invalid, illegal, and null and void. This allotment is liable to set aside. Subsequently on 21st December 2011, 2,69,834 shares have been illegally allotted to Respondent No.5. Considering the fact that the Petitioner was kept in the dark with regard to these



allotments, one may conclude that the said allotments were made purely with the intention of reducing the majority shareholder to a minority (his shareholding having been reduced from an overwhelming 99% to 3.09%) and to reduce him to the capacity of a mere observer and prevent his active participation in the affairs of the Company. Thus the allotment may be said to be detrimental to the welfare of the Company and its shareholders and is null and void.

- v) The Petitioner, in exercise of his available rights, as per Article 31 of AOA, had issued to the Company a letter dated 11th November 2011 expressing his intention to appoint five more directors, who are experienced in different fields, on the Board of Directors of the Company with a view to increase the business of the Company and expand its operations. The appointment of those persons as directors would go a long way in increasing the business potential of the Company.
- w) However, at the time, he wrote the letter dated 11th November 2011, the Petitioner was not aware that the Respondents No.2 and 3 had (i) oppressively and fraudulently removed the directorship of the Petitioner; (ii) oppressively and illegally allotted shares reducing the Petitioner's stake in the Company drastically. The Petitioner was not aware that the Respondents have had several other plans up their sleeve even at that time.
- x) In response to the said letter of the Petitioner, the Respondents mention in their reply dated 18th November 2011 as though they tried in vain to contact the Petitioner for more than a year. Further it is through this reply the Respondents have let the cat out of their bag. To the shock and surprise of the Petitioner, they reveal the information that Petitioner no longer continues as the



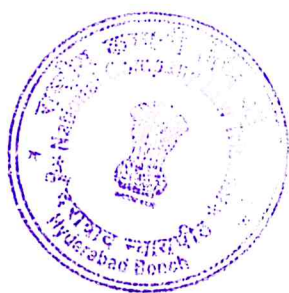
Director of the Company. Further for the first time, the Respondents leveled several baseless allegations in this reply. The Petitioner submits that he was very well available in the office from 1st August 2011 to 07th October 2011. The Petitioner also has been paid remuneration for the month of August 2011. Even the Petitioner signed the attendance register for the said months.

- y) It is submitted that in their reply dated 18th November 2011, the Respondents allege that the Petitioner had lost his office only due to operation of law under Section 283(1)(g) of the Companies Act, 1956. The three meetings were allegedly held in May, August and November 2010. **First of all**, no such written notice or any other notice was ever given. **Secondly** Respondent No.3 became a Director only in February 2010. He was not appointed at the Annual General Meeting held on 26th September 2010. He had thus lost his office by operation of law under Section 260 of the Companies Act. Therefore the remaining Directors ever since October 2010 were the Petitioner and the Respondent No.2 only. **Thirdly** the Petitioner had gone to London only in March 2010 and prior to his departure only he had made arrangements to induct Respondent No.3. Respondent No.3 came in as a Director only on 20th February 2010. **Fourthly** the statement that the Respondents could not trace the Petitioner and he did not attend three meetings allegedly held on 20th May 2010, 27th August 2010 and 10th November 2010 is an absolutely false statement.
- z) The invalid Board constituted by Respondents No.2 and 3 allegedly conducted Board Meeting dated 16th January 2012 and allotted 180,166 shares of Rs.10 each to Respondent No.5 which is oppressive and illegal. Further they have increased the share capital of the Company from Rs.50,00,00/- to Rs.1,00,00,000/- in



the Extra Ordinary General Meeting allegedly held on 24th January 2012.

- aa) Further the said invalid Board constituted by Respondents No.2 and 3, allegedly conducted a board meeting on 3rd August 2012 and allotted 3,30,000 shares of Rs.10 each to Respondent No.5 and appointed Respondents No.6 and 7 as directors of the Company on 3rd August 2012. There was no board meeting at all on the said date. The Respondents have cooked up records and filed forms with Registrar of Companies.
- bb) It is alleged that by virtue of illegal allotment of shares to others, the stake of the Petitioner has been reduced from 99% to almost 0.01% which is oppressive, prejudicial to the interests of the Petitioner, who is the founder member of the Company and without his presence and consent there could not have been any board meeting or general meeting at all.
- cc) It is alleged that the Company has been used as a conduit for routing black money from abroad and requires a thorough investigation in the origin of funds.
- dd) The actions of Respondents No.2 and 3 are accentuated by malafides. Their self interest contradicts with their duties as Director. They have breached their fiduciary duties thoroughly. Both of them are unfit to be directors of the Company. On 25th March 2010 only the Petitioner had left for UK. On 01st June 2010, itself he came to India. Then he left for UK again on 13th June 2010 and he came back again to India on 15th November 2010. He left India for UK again on 14th December 2010. He came back to India on 20th July 2011. Respondents No.4 to 5 could not have dreamt of becoming shareholders of the Company unless Petitioner who has been holding 99% of the Company



until the impugned allotment dated 27th October 2011 had agreed to the same. It is highly atrocious to think that without the consent of Petitioner some third parties have become shareholders. As a result of the oppressive, fraudulent, illegal and malicious acts of Respondents, the Petitioner has been rendered as a person holding hardly 3% of the shares of the Company.

ee) The Petitioner asserted that it is beyond any iota of doubt that the Respondents No.2 and 3 are liable for all their acts of oppression relating to the affairs of the Company and its shareholders. They are liable for breaching their fiduciary duties as a director of the Company. They have acted with a malicious intention and their acts are fraudulent and such acts are prejudicial not only to the interests of the Petitioner but also to other stakeholders of the Company. They are solely intended to oppress the Petitioner and grab control over the affairs of the Company.



ff) By the above acts, apart from other minor actions on the part of respondents as stated in the company petition, it is strongly claimed that the affairs of the Company are being conducted in a manner not only oppressive to the Petitioner but also prejudicial to the interests of the Company and its shareholders and that to wind up the same would unfairly prejudice the members though facts would prove that it is just and equitable to wind up the Company.

gg) Hence, the present petition is filed for the relief as mentioned supra.

3. The Company petition is opposed by the Respondent Nos. 1, 2, 3, 4, 5 & 6 by filing their common counter dated 19th December, 2016. The following are their main contentions:

a) It is alleged that company petition, prima facie, is an abuse of process of law, devoid of merits and therefore deserves to be dismissed in limini. Also the company petition is not maintainable as the petitioner is not qualified under the provisions of section 399 of the Act to file a company petition under the provisions of section 397 & 398 of the Act. The petitioner, who vanished from the company within a period of six months from the date of its incorporation has no locus standi whatsoever to make wild allegations against the present management. All such allegations do not warrant any consideration as the same are false, baseless, wild and against the records.



b) The Petitioner was initially working in a Delhi-based company viz., GS Infocomm Data Private Limited as Office Manager for a period of one year. The said company was handling outsourcing services of the UK-based company Duncan & Lewis & Co. During the course of the employment, the petitioner had to coordinate with the Duncan Lewis & Co Solicitors on a daily basis. Due to a hike in rates charged by G S Infocomm Private Limited, Duncan Lewis & Co Solicitors decided to terminate its contract with the Delhi-based company in India and consequentially petitioner was also thrown out of the company by the Indian company. Thereafter with the financial support of the Duncan Lewis & Co Solicitors the first respondent company was established in Hyderabad. All the outsourcing work was delegated by the Duncan Lewis & Co Solicitors to the first respondent company.

c) Initially for the first six months, the petitioner and the second respondent were managing the affairs of the Company and during March 2010, the third respondent was inducted into the Board. Petitioner migrated to the UK to take up employment with Duncan Lewis & Co. The Duncan Lewis & Co Solicitors infused funds in the nature of security deposits and extended its support as and when required by the first respondent company. Therefore for all practical purposes, the first respondent company was totally dependent on the Duncan Lewis & Co Solicitors for its survival and support. Petitioner, who was offered employment in the UK, was later on terminated and he had to return to India during July 2011. After returning to India, the petitioner realized that the first respondent company was doing well and therefore filed the company petition to grab the control back from the present management.



- d) It is alleged that Petitioner neither is a Post Graduate nor has accredited two decades of managerial experience. The petitioner, who was unable to get a suitable job, has created fake certificates so as to show him as a Post Graduate. A Letter No. E-VII(2)MCom/Genuines/2012 Visakhapatnam dated 26.04.2012 issued by Andhra University, Deputy Registrar (Examination) is filed to substantiate this. The respondents came to know of it only recently.
- e) It is admitted that the petitioner is one of the promoters of the first respondent company, and was holding 99% shareholder till 27/10/2011 when the first respondent company made further issue of shares.
- f) It is stated that the petitioner has contributed Rs.99, 000/- only out of total investment close to Rs.35 lakhs. It is admitted

that the petitioner and the second respondent were the only directors till the third respondent was appointed as a director of the first respondent company. The petitioner has admitted that he was very well aware of the appointment of the third respondent as Director. It has also been admitted by the petitioner that third respondent was appointed as a director pursuant to an arrangement made by the petitioner to meet requirements during his absence from India. The petitioner and the second respondent were shareholders till 27/10/2011 when the Board allotted 40,000 equity shares of Rs.10/- each to the second, third and fourth respondents.



g) It is admitted that petitioner was the Managing Director from the date of incorporation till 20.01.2011, when he ceased to be Director by virtue of not attending three consecutive Board meetings without leave of absence. It is an admitted fact that the petitioner migrated to the UK for employment where his family already resides, and had taken up full-time employment with none other than Duncan Lewis & Co- Solicitors, in the UK, which is the backbone of the first respondent company. The visa given to the petitioner is that of HSMP i.e., Highly Skilled Migrant Programme. The said visa is neither a short term visa given to students nor a tourist visa. This is a visa given as Work Permit for a period of 2 years and can be further extended by another 3 years. After staying in the UK for a total of 5 years (including extension of visa), one can apply for permanent residence visa). The Petitioner who claims to be the Managing Director of the first respondent company left India during March 2010 itself i.e., within a period of six months from the date of incorporation of the first respondent company after completely

handing over the charge and affairs to the third respondent. Thereafter he took up full-time employment in the UK with the said Duncan Lewis & Co Solicitors and also started living with his family members who had already migrated to the UK. In fact after the expiry of the first 2 years of visa the petitioner suo moto did apply for extension for another 3 years. This clearly shows the intention of the petitioner that he did not have any concern or interest for the first respondent company.

h) It is stated that the Board of Directors at its meeting held on 20/02/2010 appointed the third respondent as a “Director” of the first respondent company as evidenced by the Form 32 filed by none other than the petitioner himself and therefore the question of the appointment getting regularized at the AGM does not arise at all. Admittedly the petitioner left India during March 2010 and thereafter the first respondent company was completely managed by the second and third respondents. It is submitted that the accounts for the year ended 31/03/2010 was duly audited by the statutory auditors of the company and the second and third respondents, the directors present in India, signed the audited accounts on behalf of the board. Therefore there were three directors on the board of first respondent company from 20/02/2010 when the third respondent was appointed by the Board till 20/01/2011 when the petitioner vacated the office as a director under the provisions of section 283(1)(g) of the Act.

i) The first respondent company which is governed by the provisions of the Companies Act has been conducting Board meetings, in accordance with law during every quarter. The second quarter meeting for the year 2010 was conducted on 20/05/2010, third quarter meeting on 27/08/210 and the fourth



quarter meeting on 10/11/2010. For all the said meetings notices were duly sent to the petitioner, who at that point of time was a Director of first respondent company. Petitioner, who was busy with his employment during that period, did not bother to attend any of the meetings. Since petitioner did not attend three consecutive meetings, without claiming any leave of absence, he is deemed to have vacated his office as per the provisions of section 283(1)(g) of the Companies Act, 1956. Accordingly, the first respondent company has also filed Form 32 intimating his cessation of office to the Registrar of Companies, Hyderabad as required under the law. In case, the petitioner claims that he has not vacated his office as Director, he needs to first prove as to his arrival in India on the said dates by furnishing the passport with immigration seal. Therefore it is submitted that the vacation of office of petitioner is legal and valid.



- j) It is stated that the Board at its meeting held on 27/11/2011 has allotted 10000, 20000 and 10000 shares to second, third and fourth respondents respectively. Form 2 with respect to the said allotment was also duly filed with Registrar of Companies, Hyderabad. The company, in the course of its business, had to raise additional capital, and it is the prerogative of the Board to decide as to in what form funds would be raised. The Board of the Company by deciding to raise funds by way of issue of additional shares has made the impugned allotments. In fact, an offer was also made to petitioner, in his capacity as a shareholder to invest in the company. Since the petitioner did not show any interest for the offer, shares were allotted to those shareholders, who wanted to invest in the Company. The petitioner, who was least bothered about the affairs of the first respondent Company

after his taking employment in the UK, did not choose to bring in additional capital, and thus could not be allotted any shares. Therefore it is stated that the impugned allotment of 40,000 shares to second, third and fourth respondents is absolutely valid and legal.

- k) It is stated that notice was duly sent to the registered address of the petitioner together with the annual accounts. It is not known as to how the petitioner did not receive the annual accounts, when he admits that he had received the notice calling for AGM. The Petitioner, just for the sake of making allegations had made baseless allegations running into several pages. AGM cannot lose its validity just because a shareholder makes false allegation that a copy of audited accounts was not sent to him. A duly constituted Board comprising of second and third respondents conducted a Board meeting and resolved to call for AGM on 25/11/2011. The allegation that the appointment of third respondent is not regularized is denied as false. AGMs are duly conducted every year and statutory auditors are being appointed at every AGM by the shareholders. The allegations that statutory auditors are not appointed at AGMs are denied as false. Admittedly as on 25/11/2011 there were four shareholders and all the four shareholders, including the petitioner, attended the AGM and the question of insufficient quorum does not arise at all.

- l) It is stated that allotment of 2, 69,834 shares to the fifth respondent was made at the Board meeting held on 21/12/2011 since fifth respondent Company is based at Switzerland, and it was keen to invest in the first respondent company. The Board thought it fit to allot shares, after the receipt of Rs.26, 98,340/- from the said company. The allegation that the further issue of



shares to Swiss company is only to reduce the stake of the petitioner is absolutely ridiculous. The present management has mobilized to raise funds to the tune of Rs.30 lakhs which would be completely utilized for the business and growth of the first respondent company. Therefore, both the allotments are not at all detrimental to the welfare of the company, and its shareholders as falsely alleged by the petitioner.

- m) It is denied that petitioner did not receive any notice calling for board meeting held on 20/5/2010 as petitioner himself has walked out of the Company during March 2010 for taking up full time employment in UK. The Petitioner is only a shareholder holding 9,900 shares and not a Director of the first respondent company.

Therefore the question of handing over the statutory registers/documents to the petitioner does not arise. The petitioner may however exercise his rights as a shareholder. The petitioner left the company during March 2010 to take up employment abroad and ceased to be a Director with effect from 20.01.2011 and therefore the respondents are not obliged to render any accounts to the petitioner as a Director.

- n) It is stated that the petitioner was given due notice of the Board meeting held for shifting of registered office, the copy of the postal dispatch is also filed, the petitioner, after 36 months has attended in person a Bboard meeting on 23.03.2016 that was held in the new registered office, and he has faced no problems in accessing the office. The shifting of Registered Office is due to the financial reasons due to the downsizing of the operations.
- o) It is stated allotments of shares have been made as per FEMA process, and all the KYC has been obtained from the bankers and



the Reserve Bank of India has taken on record. The allegations made are wild and malafide.

- p) Therefore, it is strongly denied the allegation that the affairs of the company are being conducted in a manner oppressive to the petitioner or prejudicial to the interest of the company and its shareholders. The second and third respondents have been managing the affairs in a prudent manner protecting the interest of both the Company as well as its shareholders. A comparison of the annual accounts for the years ending 31.03.2010, 31.03.2011 and 31.03.2012 would show the healthy progress the Company has been achieving year after year. In fact, the constant progress and growth has tempted the petitioner to take control over the first respondent company. Had the company not been doing so well, the petitioner would not have filed any Company petition to make allegations of oppression and mismanagement, though no specific allegations have been made alleging mismanagement in the entire Company petition. Petitioner who is jobless now wants to grab the control of the Company, therefore, has approached this Hon'ble Bench with unclean hands. Therefore all the allegations made in Company petition are false, frivolous, bald and baseless and needs no consideration by this Hon'ble Bench.



4. In pursuance to the above reply of the respondents, the petitioner has filed a rejoinder dated 28th December, 2016. The following are main contents raised therein:
- a) The Petitioner denied the averments and allegations of the Respondents No.1 to 6, and asked the Tribunal to put them to strict proof of those matters/issues, which they have not answered.

b) It is stated that Petitioner and the Respondent No.2 were two Directors of the Company. Respondent No.3 was added as an additional director. Respondent No.3 had lost his Directorship on the due date for this Annual General Meeting [AGM]. Even assuming without admitting that the first AGM was held on 26th September 2010 as alleged by operation of Section 260 of the Companies Act, the Directorship of Respondent No.3 had come to an automatic end because he was not appointed at that AGM. The same position stands good by virtue of the Articles of Association and it cannot be disregarded to suit Respondents. Therefore, effectively from 26th September 2010, there were only two Directors in the Company and they are the Petitioner and the Respondent No.2. As per Clause 35 of the Articles of Association, the quorum for a Board Meeting shall be two Directors. Without the presence of the Petitioner, no Board Meeting could have legally been held.



c) It is contended that the Petitioner was continuously in touch with the Company even when he was in UK until the end of June 2011. Thereafter, when he had come to India, Respondents have been hoodwinking him for about two or three months until they actually issued a notice of a general meeting for which Petitioner had to object by his letter dated 11th November 2011. There was not even an ordinary correspondence to the Petitioner that he had lost his Directorship. Subsequent to the fraudulent removal of the Petitioner by backdating the same from 20th January 2011, Respondents have made the impugned issue of shares on 27th October 2011.

d) It is stated that handing over of records on 24th March 2010 prior to his leaving for UK it cannot be understood to mean anything more than doing a job in a proper administrative way. Petitioner has amply demonstrated that the action of the Respondent is accentuated by malafides; they are completely unfair, oppressive and betrayal and breach of trust besides being unlawful and invalid and illegal.

e) It is stated that a private limited company, any transfer of shares in contravention of articles of association of the Company without following the procedure set out in the articles and in utter disregard of the rights of existing members is per se oppressive and is liable to be set aside on that single ground. So the impugned transfer of shares is required to be set aside.

The Petitioner has termed the allegations of respondent that he was not qualified, **as childish and puerile**. Secondly, the second statement that the Petitioner had vanished from the Company from the date of incorporation is again borne out of malafides. It does not lie in the mouth of these unscrupulous Respondents, who had entered this Company through grossly unfair and illegal manner to speak about the Petitioner in any manner whatsoever.

They are third rated people, whether they are in India or abroad.

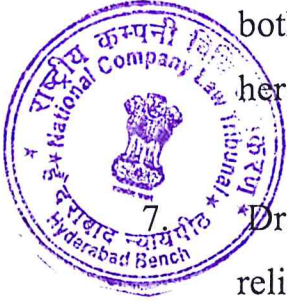
g) It is averred that matters arising in this case are not merely a case of loss of Directorship or reducing of majority into abject minority, and it certainly appears to be a fraudulent design of a foreign source with Respondents 2 to 7 acting as the dramatis personae.

h) Therefore, the petitioner urged the Tribunal to allow the petition as prayed for.



5. We have heard Dr. K.S. Ravichandran, PCS for the Petitioner, and Mr. B.V. Satish Kumar, Counsel for the Respondents No.1 to 6, and have carefully perused the pleadings along with material documents filed by them in their support and extant provisions of Companies Act, 1956/2013.

6. The Learned Counsels for both the parties have reiterated again all their respective pleadings made in their petition/counter/rejoinder etc at the time of hearing of the case. They have also filed their written gist of arguments. Since, we have already stated the averments of both the parties, we are not again referring those averments again hereunder.



Dr. K.S. Ravichandran, the learned counsel for the petitioner has relied upon the following judgments in support of his case:-

- a) Dr. T.M. Paul Vs. City Hospitals Private Limited (1999) 97 Com Cases 216 (Ker).
- b) Mr. V. Natarajan Vs. Nilesh Industrial Products Private Limited – Manu/CL/0097/2002.
- c) Bhagirath Agarwala and others Vs. Tara Properties Private Limited (2002) 111 Comp Cases 597 (Cal).
- d) Surajmull Nagarmull Vs. Shew Bhagwan Jalan – (1973) ILR 1 Cal 27
- e) Dale and Carrington Investment (P) Limited and another Vs. P.K. Prathapan and others – (2004) 122 Comp Cas 1612 (SC).
- f) Tea Brokers Private Limited and others Vs. HemendraProsadBarooah – (1998) 5 Comp LJ 463 (Cal).
- g) Capricon Oils Limited and others Vs. Ratan Mohan Sarada and others – Manu/WB/0073/2012.

8. After hearing the parties and perusing the pleadings, the Tribunal has directed the Respondents to file Original Records pertaining to issue of Notices for the Board Meetings/AGM's/EGM's and proceedings taken during such meetings with respect to R1 Company. Accordingly, the Learned Counsel for R1 Company has filed an Index dated 30.01.2017, furnishing the details of the meetings, and the dispatch of notices etc. We have perused all the records produced on behalf of the Company and found that all the notices in question were duly sent to the petitioner by way of Speed Post/Courier/Email/Ordinary Post, in accordance with extant procedure. In fact, subsequent correspondence made by the petitioner indicates that he was aware of all the affairs of the Company taken place in India.



By perusal of pleadings of both the parties, the main issue arise for consideration by the Tribunal , are as follows:-

- a) Whether the Petitioner prima facie made out a case so as to examine of various allegations/issues raised by the petitioner;
- b) Whether the petitioner is eligible to file the present petition U/s 399 of Companies Act, 1956 since the petitioner admittedly became bare nominal share holder holding less than 1% after subsequent allotments made by the Company;
- c) Whether the petitioner was given notices for the Meetings held by the Company;
- d) Whether the impugned increasing of Authorized Share Capitals in accordance with Law or not.
- e) If so, what is the relief the petitioner is entitled for.

10. It is not in dispute that the Petitioner and Mr. Ramakrishna Reddy Raya (R2) are first and permanent Directors of the Company as per Article 30 of the Articles of Association of the Company. As per Article 27 of the AOA, the Capital of the Company can be increased from time to time by creating new shares of such amount as may be determined in accordance with the Provisions of Companies Act. The Petitioner and Respondent No.2 have initially contributed 9,900 and 100 shares respectively. However, within 6 months, after incorporation of R1 Company in September, 2009, the petitioner has handed over the management of the Company to Respondent No. 2 &3, and left for London to seek permanent employment with R1's only client, M/s Duncan Lewis Solicitors. An offer of appointment dated 21.04.2010, was given to the Petitioner by M/s Duncan Lewis Solicitors as Legal Costs Assistant inter-alia offering six months, which is placed on record. So he had no occasion to discharge his functions as Managing Director of the Company.



11. The 2nd Respondent has produced the copies of notices and also the minutes of meetings of Board of Directors held on various dates. The relevant meetings, which are necessary to the present case are only adverted to in the present Judgment. The 1st Notice given to the Petitioner is dated 26.04.2010 by communicating that the meeting of the Board of Directors would be held at Registered Office of the R1 Company on 10.05.2010 at 11 AM. The minutes of the meeting were also enclosed to the notice, wherein, while transacting the other business, the absence of the petitioner without leave was also recorded. Another notice dated 11.05.2010 was given to the Petitioner by communicating that the meeting of the Board of Directors would be held at Registered Office of the R1 Company on

20.05.2010 at 11 AM. The minutes of the meeting were also enclosed to the notice, wherein while transacting the other business, the absence of the petitioner without leave was also recorded. Another notice dated 17.08.2010 was given to the Petitioner by communicating that the meeting of the Board of Directors would be held at Registered Office of the R1 Company on 27.08.2010 at 11 AM. The minutes of the meeting were also enclosed to the notice, wherein while transacting the other business, the absence of the petitioner without leave was also recorded. Similarly, another notice dated 25.10.2010 was given to the Petitioner by communicating that the meeting of the Board of Directors would be held at Registered Office of the R1 Company on 10.11.2010 at 11 AM. The minutes of the meeting were also enclosed to the notice, wherein while transacting the other business, the absence of the petitioner without leave was also recorded. Another letter dated 02.12.2010 was issued to the Petitioner informing him about the failure to attend the three (3) consecutive meetings over the last nine (9) months, and also requested him to attend the next Board meeting to be held on 15.12.2010 at the Registered Office of the Company at 11 AM to discuss about his position in the Company, and also seek a Board resolution to terminate his position as a Director of the Company. Another letter dated 28.11.2011 was issued attaching notice of an Extra-Ordinary General Meeting of the Company to be held on 07.12.2011, wherein the Agenda for that meeting was to increase the authorized Share capital from Rs.5,00,000/- to Rs.50,00,000/- to mobilize additional funding to meet its immediate liabilities and obligations. The Petitioner has received this notice and sent an express telegram dated 07.12.2011 stating that *"Your notice dated 28th November, 2011 for Extra-Ordinary General Meeting on dated 7th December, 2011*



addressed to my Visakhapatnam address has been received by me at Hyderabad today. The Meeting and proceedings proposed illegal, hence unable to attend and taking required legal recourse under law”.

In response to reply of the petitioner, the Respondent has sent another letter dated 08.12.2011 to the petitioner by inter-alia communicating as follows:-

“Whilst writing I note you are holding yourself out as a Managing Director of the Company. Please refrain from doing so as you are no longer a Director of the Company. If you fail to do so you will leave us with no option but to refer the matter to the ROC and take appropriate legal Action.

We also request you to come down for a personal meeting next Wednesday 14th December, 2011 at the company registered office @ 3.30 PM to discuss on termination of the Duncan Lewis contract, financial crisis and payment of employees salaries for the coming months and to discuss future of the company”.

Another notice was also sent to the petitioner for the EOGM to be held on 24.01.2012 for consideration of the proposal to increase the authorized share capital of the Company from the present Rs.50,00,000/- to Rs.1,00,00,000/- subject to the directions of the CLB on the question of allotment of shares to the Petitioner to give him majority shares if he is willing to invest, and if he is not willing then the shareholders have to discuss on the other shareholders and their willingness to invest as the funds are essential for meeting the salary and other monthly expenses liability for the month of December, 2012.



12. The record produced on behalf of Company clearly shows that the Petitioner was given proper notices to all the meetings held by the Company from time to time. However, he did not attend them for the reasons best known to him. It is not in dispute that the petitioner did not attend the meetings of the Board of Directors as discussed supra, which deprived him the post of Director as per extant provisions of the Companies Act. The Petitioner was not present and participated in the Board Meetings and left for UK by entrusting his duties to Eturi Jagdeswara Rao, Respondent No. 3 and he has again making allegations against them too in conducting the affairs of Company.

13. The main grievance of the Petitioner as discussed supra is that, even though he is a First Permanent Director and he was holding majority of shares, were illegally removed from the Directorship and was reduced to minority by virtue of the illegal enhancement of Authorized share capital from Rs.5 lakhs to Rs.50 lakhs and Rs.50 lakhs to Rs.100 lakhs. It is not in dispute that the petitioner is still a shareholder of the Company and a Director of the Company till 20th January, 2011 when he was ceased to be Director by operation of law as stated supra. The contention of the petitioner that since, he being a permanent Director as per Articles of Association of the Company and he cannot be removed is not tenable and the Articles of a Company cannot have overriding effect over the extant provision of Companies Act, 1956/2013. It is not the case of petitioner that he was physically available in the Country at the relevant point of time even to plead /allege that he had attended three consecutive Board meetings in question, which ultimately deprives his Directorship in the Company by operation of law.



14. The moot question remains to be answered is whether the petitioner has approached the Tribunal with clean hands seeking above multiple reliefs. It is nobody case that the petitioner has admittedly initially holds 99 % of shares and he is one of the permanent two Directors of Company. The issue started here is that the petitioner, who claims the Company to be his baby, was not in available to conduct affairs of the Company. So he has not discharged his morally, fiduciary, legal responsibilities towards the Company. The petitioner himself, in the petition has admitted by stating that, on 25th March 2010 only, the Petitioner had left for UK. On 01st June 2010, he came to India. Then he left for UK again on 13th June 2010 and he came back to India on 15th November 2010. He left India for UK again on 14th December 2010 and came back to India on 20th July 2011. Since, the Company is newly born Company, it is the responsibility of the petitioner to look after the needs of Company. Unfortunately, he has abdicated all his responsibilities towards the Company, and after returning to India, he started raising several disputes against the very so called his Baby Company, which it is stated that it is functioning in effective manner by giving employment to so many person.



15. By no stretch of imagination, increasing of Authorized Share Capital of a Company in question can be called as oppressive, fraudulent, illegal and malicious acts of Respondents As stated supra, the impugned increasing of Authorized share capital was done in accordance with Articles of Association of the Company and extant provisions of Companies Act, 1956/2013. Moreover, the Company has offered the newly created shares to the petitioner, and he can purchase those shares so as to retain his majority shareholders status in the Company. However, he is not interested to participate in the

affairs of the Company. Since, the impugned allotment of shares are made in accordance with Articles of Association of the Company duly following principles of natural justice, the petitioner, in fact is not entitled to maintain the present petition. It is true that a petition under section 397/398 can be maintained by even a person holding less than 10% of shares etc, as prescribed under section 399 of Companies Act, 1956, provided that such petitioner is deprived of his shares/not offered such new shares first to him before allotting to others etc, provide such actions are questioned in Company petition. In the instant case, the petitioner was offered new shares to him, and he did not accept it and even now the same offer is kept open to him by the respondents as stated below. It is relevant here to extract the offer made by the Respondent in their addendum to the written arguments in the following paragraph.



16. The Respondent has filed an addendum to the written arguments dated 30th January, 2017, the following are submission in this addendum:-

- 1) R2 and R3 mobilized some working capital by subscribing to 40,000 equity shares in a duly constituted board meeting on 27th October, 2011. This was done as per Article 4 of the Articles of Association, which gives the power to the Board to issue shares. The Section 81 of the Companies Act, 1956, is not applicable to a private limited company. Hence, the Board is empowered to issue shares without getting shareholders' approval.
- 2) Even if the petitioner would have continued in the Board on the date of allotment, he still could only record his dissent, but on majority, the Board resolution would have been passed. The

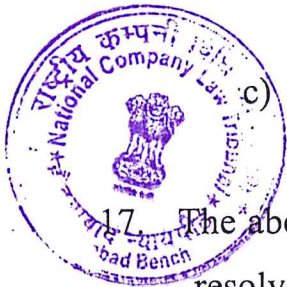
petitioner's claim that he was removed only in order to facilitate the allotment of these 40,000 shares is not valid.

- 3) In order to meet the ever-growing working capital requirements, the Board has invited the petitioner to discuss about fresh capital infusion in the EGMs/Board Meetings on 07.12.2011, 28.12.2011, 16.01.2012, 24.01.2012, 03.02.2012, 02.03.2012 and 12.03.2012. This offer was given to the petitioner even before he approached the Hon'ble CLB, and he had never shown any interest whatsoever in this regard.
- 4) The petitioner claims in his Amended petition on page No.8 Para (j) that R3 was appointed as an "Additional Director". The petitioner also claims contrarily in page No.15, para (x) that R3 was appointed as an "Alternate Director". Whereas the Form 32 filed by him using his own digital signature shows that Respondent No. 3 was appointed as a "Director", but not as "Additional Director" or an "Alternate Director". Article 32 of R1 Company gives the right to the board to co-opt a Director.
- 5) The petitioner rightly claimed that R1 Company has more than 30 lakhs of expenditure per month and prudence will tell that it is not possible to run a Company with more than 100 employees for a long time without any assets to pledge or without any bank loan and with only Rs.1 lakh share capital.
- 6) The petitioner has filed this petition only for harassing the management of R1 Company, and thereby avenging M/s Duncan Lewis solicitors. The petitioner was terminated by M/s Duncan Lewis solicitors due to his own bad behavior after about one year of service.
- 7) The petitioner claimed that he is a postgraduate in commerce and Business management. The Deputy Registrar (Examinations) of



Andhra University had confirmed way back in 2012 itself stated that his M.Com and M.B.A. are not genuine. However, the petitioner did not respond to this proof in his rejoinder or changed his claim in his amended petition. This shows petitioner's nature and character.

- 8) The seriousness of the petitioner on this petition can be seen from the fact that in the last 36 months he had not shown any interest in the company except to raise litigation dragging the Company to Court on frivolous grounds.
- 9) The respondents are ready and willing to oblige to the following if the Hon'ble NCLT directs them to –
 - a) Allot as many shares to the petitioner to subscribe at nominal value of a share, or
 - b) Sell all the respondents' shares to the petitioner at a fair value, or
 - c) Buy all the petitioner's shares at a fair value.



The above stated of the respondent would prove that their bonafides to resolve the issue amicably. It is relevant to examine bonfide of the petitioner in coming to the Tribunal with this petition. The petitioner has made so many frivolous/baseless/un-tenable/allegations to maintain the present petition. Apart from that, the petitioner's educational qualification certificates are declared as false by Andhra University. The letters of Andhra University vide proceedings No.E-VII(2)/MBA/Genuine/2012 dated 24.04.2012 and another letter vide proceedings No. E-VII(2)/MCom/Genuine/2012 dated 26.04,2012. (Which are filed as material papers as Annexure A-4 along with Addendum to the Written Arguments dated 30th January, 2017) . For ready reference, these letters and reply of the petitioner are extracted below to know the reaction of petitioner:

Letter dated 24.04.012 issued by Andhra University “With reference to your letter cited, I am to inform that the Degree of Master of Business Administration, Original Degree Certificate (Xerox copy) of Mr. Sathur Venkata Sudhakar bearing Register No. 91358 June, 1992 Second class was verified with our office records and found **NOT GENUINE**

Another letter dated 26.04.2012 reads as under:

“With reference to your letter cited, I am to inform you that the Degree of Master of Commerce, original Degree certificate and Final year statement of marks (Xerox copies) of MrSatturVenkatSudhakar bearing Register No. 521, August, 1987 passed in second class was verified with our office records and found **NOT GENUINE**

11. In pursuance to the above letters of Andhra University, the Petitioner has termed the allegations of respondent that he was not qualified, **as childish and puerile.** (Puerile means **silly or childish especially in a way that show a lack of seriousness or good judgment**) Secondly, the second statement that the Petitioner had vanished from the Company from the date of incorporation is again borne out of malafides. It does not lie in the mouth of these unscrupulous Respondents, who had entered this Company, through grossly unfair and illegal manner to speak about the Petitioner in any manner whatsoever. **They are third rated people, whether they are in India or abroad.**

It is a serious matter that petitioner, by possessing fake qualification certificates, is approaching Tribunal seeking equitable relief by making so many baseless allegations and also working abroad. Any way, we leave it to the concerned authorities to take appropriate action for the said fake certificates of the petitioner.



18. So far as the enhancement of the Authorised share capital of the Company is concerned, the petitioner was given due notice of the all the meetings during EGMs. After giving due notice only, the impugned allotment of shares consecutively was done and the same cannot be found fault with. The petitioner utterly failed to substantiate various material allegations made in the Company Petition. The Petitioner still has not shown any interest in running the affairs of the Company, except making wild allegations against the Company, which is giving employment to more than 100 employees and their families. The petitioner as stated supra, had employment in UK and still he had not shown any interest in running the affairs of the Company though he is invited for the same as stated supra.

As stated supra, the respondents have shown their bonafide by their willingness to allot as many shares to the petitioner to subscribe at nominal value of a share, or Sell all the respondents' shares to the petitioner at a fair value, or Buy all the petitioner's shares at a fair value. Any way, it is for petitioner and the respondents to settle their issue mutually and we are not expressing anything on this offer.

20. After perusing all the records especially with regard to conducting of meetings of Board where, the petitioner was absent, we are convinced that the petitioner was terminated his Directorship in accordance with law. We are of the view that as per Law, Managing Director of a Company should be available in the Country to take care of day to day affairs etc. It is relevant to point out here that the petitioner claimed that he is also promoter and Managing Director of the Company. So if he is MD of the Company, he is not expected to live in the other Country unlike a Director. The petitioner failed to make out any case so as to interfere in the case and this it is liable to be dismissed.



21. In view of the above facts and circumstances of the case, the Petitioner has miserably failed to make out even a prima facie case, so as to invoke provisions of Sections 111, 397/398, 402, 403 of Companies Act, 1956. Therefore, we hereby dismissed the Company petition bearing CP No.03 of 2012 (TP No.61/HDB/2016) with a cost of Rs.50,000/- (Rupees fifty thousand only), which is to be paid by the petitioner to Mr. Ramakrishna Reddy Raya and Mr. E. Jagadeshwara Rao (Respondent No. 2 and 3 respectively) within a period of three weeks from the date of order.



Sd/-

RAVIKUMAR DURAISAMY
Member (T)

Sd/-

RAJESWARA RAO VITTANALA
Member (J)

Order received by the Registry on 1-9-2017

प्रमाणित प्रति

CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER... CP No. 03 of 2012
निर्णय का तारीख (TP No. 61/HDB/2016)
DATE OF JUDGEMENT... 29.8.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON... 1-9-2017

**RTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

For Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench