

**NATIONAL COMPANY LAW TRIBUNAL**  
**PRINCIPAL BENCH**  
**NEW DELHI**

C.P NO. 34(ND)/2012  
CA NO.

CORAM:


PRESENT: CHIEF JUSTICE M. M. KUMAR  
Hon'ble President

SH. S. K. MOHAPATRA  
Hon'ble Member (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF PRINCIPAL BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 19.07.2016

NAME OF THE COMPANY: **Dr. Jang Bahadur Singh & Ors.**  
**Vs.**  
**M/s. Frick India Ltd. & Ors.**

SECTION OF THE COMPANIES ACT: 397/398 of the Companies Act 1956 and 241/242 of the  
Companies Act 2013.

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
1.	MRS. REKHA PALLI, SR. ADV.		RESPONDENT No. 5	
2.	SUJOY DATTA, ADV.			

① Naren Nath Sarvaria, Adv. }  
 ② Pervinder, Adv. } Petitioner

②a

**ORDER**

The main petition alongwith CA No. 420/2012 were listed. When the matter came up as the last item in the afternoon of 18.07.2016, Id. Counsel for the Petitioner placed a copy of the order dated 29.06.2016 passed in SLP(C) No. 3277/2016 by Hon'ble Supreme Court. The aforesaid order reads as under:

“ The learned counsel appearing for the parties have submitted that the next date of hearing before the Company Law Board is 18<sup>th</sup> July 2016. The learned counsel for the

*parties have agreed that their counterparts shall appear before the Company Law Board on 18<sup>th</sup> July 2016 and shall not pray for time.*

*As stated in the order dated 24<sup>th</sup> September 2015 passed by the Company Law Board, the Board shall peruse the documents kept in a sealed cover and after hearing the concerned counsel, if the Board thinks it appropriate, shall permit the petitioners to see the said documents".*

2. At the outset, it is relevant to note that Company Law Board has since been dissolved and National Company Law Tribunal has been constituted w.e.f. 1st June 2016. Under section 434 of Companies Act 2013, all matters, proceedings and cases pending before the Board stood transferred to the National Company Law Tribunal. On the date fixed for hearing on 18.07.2016 not only the matter came up before this Tribunal but the parties also have duly appeared. Accordingly even if "Company Law Board" is mentioned in the aforesaid order, the direction is clearly intended to be carried out by this Forum.

3. Arguments of both the sides were heard at length which continued on the next day i.e. on 19.07.2016.

4. A perusal of the records reveals that the Petitioners have been resorting to delaying tactics which have been found lacking bona fide by the orders of the Company Law Board. The record also reveals that the petitioner were allowed inspection of the records of the company vide orders dated 29.03.2012, 14.06.2012 (alongwith a Chartered Accountant) and 26.07.2012. It is also not disputed that the Board Meetings of the company were held on 12.05.2012, 28.02.2012 and 10.09.2012 which were attended by Petitioner No.2 who also had been a Director of the company since 30.12.1994 and continued as such till 11.04.2013 including his tenure as Joint Managing Director. He was expected to



have access to the company documents during his tenure as Director/ Joint Managing Director. Similarly, it is seen that Petitioner No.1 remained as a Director of the company from 30.12.1994 till 20.06.1997. Thereafter, he was again appointed as the Director of the company from 20.07.1999 till he retired by rotation on 29.12.2012. In addition to being a Director, Petitioner No.1 remained as a Non-Executive Chairman of the Board of Directors of the company from 27.02.2006 till 29.12.2012.

5. It is also an admitted fact that the Company Application 420/2012 filed by the Petitioner-applicant under section 420 sought direction to produce original invoice and receipts. It was dismissed by the Board on 08.10.2012. Subsequently a consent order was passed by Hon'ble the Punjab and Haryana High Court for hearing of CA No.420/2012 alongwith the main C.P. Hon'ble High Court also directed for expeditious disposal of the petition alongwith the C.A. No. 420/2012 by the Board.

6. Needless to say that a shareholder has no exclusive right to access all the books and records of the company. Moreover the Petitioners have to restrict themselves to the allegations and contentions made in the main C.P. For the purpose of the present suit the Petitioner cannot be allowed to collect any foreign material outside the pleadings in CP for a roving enquiry into the affairs and accounts of the company which otherwise are duly known to him. The Annual General Meeting of Accounts have been duly passed in meetings attended by them.

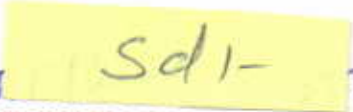
7. It is also pertinent to refer that Hon'ble Punjab & Haryana High Court has passed a consent order dated 20.12.2012 that the C.A. No.420/2012 shall be heard alongwith the main petition. It was also directed therein that the documents filed under sealed cover shall be scrutinized by the Board (now the NCLT) while deciding the aforesaid application and the main petition. This consent order has not yet been varied.

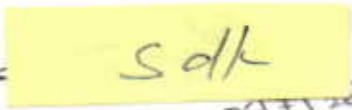
8. Thereafter admittedly the arguments in the matter commenced on 11.1.2013 and the main petition alongwith C.A. were heard on different dates. Vide order dated 16.12.2014 the arguments of the petitioner were concluded and the matter was listed for arguments of the respondents. Subsequently on 07.04.2015 the respondents advanced their arguments. A perusal of the order dated 27.07.2015 further reveals that the erstwhile Board directed the parties to file written submissions and both the Petitioner and Respondents filed their written submissions on 08.08.2015 and 26.08.2015 respectively. The Petitioners till then did not raise any issue for getting the documents submitted under sealed cover. The order dated 20.12.2012 being a consent order is to be strictly complied with. Moreover, during the course of arguments the petitioners filed CA No. 62/2013 under Order (vi) rule 17 CPC seeking amendment of the petition. After hearing the parties on 8.10.2013 and 24.10.2013 the application was dismissed on 12.11.2013. That order was assailed unsuccessfully before Punjab & Haryana High Court and the Supreme Court. There was no whisper about any facts stated in CA No. 420 of 2012 which have added additional facts beyond the pleadings in the main case. The sealed cover documents are only to seek support to those allegations. Therefore, it is doubtful prima facie whether CA 420/2012 would itself be maintainable.

9. Still further there is no direction that C.A. No.420/2012 has to be considered prior to the hearing of the main petition. On transfer of the case the Tribunal has to hear the main case alongwith the C.A. as per the consent order dated 20.12.2012. The relevant documents can be seen and considered by the Tribunal at the time of final argument. It is also important to note that the expeditious disposal of the pending petition is the core issue and needs to be heard early in the light of the consent order dated 20.12.2012.



10. In the facts and circumstances and for the reasons aforesaid we are not inclined to accept the request of the petitioner to furnish copies of the document filed under sealed cover. We are further of the view that it would be appropriate for the Tribunal to hear the main petition alongwith CA No.420/2012 in the light of the consent order dated 20.12.2012 from the argument stage as it was before its transfer to this Tribunal. It appears to us that allowing inspection of the documents at this stage will not only deviate from the issues/allegations in the main CP but would further delay the hearing of the main petition pending since March 2012. We dispose of the issue accordingly.

  
(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT

  
(S.K. MOHAPATRA)  
MEMBER (T)

Pronounced on 26/07/2016