

BEFORE THE COMPANY LAW BOARD, MUMBAI BENCH, MUMBAI

Present: Shri. Ashok Kumar Tripathi
Member (Judicial)

Company Application No. 20 of 2014

Under Section 163 of the Indian
Companies Act, 1956.

In the matter of:

Mr. Anil Kumar Poddar

.... Applicant

Versus

M/s Bonanza Industries Ltd.

... Respondent

Appellant:

Mr. Anil Kumar Poddar.

Respondent:

M/s Bonanza Industries Ltd.

Counsels/A.R. appeared on behalf of the Parties :-

1. Mr. Anil Kumar Poddar, Applicant -in-person.
2. Mr. R.C. Bagdi, C.S. a/w Mr. Narendra Shah, A.R. for the Respondent

JUDGMENT

(Reserved on March 17, 2015)

(Delivered on April 16, 2015)

1. This is a Company Application filed on behalf of the Applicant seeking the following reliefs:-

a. to pass an order thereby directing the Respondent Company to allow inspection of statutory register and record of the Company as per e-mail dated 11/1/2014.

b. to pass an order thereby awarding exemplary costs upon the Respondent Company.

2. Heard the Parties.

3. The submissions of Mr. Anil Kumar Poddar, the Applicant who appeared in person, are that he has a statutory right to seek inspection of



the documents in the capacity of he being a shareholder of the Company and obtain copies thereof upon payment of the requisite charges. According to him, the allegations made by the Respondent Company are false and they have been made with malafide objective to malign his image. He further denied the charges levelled by the Company against him that he has made illegal demand of money and/or that he is blackmailing the Company in the guise of this application. Lastly, he submitted that the CLB has no domain to enter into adjudication of such allegation of the Company in the application filed by him for which he has statutory rights under the provisions of the Companies Act.

4. The submissions of the Ld. Authorised Representative appearing for the Respondent Company are that the Applicant acquired 10 shares only of the respondent Company in June, 2013 and started harassing the company and its management by frequently illegally demanding the copies of statutory register required to be maintained under the Companies Act, minutes of the general meeting of the members of the company and the copies of the annual accounts and other documents. The Applicant is a professional investor and acquires one or two shares of the listed companies purely to create nuisance at the meetings, frighten the directors of criminal action and to illegally extract money from them.

4.1 It is further submitted that the modus operandi being followed by the applicant to send the requisition under Section 163 of the Companies Act, 1956 through email to the companies followed by a hard copy thereof demanding inspection of various registers and minute books and also the copies of annual account for 5 years. This is the common requisition being sent to the companies which the Applicant targets.

4.2 It is next submitted on behalf of the Respondent Company that the applicant under the guise of inspection of the documents visits the office of the companies on the appointed day and demands money. In the matter of TSL Industries Limited, an associate company of the Respondent Company, the Applicant visited its administrative office at Mumbai at 16/01/2014 and illegally demanded an amount of Rs 5,00,000/- from one Mr. Narendra Shah, representative of the Respondent Company for not making any complaint and/or application against the Company and its management. The Respondent Company if not succumbed to the illegal demand of money the applicant files a petition before the Company Law Board under section



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163 of the Companies Act, 1956. From the cause list of the cases listed for the month February, 2014, it can be noticed that the Applicant has filed Company Petition Nos. 5/13 to 9/13 , 11/13 to 20/13 and 43/2013 under Section 163 of the Companies Act,1956.

4.3 It is alleged by the Respondent Company that once the Applicant, through one Mr. Manish Mishra (M-9820400563) pressurized the directors of the companies to succumb their unreasonable demand. At that time, Mr. Manish Mishra visited the residence of the directors of the Company and threatened them with dire consequences if their illegal demand is not fulfilled.

4.4 It was also submitted on behalf of the Respondent Company that on visiting web site, it has been noticed that with a view to restrain the misuse of rights by a shareholder through frivolous requisitions and demands as a mean of harassment of the Company, the Calcutta High Court has in a recent interim order dated 24/3/2010, ruled against a shareholder and his ally and has restrained them from exercising any right as a shareholder of the Companies. According to the Respondent, a professional shareholder by the name of Mr. Anil Kumar Poddar, the Applicant herein (Mr. Poddar) and his ally, one Rakesh Mahato (Mr Mahato) have been harassing many listed Companies by making frivolous requisitions and demands from those companies and also demanding advertisements from them for their weekly news publication "Hamara Kaam" at exorbitant rates. According to the Respondent, the modus operandi of the Applicant was that of acquiring a few shares in diverse companies and, thereafter issuing notices to the company for removal of Chairman and for supply of certified copies of the company's documents. Recently, applicant filed criminal complaints against more than 100 companies in Kolkata before the Court of the Metropolitan Magistrate, The Khaitan & Co team, of Kolkata office, filed a suit against Mr. Poddar and Mr. Mahato, on behalf of 10 companies in a representative capacity under Order 1 Rule 8 of the Code of Civil Procedure to prevent misuse of Mr. Poddar's rights as shareholder. It is submitted that the suit has also been advertised in the Economic Times, Kolkata Edition, on 31/3/2010, whereby several other companies have also jointed as plaintiffs in the suit and have obtained similar orders. Further, it has also been advertised in Sanmarg, Kolkata Edition on 1/4/2010. The aggrieved companies procured an interim order whereby Mr.Poddar and Mr. Mahato have been restrained from exercising any right as shareholders. The



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Calcutta High Court has also observed that the rights of inspection of documents should be exercised in good faith and taking into consideration the company's best interests.

4.5 It is further alleged that due to the said order of the Hon'ble High Court of Kolkata restraining the Applicant and Mr. Mahato from exercising rights as shareholders, the Applicant has shifted his place of such activities from Kolkata to Mumbai.

4.6 The Respondent's Authorised Representative also contended that in order to substantiate their case that the Applicant is a professional shareholder, the Respondent Company states that even in the matter of Kedareshwar Investments & Trading Company, the Applicant has filed a petition under Section 163 of the Companies Act, 1956.

4.7 It is pointed out that even this Company Law Board has observed the conduct of the Applicant in order passed in the matter of C.P. No.83/284/2012 filed by Shri Anil Kumar Poddar, the Applicant herein against M/s Reliance Industries Ltd. and Ors. In the said order, it was observed that the Applicant had approached with unclean hands and he is a black mailer and had been asking for finance in cash/cheque and, hence, the petition has been moved with an ulterior motive and deserves to be rejected outrightly.

4.8 It is further submitted that in the case of a listed company, like the Respondent Company, the annual accounts are available on the web site of BSE and the Applicant is free to access and visit the site of the Stock Exchange to get the copy of the annual accounts as and when required by him.

4.9 It is further submitted that with the computerization of the offices of the ministry of corporate affairs, the informations required by the Applicant are also available on the MCA web-site and he is free to visit and get the copies of the same as and when required. However, only with oblique object to harass and persecute, the Company, the Applicant has been demanding inspection of the documents and the copies of the balance sheet from the respondent company and to approach this Company Law Board under Section 163 of the Companies Act, 1956 for no good reason.

4.10 Based on the above, the Respondent Company has prayed to dismiss the application.



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5. I have considered the rival submissions very carefully and perused the record. Regulation 44 of the Regulation provides that "*Nothing in these rules shall be deemed to limit or otherwise affect the inherent power of the Bench to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Bench.*"

6. It is thus clear, that to prevent the abuse of process of the Court, the board is entitled to pass such orders as may be necessary having regard to the facts of the case. It appears that the Applicant is in the habit of making such application. This is also evident from the fact that as many as 150 applications (approx.) are still pending against various companies. It is a matter of common knowledge that presently all the statutory records of any company are available on the MCA portal. It is open for inspection to all concerned. The certified copies can be obtained from the department of the ROC concerned. Yet, the Applicant keeps on filing such frivolous applications and it is, therefore, apparent that he is not a bonafide applicant.

7. Be that as it may, I agree with the contention of the Applicant that the CLB, in exercise of its powers conferred on it by virtue of the said Regulations, is not competent to pass an order for investigation into charges, levelled by the company as set out hereinabove in this case. I am of the view, that the application deserves to be dismissed. It is, however expected from the Applicant that he will desist himself from filing such frivolous and malafide applications. However, this order should not be construed as if he is prevented from approaching the Board on bonafide grounds. With these observations, the application is hereby dismissed being devoid of merits.

8. No order as to costs.

9. Let copy of the order be issued to the Parties.

Sd/
A.K.Tripathi
Member (Judicial)

Dated this April 16, 2015.



Certified True Copy
Copy Issued "free of cost"
On 16/04/2015

Bench Officer
Company Law Board, Mumbai Bench
Government of India