

COMPANY LAW BOARD
NEW DELHI BENCH
NEW DELHI

CP NO. 7/MB/2015

CA NO.

PRESENT: CHIEF JUSTICE M. M. KUMAR
CHAIRMAN


ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF THE
COMPANY LAW BOARD ON 25.04.2016

NAME OF THE COMPANY: Mr. Anand Kulkarni & Ors.

Vs.

M/s. Sh. Shiv Sagar Sugar and Agro Products Ltd. & ORS.

SECTION OF THE COMPANIES ACT: 397, 398 of the Companies Act 1956.

<u>S.NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	MR. NESAR AHMAD	PCS	} PETITIONERS/ APPLICANTS	 Ahsan Ahmad
2.	MR. SATYAJIT KAKADE	ADV.		
3.	AHSAN AHMAD	ADV.		
4.	Ms. V. K. Chavhan, Sr. Adv		} Respondent Harding	
5.	Mr. Sawab Ali			
6.	Mr. Harshil Agarwal			

ORDER

CA No. 169/397-398/MB/2015

This is an application wherein following prayers have been made:-

- (a) Pending the hearing and final disposal of the main petition, the Hon'ble Bench may kindly suspend the powers of present management i.e. respondent No.2 to 4, 10, 16 to 18 in respect of conducted the day to day affairs of the respondent NO.1 company.
- (b) Pending the hearing and final disposal of the main petition, the Hon'ble Bench may kindly appoint an independent Committee of the management consisting of Deputy commissioner, Belgaum and two persons each from Applicant group and respondent group to carry on the business and manage the day today affairs of the respondent No.1 company.

- (c) Pending the hearing and final disposal of the main petition, the Hon'ble Bench may direct that a monthly financial report be submitted to the Hon'ble CLB.
- (d) Hon'ble Bench may kindly direct the respondent No.1 company to refund the fees of Rs.24,71,920/- (Rupees Twenty Four Lacs Seventy One Thousand Nine Hundred and Twenty only) paid by the applicants to Special Auditor appointed by the Hon'ble Company Law Board, Mumbai Bench at Mumbai in terms of para (ii) of the order dated March 16, 2015 to the applicants, within a week period from the date of order.
- (e) any other just and equitable order as deemed fit by this Hon'ble Bench may be passed.

Notice of the application was issued and learned counsel for the non applicant – respondents filed their reply.

In respect of prayer at S.No.(a) & (b) Mr. Chaudhary learned senior counsel has pointed out that the aforesaid matter has already been decided by an order dated 16.3.2016 passed by Judicial Member at Mumbai Bench. My attention has been drawn to para 34 of the order (at page 64 of this paper book) wherein the prayer for appointment of Administrator was declined. However Mr. Nesar counsel for the applicant –petitioner has stated that the aforesaid order was made without consideration of the audit report which has now been made available and is attached with the application (annexure-5 page 67). According to the learned counsel there are financial irregularities pointed out by the auditor.

Keeping in view the aforesaid factual position I am of the view that pleadings are complete and the report of the auditors has to be considered in the light of various allegations/ counter allegations at a detailed hearing. The present stage may not be appropriate juncture for modifying the order especially when on 16.3.2015 a similar prayer has already been considered and the same did not find favour with the Bench Therefore the matter is left open at the time of final hearing.

The other prayer for filing a monthly financial report to this Board is conceded by learned counsel for the respondent. Accordingly it is directed that monthly financial report be submitted to this Board on the 7th of every month with a copy in advance to the counsel for the petitioner. It has also been conceded that respondent No.1 shall refund the fee of Rs.24,71,920/- paid by the applicant- petitioner to special auditor appointed by this Board, Mumbai Bench in terms of para (ii) of the order dated 16.3.2016 which shall be without prejudice to the rights of respondent No.1 company.

The needful shall be done within a period of two weeks from today.

With the consent of the parties the main case is ordered to be listed for arguments on 15.7.2016 at 10.30 am


(CHIEF JUSTICE M.M. KUMAR)
CHAIRMAN

Dated: 25.04.2016