NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 55 of 2020

[Arising out of Order dated 21st February, 2020 passed by the National Company Law Tribunal, Kolkata Bench, Kolkata in I.A. No. 131/KB/2020 in C.P. No. 264/KB of 2020]

IN THE MATTER OF:

Jaideep Halwasiya
S/o Late Madan Mohan Halwasiya,
Residing at Belair, Flat – 18A, 9A,
Alipore Park Place, Kolkata – 700 027. **...Appellant**

Vs

1. AA Infraproperties Private Limited,
Having registered office at
375, Prince Anwar Shah Road,
Kolkata – 700 016.

2. South City Projects (Kolkata) Limited,
Having registered office at
375, Prince Anwar Shah Road,
Kolkata – 700 016.

3. Man Mohan Bagree,
Residing at B-89/2,
Metropolitan Coop Housing Society,
Kolkata - 700105.

4. Jugal Kishore Khetawat,
Residing at 19A, Sarat Bose Road,
P. O. Elign Road,
Kolkata – 700 020.

5. Rajendra Kumar Bachhawat,
Residing at 2, Upper Wood Street,
Park Street, Circus Avenue,
Kolkata – 700 016.

6. Pradeep Kumar Sureka,
Residing at 3/1,
Loudon Street,
Kolkata – 700 017.

....Respondents

Present:

For Appellant: Mr. Maninder Singh, Senior Advocate with Mr. Arshit Anand and Mr. Parijat Sinha, Advocates.

For Respondents: Mr. Harish Salve, Senior Advocate with Mr. Ejaz Maqbool, Advocate for Respondents No. 1 and 3.

Mr. Nakul Dewan, Senior Advocate with Mr. Abhijeet Sinha and Ms. Anushka Shah, Advocates for Respondent No. 2.

Mr. Abhrajit Mitra, Senior Advocate for Respondents No. 4 to 6.

J U D G M E N T

BANSI LAL BHAT, J.

This appeal, filed by 'Shri Jaideep Halwasiya', minority shareholder of Respondent No. 1 – 'M/s AA Infra Properties Pvt. Ltd.'(for short 'the Company') assails the impugned order dated 21st February, 2020 passed by National Company Law Tribunal, Kolkata Bench, Kolkata (hereinafter referred to as 'the Tribunal') on C.A. No. 131/KB/2020 in CP No. 264/KB/2020 declining grant of interim relief across the ambit of Section 242(4) of the Companies Act, 2013 (hereinafter referred to as 'the Act'). Vide impugned order the Tribunal declined to record findings on the factual controversy as regards serving of notices of AGM dated 24th September, 2019 and EoGM dated 4th

January, 2020 to the Appellant before trying the main petition though at the same time it observed that there was prima facie evidence on record indicating that the notices of both the meetings were given to the Appellant. The Tribunal further observed that allowing interim relief as claimed in the Company Petition would tantamount to allowing the main petition. Resultantly C.A. No. 131/KB/2020 pending inquiry in main petition stands rejected.

2. To have a conspectus of the controversy involving allegations of oppression and mismanagement as regards the affairs of the Company emanating from the Appellant, it would be appropriate to briefly advert to the factual matrix of the case setup before the Tribunal and also projected in appeal before us. Admittedly, there are two groups of shareholders in the Company. Minority shareholders group comprises of the Appellant holding 12.5% shares whereas the majority group comprises of Respondent No. 2 holding 87.5% shares in the Company. Several allegations of oppression and mismanagement as regards management and operations of the Company leveled by the Appellant with some instances in the nature of not being served notice of AGM dated 24th September, 2019 and notice of EoGM dated 4th January, 2020 form the subject matter of inquiry in the Company Petition which is pending. It is during the pendency of the Company Petition that the Appellant sought interim relief alleging that Respondents No. 2 to 6 in collusion and connivance with each other illegally appointed Respondent No. 4 to 6 in the Company as Directors in the Annual General Meeting dated 24th

September, 2019 and ousted that Appellant from Directorship in the EoGM dated 4th January, 2020. All these acts of commission attributed to Respondents 2 to 6 are alleged to have been done without giving notice to the Appellant. Interim Relief was sought on the strength of these allegations claiming that the resolutions passed in such meetings were bad in law and void ab initio. Appellant further alleged that the acts of the Respondents, being oppressive in nature, are prejudicial to his interest in the Company. Respondents have refuted the allegations and pleaded that notice of the meetings in which the resolutions inducting Respondents No. 4 to 6 in the Company as Directors and removing Appellant from the post of Director were passed, were given well in advance to the Appellant. It was further pleaded that the majority shareholder was within its rights to pass such resolutions appointing other persons as Directors and removing the existing Director including the Appellant.

3. Shri Maninder Singh, Senior Advocate representing the Appellant submits that the Company is a Private Limited Company incorporated by the Appellant and his wife in 2009. Respondent No. 2 and its affiliates/ associates under the control of Respondent No. 3 - Mr. Man Mohan Bagri are the majority shareholder group whereas Appellant is a minority shareholder group. It is submitted that Respondent No. 2 and other Respondents are illegally trying to usurp control over the Company by forcing ouster of Appellant from Board of Directors and appointing Respondents No. 4 to 6 as Directors of the Company. It is submitted that Respondents 2 and 3 adopted a modus

operandi creating an impression that Respondent No. 4 to 6 were appointed at a meeting of the Company held on 24th September, 2019 and subsequent to this alleged AGM an EoGM was held on 4th January, 2020 wherein Appellant was removed from Board of Directors. It is submitted that neither the alleged AGM nor the alleged EoGM were held. It is submitted that while the Tribunal observed that the factual controversy in regard to holding of such meetings required the parties to lead evidence, the Tribunal relied on prima facie evidence without even taking into account that no evidence documentary or otherwise would even indicate that such meetings were held. It is submitted that the finding as regards prima facie case is based on no evidence and manufactured and fraudulent documents have been relied upon by the Tribunal. It is pointed out that there is no resolution nor any minutes of the alleged Board Meeting dated 22nd June, 2019 to show that the two Directors of the Company decided to hold AGM on 24th September, 2019. It is submitted that no minutes as required under Section 118 of the Act have been produced by the Company to support its plea. It is further submitted that as regards alleged agenda and notice dated 6th June, 2019, no notice or agenda was ever circulated. Documents relied upon by Respondents in this regard are ex-facie fabricated as they do not bear the signatures and are not on letter head of the Company. Thus the alleged notice or agenda cannot substitute the statutory requirement. As regards alleged notice dated 5th August, 2019, it is submitted that the same is a manufactured document. The notice was never served on Appellant or any other shareholder of the

Company. Even service was not effected through the prevalent mode of service. It is further submitted that Annual Returns were filed without holding an AGM and that on the date of alleged meeting Respondent No. 3 was not even in India. Subsequently, efforts were made to whitewash the concoction by claiming it to be a clerical error and stating that the AGM was attended by Mr. Parimal Ajmera – an employee of Respondent No.2 though he was neither a Director nor an employee of the Company. It is therefore submitted that Mr. Parimal Ajmera could not have substituted Respondent No. 3 who was the only Director at the alleged AGM of the Company. It is submitted that since Appellant did not attend any meeting purportedly held on 24th September, 2019, the minimum required quorum of General Meeting as per Section 103(1)(b) of the Act was not present. Such meeting would therefore have no meaning and cannot be said to exist in law. Thus, it is contended that AGM dated 24th September, 2019 is non-est and the resolutions passed on that date deserve to be stayed. Learned counsel for Appellant further submits that initially Respondents claimed that Mr. Manmohan Bagri, the other Director of the Company had attended meeting dated 24th September, 2019 but when confronted with evidence that Mr. Manmohan Bagri was not in India on 24th September, 2019, Respondents changed their stand by contending that Mr. Parimal Ajmera had attended the meeting. This was a complete u-turn demonstrating fabrication of documents and that no meeting was held on 24th September, 2019. It is further submitted that no authorization in favour of Mr. Parimal Ajmera has been filed by Respondents

who could also not chair any meeting as he was not the Chairperson of the Board or a Director. It is only the Appellant who could have authorized Mr. Parimal Ajmera to Chair any such meeting. Such authorization not being there, it cannot be said that the meeting was held on 24th September, 2019. It is accordingly submitted that all actions pursuant to an alleged AGM dated 24th September, 2019 are non-est. As regards, EoGM dated 4th January, 2020, it is submitted that there is not even a single document to show that the removal of Appellant as Director of Company was discussed. It is submitted that the case setup in regard to holding of EoGM is fraudulent. It is further submitted that the only purported ground for removal of the Appellant as a Director from the Board of the Company is in relation to the affairs of a Foreign Company – 'M/s Indocean Developers Pvt. Ltd.' incorporated in Sri Lanka. However, the Act does not permit the affairs of a foreign company to be taken into consideration for any such decision to be taken by the shareholders of the Company. The affairs of a foreign company cannot be relevant for the purpose of convening a meeting of Members of any Company under the Act. It is submitted that Section 102 of the Act does not envisage or permit the affairs of a foreign company to be taken into consideration for any decision to be taken at any General Meeting of the shareholders. It is therefore submitted that the purported resolution dated 4th January, 2020 for removal of Appellant as Director from the Company is entirely illegal and void ab initio. It is submitted that there is no evidence to show that notice of Board Meeting to be convened on 26th November, 2019

was served on Appellant. The document produced by the Respondents 1 to 3 does not bear the signatures of the Appellant or any person authorized by him. Same is the case with alleged Board Meeting held on 12th December, 2019. Genuineness of alleged notice for EoGM dated 12th December, 2019 is disputed. The variation in address is also highlighted. It is submitted that the very foundation of removal of Appellant from the Board of Directors is nothing but fraudulent which is sought to be supported by fabricated documents. Lastly, it is submitted that the Respondents will hijack the affairs of the Company unless there is intervention by the Court. The Appellant seeks protection of the interests of the Appellant and also that of the Company pending adjudicating of the Company Petition.

4. Per contra it is submitted by Mr. Harish Salve, learned senior counsel appearing on behalf of the Company that the decision to convene AGM on 24th September, 2019 was taken at the Board Meeting held on 22nd June, 2019, which was duly attended by the Appellant. Even Annual Accounts for 2018-19 were signed by the Appellant at this Board Meeting. It is further submitted that the Appellant holding barely 12.5% shares cannot deny the 87.5% shareholder (Respondent No. 2) nominating three more Directors on the Board of the Company especially when Respondent No. 2 has by way of loans and securities provided for the banking facility proportionately far more share. It is pointed out that the Appellant has received and encashed the dividend cheque on 30th September, 2019 which could not have been done without holding the General Meeting. It is further submitted that under

Section 96 of the Act AGM was required to be conducted before 30th September and Appellant has not specified as to which steps he has taken for holding of AGM, if it was not held on 24th September. It is submitted that there has been delay in filing the Company Petition which has not been explained. It is submitted that the Appellant has cooked up the story only to cover up his own misdeeds and belated disputing of AGM is a step in the same direction. In any case convening of AGM on 24th September, 2019 is the principal issue in the Company Petition and no interim relief can be granted in the nature of final relief claimed in the Company Petition. It is submitted that the Appellant has not challenged EoGM dated 4th January, 2020 and the resolution passed therein for his removal from the Board of Directors. Appellant cannot be permitted to make such a prayer by way of his affidavit dated 6th February, 2020. It is submitted that the EoGM was convened in accordance with law for which requisition was made by Respondent No. 2 on 25th November, 2019 and Board Meeting was held on 12th December, 2019 in respect whereof notice was received by the Appellant at his residence. The Board Meeting was held on 12th December, 2019 convening the EoGM on 4th January, 2020 and notice in this regard was duly served on the Appellant. It is further submitted that the Appellant has acted against the interests of the Company by purporting to reduce Company's shareholding from 100% to 13.84% in IDPL. Such unilateral conduct adversely affected the interest of the Company which has been challenged before the Commercial High Court

in Sri Lanka. Therefore, Appellant is not entitled to any equitable relief as claimed in the Company Petition.

5. Mr. Nakul Dewan, learned senior counsel representing Respondent No. 2, while adopting submissions made on behalf of Respondent No. 1, further submits that all statutory compliances with regard to convening of the AGM on 24th September, 2019 and the EoGM dated 4th January, 2020 have taken place. It is submitted that the Courts do not interfere under Section 241/242 of the Act with any statutory lapse by a Company in removing/ appointing a Director when the majority shareholder is in favour of such removal/ appointment. It is further submitted that Respondent No. 2 apart from being the majority shareholder had also made direct investment in IDPL so as to enable it to develop its project called ALTAIR. It is submitted that the Appellant was attempting to withdraw the securities earlier furnished by him. A false impression was created by Appellant by stating that he had given a personal guarantee worth Rs.300 Crore for availing loan facility for IDPL. It is submitted that the illegal acts of Appellant have caused substantial loss to the Company and prejudice to Respondent No. 2. Appellant had tried to take away Respondent No. 2's right of control and management over the Colombo Project which is being developed by Respondent No. 1's wholly owned subsidiary IDPL. Thus, Appellant has left Respondent No. 2 financially exposed to the extent of Rs.788 Crore in the said Company. It is submitted that in these circumstances no interim relief could be granted to Appellant even if it is able to establish any statutory lapse on part of Respondent No. 1.

6. Learned counsel representing Respondents No. 4 to 6, in addition to submissions made by Respondents 1 and 2 submits that the Appellant had issues with most of the other Directors and Shareholders of Respondent No. 2, more particularly with Respondent No. 6 and same was true of the other side as the Appellant held 12.5% shareholding in the Company which was disproportionately high as compared to its financial exposure. Respondent No. 6 and other directors agreed to provide Appellant a chance to manage the development of the Project at Sri Lanka. However, complaints started pouring in as according to Appellant Respondent No. 6 had taken poor decisions regarding the Sri Lankan Project which led to delay and cost overrun. Respondent No. 6 and other Directors, on the other hand, complained of moneys being siphoned off by the Appellant from IDPL and started insisting on removing the Appellant from management and control of Sri Lankan Project and from the Board of Directors of Respondent No. 1. It is submitted that a settlement was worked out in terms whereof new nominee directors of Respondent No. 2 were to be inducted in Respondent No. 1 Company and its subsidiary IDPL. Some developments are said to have taken place with full knowledge of the Board and consent of both sides for completion of Sri Lankan Project. It is submitted that in November, 2019 Appellant had filed returns in Sri Lanka in the name of IDPL reducing 100% shareholding of R-1 to only 13.84% and removing Respondent No. 6 and another nominee Director Shri R. K. Agarwal from the Board of IDPL. It is thereafter that the Appellant was

removed from the Board of Respondent No.1 in terms of the Board Resolution and the resolution passed at the EoGM.

7. Heard Learned counsels for the parties and perused the record. Chapter XVI of the Act deals with prevention of oppression and mismanagement. Section 241 provides for grant of relief by the Tribunal in cases of oppression etc. while Section 244 regulates the right of members to apply under Section 241. Powers of Tribunal to deal with an application under Section 241 are embodied in Section 242, Sub-section 4 whereof provides for passing of such interim directions by the Tribunal on the application of any party to proceedings which it thinks fit for regulating the conduct of the Company's affairs. The ambit and scope of these provisions fell for consideration of this Appellate Tribunal in '***Smt. Smruti Shreyans Shah Vs. The Lok Prakashan Limited & Ors.'*** *in Company Appeal (AT) No. 25 of 2018 decided on 5th September, 2019*, para 15 whereof relevant for our purpose is reproduced hereinbelow:

> *"15. Now coming to the issue of grant of interim relief, be it noticed that Section 241 of the Act dealing with grant of relief in cases of oppression and mismanagement provides that any member of a company, eligible in terms of Section 244 of the Act, may apply before the Tribunal for an order under Chapter XIV dealing with prevention of oppression and mismanagement. Such member's complaint*

must be in regard to the affairs of the Company that have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company or that any material change has taken place in the management or control of the company and because of such change it is likely that the affairs of the company will be conducted in a manner prejudicial to its interests or its members. Section 241(2) of the Act enables the Central Government also to apply to the Tribunal for an order under Chapter XIV of the Act, if in its opinion the affairs of the Company are being conducted in a manner prejudicial to public interest. Section 242 of the Act dealing with the powers of the Tribunal empowers it to pass such order as it thinks fit if, based on application filed under Section 241 it is of opinion that the company's affairs have been or are being conducted in a manner prejudicial or oppressive to any member(s) or prejudicial to public interest or in any manner prejudicial to the interests of the company and on just and equitable ground winding up order would be justified but such winding up would unfairly prejudice such member(s). Sub-section (2) of Section 242 deals with the nature of

substantive relief that can be granted though same is only illustrative and not exhaustive. Section 242(4) of the Act provides for interim relief which the Tribunal may grant for regulating the conduct of the company's affairs. Such interim relief can be granted by virtue of an order passed on the application of any party to the proceeding and such order can be subjected to terms and conditions which appear to the Tribunal to be just and equitable. On a plain reading of these provisions, it is abundantly clear that pending consideration of application by a member or member(s) of a Company alleging oppression or mismanagement, the Tribunal is vested with wide discretion to make any interim order on the application of any party to the proceedings, which it thinks fit for regulating the conduct of company's affairs. Such interim order can be subjected to terms and conditions which appear to the Tribunal to be just and equitable. The nature of interim order would depend upon the nature of complaint alleging oppression or mismanagement and the relief claimed therein. A member alleging that the affairs of the company have been or are being conducted in a manner prejudicial or oppressive to him or any other member or prejudicial to the interests of the company must come up

with specific allegations of oppression and mismanagement and demonstrate that the affairs of the company have been or are being run in a manner which jeopardizes his interests or interests of other members or the interests of the company. Passing of interim order necessarily correlates to regulating the conduct of company's affairs. It is therefore imperative that the member complaining of oppression or mismanagement makes out a prima facie case warranting grant of relief in the nature of an interim order. The making of an interim order by the Tribunal across the ambit of Section 242 (4) postulates a situation where the affairs of the company have not been or are not being conducted in accordance with the provisions of law and the Articles of Association. For carving out a prima facie case, the member alleging oppression and mismanagement has to demonstrate that he has raised fair questions in the Company Petition which require probe. Fairness of questions depends on the nature of allegations which, if proved, would entitle the member complaining of oppression and mismanagement to final relief in terms of provisions of Section 242."

8. This appeal has a limited scope as it has been preferred against an order passed under Section 242(4) of the Act declining to grant interim relief.

Considerations for grant of interim relief are well settled. Existence of a prima facie case besides balance of convenience and irreparable injury being suffered by a Member of Company alleging acts of oppression and mismanagement prejudicial to its interest and those of the Company, if there is no judicial intervention to protect the interests of such Member or the Company from alleged acts of oppression and mismanagement pending probe into allegations of oppression and mismanagement in the affairs of the Company, are the relevant considerations at the stage of grant of interim relief and Section 242(4) of the Act vests ample powers in the Tribunal to pass such interim directions as may be necessary for regulating the affairs of the Company.

9. Adverting to the facts of the instant case be it seen that the Appellant has made specific allegations of oppression and mismanagement against Respondents and made strenuous efforts to demonstrate that the affairs of the Company have been conducted in a manner which seriously jeopardize his interests. While it is not permissible to return findings of fact qua such allegations of oppression and mismanagement across the ambit of interlocutory application under Section 242(4) of the Act as also within the limited scope of instant appeal, the Appellant is required to make out a prima facie case warranting grant of interim relief. To demonstrate that the affairs of the Company were not being conducted in accordance with the provisions of law and the Articles of Association, the Appellant has raised the issue of not being served with notice of AGM dated 24th September, 2019 and EoGM

dated 4th January, 2020 which were crucial in so far as his interests as a stakeholder in the Company were concerned. It is not in dispute that such meetings were purportedly held to induct Respondents No. 4 to 6 as Directors and remove the Appellant from the Directorship of the Company. The Tribunal has observed that the notices of AGM and EoGM were given to the Appellant. This observation is with reference to some documentary evidence, genuineness and authenticity whereof besides proof of service is the subject of controversy in the Company Petition. How and on what basis the Tribunal made such observation has not been spelt out in the impugned order. We are conscious of the fact that the issue in this regard forms the core issue in the Company Petition and the effect of non-service of notices upon the Appellant in regard to such meetings has serious consequences, one diluting his status and the other resulting in his ouster. The Tribunal has noticed the allegation emanating from the Appellant that he did not get notice of both the meetings and the documents relied upon by Respondents in this regard are fake and fabricated. It is queer that the Tribunal, while being of the view that there was factual controversy inter se the parties in regard to service of notices upon the Appellant for aforesaid meetings and showing its consciousness that issue in this regard was required to be determined in the main petition on the basis of evidence tendered by parties, proceeded to observe that there was prima facie evidence on record indicating that the notices of both the meetings were given to the petitioner. It further appears that the Tribunal, apart from treating the notices in regard to the meetings challenged by the Appellant, did

not rely on any other substantive, circumstantial or corroborative proof to come to a prima facie finding that such notices were given to the Appellant. The approach adopted by the Tribunal is fundamentally flawed as it could not solely rely upon documents – Notices herein, service whereof to Appellant was seriously disputed. The Tribunal ought to have been more careful in drawing conclusion as regards existence of prima facie case from such questioned notices, as the consequences flowing from such notices had the deleterious effect of diluting the status and forcing ouster of Appellant from Directorship of the Company.

10. Now coming to the pivotal issue of determining whether there was a fair question raised by Appellant in the Company Petition alleging oppression and mismanagement at the hands of Respondents be it seen that the Appellant is admittedly a minority shareholder whilst Respondent No. 2 and its associates are the majority shareholders. With allegations of Respondent No. 2 and other Respondents making all efforts to usurp control over the Respondent No. 1 Company through all means, fair or foul, emanating from the Appellant, it is demonstrated by the Appellant that no resolution or any minutes of Board Meeting dated 22nd June, 2019, stated to be the edifice of the alleged AGM, is in existence to even suggest that the two Directors decided to hold AGM on 24th September, 2019. It is contended on behalf of Appellant that adherence to the statutory requirement under Section 118 of the Companies Act has not been established by Respondents which justifies drawing of an inference that neither any such Board Meeting was conducted nor any minutes were

recorded of such Board Meeting. It is also pointed out that no notice or agenda was circulated in the prescribed manner and bearing signatures of Appellant. As regards notice said to have been issued on 5th August, 2019, similar contentions have been raised, it being further pointed out that the prevalent modes of service have not been resorted to. It has been pointed out that though Form No. MGT 7 was filed even without holding AGM, the Annual Report falsely declared that the AGM had been attended by both by Appellant as well as Respondent No. 3 as Directors. It has been pointed out that the Appellant never attended any such meeting and Respondent No. 3 was not in India on that date (page 144-147 of Vol. I of the appeal paper book). It is also pointed out that after the Respondents realized that fraud played by Respondent No. 3 in this regard had been discovered, Respondent No. 3 cooked up another false story by setting up the plea that one Mr. Parimal Ajmera had attended the meeting on his behalf and a clerical error had been made in the Annual Report. The Appellant has pointed out that that Mr. Parimal Ajmera was not an employee of the Company and admittedly not a Director. Thus, he could not have substituted Respondent No. 3, who was the only other Director on the date of alleged AGM dated 24th September, 2019. No authorization in this regard has been produced by the Respondents to demonstrate that Mr. Parimal Ajmera had attended as representative of Respondent No.2 in the alleged AGM. It is submitted on behalf of Appellant that since the Appellant did not attend any purported meeting on 24th September, 2019, the minimum required quorum of General Meeting not

being present any resolutions said to have been passed on such date are required to be stayed. As regards the EoGM dated 4th January, 2020, it is pointed out on behalf of Appellant that the only ground for removal of Appellant as a Director from the Board of the Respondent No. 1 Company was in relation to the affairs of M/s Indocean Developers Pvt. Ltd. Incorporated in Sri Lanka which is a foreign company and the Act does not permit affairs of a foreign company to be taken into consideration for any such decision to be taken by the shareholders of the Company. Reference in this regard is made to Section 102 of the Act which does not envisage affairs of a foreign company to be taken into consideration for taking a decision in a General Meeting of the Shareholders. On the strength of these relevant facts, it is contended on behalf of Appellant that the ouster of Appellant as Director is entirely illegal. Since the foundation is bad, it is contended, the entire superstructure is bound to collapse. The Appellant has demonstrated all these circumstances to show that it has raised a fair question which requires probe in the Company Petition. The arguments raised on this score cannot be dismissed offhand. Given the status of Appellant, it can be safely stated that with existence of prima facie case in his favour, balance of convenience lies to the side of Appellant who is faced with the prospect of his interests and legal rights being seriously jeopardized in the wake of impugned order.

11. For the foregoing reasons, we are of the considered opinion that the impugned order suffers from grave legal infirmity besides factual frailty. Same cannot be supported. The appeal is allowed and the impugned order is set

aside. Appointment of Respondents No. 4 to 6 as Directors of the Company and removal of Appellant as the Director of the Company is stayed till the decision of Company Petition by the Tribunal.

12. There shall be no orders as to costs. Any observations made in this judgment shall not be construed as an expression of opinion on the merits of the case and the Tribunal shall have to arrive at its own findings in the main petition on the basis of evidence brought on record by the parties.

[Justice Bansi Lal Bhat]
Acting Chairperson

[V. P. Singh]
Member (Technical)

[Dr. Alok Srivastava]
Member (Technical)

NEW DELHI
4th September, 2020

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