

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 220 of 2018

IN THE MATTER OF:

Surinder Mehta & Ors.

...Appellants

Vs.

Prime Meiden Ltd. & Ors.

...Respondents

Present: For Appellants: -Mr. K. Dutta, Mr. J. Mehta, Mr. Robin Dubey, Mr. Nishant Bhardwaj and Mr. Ramanjit Singh, Advocates.

For Respondents: -Mr. Ramji Srinivasan, Senior Advocate with Mr. Lalit Bhasin, Mr. Inderaj Gill, Mr. RP Singh, Mr. Avichal Prasad and Mr. Lakshya Khanna, Advocates.

ORDER

23.07.2018— ‘M/s. Meidensha Corporation’ filed an application under Sections 241 and 242 of the Companies Act, 2013 against ‘M/s. Prime Meiden Ltd. & Ors.’ in CP 369/ND/2017. In the said petition, an application being CA 276/2018 was filed by the Petitioner invoking the provisions of Sections 196 and 197 of the Companies Act, 2013 as the tenure of two of their nominee Directors on the Board of the 1st Respondent Company had expired and required renewal.

2. The National Company Law Tribunal (hereinafter referred to as ‘Tribunal’), New Delhi, taking into consideration the fact that the serious allegations of acts of oppression and mismanagement has been levelled against 2nd Respondent to 10th Respondent and that the 1st Respondent Company is engaged in the business of manufacture and sale of high

Contd/-.....

technology equipment used in the power sector, including equipment for generation, distribution, transmission precession engineering etc. directed the parties to hold the EoGM on 11th July, 2018.

3. The Appellants- Surinder Mehta and Ors. who are the Respondents in the said petition have also filed cross petition under Sections 241 and 242 of the Companies Act, 2013 which is also pending for hearing along with the said petition. It is informed that Interlocutory Applications have also been filed by the parties for passing appropriate orders under Section 45 of the Arbitration & Conciliation Act, 1996 which has already been heard and order has been reserved.

4. Apart from other grievances, one of the grievance of the Appellants are that the EoGM could not be held without giving three weeks' notice in terms of the provisions of the Companies Act, 2013. However, taking into consideration the fact that a petition under Section 45 of the Arbitration and Conciliation Act, 1996 has been already heard by the Tribunal and the matter is pending for judgment and in the interest of Company the interim order dated 9th July, 2018 has been passed to ensure that one or other Directors function, tenure of two of their nominee Directors having completed, as agreed by the parties, we pass the following orders:

- i. The Board of Directors is directed to call for a meeting of EoGM giving three weeks' notice to the Members and fix the date of meeting.
- ii. The decisions, if any, has been taken on 11th July, 2018 nominating /electing one or other Director or Expert, they will function by way of interim arrangement till final decision is taken after three weeks in the meeting of EoGM.
- iii. If the Directors and the technical expert nominated/ elected on 11th July, 2018 are re-elected or nominated in the next EoGM, they will continue. Otherwise, they will cease to continue and newly elected/nominated Directors and Technical Experts will take over the position.

5. It is made clear that the notice should be served on all the Members of the Company. However, if one other member fails to attend such meeting, they cannot raise any grievances.

6. As we find that the Company Petition under Sections 241 and 242 of the Companies Act, 2013 pending since more than one year and in the meantime, the application under Section 45 of the Arbitration and Conciliation Act, 1996 has already been heard, the Tribunal is expected to pass appropriate order on such petition on an early date.

7. If the application under Section 45 is disallowed, the Tribunal may proceed with the Company Petitions under Sections 241 and 242, and pass order uninfluenced by the observations made in the impugned order dated 9th July, 2018 or by this Appellate Tribunal.

8. The impugned order dated 9th July, 2018 stands modified to the extent above. The appeal stands disposed of with aforesaid observations and directions. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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