

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, COURT-I  
KOLKATA**

**I.A. (CA) No. 183/KB/2023  
in  
CP No. 287/KB/2023**

A petition under sections 97, 213, 242 and 244 of the Companies Act, 2013 read with rule 11 of the National Company Law Tribunal Rules, 2016.

***In the matter of:***

1. Mr. Karan Singh Grewal
2. Guneet S Grewal
3. Himanshu Ajmera
4. Vikram Jairath

*...Petitioners*

*Versus*

1. The Calcutta Cricket & Football Club
2. Subrata Das
3. Irfan Ahmed
4. HIRAK DASGUPTA
5. Wamique Zaki
6. Saurav Chatterjee
7. Rajib Ghosh
8. Vivek Bhasin
9. Anuj Kichlu
- 10.Indrajit Toy
- 11.Chittapriyo Bose
- 12.Somangsu Biswas
- 13.Davina Thacker
- 14.Sanaya Mehta Vyas
- 15.Jeet Banerjee
- 16.Khetan Patel

*...Respondents*

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, COURT-I

Karan Singh Grewal v. The Calcutta Cricket & Football Club  
I.A. (CA) No. 183/KB/2023 in CP No. 287/KB/2023

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**I.A. (CA) No. 183/KB/2023**

*An application under section 244 of the Companies Act, 2013 read with rule 11 of the National Company Law Tribunal Rules, 2016.*

***In the matter of:***

1. Mr. Karan Singh Grewal
2. Guneet S Grewal
3. Himanshu Ajmera
4. Vikram Jairath

*...Applicants*

*Versus*

1. The Calcutta Cricket & Football Club
2. Subrata Das
3. Irfan Ahmed
4. HIRAK DASGUPTA
5. Wamique Zaki
6. Saurav Chatterjee
7. Rajib Ghosh
8. Vivek Bhasin
9. Anuj Kichlu
10. Indrajit Toy
11. Chittapriyo Bose
12. Somangsu Biswas
13. Davina Thacker
14. Sanaya Mehta Vyas
15. Jeet Banerjee
16. Khetan Patel

*... Respondents*

Order pronounced on: 17 January 2024

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, COURT-I

Karan Singh Grewal v. The Calcutta Cricket & Football Club  
I.A. (CA) No. 183/KB/2023 in CP No. 287/KB/2023

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**Coram:**

**Shri Rohit Kapoor** : **Member (Judicial)**  
**Shri Balraj Joshi** : **Member (Technical)**

**Appearances (through hybrid mode):**

For the Petitioner : 1. Mr. Joy Saha, Senior Advocate  
2. Mr. Zeeshan Haque, Advocate  
3. Mr. Anitya Kanodia,, Advocate  
4. Ms. Suparna Sardar, Advocate  
5. Mr. Shibam Banerjee, Advocate

For Respondent No. 1 : 1. Mr. Ratnanko Banerji, Senior Advocate  
2. Ms. Shristi Burman Raj, Advocate  
3. Ms. Rishika Goyal, Advocate

For the Respondent No. 14 : 1. Mr. Abhrajit Mitra, Senior Advocate  
2. Mr. D. N. Sharma, Advocate  
3. Mr. Shaunak Mitra, Advocate

For the Respondent Nos. 2,3,4,8,9,10,11 : 1. Ms. Manju Bhuteria, Advocate  
2. Ms. Meenakshi Manot, Advocate

**ORDER**

**Per Rohit Kapoor, Member (Judicial)**

1. This Court convened through hybrid mode.
2. The Company Petition filed by four persons being the General Committee Members on the Board of the Respondent Company, the Company Petition is accompanied by an affidavit of Karan Singh Grewal.
3. The I.A. has been filed by the Applicants seeking the following reliefs:
  - a. *Leave be granted to the petitioner to institute the company petition inter alia under sections 241,242 and 244 of the Companies Act, 2013.*
  - b. *Requirement and/or criteria as required by section 244 of the Companies Act, 2013 be waived thereby allowing the petitioners to institute the Company Petition.*

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*c. Ad interim orders in terms of prayer above.*

*d. Such further order or orders and/or direction or directions be given as to which this Hon'ble Tribunal may deem fit and proper.*

4. The Respondent No. 1 Company is the Calcutta Cricket & Football Club which was established in the year 1792. The Respondent No. 1/Club is the oldest cricket and football club in Asia and is registered as a section 8 Company within the meaning of the provisions of the Companies Act, 2013.
5. The Respondent No. 1 has a total of around 1850 members. The Petitioners are seeking leave under section 244(1) of the Companies Act, 2013 praying, *inter alia*, for waiver of the requirements of the provisions of clause (b) of section 244(1) of the Companies Act, 2013 so as to enable the Petitioner to apply under section 241 and 242 of the Companies Act, 2013 and claim reliefs as prayed for in the interest of the company.
6. The principal objects of the respondent company are to, *inter alia*, promote and encourage the playing of sports such as Cricket, Football, Hockey, Tennis, Golf, Rugby, Polo, Swimming and for organizing and participating in tournaments in connection therewith and encouraging higher standards of excellence in such sports. The objects of the Respondent No. 1 Company are detailed in the Memorandum and Articles of Association of the Company.
7. The Respondent Nos. 2 to 14 are illegally contending that the Petitioner Nos. 1 to 4 have ceased to be Directors and/or General Committee Members of the Respondent No. 1 Club on the basis of the illegal Annual General Meeting dated 11 September 2023, which meeting is impugned in the present proceeding.
8. In the said petition, the Petitioners have raised various allegations of oppression and mismanagement against the Respondents. It also appears that a Suit has been filed before the Civil Court at Alipore which is pending disposal and where an application under Order 7 Rule 11 of the Civil Procedure Code, 1908 has been filed.
9. While considering the aspect of waivers, the Respondent No. 14 has objected to it stating that there exists no circumstances or situation warranting grant of

waiver to the Petitioners who are only four in number and admittedly less than 10%.

10. Before proceeding further we may refer to the provisions of law i.e. section 241 and section 244 of the Companies Act, 2013 that is reproduced hereunder:

**241. Application to Tribunal for relief in cases of oppression, etc.—(1)**

*Any member of a company who complains that—*

*(a) the affairs of the company 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*

*(b) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture-holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason 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 or any class of members,*

*may apply to the Tribunal, provided such member has a right to apply under Section 244, for an order under this Chapter.*

*(2)The Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under this Chapter.*

*[Provided that the applications under this sub-section, in respect of such company or class of companies, as may be prescribed, shall be made before the Principal Bench of the Tribunal which shall be dealt with by such Bench.]*

*[(3) Where in the opinion of the Central Government there exist circumstances suggesting that—*

*(a) any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud,*

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**Karan Singh Grewal v. The Calcutta Cricket & Football Club  
I.A. (CA) No. 183/KB/2023 in CP No. 287/KB/2023**

---

*misfeasance, persistent negligence or default in carrying out his obligations and functions under the law or of breach of trust;*

*(b) the business of a company is not or has not been conducted and managed by such person in accordance with sound business principles or prudent commercial practices;*

*(c) a company is or has been conducted and managed by such person in a manner which is likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or*

*(d) the business of a company is or has been conducted and managed by such person with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,*

*the Central Government may initiate a case against such person and refer the same to the Tribunal with a request that the Tribunal may inquire into the case and record a decision as to whether or not such person is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.*

*(4) The person against whom a case is referred to the Tribunal under sub-section (3), shall be joined as a respondent to the application.*

*(5) Every application under sub-section (3)—*

*(a) shall contain a concise statement of such circumstances and materials as the Central Government may consider necessary for the purposes of the inquiry; and*

*(b) shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the signature and verification of a plaint in a suit by the Central Government.]*

**244. Right to apply under Section 241.**—(1) *The following members of a company shall have the right to apply under Section 241, namely:—*

*(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members*

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, COURT-I

Karan Singh Grewal v. The Calcutta Cricket & Football Club  
I.A. (CA) No. 183/KB/2023 in CP No. 287/KB/2023

---

*holding not less than one-tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;*

*(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members:*

*Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (a) or clause (b) so as to enable the members to apply under Section 241.*

*Explanation.—For the purposes of this sub-section, where any share or shares are held by two or more persons jointly, they shall be counted only as one member.*

*(2) Where any members of a company are entitled to make an application under sub-section (1), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.*

11. We have heard the Learned Senior Counsel for the Petitioners and Learned Senior Counsel and Learned Counsel appearing on behalf of the Respondents.
12. The learned Senior Counsel appearing on behalf of the Respondent No. 14 has placed reliance on ***Cyrus Investments Private Limited and Another v Tata Sons Limited and Others, 2017 SCC Online NCLAT 261***, paragraph 151 which is reproduced herein below:

*“151. Normally, the following factors are required to be noticed by the Tribunal before forming its opinion as to whether the application merits ‘waiver’ of all or one or other requirement as specified in clauses (a) and (b) of sub-section (1) Section 244:—*

*(i) Whether the applicants are member(s) of the company in question? If the answer is in negative i.e. the applicant(s) are not member(s), the application is to be rejected outright. Otherwise, the Tribunal will look into the next factor.*

*(ii) Whether (proposed) application under Section 241 pertains to ‘oppression and mismanagement’? If the Tribunal on perusal of proposed*

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KOLKATA BENCH, COURT-I

Karan Singh Grewal v. The Calcutta Cricket & Football Club  
I.A. (CA) No. 183/KB/2023 in CP No. 287/KB/2023

---

*application under Section 241 forms opinion that the application does not relate to 'oppression and mismanagement' of the company or its members and/or is frivolous, it will reject the application for 'waiver'. Otherwise, the Tribunal will proceed to notice the other factors.*

*(iii) Whether similar allegation of 'oppression and mismanagement', was earlier made by any other member and stand decided and concluded?*

*(iv) Whether there is an exceptional circumstance made out to grant 'waiver', so as to enable members to file application under Section 241 etc.?"*

*"152. The aforesaid factors are not exhaustive. There may be other factors unrelated to the merit of the case which can be taken into consideration by the Tribunal for forming opinion as to whether application merits 'waiver'."*

13. It appears from the averments in the petition that differences have crept into between the members of the Respondent Club, which is a club with the principal objective to promote and encourage various sports. It is stated to be one of the oldest sports clubs in Asia having immense repute and a very rich heritage.
14. It is seen that the objective of the club is to promote and encourage the playing of sports such as Cricket, Football, Hockey, Tennis, Golf, Rugby, Polo, Swimming and it has a long history and commands a good reputation. Therefore, keeping in mind the public interest at large, it is essential that such differences are addressed in right earnest and accordingly we grant waiver to the petitioners to file this petition under section 241-244 and seek the reply of the Respondents.
15. It is made clear that the grant of waiver shall not be construed as any expression of opinion on any allegations raised by the Petitioners. The Respondents shall be at liberty to file reply/ raise any objection that may be available to them under law.
16. In terms of the above direction, **I.A. (IB) No. 183/KB/2023 is disposed of. CP (IB) No. 287/KB/2023** to come up on **29 February 2024** for further consideration.



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KOLKATA BENCH, COURT-I

Karan Singh Grewal v. The Calcutta Cricket & Football Club  
I.A. (CA) No. 183/KB/2023 in CP No. 287/KB/2023

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17. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**Balraj Joshi**  
Member (Technical)

**Rohit Kapoor**  
Member (Judicial)

This order is pronounced on the 17<sup>th</sup> day of January 2024.

GGRB\_LRA