

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH, BENGALURU**  
**(Through physical hearing/VC Mode (Hybrid))**

**C.P.No.102/BB/2021**

U/ss.59, 241 & 242 of Companies Act, 2013 R/w.  
Rule 11 of National Company Law Tribunal Rules, 2016  
**with C.A.Nos.96, 106 & 107 of 2022**  
U/r. 11 of NCLT Rules 2016

**IN THE MATTER OF:**

**Dr. Madhukar G. Angur,**

S/o. Guddappa Angur,  
Apartment 703, 7<sup>th</sup> Floor, K-Block,  
Adarsh Palm Retreat,  
Jacaranda, Devarabisnahalli  
Bengaluru – 560 103

... Petitioner

**VERSUS**

**1. Abhay Govind Chebbi**

S/o. Shri G.B. Chebbi  
No.100, 34<sup>th</sup> Main,  
2<sup>nd</sup> Cross, Dollars Scheme, BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068

... Respondent No. 1

**2. Sudhir Angur**

S/o. Shri Guddappa Augur  
No.48/B, 27<sup>th</sup> Main, 1<sup>st</sup> Cross,  
BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068

... Respondent No. 2

**3. Shaila Chebbi Govind**

W/o. Shri G.B. Chebbi  
No.100, 34<sup>th</sup> Main, 2<sup>nd</sup> Cross,  
Dollars Scheme, BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068

... Respondent No. 3

**4. Mala Madikeri Srinivas Gouda**

W/o. Dr. Srinivas Gouda  
No. 100, 34<sup>th</sup> Main,  
2<sup>nd</sup> Cross Dollars Scheme, BTM 1<sup>st</sup> Stage  
Bengaluru – 560 068

... Respondent No. 4

- 5. Krishnamohan Ramineni**  
S/o. Shri Ramineni  
No. 302, SDE Sai Residency  
Plot No. 88, Srinagar Colony  
Hyderabad – 500 073 ... Respondent No. 5
- 6. Prakash Siddappa Budoor**  
S/o. Shri B. Siddappa,  
No.100, 34<sup>th</sup> Main,  
2<sup>nd</sup> Cross Dollars Scheme, BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068 ... Respondent No. 6
- 7. Shivappa Mantur**  
S/o. Ramappa  
Vekateshwara House, 19<sup>th</sup> Cross, 7<sup>th</sup> Main,  
BTM Layout, 2<sup>nd</sup> Stage, N.S.Palya  
Bengaluru – 560 068 ... Respondent No. 7
- 8. Krishna Prasad**  
Unauthorised Company Secretary  
K.P Associates  
No.575, 1st Floor, 3rd Block, 3rd Stage,  
2<sup>nd</sup> “B” Cross, 6th Main, Basaweswaranagar,  
Bengaluru – 560 068 ... Respondent No. 8
- 9. Priyanka Angur**  
W/o. Dr. Madhukar G. Angur  
Apartment 703, 7<sup>th</sup> Floor, K Block,  
Adarsh Palm Retreat,  
Jacaranda, Devarabisnahalli  
Bengaluru – 560 103 ... Respondent No. 9
- 10. Alliance Business School**  
R/o. at Chikkahagade Cross,  
Chandapura - Anekal Main Road, Anekal  
Bengaluru – 560 068 ... Respondent No. 10
- 11. Sachidananda Rao Mechineni**  
S/o. M. Thrupathi Rao  
H.No.7-1-79 & 80, Flat No. 506  
Anand Nilayam, Ameerpet  
Hyderabad – 500 016 ... Respondent No. 11

- 12. Srinivas Gouda**  
No2-7-33, Kanakagiri Road,  
Gangavathi, Koppal – 583 227 ... Respondent No. 12
- 13. Shreya Sanjeev**  
R/a. No.1004, H.M. Taburian Apartments  
Kanakapura Main Road,  
Vi Phase, J.P.Nagar  
Bengaluru – 560 078 ... Respondent No. 13
- 14. Registrar Of Companies (Roc), Karnataka**  
2<sup>nd</sup> Floor, 'E' Wing  
Kendriya Sadan,  
Koramangala  
Bengaluru - 560 068 ... Respondent No. 14
- 15. Ministry of Corporate Affairs (MCA)**  
Through Director General of Corporate Affairs  
Kota House Annexe. 1, Shahjahan Road,  
New Delhi – 110 001 ... Respondent No. 15
- 16. Regional Director, South-East Region**  
Ministry of Corporate Affairs  
3<sup>rd</sup> Floor, Corporate Bhawan  
Bandlaguda, Nagole, Tattiannaram Village,  
Hayat Nagar Mandal Ranga Reddy District  
Hyderabad – 500 680 ... Respondent No. 16
- 17. Govind Chebbi**  
No. 100, 34th Main,  
2<sup>nd</sup> Cross Dollars Scheme, BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068 ... Respondent No. 17
- 18. Basavaraj VK**  
Unauthorised Chartered Accountant  
Certificate Practice Number: 213287  
No.217, 6<sup>th</sup> Cross, Mahaganapathi Nagar,  
1<sup>st</sup> Stage, Rajajinagar  
Bengaluru – 560 010 ... Respondent No. 18
- 19. Syed Shahabuddin**  
Company Secretary (Cp.No.11932)  
85/2 Muniswamappa Road  
1<sup>st</sup> Cross Road, J.C. Nagar,

Bengaluru – 560 006

... Respondent No. 19

**20. Alliance University**

Through Alleged Registrar  
Chikkahagade Cross  
Chandapura – Anekal Rd  
University Campus, Anekal  
Bengaluru – 562 106

**ALSO AT:**

19<sup>th</sup> Cross, 7<sup>th</sup> Main, BTM 2<sup>nd</sup> Stage  
N.S.Palya, Bengaluru – 560 076

**ALSO AT:**

2<sup>nd</sup> Cross, 36<sup>th</sup> Main, Dollars Scheme  
BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068

... Respondent No. 20

**21. Madhusudhan Mishra**

S/o. S.N. Mishra  
R/a. No.100, 34,  
2<sup>nd</sup> Cross, Dollors Scheme  
BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068

... Respondent No. 21

**22. Venkoba Gujjal**

R/o. at No.100, 34,  
2<sup>nd</sup> Cross, Dollors Scheme,  
BTM 1<sup>st</sup> Stage,  
Bengaluru – 560 068

... Respondent No. 22

**Order delivered on: 16<sup>th</sup> July, 2024**

**CORAM:**

1. Hon'ble Shri K. Biswal, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the Petitioner : Ms. Ashima M with  
Ms. Mandakini S,  
Shri Surya Pratap. S and  
Abhimanyu Deviah

For the Respondent No.1 : Shri Shyam Sundar, Sr. Counsel along with Ms. Vandana P.L

For the Respondent Nos.5 to 10 : Shri Cyril Prasad. P

For Respondent Nos.12 to 14 : Shri M.N Kumar

## **ORDER**

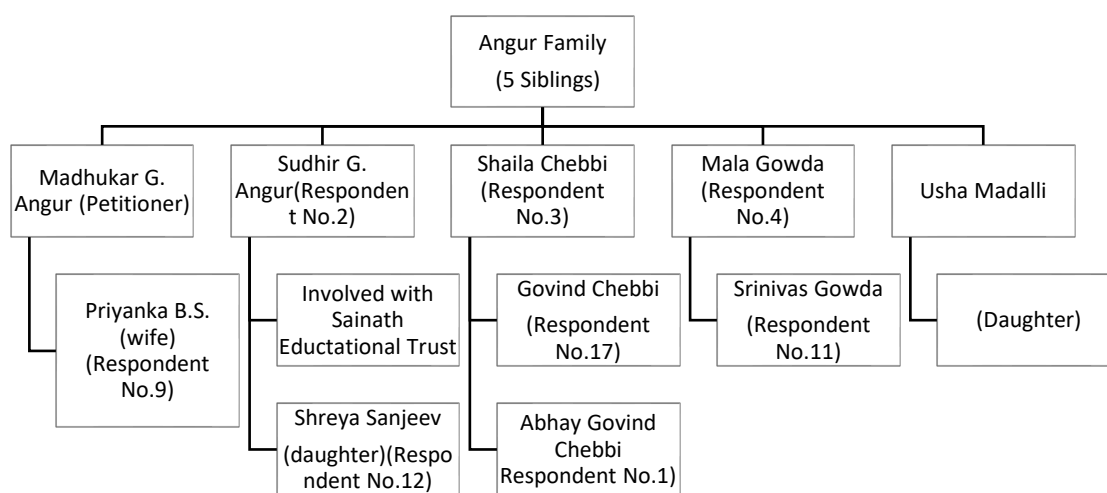
**Per: K. Biswal, Member (Judicial)**

1. The instant Company Petition bearing C.P.No.102/BB/2021 (hereinafter referred to as the Company Petition/Petition) has been preferred by Dr. Madhukar G. Angur (hereinafter referred him as Petitioner/Dr Madhukar) Under Sections 241 and 59 of the Companies Act, 2013 (hereinafter referred to as Act of 2013) R/w Rule 11 of the National Company Law Tribunal (NCLT) 2016 by, *inter-alia*, praying for rectification of Register of Members of the Respondent No.10 Company as well as restoration and declaration/confirmation of Directorship and equity shareholding of the Petitioner and to further declare the acts, actions and conduct of the Respondent Nos. 1-8 and 11-13, 17-19 allegedly done on behalf of the Respondent No.10 Company, as oppressive to the Petitioner and other legitimate shareholders and stake owners of the Respondent No. 10 Company; to reinstate the Petitioner in the Respondent No. 10 Company maintaining *status ante quo* in so far as the shareholding pattern as on 09.04.2015 and uploaded on the portal of Registrar of Company as well as status quo ante of the Petitioner as Director and Managing Director of the Respondent No.10 Company in light of the findings of the order passed by the Registrar of Companies vide dated 24.09.2019 as well as Order of the Regional Director (SE-R), Ministry of Corporate Affairs, Hyderabad etc.
2. Brief facts of the case, as mentioned in the Petition, which are relevant to the adjudication of I.A.Nos.96, 106 and 107 of 2022 filed by some of the Respondents of Petition by questioning the maintainability of Petition, and to vacate interim orders, to dismiss the Petition etc., are as follows:

- (1) Alliance Business School (Respondent No. 10) (herein after referred to as 'the Company') is a Company limited by shares and was duly incorporated on 28.06.2005, U/s.7 of the Companies Act, 1956 with the Registrar of Companies, Karnataka at Bengaluru with the name of Alliance Business School Pvt Ltd. and having its registered office at Chikkahagade Cross Chandpura- Anekal Main Road, Aneka, Bangalore-562106, India. When incorporated, it was a Private Limited Company having an authorized share capital of Rs.10,00,000/- (Rupees Ten Lakh Only) divided into 1,00,000 equity shares at Rs.10/- each. Its authorized share capital was increased to Rs.25,00,000/- (Rupees Twenty-Five Lakh only) divided into 2,50,000 (Two Lakh Fifty Thousand) equity shares of Rs.10/- (Rupees Ten) each vide EGM dated 20.05.2009. On 04.06.2010, the Company was converted into a Company U/s.25 of the Companies Act, 1956 (Correspondent to section 8 of the Companies Act, 2013) and the name of Company was changed from Alliance Business School Pvt Ltd., to M/s. Alliance Business School (ABS/the Company for short). The main objects of the Company, as contained in its Memorandum and Articles of Association, are to establish in any part of India or abroad, schools, and colleges for imparting education to students orally or through post, to provide educational facilities International standards catering to different cultures like America, British, Japanese or German and also to provide boarding facilities and other related activities.
- (2) The Petitioner, a renowned prestigious educationist, who holds prestigious degrees, a pioneer in the field of education, management, marketing and research, with a view to setup and establish world class Education University and Institutions in the Country, has incorporated the Respondent No. 10 Company as a first step to facilitate higher education. He became the Managing Director of the Company and purchased 2,40,000 shares of it. He claims that he was holding 1,22,500 shares as per annual return

for the years 2014-15, which was reflected from the certified copy of Form Sch. V with details of shareholders 31.03.2015 issued by the Asst. Registrar of Companies, Karnataka on 16.04.2015. Therefore, he claims that he is competent to file the Petition.

- (3) As he was desirous of setting up a world class university, he has applied to the Government of Karnataka for permission to set up a private University. Thereafter, the Government vide its order dated 12.10.2009 constituted a committee to inspect the institutions about its infrastructure etc. and submit a report. On 28.07.2010, the Government of Karnataka published Alliance University Act, 2010 (hereinafter referred to as 'the Act') in Karnataka Gazette by establishing Alliance University (hereinafter referred to as Respondent No.20). For the purpose of giving stability and to protect the academic integrity and autonomy, the Petitioner was made Chancellor a lifetime post in recognition of the role played by him in setting up the University. In terms of the said Act, the Respondent No.10 is sponsoring body of Alliance University (Respondent No.20 herein).
- (4) The Petitioner has filed the following genealogical chart showing the Parties involved in the case.



- (5) The remaining Respondents are third Parties. Mr. Abhay Govind Chebbi is the son of Respondent No. 3 and is the nephew of the Petitioner. He falsely claimed to be the Director of the Respondent

No.10, by concocting various documents and minutes of the purported meetings which never took place. As per the revised and contested MGT-7 filed on 21.04.2016 by the Abhay Chebbi group, it had been fraudulently and illegally shown that 63,700 equity shares belonging to the Petitioner were fraudulently transferred by forging and fabricating the statutory records of the Respondent No. 10 in connivance with Respondent No.2-8. Relying on forged and fabricated documents, he claimed to be Director of Respondent No.10 and that shares of Respondent No.9 were fraudulently shown to have been transferred to him. The Respondent No.1 was an erstwhile employee (Deputy Director Admissions of Alliance University) who was terminated by the Petitioner on account of financial misappropriation from the Alliance University (Respondent No.20).

- (6) It is alleged that by virtue of and modus of forged and falsified documents, and in Connivance with Members of Abhay Chebbi group (including but not limited to Respondent No.1-8) he had forged and fabricated various statutory forms/ share certificates and other documents of the Respondent No.10 Company, and the Respondent No.3 falsely claimed to be an alleged Director of the Respondent No.10 Company. There were several documents forged as detailed in the Petition.
- (7) As per the Annual Return filed as on 29.09.2011, the Petitioner had transferred 95,000 shares to Respondent No.4 as the Petitioner was suffering from a minor heart condition and was to undergo treatment of arterial fibrilization in the United States, under the condition that the Respondent No.4 would transfer the shares back on instructions of the Petitioner. Subsequently, as per the annual returns as on 30.09.2014, the Respondent No.4 transferred the 95,000 shares held by him to the Respondent No. 9 (being the wife of the Petitioner) and the same has not been contested by the Respondent No.4. By virtue, and modus of forged and falsified documents, and in Connivance with Members



of Abhay Chebbi group (including but not limited to Respondent No.1-8) had forged and fabricated various statutory forms/ share certificates and other documents of the Respondent No. 10 Company and the Respondent No.4 falsely claimed to be an alleged Director and Shareholder of the Respondent No.10 Company. As per the revised MGT-7 filed on 21.04.2016, the Respondent No.4 illegally and fraudulently claims to hold 58,800 equity shares in the Respondent No.10 Company.

- (8) The Respondent No.5, Mr.Krishna Mohan Ramineni is at present a Director holding no shares in the Respondent No. 10 Company. In 2015, the Abhay Chebbi group forged the resignation letter of the Respondent No.5 and consequently, Respondent No.5 registered Crime No.104/2015. In 2016, the Abhay Chebbi Group including Respondents No.1-4 had preferred O.S. No. 1094/2016 before the Ld. XX ACC & SJ, whereby vide Order dated 06.02.2016, the Respondent No.5 was under temporary injunction and restrained from operating or interfering in the management of the Respondent No.10 Company. Furthermore, the Abhay Chebbi group alleged that the resignation of the Respondent No.5 was rejected/withdrawn. However, despite the said injunction operating, the Digital Signature Certificate of the Respondent No.5 was used between 23.02.2016 and 21.04.2016 for uploading 5 DIR-12 forms and one revised MGT-7 form, whereby the said Respondent aided and assisted the other Members of the Abhay Chebbi group in perpetuating illegalities aimed at illegally usurping the Respondent No.10 Company. Moreover, as per the Annual Return for the year 2014-2015 filed on 21.10.2015, the Respondent No.5 held 22,500 shares at Rs.10/- each holding 9% of shareholding of the Company. However, the entire 22,500 equity shares held by the Respondent No.5 were purchased by the Petitioner on 09.04.2015 at a premium price of Rs.25/- per share and the same is evidenced by the minutes of board meeting held on 09.04.2015, which was

attended by the Respondent No.5 and the same is not contested till date. As per the illegally filed revised MGT-7 uploaded on 21.04.2015 vide SRN G01528264, the shareholding of the Respondent No.5 qua Respondent No.10 Company has been illegally shown as having 17,500 shares.

- (9) In March 2014, the Petitioner married Priyanka B.S. (Respondent No.9 herein) Post marriage, the Petitioner requested Respondent No.4 and Respondent No.12 to transfer the shares temporarily entrusted with them in favour of Respondent No.9. Resultantly, on 25.03.2014, Respondent No.4 and Srinivas Gowda transferred 95,000 and 12,500 shares, respectively to Respondent No. 9. The same is undisputed till date and duly recorded in the minutes of meeting held on 25.03.2014. The Petitioner claims that he was holding 1,20,000 (48%) shares, and his wife (R 9) held 1,05,000 (42%) and others held remaining 10 % shares in the Company as per shareholding pattern available as on 04.03.2015.
- (10) That on 25.03.2015, Petitioner wrote to Registrar of Companies, Karnataka, requesting him to keep documents pertaining to Respondent No.10 Company in safe custody to avoid tampering of the same by the Respondent No.1 and 5. On 26.03.2015, Petitioner applied for obtaining renewed Digital Signature Certificate. Petitioner was the authorized person of Respondent No.10 in this regard. The Petitioner, on behalf of Respondent No. 10, issued Public notices on various dates viz., 09.04.2015, 10.04.2015 and 13.04.2015, informing the public at large, that unscrupulous relatives and ex-employees of Petitioner, who were terminated from employment for mismanagement have engaged in anti-company and University activities inclusive of stealing Company's documents, forging documents and spreading misleading information and with criminal intent are trying to usurp the Company and its assets. When Petitioner realised that his brother and sisters are also involved, he wrote emails to

various agencies cautioning them about the brewing conspiracy and awaited acts of illegality. Petitioner also issued public notice to all certifying authorities (licensed under the Information and Technology Act, 2000), putting them to notice about the theft of Company's original documents. Petitioner further informed them that only he had a valid digital signature certificate till 26.03.2017. Thus, if any person or organization attempted to obtain duplicate digital signature, same should be immediately brought to his notice. A public notice was also issued in this regard.

(11) Transfer of 47,500 equity shares held by Respondent No.9 (Priyanka B.S.) in favour of the Petitioner (Madhukar G. Angur) vide gift deed was placed on record and hence as on 09.04.2015, the shareholding pattern of the Respondent No.10 Company shows that the Petitioner was holding 1,90,000 (76%) and his wife (R9) was holding 57,500 (23%) and Respondent No.11 (Satchidananda Rao) was holding 2,500 (1%) shares in the Company. To give effect to the aforesaid illegalities, the Respondents also forged and fabricated several documents.

(12) The Petitioner claimed that it is undisputed, settled and uncontroverted position of law that this Hon'ble Tribunal is the sole, competent and statutorily mandated forum to adjudicate and decide on disputes pertaining to share title declaration or Company Management Dispute. He has relied upon several judgements of Apex Court and other lower courts judgments to stress that jurisdiction of Civil Court over Company affairs is totally barred. He has relied upon the following judgements in support of the said contention:

a) *Shashi Prakash Khemka v. NEPC Micon* [(2019) 18 SCC 569] Section 430, as interpreted by Hon'ble Supreme Court and various High Courts and NCLAT in catena of judgments, completely bars the jurisdiction of Civil Courts, such as *SAS Hospitality v. Surya Constructions* [(2019) 212 Comp Cas 102],

*Maif Investments India Pte Ltd vs Ind-Barath Power Infra Limited C.A (AT) 334/2018 etc.*

b) *Smiti Golyan and Another vs. Nulon India Limited Nulon House and Others (2019 SCC OnLine NCLAT 204.*

c) *Ammonia Supplies Corporation (P) Ltd. v. Modern Plastic Containers Pvt. Ltd. (1998) 7 SCC 105.*

d) *Shahi Prakash Khemka (Dead) Through LRs. v. NEPC Micon., 2019 SCC OnLine SC 223.*

(13) The Respondents cannot choose a forum to adjudicate the dispute when undisputedly the jurisdiction has been conferred upon the Hon'ble NCLT by the Hon'ble Apex Court. The submission of the erring Respondents qua jurisdiction conferred upon this Hon'ble Court to adjudicate this dispute is evidenced in para 18 of the order of Registrar of Companies dated 24.09.2019, wherein the ROC has recorded the following: -

*“18. During the course of hearing Counsel for the Petitioners has argued that: Under Rule 10(6) ROC can only adjudicate the defects or incompleteness of the forms submitted through SRNS but ROC has no power to adjudicate about the alleged fraud and validity of the board or AGM resolution. The scope of inquiry under this rule is limited only to the defects in the e-forms. All alleged fraud in obtaining DSC, validity of Board resolution and signatures of the complainants in the resignation letters are to be adjudicated by the appropriate Civil Court or jurisdictional NCLT under section 240-241 of the Companies Act, 2013 and it cannot be decided by way of Summary Proceedings. The Ld. Counsel further stated that this highly disputed matter about appointment and removal of directors, the resignation, ownership of shares and transfer of shares, etc. are to be decided by appropriate court in trial and not by an authority like RoC. RoC can examine the defects or incompleteness of SRNS and mark as defective by giving an opportunity by filing a fresh form by removing the defects or incompleteness as the case may be”.*

- (14) The conjoint reading of Sections 59, 241, 430 of the Companies Act, 2013 read with judgments of various Courts along with the submission of the Respondents before the Registrar of Companies, make it crystal clear that this Hon'ble Tribunal is the only competent forum to decide the present case. It is alleged that various orders passed by various Civil Courts and High Courts in this case, passing erroneous injunctions and other reliefs in exercise of their civil and writ jurisdiction, are *per incuriam* and violative of express statutory provision and uncontroverted case laws.
- (15) The Petition falls under the ambit of Section 244 of the Act, alleging that the aggressor not only done breach of trust but are being allegedly be guilty of fraud against Petitioner as the signatures on the forms to have been forged by the imposters and the same is not of the Petitioner's. The intention of the concerned Respondents No.1-6 for forcefully taking over the Company was to defraud the Petitioner and to take over a reputed institution unlawfully is a violation of Petitioner's Legal rights. As Petitioner has terminated both the Respondents No.1-6 earlier and the same was published in newspapers, due to personal vendetta, the Respondent No.1-6 forcefully and hostilely removed the Petitioner, which is against the Rule of law and the extant provision of the Act.
- (16) The Petitioner has the right to move the Tribunal not only on complaint of oppression but also on complaints that the conduct of the affairs of the Company have been prejudicial to the Petitioner. The Respondents claiming to be the Directors with malafide intention have colluded against the Petitioner. In support of this contention, he has relied on the judgement of SC rendered in the case of *Krishna v. Westfort Hiteh Hospital Ltd 2008 (3) SCC363*.
- (17) The Abhay Chebbi group fabricated and concocted the DIR-12. The imposters illegally appointed themselves as Directors and

further did improper allotment of share, which was never approved by the Petitioner. In support of this contention, he has relied upon the judgement of Apex Court rendered in *Dhananjay Pande v. Dr. Bais Surgical & Medical Institute P. Ltd (2009 92SCL 341 (CLB)*. The Petitioner never received any notice of the meeting wherein the imposters were appointed as Directors nor had the Petitioner attended any meeting as has been stated by the opposite side. The imposters have forged and fabricated the documents to show themselves as Directors and the same has been contested by the Petitioner before ROC. In support of this contention, he has relied upon the decision rendered in the case of *D. Ramkishore v. Vijayawada Share Broker Ltd. (2007)140 Com Cases 180* and *Kamal Kumar Aggarwal v. Ravinder Kumar Aggarwal(2007)140 Com Cases 392 (Del)*. *Hillcrest Reality SDN BHD v. Hoteil Queen Road (P) Ltd (2013)179 Com Cases 475*.

- (18) The impugned transfer of shares without complying with requirement of section 108 of the 1956, Act (now under section 56 of the 2013, Act) is illegal and should be treated null and void. Any annual returns, which have been filed by the imposters showing such transfer is to be treated as null and void or any other actions and changes which have happened in connection with this transfer shall be deemed to be void and struck off. Provision of section 108 of the 1956 Act (now section 56 of Act of 2013, Act) were also not complied with. These acts when view collectively were sufficient to conclude that grounds under section 397 of the 1956, Act (now section 241 of 2013, Act) had been made out. The decision of the Company Law Board upholding the validity of the Board resolutions cannot be sustained in law.
- (19) The impugned order of the ROC dated 24.09.2019 is erroneous as he has failed to appreciate that even cursory reading of Rule 10 of Companies (Registration Offices and Fees) Rules, 2014 which makes it abundantly clear that it is statutorily empowered

and mandated to mark and treat any e-form or document as defective on receipt of complaint. Under the said Rules, ROC is liable to treat document or e-form as defective and issue show-cause notice and mark them as Invalid. The ROC was further oblivious of the fact that it had exercised its power under Rule 10 vide its order dated 08.06.2015 wherein it had invalidated the DIR-12 forms which were uploaded on 13.04.2015 and restored the legitimate directorship and shareholding pattern of Respondent No. 10. That the ROC failed to consider that the DIR-12 form uploaded on its portal on 30.05.2016, wherein Respondent No. 2 was allegedly promoted to Managing Director of Respondent No. 10, is also vitiated by illegality, is void-ab initio is also liable to be marked as defective and declared invalid. That even the Regional Director, SE, MCA vide order dated 08.11.2019 directed the ROC to revise its order dated 24.09.2019 holding that the ROC is duty bound to ensure that all documents on the ROC portal are free of defects, and the observation of RoC that marking the MGT-7 would change the shareholding pattern of the Company is flawed, as Rule 10(6) does not exclude any STP form from the purview of the ROC. Moreover, the ROC cannot permit having two forms (pre-revised and revised) to remain on the portal.

3. The Petitioner filed **C.A.No.08 of 2022** seeking interim orders. The Tribunal considered the same and passed interim orders dated 25.05.2022 by *inter alia* directing the Respondent Nos.10 & 20 to maintain status quo with regard to the SRN 6 DIR-12 till the next date of hearing, which was extended from time to time and they are still in force till date.
4. During the course of hearings of the Petition, **C.A.No.96 of 2022**, U/Rule 11 of NCLT Rules, 2016 was filed by Krishna Mohan Ramineni (the Respondent No.5) and Alliance Business School (the Respondent

No.10) by seeking to dismiss the Petition as not maintainable by *inter alia* contending as follows:

- 1) The Petition is nothing but a deliberate attempt to abuse the process of law. The Petitioner is claiming various reliefs based on the Order passed by Registrar of Companies, holding certain filings, rejecting certain filing, etc. The order passed by the ROC is subject matter of challenge before the Hon'ble High Court of Karnataka in W.P.Nos. 50303/2019, 50317/2019 and 50322/2019 and initial order dated 05.11.2019 was further extended on 06.11.2019, which is still in force as today. The petitioner is seeking to agitate the questions, which are already pending before the Civil Court. The dispute which is raised by the petitioner before this Tribunal involves questions relating to title to the shares.
- 2) M/s. Alliance University has filed O.S.No.3932/2017 before City Civil Court, Bangalore against the Petitioner and 17 others, U/s 26 R/w Order 7 Rule 1 of CPC by inter-alia seeking judgment and decree of a permanent prohibitor's injunction against the Petitioner in particular and other Defendants from entering upon the suit schedule premises and interfering in any manner either directly or indirectly in day to-day administration, management and affairs of the plaintiffs Alliance University, Bangalore, etc. Accordingly, after considering various considerations made by the Parties, the Court allowed the I.A.No.02 of 2017 filed Under Order 39 Rule 1 & 2 r/w section 151 of CPC by granting interim order as prayed for. While passing this Interim order, the Court has taken into consideration of the entire issue. Similar interim order dated 21.10.2017 was also passed in OS No.5148 of 2017 which directly prohibits the Petitioner to the effect of restraining him from claiming himself as shareholder or director of the company.
- 3) Aggrieved by the said interim orders, the Petitioner filed MFA Nos. 8554.8545,8554 & 8562 of 2017 before the Hon'ble High Court of Karnataka. The Hon'ble High Court, after hearing all the Appeals together, dismissed them by a common order dated 28<sup>th</sup> March,



2018. Aggrieved by the said order, the Petitioner filed SLP before the Hon'ble Apex Court vide SLP Diary Nos.23872/2018, which was listed on 04.11.2019 in Chamber of Hon'ble Justice Raghavendra Bhat. As a last chance 6 weeks' time was granted, to cure the defects as pointed out by the Registry, with a condition that failing which the SLP shall stand dismissed without further reference to the Court. Therefore, for failure to cure the defects, the SLP was dismissed and even after the restoration of the same the SLP was again dismissed.

- 4) On 29<sup>th</sup> January, 2015, the Petitioner along with his wife Mrs. Priyanka (Respondent No.9) by claiming that they were holding 2,25,000 equity shares together in the Company entered into Share Purchase Agreement with one Sri Ravindra Reddy. They have also executed Special Power of Attorney dated 29.01.2015, on their behalf and also on behalf of Alliance Business School. For failure to complete the agreed terms of Share Purchase Agreement, K. Ravindra Reddy filed Company Petition vide C.P.No.10/2015 before then Company Law Board Chennai, against M/s. Alliance Business School, the Petitioner and his wife by inter-alia seeking to direct the 10<sup>th</sup> Respondent herein namely Alliance Business School, to register and transfer of total 2,25,000 in his favour and also claimed damages of Rs.10,00,000. He has also filed CA No. 01/2015 seeking some directions. The Hon'ble CLB heard the C.A. at length on 13.01.2016 and disposed of I.A.No.01 of 2015 by an order dated 9<sup>th</sup> March, 2015 by directing the Petitioner to approach Competent Civil Court with regard to allegations of forgery, fraud, etc., in the transfer of shares in terms of Share Purchase Agreement. After getting decision in the suit to be filed before Civil Court, the Petitioner can place such decision before the Board to decide the main Company Petition. Aggrieved by this Order, the Petitioner filed Company Appeal No. 08 of 2016 before the Hon'ble High Court of Karnataka at Bangalore. The Hon'ble High Court, after considering the entire issue, dismissed the Appeal by an Order dated 5<sup>th</sup> August, 2016.

Aggrieved by this Order, Ravindra Reddy filed SLP vide C.C.No. 4388/2017 which was also dismissed by an order dated 10.03.2017.

- 5) In the above circumstances, and in consonance with the directions as mentioned above, K. Ravinder Reddy has filed civil suit on 04.05.2017 vide OS No. 3243 of 2017 before Court of Vacation City Civil Judge, at Bangalore, against Alliance Business School, the Petitioner, his wife and 12 others by *inter alia* seeking to declare and direct the Defendants No.2 & 3 to transfer the impugned shares in his name, etc. And this suit is still pending disposal. However, this fact has been suppressed in the instant Petition. Subsequently, C.P. No.10 of 2015 filed before then CLB was transferred to NCLT, Bengaluru, on its constitution. Accordingly, it was re-numbered as C.P.No.10/BB/2015. Since the OS No. 3243 of 2017 filed by Ravinder Reddy is pending disposal and Tribunal cannot decide the issue unless civil court decides the issue in question, the Tribunal thought it fit to dispose of the Petition by granting liberty to the Petitioner to approach the Tribunal subject to result of decision in said suit. Accordingly, the CP was disposed of by an order dated 01<sup>st</sup> April, 2019. He had also filed Com.A.A.No. 175/2015 before LXXXV Addl. City Civil & Sessions Judge, Bengaluru Under provisions of Section 9 of Arbitration & Conciliation, 1996, R/w Rule 9 of High Court of Karnataka Arbitration (Proceedings before the Courts) Rules, 2001 by *inter-alia* seeking an order of injunction restraining the Respondents or any one alienating the shares in question. However, the same was dismissed along with a cost of Rs.25,000/ by an order dated 30<sup>th</sup> July, 2021.
- 6) On 13.04.2015, one Rajendrudu claiming to be Chief Finance Officer of the Company, has filed OS No. 3395 of 2015 before City Civil Judge, Bangalore by *inter alia* seeking declaration that Defendants are not Directors (Chebbi group) of the Company. However, the same was withdrawn unconditionally. The Petitioner filed another injunction suit bearing O.S.No.3006 of 2016 before City Civil Court, Bangalore, against Sudhir G.Angur and others, which is pending

disposal. In this Suit, while dismissing IA filed by the Plaintiff, the Court has allowed the I.A. filed by the Defendants by an order dated 10<sup>th</sup> August, 2016. Aggrieved by interlocutory orders passed in the suit, the Petitioner filed W.P.No.48506/2016 against Sri Sudhir G. Angur and others, which was ultimately dismissed by the Hon'ble HC vide order 10<sup>th</sup> May, 2017. The Petitioner representing Alliance Varsity also filed MFA No.6011 of 2016 and MFA No.6012/2016 by questioning the interlocutory orders passed in the above suit which were disposed of by an order dated 10<sup>th</sup> May, 2017 with some observations and directions. And SLP (C) No.30539/2018 filed against the order also stands dismissed.

- 7) The Petitioner filed **C.P.No.175/BB/2017** before this Tribunal under Sections 241 and 59 of the Company against Sudhir Angur and others by *inter alia* seeking to pass an order restoring/confirming the shareholding and voting rights in respect of 1,90,000 (76%) equity shares in favour of the Petitioner and order rectification of the Register of Members of the Company, etc. During the pendency of this Petition, the Petitioner himself filed a Memo dated 26.07.2019 to withdraw the Petition in view of the order dated 08.07.2019 passed by the Hon'ble High court of Karnataka in W.P. Nos.15872, 15878 & 15879 of 2019 (GM-RES). Accordingly, C.P. No.175 of 2017 was disposed of as withdrawn by reserving liberty to file fresh Company petition in accordance with law, in case, the Petitioner is aggrieved by the Order of Registrar of Companies to be passed in the light of directions given in the above Writ Petitions.
- 8) The Petition is hopelessly barred by law of limitation since the Petitioner was alleging about forgery and other aspects connecting to the year March, 2015 and approached this Tribunal after a prolonged delay of more than 6 Years. By manipulating things, documents, he has filed several frivolous suits and appeals in various courts with malafide intention. And it amounts to abuse of the process of law and contempt of Court. Therefore, they have urged

the Tribunal to dismiss the main Company Petition with exemplary Costs.

5. Another **C.A.No.106 of 2022** was filed by Abhay Chebbi, Director, ABS (Respondent No.1) by inter-alia seeking the Tribunal to recall the interim order dated 25.5.2022 by which the Tribunal directed the Respondents to produce the Minutes Book in a sealed cover and also directing to maintain Status Quo with Respect to DIR 12's in the interest of justice and equity.

Abhay Chebbi, has *inter alia* contended that Sections 241 and 59 are different and independent and they cannot be clubbed together. To maintain Petition U/s.241 of Act, one must be either a member or Director of a Company. And the Petitioner has failed to comply with the mandatory provision of advertisement as required under Rule 35 and 70 and other mandatory formalities as required under the NCLT rules. These institutional rules are mandatory in nature, and they cannot be relaxed as it would have large ramifications. The Registry or the Tribunal cannot relax the same to be complied later or otherwise since they are pre-institutional and pre-requisite rules. As on the day, Mr. Madhukar Angur (the Petitioner) is a rank outsider. Interim Order passed in O.S.No.5148/2017 prohibits him from claiming or holding out as a shareholder or director or member of the ABS Company. The said order has been confirmed by the Hon'ble High Court in MFA No. 8545/2017 and has attained finality since the SLP challenging the same stands dismissed. When such being the case, he not only lacks locus, but also suffers a prohibition to claim or hold out such locus. By way of present Petition, he cannot indirectly lay such a locus standi and this Hon'ble Tribunal cannot bestow upon him such a privilege to entertain the present Petition. ROC order dated 24.09.2019 stands stayed by the Hon'ble High Court, Karnataka. ROC alone had specifically pleaded earlier before this court that the Tribunal cannot adjudicate the matter as it is in the domain of the Civil Court. In view of the settled position of law, the Tribunal cannot decide issues related

to the title to the shares and issues connected thereto, in that too, in the teeth of the matters pending before the civil courts and the judgements of the Hon'ble High Court. Therefore, they sought to dismiss Company Petition.

6. Another **C.A.No.107 of 2022** was filed in the CP by Chebbi, Director, ABS (Respondent No.1) by *inter alia* seeking the Tribunal to first hear on the maintainability of main Company Petition by raising identical contentions and allegations as raised in C.A.No. 96 of 2022.
7. The Respondent/Petitioner (Dr. Madhukar G) has vehemently opposed all three Company Applications bearing C.A.Nos.96, 106 & 107 of 2022 by filing separate Counters/Objections raising identical/similar contentions, which are briefly summarised below:
  - (1) The Company Petition has been filed in terms of liberty availed by the Petitioner in pursuance to order dated 26.07.2019 passed by this Tribunal itself in C.P.No.175/BB/2017. The Petitioner had withdrawn C.P.No.175/2017 with liberty from this Tribunal, to approach it again, in case, the Petitioner is aggrieved with order of ROC. The ROC vide detailed speaking order 24.09.2019, marked the 5 DIR-12 forms as defective and furthermore held revised MGT-7 filed by the erring Respondents liable to be marked as defective. However, the ROC refused to restore the Directorship and shareholding of Petitioner and that of Respondent No. 9 and thus directed the Petitioner and Respondent No.9 to approach the competent court for restoration/rectification. Therefore, the Company petition is filed with liberty granted by the Tribunal.
  - (2) The Respondents (except Respondent No.10 Company) approached Hon'ble High Court of Karnataka challenging the ROC order dated 24.09.2019 in W.P No. 50303/2019, 50317/2019 & 50322/2019, and on 05.11.2019, the Hon'ble High Court passed an order directing the ROC, Regional Director (SE-R) and DGCA, MCA (Respondents No.14-16 herein) to not take any precipitative action and has been further extending the same. This however, does not

by any stretch of imagination bar Petitioner herein from availing legal remedies before this Hon'ble Tribunal on a continuous cause of action of fraud and make reference to ROC order 24.09.2019. Moreover, the interim order has not stayed the operation of ROC order dated 24.09.2019 and furthermore, the Hon'ble High Court has not prohibited the Petitioner from availing his legal remedies in terms of the said order. It is strongly asserted that order of Hon'ble Karnataka High Court passed in W.P. No. 50303/2019 c/w 50317/2019 C/W 50322/2019 is not a "Stay" on the order of ROC dated 24.09.2019 and it is evident from the order dated 03.12.2021 passed by the Hon'ble High Court, wherein the Hon'ble High Court allowed Petitioner to rely on ROC order in O.S.No.5148/2017. This Hon'ble Tribunal is nowhere barred to consider, rely or reference the ROC order dated 24.09.2019. Therefore, it is completely incomprehensible that the orders of Hon'ble High Court in W.P. No. 50303/2019, 50317/2019 and 50322/2019 render the present Petition not maintainable. Additionally, the Petitioner on 18.10.2021 had filed an application for vacation of interim order dated 06.11.2019 passed by the Hon'ble High Court in the above-mentioned Writ Petitions, which is sub-judice. Subsequently, the Petitioner even approached the Hon'ble Supreme Court in SLP (Diary) No. 5197/2022, whereby the Hon'ble Supreme Court vide Order dated 15.03.2022 directed the Hon'ble High Court to dispose of the abovementioned Writ Petitions within 4 months.

- (3) It is alleged that O.S. No. 5148/2017 is a fraud played upon Court of law. It has been filed in the name of Respondent No.10 through Respondent No. 22, who claimed to have been authorized by Board resolution passed by answering Respondents acting as Directors of Respondent No.10 Company on the basis of very DIR-12 forms, which are disputed in the present Petition. Therefore, when the very factum of the Respondents being Directors /shareholders of Respondent No.10 Company is under dispute, the answering Respondents filed O.S.No.5148/2017 in the name of Respondent

No.10 Company, fraudulently claiming that Petitioner and Respondent No.9 are rank outsiders. Thus they have played fraud upon Court, misled Hon'ble Civil Court in granting a temporary injunction restraining Petitioner and Respondent No.9 from entering into, or interfering in management or affairs of Respondent No.10 Company.

- (4) Filing suit bearing O.S.No.3932/2017 is another fraud played upon Court of law. It has been filed in the name of Alliance University/Respondent No.20, through Respondent No.21, who claimed to be Registrar of Alliance University/Respondent No.20 appointed by Respondent No.2, who claims authority on the basis of very DIR-12 forms, which are disputed in the present Petition. Therefore, when the very factum of Respondents being Directors, constituting a valid Sponsoring Body and validly controlling Alliance University/Respondent No. 20 is under dispute, they filed O.S.No.3932/2017 in the name of Alliance University/Respondent No.20, fraudulently/illegally terminating Petitioner from his statutory life time post of Chancellor, misled Hon'ble Civil Court in granting temporary injunction restraining Petitioner and Respondent No.9 from entering into, or interfering in management or affairs of Alliance University/Respondent No.20. He has relied upon judgements of Apex court rendered in *Hamza Haji v. State of Kerala (2006) 7 SCC 416*, *Smriti Madan Kansagra v. Perry Kansagra 2021 SCC Online SC 909* .
- (5) As per the dicta laid down by Hon'ble Supreme Court in catena of decisions such as *Balvant N. Viswamitra v. Yadav Sadashiv Mule (2004) 8 SCC 706*, *Hasam Abbas Sayyad v. Usman Abbas Sayyad (2007) 2 SCC 355*, *Jagmittar Sain Bhagat v. Director, Health Services, Haryana (2013) 10 SCC 136*, it has categorically been held that orders passed by any court which lacks jurisdiction would be non-est and void-ab initio. Order passed by Court without jurisdiction would be coram non judice and same should not be given effect to. Hon'ble Supreme Court further held that when a

special statute gives a right and also provides for a forum for adjudication of rights, remedy has to be sought only under provisions of the Act. It has been held in a catena of judgments that the Ld. Civil Court cannot entertain an injunction in a company matter and the NCLT alone is empowered to entertain even an injunction suit in light of Section 430 of Companies Act, 2013. (*Chiranjeevi Rathnam & Ors. v. Ramesh & Ors.*, 2017 SCC Online Mad 23049; *Vithalrao Narayarao Patil vs Maharashtra State Seeds Corporation Limited MANU/MH/0021/1989*; *Nizamabad Corn Products P. Ltd vs Vasudev Dalia* 1992 SCC Online AP 158; *DDA v Sudhir Kumar Agrawal* 2020 SCC OnLine Del 1223).

- (6) The reliance placed by Respondents on the decision of Hon'ble Karnataka High Court in *K. Ravinder Reddy v. Alliance Business School* dated 05.08.2016, is completely misplaced. The said decision was confined to powers of Company Law Board since dispute therein arose before constitution of NCLT, which was constituted with effect from 01.06.2016 vide MCA Notification No. S.O. 1932(E). Furthermore, there is no reference of Section 430 of 2013 Act, which came into force only on 01.06.2016 vide MCA notification No.S.O.1934(E). Moreover, the said decision makes no reference of Rule 70 of NCLT Rules 2016, which were made on 21.07.2016 vide G.S.R 716(E) and published in Gazette of India on 22.07.2016. The position of law laid down in *K. Ravinder Reddy* case is no longer constitutes a valid authority in light of subsequent legal development such as establishment and commencement of NCLT in 2016 and framing and notification of NCLT, 2016, which completely changed the statutory land space and expressly vested in NCLT through various express rules the power to decide on title, fraud and other complex questions of facts. In support of this contentions, the Respondent/Petitioner relied upon the judgements rendered in *Shashi Prakash Khemkha* (Supra), *Adesh Kaur* (Supra), *Smiti Golyal* (Supra), *Vikram Jairath*



(Supra), Parenteral Drugs (Supra), Viji Joseph (Supra) and SAS Hospitality (Supra).

- (7) The composite Petition under sections 59, 241 and 242 is fully maintainable and in support of this contention, he has relied upon the judgements of Hon'ble Calcutta High Court in *Vikram Jairath v. Middleton Hotels Private Ltd. (2019) SCC Online Cal 351* and Hon'ble NCLAT judgement in *Sangeeta Maheshwari v. Premsagar Agricultural Pvt. Ltd. C.A.(AT) No.11/2018*.
- (8) Sub-Rule 6 of Rule 35 of the NCLT Rules, empowers this Hon'ble Tribunal to exempt compliance of advertisement on an application made by such party. In terms of Rule 35 (6) of NCLT Rules, Petitioner filed an application for exemption from advertising petition bearing C.A.No.10/2022 in C.P.No.102/BB/2021. On 07.02.2021, this Hon'ble Tribunal issued notice on the Company Petition along-with Company applications including C.A.No.10/2022 filed by the Petitioner. Moreover, in the same order, this Hon'ble Tribunal further gave Petitioner liberty to comply with Rule 35 of NCLT Rules, if so advised. Therefore, pursuant to the said liberty, Petitioner issued an advertisement under Rule 35 of the NCLT Rules and filed compliance affidavit on 21.03.2022 along-with copy of advertisements.
- (9) It is highly malicious and reeks of malafide railing belated objections *qua* maintainability of the Company Petition, that too after issuance of interim order by this Hon'ble Tribunal in favour of the Petitioner.
- (10)The Respondent No.10 have filed W.P.No.3520/2022 before the Hon'ble High Court of Karnataka belatedly to challenge the proceedings dated 24.09.2019 passed by ROC. Moreover, the Respondent No.10 Company has filed Application for impleadment in W.P.No.50303/2019 and other connected Writs as an afterthought, the said application has not been allowed as on date.
- (11)The entire pleadings and affidavits filed only bear the signature of Respondent No.1, without any general/specific power of attorney

authorising the Respondent No.1 to depose on behalf of them. The Respondents Nos 3 and 17 are estopped from filing any separate applications before this Hon'ble Court.

(12) A bare perusal of Rule 70 of the NCLT Rules abundantly settles the entire controversy raised by the answering Respondents *qua* power of NCLT to decide the question of title. It is claimed that as on 04.03.2015, the Petitioner undisputedly held the title over shares. Entire controversy arises when after 04.03.2015, where erring answering Respondents alleged that Petitioner sold/transferred his shares and resigned from Directorship of Respondent No.10 Company. It is the factum of alleged transfer and resignation which Petitioner has vehemently denied and disputed since. The erring answering Respondents uploaded 5 DIR-12 forms and one revised MGT-7 form on the portal of ROC, after which register of Members of Respondent No.10 Company was wrongfully and fraudulently changed. Petitioner has on the basis of these facts, vide the present Petition, invoked the jurisdiction of this Hon'ble Tribunal under section 59 of 2013 Act and sought the rectification of the register of Respondent No.10 Company.

(13) The exclusive power of this Hon'ble Tribunal under section 59 of 2013 Act and furthermore, bar on the jurisdiction of Civil Court is no longer *res-integra* and has been settled by Hon'ble Supreme Court in *Shashi Prakash Khemkha v. NEPC Micon (2019) 18 SCC 569*. The Proceedings before Tribunal are not summary in nature and thus it cannot decide question relating to fraud and title, and it is completely contrary to and unfounded in law. In support of this contention, the Petitioner relied upon the judgement of Hon'ble Madras High Court in *Viji Joseph v. P. Chander (2019) SCC Online Mad 10424*.

(14) Aggrieved by the interim order passed on 25.05.2022 by the Tribunal in the Company Petition, the Respondents have approached Hon'ble Karnataka High Court in W.P No. 11240/2022 c/w W.P No. 11242/2022 c/w W.P. No. 11243/2022, challenging

the maintainability of the present Petition. However, it has refused to entertain it, vide its order dated 10.06.2022 by directing this Tribunal to adjudicate on maintainability. The order dated 05.11.2019 passed by Hon'ble High Court of Karnataka with reference questioning ROC proceedings dated 24.09.2019 in W.P No. 50303/2019, 50317/2019 and 50322/2019 only directed the Respondents to not take any precipitative action and has been further extending the same. This however, does not by any stretch of imagination bar Petitioner herein from availing legal remedies before this Hon'ble Tribunal on a continuous cause of action of fraud and make reference to ROC order 24.09.2019. And the Petitioner filed Application in the said WP on 18.10.2021 for vacation of said interim order and the same is sub-judice. Subsequently, the Petitioner even approached the Hon'ble Supreme Court in SLP (Diary) No. 5197/2022 whereby the Hon'ble Supreme Court vide Order dated 15.03.2022 directed the Hon'ble High Court to dispose the abovementioned writ petitions within 4 months.

(15) That in light of sections 59, 241, 242, 424(2) of 2013, Act read with Rules 70, 39, 40, 43, 52, and Rules 135-145 of the NCLT Rules, it is manifestly clear and evident that under the scheme of 2013, Act and NCLT Rules, this Hon'ble Tribunal has been categorically vested with wide powers to decide on questions of title, fraud in proceedings under section 59 and 241 and even otherwise. Therefore, objection that this Hon'ble Tribunal has no power to decide on title demonstrate absolute misunderstanding and misapplication of law by the Respondents.

(16) The averments made in the Affidavits filed by the Applicants are wrong, false, and they are vehemently denied. They are making scandalous and contemptuous remarks against the very integrity of this Hon'ble Tribunal. During the hearing on 25.05.2022, counsel for Respondent, first did not appear before this Hon'ble Tribunal, when this Hon'ble Tribunal started dictating order, the

Counsel immediately came and interrupted the proceedings and was contemptuously preventing this Hon'ble Tribunal from even dictating the order. This abhorrent conduct shows dilatory tactics employed by Respondent. Therefore, the Respondent/Petitioner has prayed to dismiss all the three Applications cited above.

- 8.** Heard Ms. Ashima M with Ms. Mandakini S, Shri Surya Pratap. S and Abhimanyu Deviah, learned Counsels for the Petitioner/Respondents in CA No.96, 106, & 107 of 2022; Shri Shyam Sundar, Learned Senior Counsel along with Ms. Vandana P.L for the Respondent No.1/ Applicants; Shri Cyril Prasad P., Learned Counsel along with Shri Srinivas Raghavan, Learned Senior Counsel for Respondent Nos.5 to 10; Shri M.N.Kumar, Learned Counsel for the Respondent Nos.12 to 14. We have carefully perused all the pleadings made by the Parties in Company Petition and also in C.A.No.96, 106 & 107 of 2022 along with various judgements relied upon by the Parties.
- 9.** All learned Counsels have once again reiterated their respective pleadings raised in the Petition and also in C.A.Nos.96, 106 & 107 of 2022 and cited various judgements as mentioned supra. The case suffered various adjournments due to various reasons and in compliance with the directions of Hon'ble High Court of Karnataka in the said Writ Petition, the Learned Counsels have concluded their arguments in all the three Company Applications on 24.06.2024. Accordingly, the Tribunal reserved orders in all these CA on 24.06.2024.
- 10.** In the light of permission taken to file Written Submissions, Written submissions have been filed on behalf of Applicants (Respondent No.5 & 10 in CP) in CA Nos. 96, 106, & 107 of 2022. They are briefly summarised below:

  - 1) The Petitioner in C.P.No.102/BB/2021 has filed the above case under sections 59, 241 and 242 of the companies Act, 2013 read with Rule 11 of the NCLT rules, 2016 seeking the relief of certain directions, declaration, injunction and rectification of certain

shares alleging oppression and mismanagement against the Respondents as prayed for in the Company Petition.

- 2) The Petition under section 59 of the Companies Act is meant to rectify the Register of Members and reinstate the Petitioner in Respondent No. 10 Company as on 09.04.2015. This Section 59 is limited to the correction or rectification of shares in the Register of Members and not meant to decide the complicated questions of declarations, forgery, illegal transfer and fraud as alleged in the Petition. They have relied upon the following decisions in support of their contention:
  - a) *Ifb Agro Industries Ltd. V. Sicgil India Limited And Others* Reported In 2023 4 Scc 209;
  - b) *Shazia Rehman V. Anwar Elahi* Reported In Laws (Dlh)- 2023-8-43;
  - c) *Cherukuri Ramakrishna Vs Sandhya Hotels Private Limited* Passed In C.C.C.A No.57/2023.
- 3) In view of the law laid down above, the issue of illegal transfer of shares, allegations of fraudulent transfer, declaration of shares of the Petitioner is not within the preview of the NCLT under section 59 of the 2013, Act but is within the exclusive jurisdiction of competent Civil Court.
- 4) The Petitioner is neither the shareholders nor Director of the Respondent No. 10 company as contended by the Petitioner in the Petition to maintain Company Petition and he was also enjoined by the Civil Court from calling himself to be a Director and a Shareholder of the Company. Thus, in order to maintain an Application/Petition under sections 241 and 242 of the Companies act, 2013, one must be a Member of a Company. In this regard, they have relied upon on the judgement dated 17.03.2020 passed by NCLT Bench, at Bangalore in C.P No.478/BB/2018 in the case of Mr. Mazharul Islam Vs M/s Bangalore Brush Company Pvt. Ltd. wherein, it is inter-alia held that a Petition under 241 of the Act cannot be filed by non-shareholders of a Company. Therefore, if the

Petitioners succeeds in the Petition U/s.59 of the Act, then only he can maintain Petition under Section 241 of the Act. Moreover, mere removal of name of a shareholder in accordance with law, cannot be termed as acts of oppression and mismanagement. Therefore, petition itself is filed on mis-conceived notion and it is liable to be rejected.

- 5) The Petitioner has filed the Company Petition by seeking almost fifty reliefs in the form of declaration and injunction. The Petitioner has also filed on I.A.No.8/2021 seeking around thirty-five reliefs. The contention of the Respondents is that the Tribunal has no jurisdiction to entertain the above case and only the Civil Courts are having the jurisdiction in respect of the matters involving, fraud, forgery, fabrication, etc., in respect of the security forms and other resolutions. In the entire Petition allegations were made against the Directors of the Company in respect of the fraud, forgery and fabrication that has taken place in the year 2015.
- 6) On 13.04.2015, the Petitioner (Dr.Madhukar) filed a suit in O.S.No.3395/2015 on his behalf and on behalf of the Company (Alliance Business School) against Respondent Nos.1, 3, 4 & 6 by *inter-alia* seeking declaration that the Defendants are not the Directors of the Plaintiffs Company, etc., then the Petitioner on 11.08.2015 filed a memo for unconditional withdrawal of the suit. The Memo was taken on record. Accordingly, the Petitioner was permitted to withdraw the suit. The Petitioner has not reserved any liberty to file any fresh litigation before any Tribunal or Court. Further the Civil suit filed by the Petitioner and the present Company Petition are for similar reliefs. Therefore, the Company Petition itself is barred by the principles of res-judicata.
- 7) On 6.11.2017, the Petitioner filed a Company Petition C.P.No. 175/BB/2017 seeking similar reliefs, which are sought in the present Petition. In the said Petition RoC and some of the Directors of the Company filed Application about the maintainability of the Petition. On 26.07.2019, the Petitioner herein filed a memo for the

withdrawal of the Petition and the said Petition was dismissed as not pressed, and liberty was given to the Petitioner to approach the Tribunal in case the RoC passes any adverse order against him. It is claimed that ROC Order dated 24.9.2019 cannot be deemed to be an adverse order passed against the Petitioner. Therefore, the present Company Petition is not maintainable and liable to be dismissed on the ground also.

- 8) The Petitioner has also filed civil suit on 16.08.2018 before the Civil Judge at Mysuru in O.S.No.660/2018 against the Respondent Nos.1, 2, 3, 4, 5, 6, 7, 17, 21 and 22 and against one Mr. Ravinder Reddy and B.V.Prasad seeking for a judgment and decree: to declare that the 2<sup>nd</sup> Plaintiff is the owner of 1,90,000 equity shares of the 1<sup>st</sup> Plaintiff company of Rs.10/- face value. Grant a permanent injunction against the Defendants restraining them from their family members, representatives, agents or anybody acting on their behalf from interfering with the Plaintiff activities and 1<sup>st</sup> Plaintiff's Company relating to Alliance Business School in any manner, whatsoever till pending disposal of the above suit and such other reliefs. On 13.8.2019 a Memo was filed for the withdrawal of the suit with an opportunity to file fresh suit when the need arises. Upon hearing the concerned parties, the suit was dismissed without reserving liberty to file a fresh suit. However, after dismissal of the said suit, the Petitioner has again filed one more suit before the Civil Judge and CJM, Mysuru in O.S.No.212/2020 against the very same persons including one Sujatha Sanjiv and Anuba Singh by inter alia seeking to grant permanent injunction restraining the Defendants from acting upon the defective MGT 7 relating to the Company Alliance Business School illegally uploaded by the Defendants, etc. The suit filed by the Petitioner is pending consideration.
- 9) The Respondent No.10 as well as Respondent No.20 have filed two suits. The Respondent No.10 filed O.S.No.5148/2017 and Respondent No.20 had filed O.S.No.3932/2017. In O.S.No.5148/2017 the following order was passed:

*“The Defendant No.1 and 2 i.e. (the Petitioner and Respondent No.9 herein) are restrained by an order of temporary injunction from interfering in any manner in the management, affairs and administration of Plaintiff Company including interference by way of causing any kind of restraints to the Plaintiff Company’s Management or its office bearers or delegates from accessing the properties at campus of Alliance University, Bangalore mentioned herein and managing its affairs as provided under the Alliance University Act, 2010 pending disposal of the suit”. The learned Civil Judge also allowed I.A.No.2 in O.S.No.3932/2017 and passed the following order: “The Defendant No.1 and 2 (i.e. the Petitioner and the Respondent No.9 herein) are restrained from representing or claiming before anyone on any place as Director or Managing Director or Shareholder of the Plaintiff Alliance Business School, Bengaluru mentioned hereunder and managing its affairs provided in the Alliance University Act, 2010, pending disposal of the suit”.*

Similarly, another order dated 21.10.2017 was passed in IA No.2 in OS No.3932 of 2017 by *inter alia* restraining the Petitioner and his wife (R-9) and others from interfering the in the affairs of the Company, etc., pending disposal of the suit. The Appeals filed against those orders by the Petitioner vide MFA No.8545/2017, 8562/2017 and 8554/2017 before the Hon’ble High Court of Karnataka were dismissed. The Petitioner aggrieved by the order passed in MFA’s filed SLP before the Supreme Court in SLP No.23872/2018 and 23884/2018. On 17.3.2023 the said SLPs filed by the Petitioner were dismissed. Therefore, the interim order passed by the City Civil Court was confirmed by the Hon’ble High Court of Karnataka as well as the Supreme Court of India.

- 10) On an earlier occasion, the Petitioner has executed share purchase Agreement, Memorandum of understanding, Special Power of Attorney in favour of one K. Ravinder Reddy. And he has filed a Company Petition No.10/2015 before the then Company Law Board



(CLB) Chennai Bench against the Petitioner, 10<sup>th</sup> Respondent Company and 9<sup>th</sup> Respondent herein seeking for a direction to register and transfer 2,25,000 shares of Dr.Madhukar, in favour of K. Ravinder Reddy. Further, when there is an injunction order passed against the Petitioner, the Petitioner cannot insist upon this Tribunal to entertain the Company petition. Therefore, in view of the facts mentioned above the petition is liable to be rejected.

- 11.** During course of admission of the present Company Petition, the Tribunal passed an interim order dated 25.05.2022 in C.A.No.8 of 2022 filed by the Petitioner, by directing the Respondent Nos.10 & 20 to maintain status quo with regard to SRN 6 DIR till the next date of hearing, with a further direction to them to produce the minutes books in a sealed cover before the Tribunal within two weeks from that day. This Interim Order was extended from time to time and it is in force as on date. Subsequently, the Tribunal passed another order dated 29.02.2024 by *inter alia* directing the Parties comply with the interim order dated 25.05.2022 within a period of two weeks from that day failing which cost may be levied on the next hearing. The case was directed to be listed on 01.04.2024 and the interim order was also extended in the meanwhile.
- 12.** Aggrieved by the said order dated 29.02.2024, W.P.No.10433 of 2024 (GM-RES) was filed on behalf of M/s. Alliance Business School and M/s.Alliance University, before the Hon'ble High Court of Karnataka by inter-alia contending that the jurisdiction of NCLT is liable to be ousted on the count of CORAM-NON-JUDICE under the peculiar facts and circumstances of the and in the teeth of matters pending for adjudication before the City Civil Court at Bangalore in O.S.No.5148 of 2017 and etc. The Hon'ble High court, after considering the matter, disposed of the said Writ Petition by an order dated 27<sup>th</sup> May, 2024 by *inter alia* directing this Tribunal to consider and dispose of the Application for vacating stay/interim order filed by the Petitioners and decide all rival contentions between the Parties including the question

of maintainability of the proceedings initiated by Respondent No.1 within a period of one month from 30.05.2024. Accordingly, C.A.Nos. 96, 106 & 107 of 2022 were finally heard and reserved on 24.06.2024 with further extension of interim orders dated 25.05.2022 till the pronouncement of orders. At the time of hearing of these CAs, both the Counsels have submitted that the Hon'ble High Court of Karnataka, by an order dated 24.06.2024 extended the time limit for a further 30 days' from 24.06.2024 to comply with said order dated 27<sup>th</sup> May, 2024.

**13.** The Tribunal has to decide first the maintainability of the Company Petition, as sought by the Applicants/Respondents in the CA Nos. 96,106 & 107 of 2022, in terms of directions of Hon'ble High court of Karnataka as mentioned above. Therefore, after considering various pleadings raised by the Parties, the Tribunal draws the following basic issues which arise for consideration in the above CAs:

- (1) Whether the Company is governed by provisions of the Companies Acts, 1956 or 2013;
- (2) Whether the Petitioner holds any shares in the Company at the time of filing earlier CP No. 175 of 2017 or the present Company Petition so as to maintain the Company Petition U/ss.241 & 59 of the Companies Act, 2013;
- (3) Whether the Permission granted by the Tribunal in the earlier CP No.175 of 2017 vide orders dated 26<sup>th</sup> July, 2019 to approach this Tribunal when fresh cause of action arises shall be deemed to be dispensation of eligibility criteria prescribed under the provisions of Companies Act, 2013;
- (4) Whether the Petition is barred by principles of resjudicata and sub-judice by virtue of various Civil Suits pending with restraint orders passed thereon;
- (5) Whether CP No.10 of 2015 filed by Sri K. Ravinder Reddy before the then CLB under the provisions of the Companies Act, 1956 would be deemed to be initiated by corresponding provision in the new Companies Act, 2013;

- (6) Whether the law as laid down in CP No. 10 of 2015 by the then CLB inter-alia declaring that the issues raised in the Company Petition can only be decided by Competent Civil Court is applicable to the instant Company Petition or not;
- (7) Whether this Tribunal has the jurisdiction to entertain and decide the issues raised in the instant Petition.

The above issues are discussed below.

- 14.** As per Memorandum of Association of the Company dated 16<sup>th</sup> June, 2005, it is a Company Limited by shares and not for profit U/s. 25 of the Companies Act, 1956. Thus, the Company was initially incorporated in the name of Alliance Business School Private Limited, vide Certificate of Incorporation issued by Registrar of Companies (ROC), Karnataka, dated 28<sup>th</sup> June, 2005. And subsequently, the name of the Company was changed from Alliance Business School Private Ltd to Alliance Business School and thus a fresh Certificate of Incorporation, dated 04<sup>th</sup> June, 2010 was issued by ROC, Karnataka. Under the provisions of Section 25 of the Companies Act, 1956, (which corresponds to Section 8 of Companies Act, 2013) the Central Government has power to grant licence if an association is about to be formed as Limited company for promoting commerce, art, science, religion, charity or any other useful object, to register such Company with limited liability without the addition to its name of word 'Limited' or the words 'Private Limited' " Subsequently, the Companies Act, 1956 has been replaced by the Companies Act, 2013 with some modifications/additions to the previous Act, 1956. In the new Act, all the sections have been added subject to modification/alterations wherever required. The Companies Act, 2013 (18 of 2013) is an act which was enacted with the object to consolidate and amend the law relating to companies and certain other association. In terms of Section 1(4) of the Companies Act, 2013 the provisions of this Act shall apply to Companies incorporated under the Companies Act or under any previous Company Law, Insurance Companies, Banking Companies, etc. Clause (20) of Section 2 of the Act

defines the word "Company" means a company incorporated under this Act or under any previous Company law.

Therefore, there is no ambiguity as to applicability of sections of the Companies Act, 2013 to Companies incorporated under the provisions of previous Companies Act, 1956. Hence, the law as interpreted by courts of law in the cases filed under the provisions of earlier Companies Act, 1956 and the rules made thereunder are valid and binding on the Parties. The contentions raised by the Parties contrary to the settled principle of law are unsustainable and untenable. Resultantly, it is to be held that the decisions rendered in the case of K. Ravinder Reddy in CP No. 10 of 2017 has a binding effect on the Parties to the litigation directly. As discussed in detail supra, the CLB has inter-alia held that various issues raised by the Petitioner therein are amenable to Civil Courts jurisdiction and thus granted liberty to the Petitioner therein to approach competent Civil Court first to adjudicate the issues raised in that Company Petition and thereafter place those proceedings in that CP for final adjudication. And this decision of CLB was ultimately upheld by Hon'ble HC of Karnataka. Since Dr. Madhukar G. (the Petitioner herein) is a Party to those proceedings thus the decision rendered therein is binding on him too. The contentions raised by Dr.Madhukar that CLB decision was rendered under the provisions of earlier Companies Act, 1956 and the rules made thereunder and it was not decided by new of provisions of Companies Act, 2013 and various rules made thereunder are not at all tenable and liable to be rejected as baseless. As a principle of law, a judgement rendered by a Court of law in a case, will first bind the Parties to the litigation and thereafter ratio decided therein, if any, can be relied upon in similar set of cases. It is a legal principle that even erroneous judgement rendered by a Court of law is binding on the Parties to the litigation unless and until a Competent Court of Law, on review of it, sets it aside or modifies it. Therefore, the contentions raised to the contrary in the Petition are not at all tenable and liable to be rejected.

- 15.** In the light of the above analysis of law on the applicability and binding force of dictum as laid down in the case of K. Ravinder Reddy, the decision given in C.P.No.10 of 2015 is squarely applicable to the present case. In the said Petition the basic issue that revolved around was holding of shares by Dr.Madhukar in the Company and all his shares were alleged to have been transferred to Ravinder Reddy. As detailed supra, K. Ravinder Reddy has availed the remedy by filing Suit viz., OS No.3243 of 2017 before the Vacation City Civil Court Judge at Bangalore duly impleading Dr. Madhukar and others as Defendant. And this suit is pending for disposal which in fact was filed after the Honourable Supreme Court dismissing Madhukar Angur's challenge to the Tribunal's order and Hon'ble Karnataka High Court Order. Even otherwise the argument of the jurisdiction of CLB versus Civil Court was considered by the Hon'ble High Court of Karnataka and matter reached finality with the dismissal of SLP. In this view of the matter, he cannot rely upon the law laid down in Khemka's case where the background of the matter was wholly different. After having an order in his own case, he cannot rely on the ratio of other case. In any case, Dr. Madhukar is not a shareholder even at the time of filing the earlier Company Petition or the present Petition. Moreover, as per the dictum laid down in the said case, to which Dr. Madhukar is a party, he has to take recourse to filing a Suit before the competent Civil Court against the Parties of main Company Petition (C.P.102/BB/2021, apart from defending OS No. 3243 of 2017 and other civil suits pending before the Civil Courts. In any case, Dr Madhukar cannot maintain the Company petition on the above grounds as long as the basic issues of dispute with regard to transfer of shares of Dr. Madhukar is decided first by the Civil Court.
- 16.** Since the Company Petition has been filed U/ss. 59 and 241 of the Companies Act, 2013, firstly it is necessary to examine whether the Petitioner is entitled to institute the Company Petition under the provisions of the Companies Act, 2013 or not. Section 241(1) clearly

says that any Member of a Company is entitled to make Application/ Petition. And section 241 is qualified by Section 244 clarifying as to who are eligible to invoke the section. For ready reference, Sections 241 & 244 of the Act, are extracted below:

“Section 241 (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.

**Section 244.** (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 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 subsection (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”.

In the light of the above provisions of the Companies Act, 2013, there are two fundamental disputes raised by the two Parties viz., K.Ravinder Reddy and Chebbi Group/concerned Respondents in the Company Petition about the shares of Petitioner in the Company. Until and unless the disputes regarding shareholding of Dr. Madhukar and Respondent No.9 (Wife) is decided in the pending Civil Court, Dr. Madhukar cannot be deemed to be shareholder of the Company so as to invoke the provisions of the Section 241 of the Companies Act, 2013. As stated supra, the Learned CLB disposed of CA No 01 of 2015 in CP No.10 of 2015 by detailed order dated 13.01.2016/09.03.2016, by *inter alia* holding that the issues in question should be decided first by competent Civil Court and thereafter, the Board can decide the resultant/consequential issues. And this order admittedly has reached the finality, being upheld by the Hon’ble High Court of Karnataka and the Hon’ble Apex Court as detailed supra. Therefore, K. Ravinder Reddy has filed Suit (OS No.3243 of 2017) before the City Civil Court, Bangalore and it is stated to be pending there.

- 17.** The said C.P.No.10 of 2015 was transferred to this Tribunal on its constitution and taken on its record and re-numbered as CP No. 10/BB/2015. In this CP, Dr Madhukar, his wife (Respondent No. 9) apart from M/s Alliance Business School were the Respondents. This

Petition was kept pending till 01<sup>st</sup> April, 2019 when it was finally disposed of. At the time of hearing of this case, the learned Counsel for Petitioner submitted that they had filed suit (OS No. 3243 of 2017) before City Civil Court, Bangalore, which was stated to be pending for disposal. He also filed a memo dated 01.04.2019, enclosing a copy of Status Report of OS No. 3243 of 2017 filed by the Petitioner and the other order dated 10.03.2017 passed in SLP No. 4388 of 2017 by the Apex Court. Accordingly, the said Petition was disposed of by granting liberty to approach this Tribunal after the said Civil Suit was disposed of. Therefore, permission to approach this Tribunal was granted to K.Ravinder Reddy and not to Dr.Madhukar.

- 18.** As stated supra, C.P.No.175/BB/2017 was filed by Dr Madhukar, Under Sections 242 & 59 of the Companies Act, 2013 by inter-alia questioning the various proceedings including transfer of his shares in the Company. When the Petition was last listed for final hearing, the Learned Counsel for the Petitioner filed a Memo for Withdrawal dated 26.07.2019, which reads as under:

“The undersigned submits that in view of the order dated 08.07.2019, passed by the Hon’ble High Court of Karnataka in WP No. 15872 of 2019, WP No. 15878/2019 and WP No. 15879/2019 (enclosed herewith) directing the Registrar of Companies to adjudicate the disputes arising out of complaints made by the petitioner herein, the Petitioner may be permitted to withdraw the above captioned petition reserving liberty to approach this forum as and when the cause of actions arises, if any, in pursuant to orders being passed by the Registrar of Companies and the same may be taken on record in the interest of justice and equity”.

In the light of above memo, the Tribunal disposed of the said CP as withdrawn by an order dated 26<sup>th</sup> July, 2019 by reserving liberty to the Petitioner to file fresh Company Petition in accordance with law, in case, the Petitioner is aggrieved by orders to be passed by the Registrar of Companies, in pursuant to the order dated 08.07.2019 passed in WP



No. 15872 -875 of 2019(GM-RES). Therefore, the Petitioner has to fulfil two prior conditions to invoke Section 241 of the Companies Act, 2013. Firstly, as stated supra, the Petitioner should be a Member of the Company and also should fulfil the conditions mentioned U/s. 244 of the Act. Secondly, he should be aggrieved by the Order to be passed by ROC in pursuance of the directions of Hon'ble High Court in the above case. The Tribunal granted permission to approach it in accordance with law. Therefore, the Petitioner has to fulfil the basic eligibility conditions as prescribed under Sections 241 and 244 of the Companies Act to file the Company Petition. It is not in dispute that same set of shares alleged to be held by Dr.Madhukar is in dispute in this Company Petition as well as in CP No. 10 of 2015 and subsequently in OS No.3243 of 2017 filed by said K.Ravinder Reddy. However, this Order will not confer automatic right on Dr Madhukar to file the instant Company Petition without following prescribed procedure which includes eligibility condition prescribed under Section 244 of the Companies Act, 2013. Since Dr. Madhukar is not a shareholder as on date of filing this instant Company Petition, the Company Petition is liable to be rejected on this ground alone.

- 19.** The Petitioner as well as the Respondents have filed several suits, Writ Petitions, Writ Appeals as discussed above, However, it is relevant to refer to a few of them which are relevant to the issue in question. The Petitioner filed civil suit on 16.08.2018 before the Civil Judge at Mysuru in O.S.No.660/2018 against the Respondent Nos.1, 2, 3, 4, 5, 6, 7, 17, 21 and 22 and against one Mr. Ravinder Reddy and B.V.Prasad seeking for a judgment and decree by inter-alia seeking to declare that the 2<sup>nd</sup> Plaintiff is the owner of 1,90,000 equity shares of the 1<sup>st</sup> Plaintiff company, etc. However, the same was dismissed as withdrawn and again he filed one more suit before the Civil Judge and CJM, Mysuru in O.S.No.212/2020 against the very same persons including one Sujatha Sanjiv and Anuba Singh, by inter-alia seeking to grant permanent injunction restraining the Defendants from acting upon the defective

MGT 7 relating to the Company Alliance Business School illegally uploaded by the Defendants, etc. The suit filed by the Petitioner is pending consideration. M/s Alliance Business School (the Respondent No.10) has filed perpetual injunction suit ( OS No. 5148 of 2017 before the court of XLIII Addll City Civil & Sessions Judge, Bangalore(CCH-44) against Dr. Madhukar and Mrs. Priyanka , wherein, the Learnd Judge passed an interim order dated 21<sup>st</sup> October, 2017 by inter-alia granting temporary injunction as prayed for, and also order restraining the Defendants No.1 & 2 (Dr. Madhukar and Mrs. Priyanka, from representing or claiming before anyone or at any place as the Director or Managing Director or shareholder of the Plaintiff Alliance Business school and dealing in any manner upon such act, pending disposal of the suit. Similarly, another order dated 21.10.2017 was passed in IA No.2 in O.S.No.3932 of 2017 by inter-alia restraining the Petitioner and his wife (R-9) and others from interfering the in the affairs of the Company etc., pending disposal of the suit. The Appeals filed against those orders by the Petitioner vide MFA No.8545/2017, 8562/2017 and 8554/2017 before the Hon'ble High Court of Karnataka were dismissed. Aggrieved by the said orders, the Petitioner filed SLP before the Supreme Court in SLP No.23872/2018 and 23884/2018. On 17.3.2023 the said SLPs filed by the Petitioner were dismissed. Therefore, the interim order passed by the City Civil Court was confirmed by the Hon'ble High Court of Karnataka as well as the Supreme Court of India. As stated supra, another W.P.No.3520 of 2022 (GM) was filed by Alliance Business School before the Hon'ble High Court of Karnataka against ROC and others which include Dr. Madhukar and Mrs.Priyanka U/s Articles 226 & 227 of Constitution of India by inter-alia questioning the ROC Proceedings dated 24.09.2019; and sought further consequential reliefs and the same is also pending before the Court. In the light of the above interim orders of Civil Courts which were upheld by the Hon'ble High Court and the Apex Court, the Petitioner (Dr. Madhukar) and Mrs. Priyanka cannot represent the Company and they cannot claim to hold

any shares in the Company. On this count also, the Petitioner is estopped from invoking the jurisdiction of this Tribunal.

- 20.** The cause of action for filing various cases before City Civil Court, High Court, approaching Police Station by the Respondents in the C.P. is that all shares of the Petitioner (Madhukar G) and his wife (Priyanka-R9) were legally transferred and but he later disputed it with malafide intentions. Precisely, the Petitioner transferred all his 63,000 shares to Abhay Chebbi (Respondent No.1) and 58,800 shares to Mala Srinivas Gowda (Respondent No.4). Similarly the Shares of Ms.Priyanka also stood transferred to Shivappa Mantur-R7 (51,500 shares) and to Prakash Siddappa - R6 (56,000 shares). The above share transfers were effected and shown in revised Annual return for the year 2014-15 filed on 21.04.2016 vide SRN No.GO1528264, which is under dispute before various Courts as detailed supra. The shareholding position of the Company, as on 31.03.2015 indicates that the Petitioner (Dr. Madhukar) and Mrs. Priyanka (R-9) do not hold any shares in the Company. Even the ROC in its order has observed that it would not venture to decide the rights, titles and other disputes or allegations as the same was pending before the Civil Courts. Therefore, the Petitioner cannot invoke provisions of the Companies Act. The Applicants/ Respondents in the C.P. (except the Respondent No.10 Company) approached Hon'ble High Court of Karnataka challenging the ROC order dated 24.09.2019 in W.P No. 50303/2019, 50317/2019 and 50322/2019, and on 05.11.2019, the Hon'ble High Court passed an order directing ROC, Regional Director (SE-R) and DGCA, MCA (Respondents No.14-16 herein) not to take any precipitative action and it has been further extending the same. Therefore, the Tribunal cannot decide on the legality of impugned Proceedings. Moreover, the Petitioner himself stated that he filed an application on 18.10.2021 for vacation of interim order dated 06.11.2019 passed by the Hon'ble High Court in the above-mentioned writs, which is sub-judice. Subsequently, the Petitioner even approached the Hon'ble Supreme Court in SLP (Diary)

No. 5197/2022 whereby the Hon'ble Supreme Court vide Order dated 15.03.2022 directed the Hon'ble High Court to dispose the abovementioned Writ Petitions within 4 months. Therefore, it is for the Petitioners to pray the Hon'ble High court to decide the pending Writ Petitions rather than to prosecute the instant Company Petition, which is not maintainable.

- 21.** As detailed supra, the Learned CLB passed an order dated 13.01.2016/9.03.2016 in CA No. 01/2015 in C.P.No. 10/2015 by inter-alia holding that the issues raised in the case cannot be decided by the Board and it is for the Competent Civil Court to decide those issues at the first instance and thereafter, the Board can decide the Company Petition. And this order has reached finality by virtue of the upholding order passed by the High Court of Karnataka. The Petitioner, Dr. Madhukar in compliance with the said order has also filed suit bearing OS No. 3243 of 2017) before City Civil Court, Bangalore, on 04.05.2017, duly impleading 15 parties as Defendants which includes the Company, Dr. Madhukar Mrs. Priyanka and others as Defendants and the same is pending disposal. Accordingly, the C.P.No.10/2015 was finally disposed of by NCLT by an order dated 1<sup>st</sup> April, 2019 as explained in details supra.
- 22.** It is to be noted that the main issue originates from transfer of shares held in the Company belonging to Dr Madhukar and his wife Mrs. Priyanka originally. Dr. Madhukar claims that he still holds those shares and is also engaging in so much litigation before various courts. The Petitioner as well as the said Ravinder Reddy were making similar/identical claims on the issue. And ultimately, Mr. Ravinder Reddy has filed C.P.No.10 of 2015 before the then CLB, claiming the very same set of Shares of the Company, which were claimed to be held by Dr.Madhukar and Mrs. Priyanka together. The CLB held that the issues raised in the Company Petition are fit to be adjudicated by competent Civil Court and thereafter only, the Board can adjudicate the issues raised in the Company Petition, which has become final being

upheld finally by the Apex court. Since similar or identical allegations are made in the instant Company Petition as well as in CP No. 10/2015, the same ratio will apply here also. Therefore, it is for the Petitioner to approach competent Civil Court first like K. Ravinder Reddy has done if he is so eligible, and also wait for the decision to be rendered in OS No.3243 of 2017 filed by K. Ravinder Reddy, which would have direct bearing on the issue in question. Moreover, the issue is also pending before the Hon'ble High Court of Karnataka. As stated by the Parties there are various suits filed and some are disposed and some are pending for disposal before various Civil Courts at Bangalore with some interim orders having been passed in some of cases as detailed supra. In any case, the outcome of the judgement and decree passed in the pending suits will have direct bearing on the issues raised in the instant Company Petition.

- 23.** So far as the contention of the Petitioner that he was not restrained by any court of law and he has a right to approach a court of Law is concerned, it is correct to contend that anybody can approach any court of law for redressal of one's grievance(s). It is for the concerned Court/Tribunal to consider the merits of those cases in accordance with law, and if it is found to be frivolous, such Court/Tribunal can reject it and even impose costs.
- 24.** So far as various judgements relied upon by the Parties are concerned, they are not relevant at present to consider, as we have upheld the preliminary objections raised by the Applicants/Respondents in the C.P.
- 25.** So far as the contention raised by Dr. Madhukar that only Tribunal is the competent forum to adjudicate all issues arise out of affairs and the jurisdiction of Civil Court in such issues/affair is ousted in terms of Section 430 of the Concerned, there is no ambiguity in law about it and the principle would apply at the first instance, where the Party invokes provisions of Companies Act, instead of Civil Court. As detailed supra,

both the Parties have approached various civil Courts, Criminal Courts and suffered various orders and some of the orders have reached finality when the Apex Court confirmed those decisions. After approaching Civil Courts and obtained orders, they cannot turn around and say that Civil Court has no jurisdiction over the affairs of a Company. Core issues like forgery, fraud etc., as alleged in the Company Petition have to be tested and adjudicated in a competent Civil Court, as the procedure contemplated under the Companies Act is broadly summary in nature unlike Civil Courts, where full-fledged enquiry can be conducted giving ample opportunity to the concerned Parties. Apart from the Tribunal, the Hon'ble High Court has overall superintendence powers over all Courts below and has jurisdiction to review their order(s) and pass appropriate order(s) in the interest of justice and equity by exercising powers conferred on it. As the case in hand falls from a different dimension than what was before the Honourable Supreme Court in Khemka's case, the view taken in Aruna Oswal case cited by the Ld. Senior Counsel for the Respondent during the course of arguments is slightly applicable to the case in hand where the Hon'ble Supreme Court held that NCLT should not entertain the matters when the issues are pending before the Civil court. No doubt rule 70 of the NCLT rules provides for the jurisdiction to decide the title issues. But the substantial law of Companies Act does not provide for the same and in the case in hand as the parties are already disputing it before the Civil Courts, it will amount to NCLT taking over the jurisdiction of the Civil Court and will amount to undoing the judgment of the High Court on the same matter. As detailed supra, several of the judgements cited by the Parties and the law as available on date, were duly adverted and considered by the respective Civil Courts, the Hon'ble High Court of Karnataka, and the Apex Court. However, the Petitioner/Respondent is still agitating the matter on un-tenable grounds and even contending that the decision rendered in the cases where he is a party is not applicable and is also not correct law.

- 26.** It is also relevant to point out here that on 04.06.2010, the Company was converted into a Company U/s.25 of Company Act, 1956 (Correspondent to section 8 of Companies Act, 2013) and the name of Company was changed from Alliance Business School Pvt Ltd to M/s Alliance Business School (ABS/the Company for short). The main objects of the Company, as contained in its Memorandum and Articles of Association, are to establish in any part of India or abroad, schools, and colleges for imparting education to students orally or through post, to provide educational facilities to International standards catering to different cultures like American, British, Japanese or German and also to provide Boarding facilities and other related activities. Therefore, the formation of the Company is with charitable object to provide world class education as contained in its Memorandum and Articles of Association and it is not profit orientated. However, the fight against the Company is like a Profit/Commercial oriented Company. And this fact was kept in mind by the Civil Courts, which dealt suits in this case filed by Parties and also the Hon'ble High court of Karnataka. In order not to disturb academic careers of hundreds of students undergoing education in the University, due to frivolous litigation being made against the Company and the University by the Petitioner, the City Civil Courts and Hon'ble High court of Karnataka by their orders restrained the Petitioner and his wife (Respondent No.9) from raising frivolous litigations by claiming to be the Shareholders or Director of the Company, with an intention to disturb the functioning of the Company and the University. This is also another frivolous litigation being raised by the Petitioner and the Tribunal cannot encourage such type of litigation that too to disturb an educational institute like the Alliance University.
- 27.** For the aforesaid reasons and circumstances of the case, we are of the considered opinion that the instant C.P.No.102/BB/2021 is not maintainable and it is liable to be dismissed.

**28.** In the result, **C.A.Nos.96, 106 & 107 of 2022 in CP.No.102/BB/2021 are allowed** and resultantly, **C.P.No.102/BB/2021 is hereby dismissed.** IA No. 08 of 2022 and all IAs, if any pending in the case, stand closed, and the interim order dated 25.05.2022 stands vacated. No order as to costs. We make it clear that this Order is passed without prejudice to the rights of Parties in the pending suits before Learned City Civil Courts and also Writ Petitions pending before the Hon'ble High Court of Karnataka.

**-Sd-**

**(MANOJ KUMAR DUBEY)  
MEMBER (TECHNICAL)**

**-Sd-**

**(K.BISWAL)  
MEMBER (JUDICIAL)**