

(2025) 02 DEL CK 1225

In the Delhi High Court

Case No : CS(OS) No. 61 Of 2025 and I.A.No. 2372 Of 2025

Dr. Rashmi Saluja

APPELLANT

Vs

Religare Enterprises Limited

RESPONDENT

Date of Decision : 04-02-2025

Acts Referred:

Constitution of India, 1950 — Article 12, 17, 311
Code of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2
Companies Act, 2013 — Section 152, 152(6), 196, 196(2), 197, 198

Citation : (2025) 02 DEL CK 1225

Hon'ble Judges : Purushaindra Kumar Kaurav, J

Bench : Single Bench

Advocate : Sandeep Sethi, Sameer Rohatgi, Keshav, Shivam, Kshitij, Aryan, Nandita, Nalin Kohli, Shankh Sengupta, Aubert Sebastian, Ribhu Garg, Arnab Doshi, Nimisha, Anshul, Dr. Abhishek Manu Singhvi, Mahesh Jethmalani, Dayan Krishnan, Abhimanyu Bhandari, Mahesh Agarwal, Rishi Agarwal, Nirvikar Singh, Rohan Batra, Devika Mohan, Niyati Kohli, Rishabh Bhargava, Dhruv Sethi, Nidhi Chaudhary, Yuga Kare, Pratham Vir, Siddharth Seem, Daksh, Mugdha Pande, Vaibhav Thaledi, Pranav Badheka, Avishkar Singhvi

Final Decision : Dismissed

Judgement

Purushaindra Kumar Kaurav, J

I.A. 2370 of 2025

The present application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908, seeks an interim injunction restraining the agents, employees, and officers of the defendant company from proceeding with the voting on a Proposed Resolution dated 10.01.2025. The said Resolution pertains to re-appointment of the plaintiff as Executive Chairperson/Managing Director at its 40th Annual General Meeting [AGM] scheduled for 07.02.2025. The plaintiff further seeks to restrain the defendant company from placing the Proposed Resolution for voting, from declaring the results of any such voting, and from considering or passing any Resolution aimed at removing the plaintiff as

Executive Chairperson/Managing Director during the pendency of the suit.

Brief Facts

2. The plaintiff currently serves as the Executive Chairperson of Religare Enterprises Limited [REL]. She also holds key positions as Chairperson cum Managing Director of ReligareFinvest Limited and Non-Executive Chairperson of Care Health Insurance Limited and Religare Broking Limited. The defendant-company, REL, is a Core Investment Company incorporated in the year 1984 under the Companies Act, 1956, and registered with the Reserve Bank of India [RBI]. It operates as a diversified financial services provider through its subsidiaries and associated entities, with business interests spanning over the insurance and financing sectors.

Submissions on behalf of the plaintiff

3. Learned Senior Counsel, Mr. Sandeep Sethi, appearing for the plaintiff, submits that prior to 2018, the defendant company was under the control of its erstwhile promoters, Mr. Malvinder Mohan Singh and Mr. Shivinder Mohan Singh, who faced multiple Civil and Criminal proceedings related to financial mismanagement and regulatory violations. Following their exit from the Board in February 2018, the defendant-company underwent a structural overhaul, with the Board being reconstituted. Pursuant to the same, the plaintiff was inducted and she led a turnaround strategy for the defendant-company, that stabilized operations and financial health.

4. Learned senior counsel submits that the plaintiff was inducted into the Board of the defendant company as an Additional Director in the capacity of a Non-Executive Independent Director on 20.12.2018. Her appointment was subsequently regularized at the Annual General Meeting held on 26.09.2019, and she was designated as the Non-Executive Independent Chairperson with effect from 19.06.2019.

5. On 10.12.2019, acting upon the recommendation of the Nomination and Remuneration Committee [NRC], the Board approved her re-designation as the Executive Chairperson of the company for a tenure of three years. This appointment was subject to the approval of the shareholders and the Reserve Bank of India [RBI], as the defendant-company is a registered Core Investment Company. Upon an application made by the Company Secretary, the RBI, vide its letter dated 26.02.2020, granted approval for the appointment of the plaintiff as the Executive Chairperson, imposing only one condition that the change in management must be effected within six months from the date of its letter. According to Mr. Sethi, the said application expressly sought approval for a three-year term, without the requirement of the plaintiff being "liable to retire by rotation," a condition which was not mandated for such an appointment.

6. Following the approval of the Reserve Bank, the defendant-company passed a special Resolution through postal ballot on 28.05.2020, approving the

appointment of the plaintiff as the Executive Chairperson for a term of three consecutive years, effective from 26.02.2020. According to learned senior counsel, the said Resolution has been passed under Section 196 of the Companies Act, 2013, which does not render the term of an Executive Chairperson, appointed for a fixed tenure exceeding one year, to be liable to retire by rotation. However, the Resolution and its accompanying explanatory statement erroneously recorded that the plaintiff was "liable to retire by rotation," which, according to him, is inconsistent with the provisions of Section 196 of the Companies Act, 2013.

7. According to learned senior counsel, the reference to Section 152 in the explanatory statement further incorrectly suggested that the appointment of the plaintiff was governed by its provisions. According to learned senior counsel, the requirement of retirement by rotation is inapplicable to fixed-term appointments made under Section 196, and such liability, if at all, would only arise upon the expiration of the designated tenure. Additionally, the appointment letter dated 26.02.2020 explicitly stated that the appointment was for a fixed term of three years, automatically terminating upon its completion.

8. Subsequently, in the Board and NRC meetings held on 10.08.2022, a Resolution was proposed to re-appoint the plaintiff as the Executive Chairperson for a further period of five years, effective from 26.02.2023. Notably, both meetings recorded that under Section 196, no re-appointment could be made earlier than one year before the expiry of the existing term. The Resolution was passed pursuant to Sections 196, 197, and 198 read with Schedule V of the Companies Act, thereby confirming that the appointment was for a fixed term. However, learned senior counsel submits that the Resolution again erroneously stated that the plaintiff was "liable to retire by rotation," likely due to secretarial oversight or mechanical error.

9. The re-appointment for a five-year term was subsequently approved at the 38th AGM held on 23.09.2022. Pursuant to the said approval, a letter of appointment dated 24.02.2023 was issued to the plaintiff, re-appointing her as the Executive Chairperson of the defendant-company for a fixed term of five years, effective from 26.02.2023 to 25.02.2028. However, the Resolution dated 23.09.2022 again erroneously recorded that the plaintiff was "liable to retire by rotation."

10. Learned senior counsel submits that these errors have culminated in the issuance of the present proposed Resolution dated 15.01.2025, against which the plaintiff now seeks an interim injunction. He submits that the notice for the 40th AGM was issued on 15.01.2025, with the meeting scheduled to be held on 07.02.2025. However, despite the fixed-term appointment of the plaintiff, the said notice includes the proposed Resolution seeking the appointment of a director in her place, erroneously premised on the assertion that she is "liable to retire by rotation" and has offered herself for re-appointment.

11. He submits that the earlier Resolutions for re-appointment of the plaintiff, which have been proposed year after year without due application of mind, appear to be a mechanical exercise devoid of proper legal consideration. Thus, based on this error, any attempt to place any Resolution seeking re-appointment within the contractual period infringes upon her statutory and contractual rights.

12. Drawing the attention of the Court to the provisions of Section 152[6] and 196[2] of the Companies Act, he submits that the interplay between both the provisions makes it unequivocally clear that once a person is appointed under Section 196[2] for multiple years, the provision for retirement by rotation under Section 152[6] ceases to apply until the completion of the fixed term. The provisions of Section 196[2] override Section 152[6], and any interpretation to the contrary would defeat the legislative intent behind carving out a distinct provision for the appointment of a Managing Director for a term of up to five years.

13. He vehemently contends that the Resolution seeking her re-appointment cannot be put to vote each year when her term is already in force. Furthermore, the proviso to Section 196[2] explicitly states that no re-appointment under this Section can be made earlier than one year before the expiry of the existing term. Given that the current appointment of the plaintiff is valid until 25.02.2028, the phrase "liable to retire by rotation" under Section 152[6] becomes redundant for the duration of her fixed term and any such requirement can only arise once her tenure under Section 196 expires.

14. Learned senior counsel further places reliance on the RBI Master Direction – Core Investment Companies [Reserve Bank] Directions, 2016, dated 25.08.2016, which, according to him, imposes restrictions on changes in the management of the defendant-company. He contends that the said Master Direction mandates prior approval of the Reserve Bank of India (RBI) before effecting any change in control or management of the defendant-company, a Core Investment Company. Thus, he submits that the proposed resolution, which seeks to remove the plaintiff by subjecting her to retirement by rotation, is in direct contravention of the said RBI directions, and cannot be sustained.

15. Learned senior counsel further submits on the aspect of compensation being payable to the plaintiff in event of her being subjected to re-election and further not being re-elected, that post the 2018 amendment in the Specific Relief Act, 1963, for the enforcement of contracts, the aspect of compensation has been done away with and the legislature has placed a larger emphasis on the enforcement of contracts. To substantiate this position, reliance has been placed on the decision of this Court in the case of Global Music Junction (P) Ltd. v. Shatrughan Kumar 2023 SCC OnLine Del 5479. Based on this decision, he submits that the Courts cannot relegate the plaintiff to mere compensation as the loss suffered would not be tangible and furthermore, the loss suffered by the plaintiff due to the loss of the position as the Executive Chairperson cannot be quantified solely in terms of the letter of appointment.

16. Learned senior counsel concludes his submissions by reiterating that the plaintiff was appointed as Executive Chairperson/Managing Director under Section 196 of the Companies Act, 2013, and was subsequently issued an appointment letter in 2023 confirming her tenure for a period of five years. However, due to secretarial errors or mechanical oversight, various AGM Resolutions have incorrectly recorded her position as a director under Section 152, stating that she is "liable to retire by rotation." He contends that this erroneous classification directly contravenes the nature of the appointment of the plaintiff made under Section 196, which provides for a fixed-term tenure and the same cannot be defeated by recourse to the provisions of Section 152.

Analysis

17. In the main Civil Suit, the Court has already taken cognizance and has directed for the issuance of summons, with pleadings to be completed accordingly. By the present order, the Court is called upon to decide the application of the plaintiff under Order XXXIX Rule 1 and 2 of the CPC, seeking to restrain the defendant from proceeding with the proposed Resolution until the disposal of the main suit.

18. Pursuant thereto, several applications have been filed by certain members and stakeholders of the defendant-company, seeking impleadment and raising objections to the relief sought in the present application. However, at this stage, the Court does not consider it appropriate or necessary to entertain or examine the arguments sought to be advanced by the applicants therein in relation to the grant of the injunction sought by the plaintiff.

19. The crux of the present controversy essentially revolves around the claim of the plaintiff that her appointment as the Executive Chairperson/Director of the defendant-company was for a fixed term of five years, commencing from 26.02.2023 to 25.02.2028, and that any action seeking her re-appointment through rotation is legally untenable and procedurally improper. The plaintiff contends that despite her fixed-term appointment, the defendant-company has erroneously proposed a Resolution in the upcoming 40th AGM, seeking her re-appointment by treating her as a director liable to retire by rotation. On the strength of this assertion, the plaintiff is seeking a decree of declaration in the nature that she is not liable to retire by rotation and is entitled to continue in her position till 25.02.2028. Additionally, she seeks a declaration that the proposed Resolution in the 40th AGM concerning her appointment as a director is illegal, non-est, null, and void.

20. The Court, therefore, deems it appropriate to first reiterate the well-settled legal principle that no injunction can be granted unless the three essential conditions are satisfied, namely, the existence of a prima facie case, the balance of convenience in favour of the applicant, and the likelihood of irreparable injury that cannot be compensated in monetary terms. Furthermore, it is trite law that the failure to establish any one of these conditions disentitles a party from

seeking an injunction, and the Court would be justified in refusing the relief of injunction. On this aspect, reference can be made to the decision of the Supreme Court in the case of Hazrat Surat Shah Urdu Education Society v. Abdul Saheb JT 1988 (4) SC 232. The relevant portion of the said decision reads as under:-

"No doubt the District Judge held that there was no prima facie case in the respondent's favour but he further recorded a positive finding that even if the plaintiff respondent had prima facie case there was no balance of convenience in his favour and if any injury was caused to him on account of the breach of contract of service he could be compensated by way of damages in terms of money therefore he was not entitled to any injunction. The High court failed to notice that even if a prima facie case was made out, the balance of convenience and the irreparable injury were necessary to exist. The question whether the plaintiff could be compensated by way of damages in terms of money for the injury which may be caused to him on account of the breach of contract of service was not considered by the High court. No temporary injunction should be issued unless the three essential ingredients are made out, namely:

(i) prima facie case,

(ii) balance of convenience,

(iii) irreparable injury which could not be compensated in terms of money. If a party fails to make out any of the three ingredients he would not be entitled to the injunction and the court will be justified in declining to issue injunction. In the instance case the respondent plaintiff was claiming to enforce the contract of service against the management of the institution. The refusal of injunction could not cause any irreparable injury to him as he could be compensated by way of damages in terms of money in the event of his success in the suit. The respondent was therefore not entitled to any injunction order. The District Judge in our opinion rightly set aside the order of the Trial Court granting injunction in favour of the plaintiff respondent. The High court committed error in interfering with that order."

21. The aforesaid principle has been relied upon by this Court consistently in Hari Krishan Sharma v. MCD 1987 SCC OnLine Del 286, I.K. Mehra v. Wazir Chand Mehra 1997 SCC OnLine Del 356, and B.M.L. Garg v. Lloyd Insulations (India) Ltd 1992 SCC OnLine Del 447. In light of this well-settled legal position, it is evident that an applicant seeking an injunction must establish all three essential ingredients, i.e., prima facie case, balance of convenience, and irreparable injury. These ingredients must be satisfied concurrently, and the inability of the applicant to establish even one would render the applicant ineligible for obtaining the injunctive relief.

22. The cardinal principles for the grant of temporary injunction were further considered in Dalpat Kumar v. Prahlad Singh (1992) 1 SCC 719, wherein the Supreme Court observed as follows:-

"5...Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit."

23. The Court further held in *Dalpat Kumar*, that the phrases "prima facie case", "balance of convenience" and "irreparable loss" are not rhetoric phrases for incantation, but words of width and elasticity, to meet myriad situations presented by ingenuity in the given facts and circumstances of each case. These principles are to be applied with judicial discretion, such that, the relief granted aligns with the ends of justice.

24. Woodroffe, in his treatise "Law Relating to Injunctions" (12th Edn. page 101), has aptly observed that the "power which the court possesses of granting injunctions whether interlocutory or perpetual (however salutary) should be very cautiously exercised and only upon clear and satisfactory grounds, otherwise it may work the greatest injury".

25. In *Gujarat Bottling Co. Ltd. v. Coca Cola Co* (1995) 5 SCC 545, the Supreme Court has held that, apart from the three considerations noted above, the Court shall also look at the conduct of the parties seeking an injunction and may refuse to grant the same if the parties do not appear to have approached the Court with clean hands. The relevant portion of the said decision reads as under:-

"47. In this context, it would be relevant to mention that in the instant case GBC had approached the High Court for the injunction order, granted earlier, to be vacated. Under Order 39 of the Code of Civil Procedure, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable and, therefore, the Court, on being approached, will, apart from other considerations, also look to the conduct of the party invoking the jurisdiction of the Court, and may refuse to interfere unless his conduct was free from blame. Since the relief is wholly equitable in nature, the party invoking the jurisdiction of the Court has to show that he himself was not at fault and that he himself was

not responsible for bringing about the state of things complained of and that he was not unfair or inequitable in his dealings with the party against whom he was seeking relief. His conduct should be fair and honest. These considerations will arise not only in respect of the person who seeks an order of injunction under Order 39 Rule 1 or Rule 2 of the Code of Civil Procedure, but also in respect of the party approaching the Court for vacating the ad interim or temporary injunction order already granted in the pending suit or proceedings.”

26. Furthermore, this Court in the case of T.A. George & Anr. v. Delhi Development Authority 1994 SCC OnLine Del 394 has held that injunctions are a form of equitable relief and have to be adjusted in aid of equity and justice to the facts of each particular case. Furthermore, it was also held that all three conditions are sine qua non for the grant of temporary injunction and injunction cannot be granted as a matter of course unless all three conditions are met. Pertinently, this Court further observed that these three golden principles are not exhaustive and the party seeking an injunction bears the burden of establishing its bona fides as well.

27. Accordingly, keeping in mind the established legal position, the Court may first examine the element of irreparable injury. Irreparable injury refers to an injury of such a substantial nature that it cannot be adequately remedied or compensated by monetary damages. The term irreparable injury signifies harm that is incapable of being repaired or atoned for through pecuniary compensation, thereby warranting the extraordinary remedy of an injunction. Reference can be made to the decision of the Madras High Court in the case of Multichannel (India) Ltd. v. Kavitalaya Productions (P) Ltd (1999) 1 AP LJ 34 (DNC) (Mad).

28. If there exists an acceptable standard for ascertaining the actual damages likely to be caused, such damages can be awarded at the stage of final adjudication, and in such cases, the grant of an injunction should be refused. Theoretically, when the monetary value of the claim can be precisely determined, there may be no irreparable injury, as compensation in terms of money would suffice. However, it is not merely the actual impossibility of computing compensation that determines irreparable injury; rather, the key consideration is whether monetary compensation alone would be sufficient to redress the harm caused by the denial of injunction. This assessment is inherently case-specific and must be made in light of the particular facts and circumstances of each case. Reference can be made to the decision in the cases of GMNCO Ltd. v. Ravi Gupta (2001) 3 AP LJ 40 (DNC) (Del) and Som Datta Bukders Ltd. v. Kanpur Jal Sansthan 2002 SCC OnLine All 294.

29. Furthermore, with respect to the aspect of irreparable harm, juxtaposing the settled jurisprudence to the specific facts of the instant case, assuming for the sake of argument that the injunction is not granted, thereby requiring the plaintiff to undergo the election process, and further presuming that she is not re-elected as a director at the AGM to be held on 07.02.2025, any harm suffered by

the plaintiff would, in any event, be compensable in monetary terms and the said compensation is determinable in terms of the letter of appointment of the plaintiff. In the event that, upon adjudication of the present suit, this Court were to hold that Section 196 of the Companies Act, 2013 prevails over Section 152, thereby rendering the purported removal of the plaintiff improper, the relief available to the plaintiff would be compensation for wrongful termination from her position as Executive Chairperson, in accordance with the terms stipulated in her letter of appointment, which would balance the equity.

30. Conversely, should the Court ultimately find no merit in the contention of the plaintiff, the effect of granting an interim injunction would be that an individual, found to be ineligible, was nonetheless permitted to continue in a position of control over the affairs of the company under the misconceived shield of judicial intervention. Such an outcome would be antithetical to the principles of corporate governance and would undermine the democratic corporate framework envisioned under the Companies Act, 2013. Such an exercise would be tantamount to establishing a precedent that effectively undermines the rule of law in corporate governance and directly contravenes the foundational principles governing the grant of injunctions.

31. Thus, granting the relief sought by the plaintiff would amount to issuing a mandatory injunction, effectively compelling the defendant-company to retain the Key Managerial Personnel against its own volition. In the domain of listed corporate entities, matters concerning retirement or resignation are distinct from those governing State entities or instrumentalities. As a result, the defendant-company is not bound by the stringent protections enshrined in Article 311 of the Constitution of India, which primarily safeguards civil servants of the State.

32. The defendant-company is clearly not subject to the rigours of Article 12 of the Constitution. Thus, the stricter standards applicable to public employment under Article 12 and Article 311 of the Constitution do not apply. Even in cases involving State entities, where an employee is allegedly unlawfully terminated, the Supreme Court has held that reinstatement with full back wages was traditionally the norm. However, in recent jurisprudence, there has been a notable shift in this approach. Courts have consistently ruled that reinstatement with back wages is not automatic and may be inappropriate in certain situations, even where the termination is found to be unlawful. In such cases, compensation in lieu of reinstatement has been held to be an adequate and just remedy. Reference can be made to the decisions of the Supreme Court in the cases of *Jagbir Singh v. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327, *Ashok Kumar Sharma v. Oberoi Flight Services* (2010) 1 SCC 142 and *BSNL v. Kailash Narayan Sharma* (2014) 16 SCC 440 among a catena of other decisions.

33. Moreover, the Supreme Court has consistently held that interim relief staying termination should not ordinarily be granted, except in exceptional circumstances where irretrievable consequences would ensue, rendering the final adjudication infructuous or creating a fait accompli. This Court, in *Air India Ltd. v. Aditya Beri*

2012 SCC OnLine Del 3014 and in *Vikas Kumar v. SDMC* 2023 SCC OnLine Del 274, following this principle, observed that even if a termination is ultimately held to be illegal and unjustified, the affected party can always be compensated by awarding full salary for the period they remained out of employment.

34. Applying this principle to the present case, the relief sought by the plaintiff effectively amounts to a stay on her purported re-election and apprehended termination by requiring the defendant-company to retain her in the position of Executive Chairperson until the final determination of the suit. However, as established in *Air India Ltd*, such relief should only be granted where the situation is irretrievable. In the present case, even if the plaintiff is not re-appointed as a director in the 40th AGM, and if the Court ultimately finds that her removal was unlawful due to the overriding effect of Section 196 over Section 152 of the Companies Act, as well as the contractual rights, the grievance of the plaintiff can still be adequately redressed through compensation based on her letter of appointment and various other judicially determinable factors, thus balancing the equities. This approach would also ensure that the principles of Corporate Governance are upheld.

35. The principle enunciated in aforementioned judicial precedents concerning private employment disputes is that where monetary compensation can provide full restitution, an injunction preventing termination is unwarranted. Therefore, as the Court should be hesitant in interfering with corporate governance decisions, particularly where alternative remedies in the form of monetary compensation remain available, applying this principle to the facts of the instant case, even if the plaintiff succeeds in the suit, the relief at best available to her would be in the form of financial compensation.

36. The Court shall now examine whether the ingredient of a *prima facie* case operates in favor of the plaintiff.

37. The rights claimed by the plaintiff are stated to have accrued from the decisions taken by the Board of the defendant-company on 10.08.2022 and subsequently approved in the AGM held on 23.09.2022. It is further contended that after securing the necessary approvals from all regulatory authorities, a letter dated 24.02.2023 was issued to the plaintiff, confirming her re-appointment as the Executive Chairperson of the defendant-company for a period of five years commencing from 26.02.2023. The rights being asserted by the plaintiff stem from this letter dated 24.02.2023. Notably, the letter was accompanied by certain annexures, which indicated the specifics of the approved remuneration, as sanctioned by the shareholders.

38. The letter dated 24.02.2023, *inter alia*, states that the plaintiff has been re-appointed as the Executive Chairperson of the defendant-company for a period of five years, commencing from 26.02.2023. This re-appointment has been made in accordance with the applicable provisions of the Companies Act, 2013 (hereinafter referred to as "the Act of 2013") and the rules issued thereunder.

The letter further records that the re-appointment was approved by the Nomination and Remuneration Committee (NRC) and the Board of Directors of the defendant-company in their meeting held on 10.08.2022, and was subsequently ratified by the shareholders in the Annual General Meeting (AGM) conducted on 23.09.2022. For the sake of clarity, the relevant portion of the letter dated 24.02.2023 is extracted as under:-

"24th February, 2023

Employee ID :63036

Employee Name :Dr. Rashmi Saluja

Designation : Executive Chairperson

Company Name : Religare Enterprises Limited

Letter of Re-Appointment as Executive Chairperson of Religare Enterprises Limited ("REL"/ "Company")

Dear Dr. Rashmi Saluja,

At the outset, we would like to thank you and acknowledge your unswerving contribution in the success of the Company. We recognize your unconditional dedication and efforts as a key stakeholder in the Company's journey.

We are pleased to inform you that on completion of your existing term as Executive Chairperson on 25th February, 2023, you have been re-appointed as Executive Chairperson of the Company for a period of five (5) years starting from 26 February, 2023, in accordance with the applicable provisions of the Companies Act, 2013 and rules issued thereunder, and with the approval of Nomination and Remuneration Committee (NRC) and Board Directors of the Company in their meeting dated 10 August, 2022 and consent accorded by the Shareholders of the Company in the Annual General Meeting held on 23rd September, 2022. Your engagement may be further renewed by the NRC and Board of Directors of the Company which will be subject to approval of shareholders of the Company and approval of regulators, if applicable, at the time of renewal.

Further, as per the applicable provisions of the Companies Act, 2013 and rules issued thereunder, your remuneration for the period of three (3) years commencing from 26th February, 2023 has been approved by the shareholders which shall be subject to review from time to time as per the applicable provisions of the Companies Act, 2013 and rules issued thereunder. The details of the remuneration as approved by the shareholders are enclosed in the Annexure to this letter.

All other existing terms and conditions of your employment as mentioned in your letter of appointment dated 26th February 2020 ("Original Appointment Letter") remain unchanged and shall continue to be applicable to your employment with

the Company; except to the extent specifically modified vide this letter of re-appointment and to the extent of any modifications that may be announced by the management from time to time as intimated to you in writing. It is clarified that the terms of remuneration set out in the Annexure to this letter shall override the terms of remuneration set out in Annexure 2 of the Original Appointment Letter, and your re-appointment and employment with the Company will be governed by the terms of this letter and the Original Appointment Letter, read harmoniously.”

39. The annexure to the letter dated 24.02.2023 details the total fixed remuneration, including all admissible perks, allowances, and reimbursements, amounting to ₹ 5,93,00,000/- per annum. Additionally, it specifies other facilities extended to the plaintiff, either explicitly payable in monetary terms or capable of being monetized. For the sake of clarity, the relevant portion of the annexure to the letter dated 24.02.2023 is extracted as under:-

“Annexure

1. Total Fixed Remuneration

Component Name (INR)

Per Month

Per Annum

Basic

19,76,667

2,37,20,000

Allowances & Reimbursements

LTA

6,250

75,000

Education Allowance

200

2,400

Additional Allowance

28,63,472

3,43,61,668

Monthly Gross

48,46,589

Gratuity

95,078

11,40,932

Total Fixed Cost (TFC)

49,41,667

5,93,00,000

2. a. Gratuity (If applicable) - As per Gratuity Act, Payable only after completion of 5 continuous year of service in organization

b. Total Fixed Remuneration payable by way of salary, dearness allowance and any other allowances may be increased w.e.f. April 01, 2023 by an annual increment of up to 20% on the last Total Fixed Remuneration, payable monthly, in terms of provisions of Schedule V of the Act or such other amount within the limits prescribed by the Act from time to time

2. Variable Pay

Performance Linked Incentive: You are eligible for Performance Linked Incentive for each FY which shall be payable in the range of 0% to 150% of the Total Fixed Remuneration appraised in the FY, payable based on measurable performance indicators as decided for the role; and governed by the policy of the Company from time to time and as may be decided and approved by the NRC/ other applicable authorities.

3. Facilities You will be entitled to the following facilities which shall not be included in the computation of ceiling on total remuneration:

a. You would be eligible for Company provided chauffeur driven car with fuel for use on official business.

b. Mobile handset and other communication facilities in connection to the business of the Company will be provided as per Company policy.

c. Annual fees, subscription charges and actual official usage expenses incurred for a maximum of 2 clubs would be paid by the Company.

d. You will be eligible for Company provided personal security in the form of personal security detail and residential security.

e. All the reasonable travel, entertainment or other expenses incurred by you in furtherance of or in connection with the performance of duties, in accordance with the Company's policy.

f. Company paid accommodation with all related incidental expenses, the cost of which shall be all inclusive upto Rs. 11 Lakhs per month with a provision of annual increase of upto 20% of the previous financial year cost with effect from

April 01, 2023.

4. Participation in ESOP Scheme

You may be granted stock options of the Company under the Company's Employee Stock Option schemes and stock options of the subsidiaries / group companies of the Company under their respective Employee Stock Option Schemes subject to necessary compliances and approvals and any perquisite arising out of exercise of stock options into equal number of equity shares, granted to you under any employee stock option schemes of the Company or any of the group company / subsidiary company will also form part of your remuneration over and above the aforementioned remuneration.

5. Deductions

The Company may during your employment, or on termination for whatever reason, deduct from your remuneration any monies due from you to the Company including but not limited to:

- a. Any overpayment of salary or expenses or payment made to you by mistake or misrepresentation; and/or
- b. Any outstanding loans or advances made to you by the Company;
- c. Amounts equal in sum to the amount of any secret/illegitimate profits that you make from the Company's business/interests; and/or
- d. Any debt owed by you to the Company; and/or
- e. Any other deductions permitted under applicable law including Tax."

39. It is also pertinent to note that while the plaintiff was appointed on 24.02.2023 for a fixed tenure of five years, a careful perusal of the minutes of the Board Meeting dated 10.08.2022 and the Annual General Meeting dated 23.09.2022 reveals that both explicitly stipulated the retirement of the plaintiff by rotation. This clearly indicates that the understanding of the plaintiff that she is liable to retire is not something that was introduced for the first time in 2025, but was well embedded in the earlier Resolutions passed in the aforementioned board and general meetings.

40. Furthermore, the extract of the minutes of the 39th AGM of the defendant-company dated 27.09.2023, specifically Resolution no. 2, reaffirms this position. The said Resolution, inter alia, unequivocally records that the plaintiff, in accordance with the provisions of the Companies Act, 2013, retired by rotation and being eligible, offered herself for re-appointment, which was subsequently approved. This demonstrates that even after 24.02.2023, the plaintiff not only accepted but also subjected herself to re-appointment following her retirement by rotation. This position is further substantiated from the record, which states as under:-

"ORDINARY BUSINESSES

RESOLUTION NO. 2

TO APPOINT A DIRECTOR IN PLACE OF DR. RASHMI SALUIA (DIN: 01715298), WHO RETIRES BY ROTATION AND BEING ELIGIBLE, OFFERS HERSELF FOR RE-APPOINTMENT: - ORDINARY RESOLUTION

"RESOLVED THAT Dr. Rashmi Saluja (DIN: 01715298), who retires by rotation in accordance with provisions of the Companies Act, 2013 and being eligible offered herself for re-appointment, be and is hereby re-appointed as Executive Director of the Company."

All the resolutions as set out in item no. 1 & 2 in the Notice dated August 31, 2023 of the 39th AGM Notice were duly approved and passed by shareholders with the requisite majority."

41. Assuming, for the sake of argument, that the plaintiff is not required to resign and is not subjected to retirement by rotation by the operation of law, such a contention remains prima facie unsustainable for the following reasons:-

i. The Board Meeting dated 10.08.2022 expressly recorded that the plaintiff, in accordance with the provisions of Section 152 of the Companies Act, 2013, shall be subject to retirement by rotation.

ii. The AGM held on 23.09.2022 reaffirmed the resolution passed in the Board Meeting dated 10.08.2022, explicitly recognizing the obligation of the plaintiff to retire by rotation.

iii. In the AGM held on 27.09.2023, which took place subsequent to the issuance of the letter of appointment under which the plaintiff currently holds office, the plaintiff voluntarily subjected herself to the process of retirement by rotation and was re-elected in accordance with the extant regulatory framework.

iv. The grievance of the plaintiff had emanated on 28.05.2020, where the election of the plaintiff was done through the vote by ballot.

42. For the sake of argument, assuming that the contentions advanced by the plaintiff are correct and that the entire process of subjecting her to retirement by rotation is de hors the statutory scheme of the Companies Act, the plaintiff, being fully aware of such an alleged irregularity, ought to have pursued the appropriate legal recourse at the earliest possible opportunity. At the very least, the final opportunity for the plaintiff to challenge the applicability of Section 152 of the Companies Act would have been prior to the AGM dated 28.05.2020. Even with respect to the impugned Proposed Resolution to be placed before the 40th AGM, the notification for the same was issued on 15.01.2025. However, the instant suit and the accompanying application were filed only on 28.01.2025, nearly thirteen days after the plaintiff admittedly became aware of the resolution. When the matter was first placed before the Court on 29.01.2025, the Court, in the interest of procedural expedition, issued summons in the suit and scheduled the instant application for consideration. Furthermore, the AGM is not

a mere discretionary exercise undertaken at the behest of the company but a statutory obligation, deriving its existence, powers, and duties from the Companies Act. Given its inherent significance, any judicial interference with such a statutory exercise carries far-reaching and unforeseen repercussions. The plaintiff, if genuinely aggrieved by the notice dated 15.01.2025, ought to have acted with due diligence and expedition rather than waiting until the eve of the AGM scheduled on 07.02.2025 before approaching this Court. Thus, at this belated stage, any interference by this Court would result in unnecessary inconvenience to all parties concerned. It is trite law that any party applying for an injunction should approach the Court as early as possible and any laches would render the application fatal. Moreover, the Court can refuse its discretion to a person who has been sleeping over his rights. [Reference can be made to the decisions in the cases of Associated Cement Companies v. State of Rajasthan 1980 SCC OnLine Raj 37 ; Baldeo Das Bajoria v. Governor of the United Provinces 1943 SCC OnLine Cal 223 ; Adiram Sarma v. Deokinandan Agarwalla 1981 SCC OnLine Gau 38].

43. In the instant case, as already observed, it is a clear case of the plaintiff having knowledge of being subjected to retirement by rotation and thus, if the plaintiff is not found to be vigilant and diligent having regard to the circumstances, the relief sought ought to be refused. In light of these considerations, it is evident that the plaintiff has failed to establish a prima facie case for injunction in her favour.

44. With respect to the balance of convenience, it is a well-settled principle that every shareholder of a company has the right, subject to statutory procedures and requisite numerical thresholds, to participate in the affairs of the company. This participation is essential to uphold the principles of corporate democracy and to maintain transparency in corporate governance. The shareholders must be allowed to regulate and determine the affairs of the company through General Meetings, which serve as the primary forum for decision-making within a corporate entity. Given this framework, the jurisdiction of the Court in such matters is limited, and judicial interference in the internal management of a company should be exercised with caution. Courts have consistently maintained that unless there is a clear violation of statutory provisions or principles of natural justice, they should refrain from intervening in the internal governance of a company. Reliance can be placed on the decision of this Court in the case of Ravinder Sabharwal v. XAD INC 2018 SCC OnLine Del 11482. The relevant portion of the said decision reads as under:-

"12. A perusal of the above Articles show that the continuation of Directorship of the Plaintiffs till they resign, is not unequivocal but is 'subject to the provisions of the Companies Act'. The power of appointment of Directors in a company vests with the subscribers. In any event, such a power is one which vests purely with the share holders of the company and can be decided in an EGM. Calling of an EGM is the power of the share holders and a perusal of the notice dated 30th

June, 2018 clearly shows that the said notice has been issued under Section 100 of the Companies Act. The notice clearly specifies the resolutions that are intended to be passed. The EGM was originally scheduled for 24th July, 2018 but was thereafter postponed. The Plaintiff herein objected that the EGM notice did not give the 14 days' notice period which was required to be given as per law. The question as to whether an injunction can be passed against holding of an EGM has been settled by the Supreme Court in the decision of Life Insurance Corporation (supra) The Supreme Court in the said judgment has categorically held that the power to appoint Directors is with the holders of the majority of the stock. No injunction can be granted to restrain the holding of such a meeting...

13. As per this binding dictum, there can be no injunction restraining holding of an EGM. The majority share holders have the power to appoint Directors and the power to regulate them by passing a resolution for removal. The reasons for passing of a particular resolution need not be disclosed in the notice calling for the EGM. Also, passing of the resolution and the reasons thereof are not subject to judicial review. Thus, in the present suit what the Plaintiffs only intend to seek is an injunction against calling of the EGM.

15. A perusal of the Articles of Association clearly shows that the Plaintiff No. 1 is a non-rotational Director and can remain so long as he does not voluntarily resign. However, this Article is subject to the provisions of the Companies Act which permits the removal of a Director by majority share holders in a lawfully requisitioned EGM. Article 17 of the Articles of Association cannot therefore be treated as having precedence over the provisions of the Companies Act.

16. No injunction from calling the EGM can therefore be granted. The resolutions sought to be passed in the EGM have already been circulated. The hearing, if any, that the Plaintiffs seek can only be granted at the EGM and not before. The EGM having not been held, the suit is not maintainable and is also premature.

17. The injunction in respect of the EGM does not deserve to be granted. No other relief is pressed or arises. Thus, the present suit is not maintainable and is therefore dismissed. All pending I.As. also stand disposed of."

45. The similar position was upheld in LIC v. Escorts Ltd (1986) 1 SCC 264, wherein it was observed that in a company, every shareholder possesses the right to call for a general meeting for the purpose of passing a Resolution, and such an exercise of corporate democracy cannot be restrained by way of an injunction. The relevant portion of the said decision reads as under:-

"100. Thus, we see that every shareholder of a company has the right, subject to statutorily prescribed procedural and numerical requirements, to call an extraordinary general meeting in accordance with the provisions of the Companies Act. He cannot be restrained from calling a meeting and he is not

bound to disclose the reasons for the resolutions proposed to be moved at the meeting. Nor are the reasons for the resolutions subject to judicial review. It is true that under Section 173(2) of the Companies Act, there shall be annexed to the notice of the meeting a statement setting out all material facts concerning each item of business to be transacted at the meeting including, in particular, the nature of the concern or the interest, if any, therein of every director, the managing agent if any, the secretaries and treasurers, if any, and the manager, if any. This is a duty cast on the management to disclose, in an explanatory note, all material facts relating to the resolution coming up before the general meeting to enable the shareholders to form a judgment on the business before them. It does not require the shareholders calling a meeting to disclose the reasons for the resolutions which they propose to move at the meeting. The Life Insurance Corporation of India, as a shareholder of Escorts Ltd., has the same right as every shareholder to call an extraordinary general meeting of the company for the purpose of moving a resolution to remove some Directors and appoint others in their place. The Life Insurance Corporation of India cannot be restrained from doing so nor is it bound to disclose its reasons for moving the resolutions.”

46. In the present case, the relief sought by the plaintiff, in effect, challenges the proposed re-election of the plaintiff as a Director in the 40th AGM and thus, seeks her continuation in her current position. However, there is no allegation that the proposed Resolution to be placed in the AGM itself is contrary to any specific provision of law or has been placed in violation of any established procedure. The contention of the plaintiff primarily rests on the assertion that the legal provisions governing her appointment have been misinterpreted and misapplied, particularly the understanding that her appointment was for a fixed term of five years without being subject to rotation.

47. However, the factual matrix indicates that in the year 2023 itself, the appointment was made, and subsequently, the plaintiff subjected herself to retirement by rotation and sought re-appointment without any objection or protest. This sequence of events clearly demonstrates that the plaintiff had, at the relevant time, acknowledged and accepted the requirement of rotation. Therefore, at this stage, it is not open for the plaintiff to contend that the terms of appointment are being misinterpreted or misread, particularly when she had previously acquiesced to the very process she now seeks to challenge.

48. In any case, all these aspects require a full-fledged determination after allowing the parties to adduce evidence and make their submissions. It is also pertinent to note that the relief sought in the present application is, in essence, akin to the final relief itself, which the Courts normally eschew themselves from, save in circumstances where the non-grant of the relief of injunction would render to the dismissal of the suit itself. Reference may be made to the decision of this Court in the case of Vishal Gupta v. L&T Finance Ltd 2009 SCC OnLine Del 2806.

49. Any interim direction restraining the defendant-company at this stage may

lead to uncertainty and confusion among the shareholders, which would not serve the larger public interest. If the majority shareholders of the company decide to re-appoint the plaintiff, whether as the Director or in any other capacity, they must be allowed to exercise their discretion freely, subject to extant rules and regulations. The scales of convenience do not favor the plaintiff, as granting an injunction at this stage would significantly disrupt the preparations already underway for the scheduled AGM. On the contrary, such an injunction would not only cause considerable inconvenience to the defendant-company and its shareholders but would also amount to unwarranted judicial interference in a democratic and statutory exercise of corporate governance. The proposed course of action of the defendant-company is, *prima facie*, in consonance with the procedure followed during the earlier re-appointment of the plaintiff, and no apparent legal infirmity has been demonstrated. The challenge of the plaintiff to the Proposed Resolution is primarily based on the alleged misinterpretation of the terms of her appointment, and on these grounds, as noted earlier, a *prima facie* case justifying the grant of an injunctive relief has not been established.

50. In cases of this nature, unless the plaintiff conclusively establishes that the actions of the defendant-company are entirely *de hors* the legal provisions and patently erroneous, while also demonstrating a *prima facie* case and proving that the damages she may suffer are irreparable and cannot be compensated monetarily, the Court must exercise restraint in interfering with the internal management of the company. In the present case, upon a careful examination of the facts and arguments advanced, assessed on the anvil of the established legal principles governing injunctions, the Court is of the considered view that the plaintiff has failed to demonstrate that the essential conditions for granting an injunction stand satisfied in her favor. The plaintiff has neither demonstrated a *prima facie* case, nor has shown that the balance of convenience tilts in favour. Furthermore, the alleged injury, if any, is quantifiable in monetary terms, thereby negating any irreparable harm. In the absence of these fundamental elements, the grant of an injunction would be unwarranted.

51. In view of the aforesaid, the application being I.A. 2370 of 2025, stands dismissed.