

(2006) 09 RAJ CK 0015
In the Rajasthan High Court
Case No : Co. Application No. 51 of 2006
In Re: Aksh Optifibre Ltd.

Date of Decision : 22-09-2006

Acts Referred:

Companies Act, 1956 — Section 391, 394

Citation : (2009) 89 SCL 329

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Judgement

Shiv Kumar Sharma, J.—The applicant Aksh Optifibre Limited, filed this application under sections 391 and 394 of the Companies Act, 1956 (hereinafter shall be referred to as "the Act of 1956") for a direction of the Court as to the method of convening, holding and conducting the meeting of the equity shareholders, unsecured creditors and secured creditors of the applicant company, as to the notices and advertisement to be issued, for the purpose of considering and, if thought fit, approving with or without modification, the scheme of amalgamation between Aksh Broadband Limited (transferor Company) and Aksh Optifibre Limited (Transferee Company).

2. That the applicant company was incorporated on 19-3-1986 under the name and style of Aksh India Private Limited with the Registrar of Companies, NCT of Delhi and Haryana and was converted into a Public Limited Company on 13-3-1994 vide Special Resolution passed on 8-3-1994. Thereafter with effect from 7-2-2000 the transferee company shifted its registered office from the NCT of Delhi to the State of Rajasthan.

3. The position authorized issued, subscribed and paid-up capital of the applicant company as on date is detailed out in para No. 6 of the application.

4. The main objects of the applicant company as set out in the object clause of its Memorandum of Association, have been detailed out in para No. 5 of the application. The copy of the latest audited annual accounts of the applicant company has been submitted as Annexure C to the application.

5. That the petitioner company in the meeting of the Board of Directors approved the scheme of amalgamation in the resolution marked as Annexure D with the application.

6. Having heard the learned Counsel for the applicant, on perusal of the entire application, it is ordered that the separate meeting of the equity shareholders, unsecured creditors and the secured creditors of the applicant company for the purpose of considering and if thought fit, approving with or without modifications, the proposed scheme of amalgamation between Aksh Broadband Limited (Transferor Company) and Aksh Optifibre Limited (Transferee Company) shall be convened and held as per the following, schedule -

-----	Name	Date	-----
and		time	Place
-----			Equity
Shareholders	18-11-2006 F-1080 RIICO Industrial at 11.00 hrs.	Area Phase III Bhiwadi	(Raj.)
-----			Unsecured
creditors	18-11-2006 F-1080 RIICO Industrial at 13.00 hrs.	Area Phase III Bhiwadi	(Raj.)
-----			Secured
creditors	17-11-2006 Enkay Towers, Vanijiya 16.00 hrs.	Nikunj Udyog Vihar in Gurgaon.	-----

7. That at least 21 clear days before the days fixed for the meetings an advertisement convening the same and stating that copies of the said proposed scheme of amalgamation required to be furnished shall be furnished pursuant to Section 393 of the Act, 1956 and forms of proxy can be obtained free of charge at the office of the applicant company or from the office of its advocates be advertised once in the dailies, namely, English News paper Financial Express (New Delhi Edition) and Hindi News paper Dainik Navjyoti (Jaipur Edition).

8. That at least 21 clear days before the meetings to be held as aforesaid a notice convening the said meetings at the place and time aforesaid, together with the copy of the said scheme of amalgamation, a copy of the statement required to be sent u/s 393 of the Act, 1956 and the prescribed form of proxy, shall be sent by pre-paid post under certificate of posting addressed to each of the equity shareholders, unsecured creditors and secured creditors, whose meetings are to be held at the venue mentioned above.

9. That the advocates for the applicant company do, within the time as they consider necessary and at least within three days, file in Court the forms of the advertisement, the notices and statement to accompany the notices, and the same shall be settled by the Registrar of this Court.

10. Shri Vaibhava Gehlot, Advocate, Rajasthan High Court, Bench Jaipur shall be the Chairman of the meeting of the equity shareholders, unsecured creditors, and secured creditors to be held on 18-11-2006 and 17-11-2006 as aforesaid.

The applicant company shall deposit in the court or pay within one week from today an amount of Rs. 45,000 (Forty five thousand only) towards remuneration to the Chairman for presiding the meeting aforesaid. The applicant company shall also bear the expense of conveyance of the Chairman for the said meeting.

11. That the Chairman appointed for the meeting through applicant Company, do issue the advertisement and send out the notices of the meeting referred to above.

12. That the quorum for the said meetings shall be as per the provisions of the Act, 1956.

13. That voting by proxy be permitted, provided that a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting, is filed with the applicant company at their registered office, aforesaid not later than forty eight hours before the meeting scheduled to be held.

14. That the value of each equity shareholders, unsecured creditors and secured creditors shall be in accordance with the books of the applicant company where the entries in the books are disputed the Chairman shall determine the value for purposes of the meetings.

15. And it is further ordered that the Chairman do separately report to this Court the result of the said meeting within seven days of the conclusion thereof and the said report shall be verified by his affidavit.

With these directions the application accordingly stands disposed of.