(2024) 02 NCLT CK 0025

In the National Company Law Tribunal

Case No : C.P. No. 8/KB/2024

Navin Rai Vs Namchi Smart City Limited ?

Date of Decision : 07-02-2024

Acts Referred:
Companies Act, 2013 — Section 96, 97(1), 101
National Company Law Tribunal Rules, 2016 — Rule 11, 74

Citation : (2024) 02 NCLT CK 0025

Hon'ble Judges : Bidisha Banerjee, Member (J);D. Arvind, Member (T)

Bench : Division Bench

Advocate : Anil Kumar Dubey, Bidisha Achari,

Final Decision : Disposed Of

Judgement

D. Arvind, Member(Technical)

1. This Court convened via hybrid conferencing.

2. The present Company Petition has been filed under section 97(1) of the companies act, 2013 read with rules 11 and 74 of the NCLT Rules, 2016 by Public Servant (under the Government of Sikkim) Navin Rai holding 1 shares of the total issued, subscribed and paid-up shareholding, of the Respondent company, praying for the following reliefs:

a. Direction upon the Respondent No.1 Company to convene, hold and conduct the annual General Meeting for the year ended 31.03.2020, 31.03.2021, 31.03.2022, 31.03.2023 under the provision of sub-section (1) of section 97 of the Companies Act,2013.

b. And give such ancillary or consequential directions as the learned Tribunal thinks Expedient.

Submissions of the Petitioner:

3. The Petitioner submits that the Respondent No. 1 i.e. Namchi Smart City limited is a Company incorporated on 02/03/2017 under the provisions of the Companies Act, 2013 having its registered office at Mustafi Cottage Hotel

Penang, Second Floor 5 Ladenla Road Darjeeling West Bengal-734101.

4. The last Annual General Meeting of the Respondent Company was held on 30.09.2019 for the Financial Year ended on 31.03.2019 as per the Master Date of Respondent No 2.

5. The Petitioner submits that he approached the Company for holding of Annual General Meeting for the Financial Year ending on 31.03.2020, 31.03.2021, 31.03.2022, 31.03.2023. In respect thereof the Respondent Company informed the Petitioner that the Accounts of the company could not get audited on time.

6. The Petitioner states that since the Respondent Company could not get its accounts audited on time, the Annual General Meeting could not be held within stipulated time period for the Financial Year ending on 31.03.2020, 31.03.2021, 31.03.2022, 31.03.2023 as required under section 96 of the Companies Act, 2013.

7. The Petitioner being the shareholder has the right to receive his amount of contribution to the Company as a member. The rights of the Shareholders to receive their contribution of money could only be established when the Company is well functioning and fully compliant. The Respondent Company is "ACTIVE " company as reflects from its Master Data of Respondent No 2.

8. We have heard Authorized Representative appearing for the Petitioner and the Authorized Representative appearing for the Respondents, who submit that the accounts have now been got prepared and audited and as such the AGM can now be held.

9. Accordingly, we hereby, give the following directions in the exercise of the powers conferred on this tribunal under section 97(1) of the Companies Act, 2013 read with Rule 11 and Rule 74 of the National Company Law Tribunal Rules, 2016:

a. The Respondent company shall hold a General Meeting within 45 days from the date of this order, to finalise and approve the annual returns and financial papers for the FY 31.03.2020, 31.03.2021, 31.03.2022, 31.03.2023, in accordance with the procedure prescribed in the provisions of Companies Act, 2013 and Rules made therein. This meeting shall be considered as an Annual General Meeting for the purposes of the Companies Act 2013.

b. The Respondent Company is directed to give 21 days' clear notice in advance, either in writing or through electronic mode in the manner prescribed every member of the Company, legal representative of any deceased member or the assignee of an insolvent member, the auditors of the Company and every director of the Company in accordance with section 101 of the Companies Act, 2013, informing therein the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.

c. Necessary health protocol and Govt. Advisory , if any, shall be scrupulously followed.

d. The Respondent Company is being granted the liberty to approach this Tribunal in case there is any difficulty in holding the Annual General Meeting as directed aforesaid.

10. The C.P. No. 8/KB/2024 shall stand disposed of accordingly.

11. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Authorized Representative for information and for taking necessary steps.

12. Registry is also directed to send a copy of this order to the Registrar of Companies, West Bengal, Kolkata.

13. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities

14. File be consigned to the records.