

(2020) 01 GUJ CK 0021

In the Gujarat High Court

Case No : R/Official Liquidator Report No. 167 Of 2019

Ol Of Various Companies (In Liqn)

APPELLANT

Vs

NA

RESPONDENT

Date of Decision : 07-01-2020

Acts Referred:

Citation : (2020) 01 GUJ CK 0021

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : PJ Davawala

Final Decision : Disposed Of

Judgement

A.J.Desai, J

1. Speaking to minutes is allowed.

2. The words "Accordingly, present report is accepted in terms of prayer in Para 11(B) and 11(C)" mentioned in Para - 9 of the order dated 16.12.2019 are corrected and read as "Accordingly, present report is accepted in terms of prayer in Para 11(A), 11(B) and 11(C)"

3. Remaining part of the order stands as it is. Registry is directed to issue a fresh writ of the order accordingly.

4. Speaking to Minutes stands disposed of accordingly. Direct Service is permitted.

Date : 16/12/2019

1. By way of present report, the Official Liquidator has prayed as under :

"[A] The Official Liquidator may be permitted to engage two qualified company secretaries as mentioned as Para - 08 (A) of this report names are (1) Shri Sumit J. Patel, (2) Ms. Divya Nai and Trainee Company Secretary as mentioned at Para

- 08(C) of this report names are (1) Ms. Pooja Thakkar

(2) Ms. Sakshi Buhadev, as per the scheme and terms and conditions for appointment of Company Secretaries and Trainee Company Secretaries as approved by this Hon'ble Court vide order dated 27.10.2010 passed in OLR No. 119 of 2010 for a period of one year, which can be further extended up to one year by the office of Official Liquidator upon review of their performance or such further period as may be directed by the Hon'ble Court in this regard.

[B] The Official Liquidator may be permitted to make payment of monthly salary of Rs.25,000/- for Company Secretaries and Rs.10,000/- for Trainee Company Secretaries respectively as mentioned in Para - 02 of this report from the fund available with the office of Official Liquidator under the head of "Company paid staff salary fund" of Common pool fund.

[C] In case, non-joining or resignation / dropout of the selected candidates, the Official Liquidator may be permitted to operate the waiting list as given at Para 08(B) of this report to fill the vacancy as and when such contingency may arise in future."

2. Heard Ms. Davawala, learned advocate for the Official Liquidator, apprised that this Court, vide order dated 27.10.2010 passed in OLR No. 119 of 2010, has been pleased to approve the scheme of appointment of Company Secretaries and Trainee Company Secretaries and after following due procedure as laid down in the said scheme, the Office of Official Liquidator had appointed Company Secretaries and Trainee Companies Secretaries for the office of the Official Liquidator in compliance of the orders passed by this Court. However, at present, there is vacancy of two Company Secretaries and ten Trainee Company Secretaries in the office of the Official Liquidator.

3. The Official Liquidator filed report being OLR No. 96 of 2019 inter-alia seeking permission to fill aforesaid vacancies in the office of the Official Liquidator. After considering said report, this Court, vide order dated 21.08.2019 passed in OLR No. 96 of 2019, has been pleased to permit the Official Liquidator to engage the appointment of two qualified Company Secretaries on a full time basis and ten Trainee Company Secretaries.

4. In Compliance of the aforesaid order, the Official Liquidator issued vacancy circular dated 03.03.2019 for appointment of Company Secretaries and Trainee Company Secretaries and same were forwarded to the ICSI, Ahmedabad Chapter, Institute of Chartered Accountant of India, Institute of Cost and Works Accountant of India. Office of Registrar of Companies, Gujarat Regional Director (NWR), Registrar of NCLT, Ahmedabad Bench and High Court of Gujarat and with a request to display vacancy circular on their notice boards as well as also webcast on their respective website. She informed that pursuant to the said vacancy circular, the office of the Official Liquidator received total twenty six applications, out of which seventeen application for the the post of Company Secretaries and nine application for Trainee Company Secretaries.

5. Ms. Davawala, learned advocate informed that after scrutiny of the said application, the office of Official Liquidator had under taken the interview for selection of the Company Secretary and Trainee Company Secretaries on 24.10.2019, by constituting a selection committee, which included Registrar, (Recruitment), this Hon'ble Court, as a Chairman and Official Liquidator and Chairman ICSI, Ahmedabad Chapter as members of the Selection Committee.

6. The Selection Committee conducted interview on 24.10.2019 and they have evaluated the aspiring candidates and assigned mark on the basis of educational qualification, skills, technical expertise, etc. of the candidates and accordingly, they have sort listed the candidates for the Company Secretaries and Trainee Company Secretaries.

7. Ms. Davawala, learned advocate informed that there is increasing work load in this office day by day approximately 386 Companies are under liquidation and in order to ensure smooth functioning of the work this Office required to appoint two Company Secretaries and two Trainee Company Secretaries. The Office has also benefited in the past by employing Company Secretaries for the smooth functioning of the work and it is a learning opportunity for the Company Secretaries and Trainee Company Secretaries gives them good exposure in the area of Winding up of Companies under the provision of Companies Act, 1956 and Court compliance related work in the office of Official Liquidator.

8. Ms. Davawala, learned advocate, also clarified that the appointment of Company Secretaries and Trainee Company Secretaries is purely on contractual and ad-hoc basis temporary in nature and the office of Official Liquidator and the Hon'ble High Court reserve the right to terminate the services of the Company Secretaries and Trainee Company Secretaries, in case any of the appointed candidates found unsuitable in performing their duties or functioning the office work.

9. Having heard learned advocate appearing for the Official Liquidator and upon perusal of the report and considering facts that there is need of Company Secretaries and Trainee Company Secretaries for smooth functioning of the office of Official Liquidator to coup up the increasing workload. Accordingly, present report is accepted in terms of prayer in Para 11(B) and 11(C).

10. Accordingly, the report of the Official Liquidator is disposed of.