(2023) 01 NCLT CK 0047

In the National Company Law Tribunal

Case No : C.P. No. 233/KB/2022

Rajesh Kumar Sinha Vs Paschimbanga Agri Marketing Corporation Limited ?

Date of Decision : 20-01-2023

Acts Referred:
Companies Act, 2013 — Section 96, 97, 97(1), 101, 137
National Company Law Tribunal Rules, 2016 — Rule 74

Citation : (2023) 01 NCLT CK 0047

Hon'ble Judges : Rohit Kapoor, Member (J);Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Rupa Gupta, Aditi Jhunjhunwala

Final Decision : Disposed Of

Judgement

Balraj Joshi, Member (Technical):

1. The present Company Petition has been filed by a member of the company, under section 97 of the Companies Act, 2013, praying for the following reliefs:

a. Direction upon the Respondent No. 1 Company to convene and conduct the Annual General Meeting for the year ended on 31st March, 2021 under the provisions of Sub-Section (1) of Section 97 of the Companies Act, 2013.

2. The Respondent No.1 is the company i.e. Paschimbanga Agri Marketing Corporation Limited, Kamal Guha Krishi Vipanan Bhawan, 729 Anandapur, P.O. & P.S. Anandapur, E.M Bypass Road, Near Monobikash Kendra, Kolkata – 700 107.

3. The Petitioner states that the Company’s Annual General Accounts, herein Respondent No. 1, was not audited as on 31.03.2021 within time stipulated pursuant to the Section 137 of the Companies Act, 2013.

4. The Petitioner states that as the company herein Respondent No. 1, could not get its account audited on time therefore, the Annual General Meeting could not be held on time for the Financial Year ended on 31st March, 2021 as required under Section 96 of the Companies Act, 2013.

5. The Petitioner also states that no extension of time for holding of Annual General Meeting of the Company was sought by the Respondent No. 1 Company from Registrar of Companies, Kolkata, Respondent No. 3 herein above.

6. The Applicant also states that as the company, herein respondent no. 1 could not hold its Annual General Meeting on or before the stipulated time as per the provision of Section 96 of the Companies Act, 2013 therefore, the Company has not filed its Audited Accounts and Annual Returns with the Registrar of Companies, Kolkata, herein Respondent No. 3 and is not able to comply with Statutory Requirements of Companies Act, 2013.

7. The petitioner states that due to the aforesaid circumstances, the Annual General Meeting (AGM) of the Respondent No.1 company could not be held for the financial year ended on 31st March, 2021, therefore the petitioner prays for a direction to hold the Annual General Meeting.

8. We have heard learned Counsel appearing for the Petitioner and the learned Counsel appearing for the Respondents. Section 97 of the Companies Act 2013 empowers this Tribunal to direct holding of a Annual General meeting of a company.

9. We, hereby, give the following directions in exercise of the powers conferred on this Tribunal under section 97 of the Companies Act, 2013:

a. Respondent No.1 Company shall call, convene and hold a physical meeting of its members on or before 28.02.2023 to approve the Annual Financial Statements for the year 2020-21;

b. Notice shall be issued to all the members in accordance with section 101 of the Companies Act, 2013.

c. Such a General meeting shall be deemed to be an AGM of the Company;

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

e. The Company shall file the necessary returns of various compliances in this regard at the earliest possible.

10. The C.P. No. 233/KB/2022 is disposed of accordingly.

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

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

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

14. File be consigned to the records.

