

DIVISION BENCH
COURT - II

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-II
KOLKATA**

C.P. /320(KB)2022

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 07TH FEBRUARY, 2023, 02:00 P.M

IN THE MATTER OF	MURALEEDHARAN K U VS RADHAGOBIND COMMERCIAL LIMITED
UNDER SECTION	SEC.97(1) APPLICATION UNDER ANY OTHER PROVISIONS

Counsel /Authorised Representative appeared physically/through vide conference

For petitioner : Mr. Uttiyo Mallick, Adv.

“Corrigendum”

Upon being mentioned, in the order dated 23rd January, 2023, the word “Virtual” shall be inserted before the word ‘physical’ in para 9(a) first line in the following manner:-

“ (a) Respondent Company shall call, convene and hold a ‘**virtual /physical**’ meeting.....”

The Rest of the order shall remain unchanged.

**Balraj Joshi
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**



DIVISION BENCH
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O-216

**NATIONAL COMPANY LAW TRIBUNAL
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CP/320(KB)2022

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 23RD JANUARY, 2023, 12:30 P.M

IN THE MATTER OF	MURALEEDHARAN K U VS RADHAGOBIND COMMERCIAL LIMITED
UNDER SECTION	SEC. 97(1) APPLICATION UNDER ANY OTHER PROVISIONS

Counsel/Authorised Representative appeared physically/through video conference:

For petitioner : Mr. Uttiyo Mallick, Adv.
Ms. Shalini Dey, Adv.

O R D E R

1. Ld. Counsel for the petitioner present.
2. This application has been filed by the petitioner under sections 459(1)(a) and 459(1)(b) of the Companies Act, 2013 read with section 97(1) of the Companies Act, 2013 praying for declaring the Annual General Meeting dated 20/09/2021 as an adjourned Annual General Meeting and thereafter directing the respondent company to hold the final Annual General Meeting only for the purpose of adoption of the audited financial accounts of the company for the financial year ended 31st March, 2021. The application is supported by an affidavit duly affirmed by the applicant.
3. The applicant is a shareholder of **Radhagobind Commercial Limited**, a company limited by shares, having **CIN: L51909WB1981PLC033680** and holding 8618 shares.
4. It is stated that the respondent company in compliance of the Regulation 30 of SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 (in short "**Regulations 2015**") issued notice on 17/08/2021 for convening 40th Annual General Meeting of the members of the respondent company to be held on 20/09/2021 through Video Conferencing (VC) / Other Audio - Visual Means (OAVM) to transact the



businesses mentioned in the said notice, which forms **Annexure “B”** to the application. The shareholders of the respondent company did not approve the resolution to receive, consider and adopt the audited financial statements of the respondent company for the financial year ended 31st March, 2021 for the reasons of inclusion of certain directors of their choice in the Board of Directors. Subsequently, on 15/09/2021 the Company Secretary in compliance under Regulation 30 of the said Regulations, 2015 disclosed that the respondent company was in receipt of a letter dated 13/09/2021 to call for an Extra-Ordinary Annual General Meeting (in short **“EoGM”**) of the respondent company, which forms **Annexure – “D”** to the application.

5. It is further submitted that the EoGM was held on 25/10/2021 wherein the resolution no.1 was not passed with majority. Rest of the resolution nos. 2 to 8 were passed with majority. However, resolution no.5 was not implemented, as such, Mr. Abhishek Choudhary could not be appointed as the Managing Director and Chief Finance Officer. It is submitted that the new board members as appointed, did not pass the resolution pertaining to the adoption of audited financial accounts of the respondent company for the financial year ended 31/03/2021.
6. It is also stated in the application that the three directors, who were appointed by way of majority votes vide the EoGM held on 25/10/2021, namely, Smt. Preeti Chaudhari, Smt. Kusum Lata and Sh. Surender Pal Arora had resigned from the directorship of the company on 31/05/2022. Upon their resignation, three new board members, viz., Ms. Leelamma Thenumkal Joseph (DIN: 03407620), Mr. Thengunthara Sujjesh (DIN: 09033432) and Mr. Louis Jose (DIN: 09559240) have currently taken charge of the Board.
7. It is stated that the respondent company in compliance with section 137(1) of the Companies Act, 2013 has proceeded with the provisional filing of such unadopted financial statements along with the required documents with the Registrar of Companies on 06/07/2022. Section 137(1) of the Companies Act, 2013 clearly states that financial statements can only be adopted in an Annual General Meeting.
8. Heard the Ld. Counsel for the petitioner and perused the petition and its annexures.
9. Having considered the submission and upon perusal of records, we give the following directions in exercise of the powers conferred on this Tribunal under section 97 of the Companies Act, 2013:
 - (a) Respondent Company shall call, convene and hold a physical meeting of its



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members on or before **07/03/2023** to approve the final Annual Financial Statements for the Financial Years ended 31st March, 2021;

- (b) Notice shall be issued to all the members in accordance with section 101 of the Companies Act, 2013;
- (c) Such meeting shall be deemed to be an AGM of the Company;
- (d) If necessary, COVID-19 protocols and precautions in terms of directions issued by the Government and other public authorities shall be strictly adhered to at such meeting;
- (e) The Respondent Company shall be at liberty to approach this Tribunal in case there is any difficulty in holding the Annual General Meeting as directed.

10. The **CP/320(KB)2022** 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 Ld. Authorised Representative/Ld. Counsel for information and for taking necessary steps.
12. The 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.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)