

**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE JUSTICE MOUSHUMI BHATTACHARYA

WRIT PETITION NO: 40530 OF 2022

Between:

Anandram Sarda and Associates, Chartered Accountants, Proprietor, Anandram Sarda S/o Shri Ramnarayan Sarda Age. 44 Years, Occ Professional, Having its office at 202-B, 2nd Floor, Highness Maurya, 8-2-601/P,7 and 10, Road No. 10, Banjara Hills, Hyderabad, Telangana-34.

...PETITIONER

AND

1. Union of India, Represented by its Principal Secretary, Ministry of Corporate Affairs, New Delhi.
2. Registrar of Companies, Telangana, Represented by its Registrar, 2nd Floor, Corporate Bhavan, GSI Post, Nagole, Bandlaguda, Hyderabad - 500 068
3. Regional Director (Southern Eastern Region), Ministry of Corporate Affairs, 3rd Floor, Corporate Bhavan, GSI Post, Nagole, Bandlaguda, Hyderabad - 500 068.
4. M/s. Sloyd Ventures Private Limited, Represented by its Director, Having its office at 4th Floor, H. No. 1-11-251/19/A, Jayalakshmi Towers Motilal Nehru Nagar, Begumpet, Hyderabad, Telangana - 500016

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ order or direction more particularly one in the nature of a writ of certiorari by calling for records in Ref No. 19(73)RD(SER)/Sec. 140/T87555421/2022/3830 dated 12.10.2022, on the file of the Regional Director i.e. Respondent No. 3, and to quash the same and issue a consequential mandamus declaring the same as arbitrarily illegal, contrary to law and in violation of Article 14, 19 of the Fundamental Rights guaranteed under Indian constitution and contrary to the provisions of the Chartered Accountancy Act and Companies Act.

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct Respondent No. 4 to not to appoint any new auditor in pursuance to the impugned order passed by the Respondent No. 3, if appointed the same to be cancelled.

IA NO: 3 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to amend the prayer in the writ petition from: It is therefore prayed that this Hon'ble Court may be pleased to issue a writ order or direction more particularly one in the nature of a writ of certiorari by calling for records in Ref No. 19(73)RD (SER)/Sec. 140/ 187555421/2022/3830 dated 12.10.2022, on the file of the Regional Director i.e. Respondent No. 3, and to quash the same and issue a consequential mandamus declaring the same as arbitrarily illegal, contrary to law and in violation of Article 14, 19 of the Fundamental Rights guaranteed under Indian constitution and contrary to the provisions of the Chartered Accountancy Act and Companies Act and pass such other order or orders as this Hon'ble Court deems fit in the interest of justice. To It is therefore prayed that this Hon'ble Court may be pleased to issue a writ order or direction more particularly one in the nature of a writ of certiorari by calling for records in Ref No. 19(73)RD (SER)/Sec. 140/ T87555421/2022/3830 dated 12.10.2022, on the file of the Regional Director i.e. Respondent No. 3, and to quash the same and issue a consequential direction to set aside the Resolution dated 19.10.2022 passed by the General Body of the Respondent No. 4 Company and other consequential steps arbitrarily illegal, contrary to law and in violation of Article 14, 19 of the Fundamental Rights guaranteed under Indian constitution and contrary to the provisions of the Chartered Accountancy Act and Companies Act.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

suspend the order vide Ref No. 19(73)RD(SER)/Sec.140/ T87555421/2022/53830 dated 12.10.2022, on the file of the Regional Director i.e. Respondent No. 3.

IA NO: 4 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Resolution dated 19/10/2022 passed by the General Body along with other consequential steps taken by Respondent No. 4 Company in pursuance to the impugned order pending disposal of this Writ Petition.

Counsel for the Petitioner : SRI MAYUR MUNDRA

**Counsel for the Respondents No.1to3 : SRI N.V.R.RAJYALAKSHMI,
rep., SRI GADI PRAVEEN KUMAR,
DY.SOL.GENERAL**

Counsel for the Respondents No.4 : --

The Court made the following: ORDER

HON'BLE JUSTICE MOUSHUMI BHATTACHARYA

WRIT PETITION No.40530 of 2022

Sri Mayur Mundra, learned counsel appearing for the petitioners.

Ms.NVR Rajya Lakshmi, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India for the respondent Nos.1-3.

ORDER:

The present Writ Petitions have been filed against the orders dated 12.10.2022 passed by the respondent No.3/Regional Director (Southern Eastern Region) under section 140(1) of The Companies Act, 2013.

2. By the impugned order, the application filed by the Company for appointment of a new auditor was allowed. The new auditor was to be appointed in place of the existing auditor. The last paragraph of the impugned order also records that the previous auditor who has suspected fraud is at liberty to report the same by filing ADT-4 with the Ministry. The petitioner before this Court is the auditor who was removed by the impugned order passed by the respondent No.3.

3. Learned counsel appearing for the petitioner submits that the writ petition was filed since the petitioner does not have any remedy to challenge the impugned order.

4. This argument is misplaced since sub-rule (1) of Rule 78 of The National Company Law Tribunal Rules, 2016 ('NCLT Rules') clearly

provides that an application may be filed by the director on behalf of the company or the aggrieved auditor to the Tribunal in Form NCLT-1. Rule 78(2) and (3) provide for consequential reliefs available to the aggrieved person and for change of auditor. The Tribunal is the National Company Law Tribunal. Further; the Form NCLT-1 is a part of the NCLT Rules and is a prescribed mode under which an application is to be filed.

5. The argument made on behalf of the petitioner that Rule 78 is only for the purpose of fees is misconceived as is evident from the NCLT Rules itself.

6. This Court finds no reason to grant relief to the petitioner since the petitioner has an efficacious remedy available to it under the NCLT Rules.

7. W.P.No.40530 of 2022, along with all connected applications, is accordingly dismissed.

Interim orders, if any, shall stand vacated. There shall be no order as to costs.

SD/-V.KAVITHA
ASSISTANT REGISTRAR

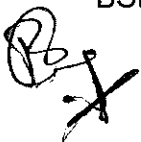
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SECTION OFFICER

To,

1. One CC to SRI MAYUR MUNDRA, Advocate. [OPUC]
2. One CC to SRI GADI PRAVEEN KUMAR, (Deputy Solicitor General of India), High Court for the State of Telangana at Hyderabad. [OPUC]
3. Two CD Copies.

BSK/BSK



HIGH COURT

DATED:29/11/2024



ORDER

WP.No.40530 of 2022

**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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