

JS/V

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
SUO MOTU CRIMINAL PIL NO.5 OF 2015**

High Court on its own Motion	... Petitioner
<i>Versus</i>	
The Registrar of Companies & Ors.	... Respondents

None for the Petitioner.

Ms. Rebecca Gonsalves, with Mr. S. Ramakantha, Joint Director
and Mr. S.P. Kumar, RoC present for Respondents Nos. 1 to 4.

Ms. R.M. Gadhvi, APP for Respondent No.5, State of Maharashtra.

Mr. Nikhil Sakhardande, with Mr. Adhip Iyer, i/b. M/s. AZB &
Partners for Respondent No.7.

Mr. Umesh R. Gound, API, and P.C. 03456/Bagwe, Cyber Police
Station C.B., CID, Mumbai present.

Mr. Rajesh Singh, with Bhupendra Singh, for Respondent No.8.

**CORAM: G.S. PATEL &
A.K. MENON, JJ.**

DATED: 25th November 2016

PC:-

1. This *suo motu* criminal PIL was assigned to this special bench by an order of the Hon'ble the Chief Justice. By previous orders, we sought an Affidavit from Respondents Nos. 1 and 3 on behalf of the Government of India in regard to the measures proposed in relation to the issuance of the Digital Signature Certificates (DSCs) and security protocols at the portal of the Ministry of Corporate Affairs, Government of India and of the Registrar of Companies.

2. We now have an Affidavit dated 23rd November 2016 of Shri A.K. Chaturvedi, the Regional Director, Western Region, Ministry of Corporate Affairs, Government of India. In this he explains that the existing functionality of the MCA website, known as MCA21, has been upgraded from v1 to an improved version 2. The migration is now complete. The upgraded software is fully operational and stable.

3. He points out that the Ministry of Communication and Information Technology published Identity Verification Guidelines Version 1.1. on 14th August 2015. All certifying authorities were required to adhere to these guidelines while issuing DSCs. A proper verification of document was required before DSCs were issued. This made the issuance of DSCs more secure. On 11th March 2016, the Ministry of Communication and Information Technology published version 1.2 of these guidelines. A copy is annexed. This sets a more exacting standard. At present, the MCA portal uses Class 2 DSCs. These identity verification guidelines Version 1.2 for Class 2 DSCs are also to be strictly followed. Thus the process of issuing DSCs is much more secure.

4. We have noted this because in the case at hand, the facts showed that a DSC was issued or procured without adequate verification. This was the genesis of the fraudulent alteration of corporate records. This part of the underlying issue, viz., heightened security and checking in the issuance of DSCs, has now been satisfactorily addressed.

5. Mr. Chaturvedi also points out that it is not possible to modify corporate records merely by logging into the RoC website. Electronic forms must be submitted and these must carry the digital signatures of a director or another authorised signatory. The MCA21 system is operated on a Build-Own-Operate-Transfer (BOOT) basis by Infosys Ltd. There is a supervising unit known as the Project Monitoring Unit or PMU appointed by the Ministry and, in addition, the Ministry has an agreement dated 5th February 2014 with the National Institute for Smart Government for setting up the PMU for the MCA21 project. The PMU closely monitors the system, provides technical inputs and thus there is an assurance that contractual and technical provisions are complied with. Infosys itself has deployed sufficient security measures after due audit in conformity with a standardized testing and quality certification process issued by the Directorate in question. This Directorate is attached to the department of Ministry of Communication and Information Technology. Its remit covers a wide range of responsibilities including testing, calibration, information technology and certification. The audit is conducted under the requirements set up out in Request for Proposal (RFP). A security audit was conducted before the MCA21 version 2 was launched on March 2016.

6. Having heard Ms. Gonsalves for Respondents Nos. 1 to 3 and Mr. Sakhardande for Infosys Ltd. we are satisfied that no further intervention by the Court is now called for. The authorities concerned appear to have satisfactorily addressed themselves towards (i) ensuring heightened scrutiny and security in the issuance of DSCs; and (ii) enhanced security in updating and

creating ROC records. The apprehensions expressed in the orders that led to the filing of the Suo Motu Criminal PIL are now sufficiently addressed.

7. The statements made by Mr. Chaturvedi in the Affidavit are noted and accepted.

8. The Suo Motu Criminal Public Interest Litigation stands disposed of in these terms. No costs.

(A.K. MENON, J.)

(G. S. PATEL, J.)