

OD-4,5 & 6

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1183/2021

NAVATAN COMMERCIAL PRIVATE LIMITED AND ANR.
Versus
REGISTRAR OF COMPANIES WEST BENGAL AND ANR.

&

WPO/1184/2021

KHATTU HOUSING SOLUTIONS PRIVATE LIMITED AND ANR.
Versus
REGISTRAR OF COMPANIES WEST BENGAL AND ANR.

&

WPO/1186/2021

M/S. POPULAR AGENCIES PRIVATE LIMITED AND ANR.
Versus
REGISTRAR OF COMPANIES WEST BENGAL AND ANR.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 8th December, 2021.

*Appearance :
Mr. Jatinder Singh Dhatt, Adv.*

Mr. Avinash Kankani , Adv.

The Court: The writ petitioner is aggrieved by notice dated 11th October, 2021, issued by the Respondent no.1 under Section 206(4) of

the Companies Act, 2013. Counsel for the petitioner would argue that the notice is defective and contrary to the provision of Section 206 of the Act. It is firstly argued that a decision under Section 206(4) of the Act cannot be taken without calling for document and assigning reasons. It is only after recording satisfaction that a proceeding under Section 206 can be taken out.

In respect of sub Clause (iv) of Section 206, it is argued that without complying with sub Section (i) the proceedings under sub Section (iv) are rather premature.

It is also submitted that the notice and enquiry is also without jurisdiction since it involves matter that are more than eight years old. The petitioner relies upon Section 128 of sub Section (v) of the Companies Act, 2013 in this regard.

Counsel for the respondent vehemently opposes the contention of the petitioner.

He submits that the proceedings under Section 206(4) are wholly independent of the proceeding under Section 206 (1). It is submitted that the notice issued to the petitioner, is in terms of the statute and contains reasons and findings and consequently there is prima facie satisfaction of impropriety of the petitioner.

This Court is of the view that the respondents must take a suitable decision on either the representation dated 11th October, 2021

and the petitioner's argument as contained in the writ application in course of adjudication and passing the final order.

The petitioner shall be entitled to file appropriate reply to the notice issued under Section 206(4) of the Companies Act, 2013 within a period of three weeks from date.

Upon receipt of such reply the Registrar shall take appropriate steps in terms of the Act of 2013 and the applicable rule thereunder and dispose of the said proceedings within a period of two months thereafter.

It is made clear that this Court has not entered into the merits of the notice issued to the petitioner or the petitioner's reply thereto. The petitioner may take out appropriate proceedings against the final order, if otherwise maintainable and if so advised.

The writ petition is disposed of accordingly.

(RAJASEKHAR MANTHA, J.)