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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 8th March, 2021

+ **W.P.(C) 7108/2020**
DEEPAK KHOSLA Petitioner
Through: Mr. Deepak Khosla, Advocate.

versus

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
& ORS. Respondents

Through: Mr. Chetan Sharma, ASG with Mr.
Dev P. Bhardwaj, CGSC, Mr. Amit
Gupta, Mr. Vinay Yadav, Mr. Sahaj
Garg, Mr. Akshay Gadeock & Mr.
R.V. Prabhat, Advocates for UOI.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by the Petitioner seeking provision of open or virtual links for attending hearings in the National Company Law Tribunal (*hereinafter* 'NCLT') and National Company Law Appellate Tribunal (*hereinafter* 'NCLAT').
3. The case of the Petitioner is that the NCLT and NCLAT ought to have an open link where parties who are interested can join the proceedings.
4. It is submitted by Mr. Khosla, Id. Counsel that the NCLT and NCLAT use the CISCO Webex platform. He submits that they should satisfy the definition of an '*open Court*' and permit the Petitioner to witness all

proceedings relating to the Delhi Gymkhana Club or other matters of interest. The prayer in the writ petition is as under:

- “i. To issue a writ of mandamus to Respondent Nos. 1 and 2 to allow the Petitioner to witness all proceedings of interest to him, especially, but not limited to, Company Appeal (AT) No. 94 and 95 of 2020 titled as ‘MCA vs. Delhi Gymkhana Club Ltd.’ before Respondent No. 1, and Company Petition No. 71 of 2020 titled as ‘MCA vs. Delhi Gymkhana Club Ltd.’ before Respondent No. 2, or any such proceeding which peak his interest in witnessing the same;*
- ii. To issue a writ of mandamus to Respondent Nos. 1 and 2 to allow /provide links at any time from start of Court hours at 10:30 AM onwards, and not simply at the penultimate moment, when the matter is taken up for hearing.*
- iii. And pass such other order or further order or orders as this Hon’ble Court may deem fit and proper under the circumstances of the case.”*

5. On behalf of NCLT and NCLAT, the latest additional affidavit which has been filed by the Deputy Registrar of the NCLAT shows that the NCLT and NCLAT are both using a bandwidth of 100 MBPS. It is submitted that in order to regulate the conduct of virtual hearings and to maintain discipline, it is necessary to regulate the links which are provided to counsels.

6. Mr. Chetan Sharma, Id. ASG relies upon circular dated 6th November, 2020 issued by the Supreme Court in respect of links which are being given to counsels and submits that a similar procedure for regulating the virtual hearings is being adopted in these tribunals.

7. After perusing the affidavits filed on behalf of the NCLT and NCLAT and the request of the Petitioner, this Court is of the opinion that forums like the NCLT and NCLAT, which have a high quantum of work, ought to be permitted to regulate their own procedure so long as the same is not arbitrary. In virtual hearings, there is a possibility of enormous disturbance if there is no regulated entry.

8. The submission of the NCLT and NCLAT is primarily that whenever there are links which are required, there are separate 'active' and 'viewing' links which are shared with the parties. Another concern has been that lawyers mention matters which may not have been listed on the particular date which causes enormous disruption in the hearings if open links are given. Further, it is submitted that the Delhi Gymkhana Club matter has already been disposed of by the NCLT and NCLAT.

9. Considering the overall facts and circumstances, it is directed that the NCLT and NCLAT may regulate their own procedure for virtual hearing platforms so long as it is ensured that if any particular party requests for a link, the same is considered in a fair, transparent and non-arbitrary manner. To the extent possible, parties would be permitted to view the proceedings. Those parties who join the proceedings are expected to maintain the discipline of virtual hearing and not cause unnecessary disturbance during the same.

10. The affidavit filed, in any case states that very soon, the NCLAT would also start physical hearing of matters. Since virtual hearings are a measure adopted to ensure that Tribunals and Courts are functioning during the COVID-19 pandemic, the Petitioner, if he wishes to join any particular hearing, may write an e-mail at least 24 hours in advance to the Deputy

Registrar of the NCLT and NCLAT. The same shall be considered in accordance with the NCLT and NCLAT's own procedure, in a fair, transparent and non-arbitrary manner.

11. The petition is disposed of in the above terms. All pending applications are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

MARCH 8, 2021

Rahul/C

