

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA No. 29872 of 2024

Shree Baidyanath Ayurved Bhawan Pvt. Ltd. & Anr.
Vs.
Union of India & Ors.

For the writ petitioners	:-	Mr. Jishnu Chowdhury, Sr. Adv. Mr. S. Basu, Adv. Mr. S. Tarafdar, Adv. Ms. Priyanka Jain, Adv. Ms. Swastika Mukherjee, Adv.
For the respondent nos. 1 to 4	:-	Mr. Subhankar Chakraborty, Adv. Ms. Oishani Mukherjee, Adv. Ms. R. Manna, Adv.
For the respondent nos. 5 and 6	:-	Mr. Suddhasatva Banerjee, Adv. Mr. Abhishek Kabir, Adv. Mr. A. Chakraborty, Adv. Mr. Naresh Kumar Sejvani, Adv.
Heard on	:-	26.02.2025
Judgment on	:-	26.02.2025

Amrita Sinha, J.:-

1. The petitioners are aggrieved by the communication made by the Assistant Registrar of Companies on 1st November, 2024 under Section 206(4) of the Companies Act, 2013 to furnish information and explanations and certified copies of documents in respect of the petitioners' company.

2. It has been submitted that for passing any order under Section 206(4) of the Act, satisfaction of the Registrar is required to be recorded. The provisions of the aforesaid Section are very stringent and it casts a duty upon the Registrar to record its satisfaction for proceeding any further on receipt of any complaint from any party whatsoever.

3. In support of the submission that satisfaction is required to be recorded in the order passed under Section 206(4), reliance has been placed on the judgment delivered by an Hon'ble Single Judge of the Mumbai High Court in Writ Petition No. 3442 of 2018 on 20th June, 2024 in the matter of **HDFC Bank Limited -vs.- Registrar of Companies Mumbai and Ors.** wherein the Court held that order under Section 206(4) of the Act should make out a prima facie case as to the information called for, and whether the same relates to the business of a company being carried on for fraudulent and unlawful purpose.

4. It has been submitted that the company is running strictly in accordance with the provisions of the Companies Act and the company is not run fraudulently or for any unlawful purpose.

5. Prayer has been made for setting aside the impugned communication dated 1st November, 2024.

6. Learned advocate representing the Union of India submits that the petitioner has already submitted to the jurisdiction of the Assistant Registrar of Companies and sought time for filing the reply apropos the

communication dated 1st November, 2024 impugned in the instant writ petition.

7. It has been submitted that the inquiry is being made in accordance with the direction of the Ministry of Corporate Affairs. The petitioners have been provided all details against which a response has been sought for. The inquiry is at a very preliminary stage and the petitioners ought not to be aggrieved by the subject communication where the petitioners have been directed to furnish documents/information and details as has been specified in the annexures forwarded along with the subject notice.

8. Learned counsel representing the respondent nos. 5 and 6, the complainants, submits that the inquiry is being conducted in terms of the first proviso of Section 206(4). The petitioners have been made aware about the complaint. The petitioners have deliberately suppressed the charges levelled against the company.

9. Reliance has been placed on the judgment delivered by the Hon'ble Division Bench of this Court in the matter of **Gopal Kumar -Vs- State of West Bengal** reported in **2015(1) CHN (Cal) 445** wherein the Court held that if the language of the Section is clear and the legislature did not want the authority to record its satisfaction or reasons in support thereof; then there is no requirement of recording the satisfaction in the subject order. It has been argued that as the inquiry is being conducted as per the direction of the Central Government there is no requirement of recording any reasons. The Act does not require separate recording of satisfaction in the order for

conducting the inquiry. The Court ought not to implant words in the Section.

10. Prayer has been made to dismiss the instant writ petition.

11. I have heard the submissions made on behalf of all the parties.

12. Section 206 prescribes the power to call for information, inspect books and conduct inquiries. The first proviso of Section 206(4) mentions that the Central Government may, if it is satisfied that the circumstances so warrant, direct the Registrar or any inspector appointed by it to carry out the inquiry.

13. The Central Government has directed the Registrar of Companies to conduct the inquiry to ascertain as to whether the company is being run in accordance with the provisions of law or not. The issues on which the company is required to respond are also made known to the company. The company appears to have filed the instant writ petition by suppressing various documents namely the list of charges and allegations levelled against the company.

14. The petitioners cannot claim to be an aggrieved person, at this stage, as only notice has been issued calling upon the company to furnish certain information/documents and details and no precipitative step has been taken against the petitioners.

15. It appears that by the impugned communication dated 1st November, 2024 the petitioners have only been directed to furnish copies of certain

documents, information and details in respect of the documents forwarded to the petitioners along with the subject notice annexed as annexure A to the same. The petitioners are very much aware with regard to the response that has been called for by the authority.

16.As regards the submission with regard to recording of reasons, the judgment in the matter of Gopal Kumar (supra) lays down that there is no requirement of recording separate reasons if the Act does not provide for recording the reasons. The issuance of the notice presupposes that the Central Government was satisfied that an inquiry was called for. The petitioners are completely aware with regard to the allegations/charges to which reply has been sought for.

17.The judgment referred to by the petitioners in the matter of HDFC Bank Limited (supra) does not help the petitioners primarily because in the said matter the Registrar of Companies issued notice under Section 206(4). In the instant case notice has been issued by the Registrar of Companies as per the direction of the Central Government in accordance with the first proviso to Section 206(4).

18.As of now, it does not appear that the petitioners have been prejudiced in any manner whatsoever. The petitioners have already sought extension of time for filing the reply. It will be open for the petitioners to file the reply as directed by the impugned communication.

19.In view of the above, no relief can be granted to the petitioners in the instant case.

20.The writ petition fails and is hereby dismissed.

21.Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)