

NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.201
(MP) CP 20 of 2020

Order under Section 213,241-242 of Co.Act,2013

IN THE MATTER OF:

Ram Charan Pal & Anr
V/s
Marg Polytech Pvt Ltd & Ors

.....Applicant

.....Respondent

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER
Delivered on 12/06/2026

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

Tomar

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

NATIONAL COMPANY LAW TRIBUNAL
BENCH AT INDORE

Company Petition/20(MP)2020

[An Application filed under Section 213, 241 and 242 of the Companies Act,2013]

1. Mr. Ram Charan Pal

H No.5, Old Village, Arvind Vihar
Bagmugaliya, Huzur
Bhopal-462043

2. Mr. Ghisi Lal Pal

H No.5, Old Village, Arvind Vihar
Bagmugaliya, Huzur
Bhopal-462043

.....Appellant

Versus

1. M/s Marg Polytech Private Limited

H-5, Bag Mugalia Ext. Bhopal
MP-462043 IN

2. Mr. Gaurav Bhardwaj

H-5, Bag Mugalia Ext. Bhopal
MP-462043 IN

3. Mr. Rana Singh

MIG-527 Arvind Vihar,
Bagmugalia, Bhopal-462043 IN

4. Mr. Praphull Goyal

D-44, Shahanshah Garden
Raisen Road, Bhopal
MP-462023 IN

5. Mr. Sanjiv Naidu

Practicing Cost and Works Accountant
Membership No. : 12068
258, Uttamchand Israni Chambers
Second Floor, Behind District Court
Arera Hills, Bhopal
MP-462011 IN

6. Mrs. Smriti Nagar

Practicing Cost and Works Accountant
Membership No. : 29375
258, Uttamchand Israni Chambers
Second Floor, Behind District Court
Arera Hills, Bhopal
MP-462011 IN

7. Mr. Prakash Sabnani

F-2/402, Green Acres
Lalghati, Bhopal
MP-462032 IN

8. Registrar of Companies

3rd Floor, 'A' Block,
Sanjay Complex, Jayendra Ganj,
Gwalior

.....Respondents

**Coram: Brajendra Mani Tripathi, Hon'ble Member (J)
Man Mohan Gupta, Hon'ble Member (T)**

Order Pronounced On 12.05.2026

Appearance:

For the Appellant : Mr. Pratik Tripathi, PCS

For the Respondent: Mr. Samank Mohabe, PCA (For Respondent Nos.2,3 &4)
Ms. Smriti Nagar, Adv (For Respondent No. 6)

ORDER

1. This is an Application under Section 213, 241 and 242 of the Companies Act, 2013 seeking following reliefs:

- i. *Pass an appropriate order, reliefs, directions under section 241 and 242 of the Companies Act, 2013 to bring to an end the aforesaid acts of oppression and mismanagement perpetrated by the respondents and for necessary orders and reliefs in respect thereto, including as prayed for therein;*
- ii. *Scheme be regulated to run and manage the affairs of the Respondent No. 1 Company by the Hon'ble Tribunal;*
- iii. *Remove Respondent No. 4 as Directors of the Respondent No. 1 Company;*
- iv. *Issue direction to the Respondent No. 7 to vacate the factory premises of the Respondent No. 1 Company;*
- v. *To investigate the various acts of mismanagement by the Respondent No. 2, 3 and 4 in the Respondent no. 1 Company;*
- vi. *order investigation into the books of accounts and the affairs of the Respondent No.1 Company under section 213 of the Companies Act, 2013 and issue necessary directions to Performa Respondent No. 7;*
- vii. *to declare the resolution dated 17.01.2019 passed for the allotment of 32,500 Equity Shares to the Respondent No. 4 and meeting of Board dated 17.01.2019 as null and void;*
- viii. *To declare the Annual General Meeting dated 30.09.2017 and 30.09.2018 for FY 2016-17 and 2017-18, respectively as null and void;*

- ix. *To declare the Extra Ordinary General Meeting dated 16.01.2019 and 20.05.2019 as null and void;*
- x. *To declare the meeting of Board dated 29.06.2017, 28.08.2017, 23.11.2017, 03.02.2018, 24.10.2018, 06.03.2019, 18.08.2019 and any other meeting held thereafter as null and void.*
- xi. *Direct Respondents to provide inspection of records and registers of the Respondent No. 1 Company and provide certified copies thereof to the Petitioners;*
- xii. *Restrain the Respondents from sell, alienate, mortgage, charge or create third party right on the movable, immovable or Intellectual Properties Right developed or held in the Respondent No. 1 Company;*
- xiii. *Pass an appropriate order against the Respondents for various non compliances under the Companies Act, 2013 as disclosed under this petition;*
- xiv. *Pass an appropriate order under the sections invoked herein including Section 447 and 448 of the Companies Act,2013 against the Respondents for filling of false and misleading information with Ministry of Corporate affairs;*
- xv. *Take appropriate action against the Respondent No. 5 and 6 for false and misleading certification and submission of form MGT-14 and Form PAS-3 with Ministry of Corporate affairs and direct the Institute of Cost and Management Accountant to take appropriate action for the professional misconduct;*

I. PARTIES TO THE PETITION

The Petitioners are Mr. Ram Charan Pal (Petitioner No. 1) and Mr. Ghisi Lal Pal (Petitioner No. 2), residents of H No. 5, Old Village, Arvind Vihar, Bagmugaliya, Huzur, Bhopal – 462043, Madhya Pradesh. They are shareholders, promoters, and directors of

Respondent No. 1 Company and collectively held 54.02% of the equity share capital prior to the allotment impugned in this Petition.

Respondent No. 1 is M/s Marg Polytech Private Limited, a company incorporated under the Companies Act, having its registered office at H-5, Bag Mugalia Extension, Bhopal, MP – 462043. Respondents No. 2 and 3 are Mr. Gaurav Bhardwaj and Mr. Rana Singh respectively, directors of the Company, who have effectively been in control and management of its affairs. Respondent No. 4 is Mr. Praphull Goyal, who was appointed as Additional Director/Director. Respondents No. 5 and 6 are practicing Cost and Works Accountants who certified and filed false forms with the Ministry of Corporate Affairs. Respondent No. 7 is Mr. Prakash Sabnani, who has been occupying the factory premises of Respondent No. 1. Respondent No. 8 is the Registrar of Companies, Gwalior.

II. BRIEF BACKGROUND AND CAUSE OF ACTION

The Petitioners filed the present Company Petition on 10.10.2020 before this Tribunal under Sections 241 and 242 (and allied Section 213) of the Companies Act, 2013, seeking redress against several acts of oppression and mismanagement committed by Respondents No. 2, 3, and 4 in the affairs of Respondent No. 1 Company.

The Petitioner No. 1 is a shareholder holding a substantial majority stake, a director of the Company, and a key promoter. Despite his status, the Respondents have systematically excluded him from the governance and management of the Company, misappropriated its assets, and conducted affairs of the Company in flagrant violation of the Companies Act, 2013, NCLT Rules, 2016, and the Memorandum and Articles of Association of Respondent No. 1.

The Company has been rendered non-functional; no Annual Returns or Financial Statements have been filed since FY 2016-17; its factory premises have been clandestinely handed over to an outsider

(Respondent No. 7); and share application money of Rs. 15,23,000/- due to the Petitioner has neither been allotted in shares nor refunded.

III. SPECIFIC ACTS OF OPPRESSION AND MISMANAGEMENT

A. Illegal Appointment of Respondent No. 4 as Additional Director (24.10.2018)

- 3.1. The Board Meeting purportedly held on 24.10.2018, in which Respondent No. 4 was appointed as Additional Director of Respondent No. 1 Company, was conducted without giving any notice to Petitioner No. 1, who was himself a Director of the Company at the relevant time. The said omission renders the proceedings of that meeting void.
- 3.2. The appointment, if at all purported to be as Additional Director under Section 161 of the Companies Act, 2013, required confirmation by shareholders at the ensuing Annual General Meeting. No such AGM was ever held and no confirmation was obtained; hence the office of Additional Director stood vacated by operation of law. Notwithstanding, the Respondents filed Form DIR-12 with the Registrar of Companies reflecting appointment as Director (not Additional Director), resulting in misrepresentation to the Registrar.
- 3.3. The Petitioner, upon learning of this illegal appointment, raised specific objections vide emails dated 08.02.2019, 12.03.2019, 22.03.2019, 26.03.2019, and 17.04.2020. No reply was given. Complaints were also filed with the Registrar of Companies, Regional Director, and SFIO. Till date, the Respondents have filed no reply/counter affidavit to the petition on this point. (Refer: Para 7.1 of main Petition; Annexure-9 at Page 202; Affidavit dated 01.07.2021.)

B. Conversion of Board Meeting into EGM and Illegal Share Allotment (08.01.2019 & 17.01.2019)

- 3.4. A Board Meeting was called vide notice dated 08.01.2019 for 16.01.2019. The agenda was not supported by any supporting documents or notes to agenda, in contravention of the requirements of the Companies Act, 2013. The Petitioner objected to certain agenda items, including the confirmation of the appointment of Respondent No. 4 as Director. The Respondents unilaterally and illegally converted this Board Meeting into an alleged Extraordinary General Meeting (EGM) – an act entirely without legal sanction. (Refer: Para 7.5 to 7.8 of Petition; Annexure-11 at Page 227; Page 236.)
- 3.5. On 17.01.2019, the Respondents illegally allotted 32,500 Equity Shares to Respondent No. 4. This allotment:
- (i) was made without issuing any notice to the Petitioners who held 54.02% of the paid-up share capital;
 - (ii) was made without calling any Board Meeting for approval of the offer letter as required under Section 42(3) of the Companies Act, 2013 and Rule 14(3) of the Companies (Prospectus and Allotment of Securities) Rules, 2014;
 - (iii) was effected without clear notice of 21 days to shareholders for the EGM, without consent of shorter notice from the Petitioners, and without their presence or approval;
 - (iv) was designed to reduce the shareholding of the Petitioners from 54.03% to below 50%, so as to deprive them of their controlling rights in Respondent No. 1 Company; and
 - (v) was in direct violation of Sections 42 and 62 of the Companies Act, 2013. (Refer: Para 7.9–7.15 of Petition; Annexure-12 at Pages 233–247.)

3.6. The Form MGT-14 filed with the Registrar of Companies was accompanied by a forged notice dated 08.01.2019. The notice did not comply with the mandatory disclosure requirements under Section 13 and Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014 regarding identification of allottees, object of issue, opening of separate bank account for share application money, share valuation, pre- and post-allotment shareholding pattern, etc. The Form PAS-3 certifying the allotment was falsely certified by Respondents No. 5 and 6 (practicing Cost Accountants), who exercised no due care. (Refer: Para 7.8, 7.12–7.15 of Petition; Page 239; Annexure-12.)

C. Illegal EGM dated 20.05.2019

3.7. Another EGM was purportedly called on 20.05.2019 by Respondent No. 3 alone, without Board approval, contrary to Section 100(1) of the Companies Act, 2013. The notice for this meeting did not contain the time and place of the meeting, was in blatant non-compliance with Sections 101 and 102 and Rule 18 of the Companies (Management and Administration) Rules, 2014 and SS-2. The meeting was called with just one day's shorter notice without the consent of the Petitioners, who held more than 52% of the paid-up share capital. (Refer: Para 7.19–7.21; Page 252–257.)

D. False Certifications by Respondents No. 5 and 6

3.8. Respondent No. 5 (Mr. Sanjiv Naidu, Practicing Cost and Works Accountant) and Respondent No. 6 (Mrs. Smriti Nagar, Practicing Cost and Works Accountant) were involved in false and misleading certification and submission of Form MGT-14 and Form PAS-3 with the Ministry of Corporate Affairs, without exercising the requisite due care and in ignorance of the provisions of the Companies Act, 2013. Such conduct constitutes

professional misconduct deserving referral to the Institute of Cost and Management Accountants. (Refer: Para 7.15 at Pages 54–55 of Petition.)

E. Non-Compliance and Mismanagement of Statutory Obligations

3.9. Since FY 2016-17, Respondent No. 1 Company has not filed its Annual Returns under Section 92 or its Financial Statements under Section 129 of the Companies Act, 2013. No statutory compliances under the Companies Act have been carried out. This constitutes grave negligence and mismanagement by Respondents No. 2 and 3, who have been singularly managing the affairs of the Company since FY 2016-17.

3.10. The Annual General Meeting dated 30.09.2018 for FY 2017-18 was called without any notice to the Petitioner, and false information was submitted to the Registrar of Companies in the Annual Return. The dates of Board Meetings recorded in the Company's register at Page 114 of the petition are false; such meetings were never actually called or held; and the attendance of Petitioner No. 1 is fraudulently recorded therein. (Refer: Para 7.16; Page 55; Annexure-3 at Page 104.)

IV. SUBMISSIONS OF RESPONDENTS NO. 1 TO 4

(A) Preliminary Objections

(i) Petitioner Complicit in Management: Petitioner No. 1, as a Director and majority shareholder throughout the relevant period, himself signed the Balance Sheets and Annual Returns of the Company. He was actively involved in day-to-day management during the same period for which he now alleges oppression and mismanagement. He cannot blow hot and cold. The petition is a

strategic move filed when the Company entered financial crisis, deployed to leverage majority shareholding. The Respondents possess signed Balance Sheets and Annual Returns bearing Petitioner No. 1's signature as evidence of his full participation in management.

(ii) Petition Under Section 213 Not Maintainable: Under Section 213(a), only members may file petition for investigation. Under Section 213(b), the expression "any other person" in settled law refers only to persons having commercial or legal interest in the company but who are not members — which does not apply to the Petitioners who are both shareholders and Directors of the Company.

(iii) Hostile Takeover Strategy: Petitioner No. 1's conduct since induction as Director constitutes a planned "hostile takeover" strategy: he acquired shares from exiting promoters on promises he did not honour; ran his family firm from Company premises for years without payment; made unexplained cash withdrawals; and filed this petition only when Respondent No. 4 began effectively reviving the Company.

(B) On Appointment of Respondent No. 4 as Director

The appointment of Mr. Praphull Goyal (DIN: 02512225) as Additional Director on 24.10.2018 was made strictly in accordance with the Companies Act, 2013 and the Company's Articles of Association. A proper Board Meeting was convened and notice was duly served. The appointment was urgently necessitated by the DRT summons and the need to infuse funds into a financially distressed company. Petitioner No. 1 himself introduced Respondent No. 4 to the Company as a potential investor in July 2018. All parties were in continuous telephonic contact with Respondent No. 4 regarding his investment. Notice of the 15.10.2018 Board Meeting was served to Petitioner No. 1's address and received by his sister Ms. Swati Pal. Petitioner No. 1's consent to the appointment was also recorded.

(C) On Preferential Allotment of 32,500 Equity Shares

The preferential allotment of 32,500 equity shares to Respondent No. 4 on 17.01.2019 was not made with fraudulent or malicious intent. It was a genuine commercial necessity: Respondent No. 4 had already infused funds to service the SBI debt under the RINN SAMADHAN scheme, and the allotment was his agreed consideration. A proper EGM was held on 16.01.2019 with appropriate notice served to the Petitioners. Petitioner No. 1 was present at the EGM and raised objections — which itself proves his full knowledge of the proceedings. Respondent No. 4 ultimately discharged the entire SBI loan liability, arranged electricity restoration, and concluded the Leave and License Agreement to revive manufacturing — all acts of genuine commercial rescue.

(D) On Conduct of General Meetings

All General Meetings and Board Meetings were conducted with proper notice as required under Section 101 of the Companies Act, 2013 read with Secretarial Standard-2 (SS-2). Notices were served to all Directors, shareholders, auditors, and other prescribed persons. The Petitioners were consistently served notice; service to Petitioner No. 1's address (received by his sister Swati Pal) constitutes valid service in law.

(E) On Use of Company Assets / Leave & License Agreement

The Leave and License Agreement with Respondent No. 7 was executed for the bonafide benefit of a Company that had no ability to run its own manufacturing operations after years of financial distress. The rental income helped service obligations and keep the factory productive. This is a bona fide commercial decision that cannot constitute "oppression." By contrast, it is Petitioner No. 1 who operated "Geeta Enterprises" from the Company's factory premises for approximately three years without any payment to the Company

— an act that constitutes misappropriation of Company resources and breach of fiduciary duty.

(F) Counter-Allegations Against Petitioner No. 1

The Respondents specifically place on record and rely upon the following acts of Petitioner No. 1:

- (i)** Non-fulfilment of MOU Obligations: Failed to infuse Rs. 35 lakhs within six months and to release the mortgaged properties of old promoters' families within the agreed time, despite having benefited from acquiring their shares at low consideration.
- (ii)** Unauthorized Use of Company Premises: Caused "Geeta Enterprises" (Proprietor: Devendra Pal, his relative) to occupy approximately 15,000 sq. ft. of factory space for ~3 years under an Everest Industries contract, without Board approval and without paying any rent, utility charges, or fees to the Company. Monthly loss to the Company estimated at approximately Rs. 50,000.
- (iii)** Unexplained Cash Withdrawals: Withdrew Rs. 3,81,499 from the CC account in FY 2014-15, of which only Rs. 1,38,000 was returned, increasing the Company's interest burden.
- (iv)** Refusal to Sign Accounts: As a Director, refused to sign Audit Reports, Balance Sheets, and Annual Returns from FY 2017-18 onwards, paralyzing statutory compliance. The last filed return was for FY 2016-17.
- (v)** Obstruction of Revival: Despite Respondent No. 4 clearing all SBI dues and arranging restoration of electricity and manufacturing operations, Petitioner No. 1 has continuously obstructed these revival efforts, including filing police complaints against the Respondents.

V. SUBMISSIONS OF RESPONDENT NO. 6 — MS. SMRITI NAGAR

(A) Who is Respondent No. 6

Ms. Smriti Nagar is a practicing Cost and Management Accountant (CMA), Membership No. 29375, registered with ICAI-CMA since 2010. She was the majority partner (60% share) of Partnership Firm "SNS & Co." She has never had any professional engagement, business relationship, communication, or connection with Respondent No. 1 Company, its directors, or the Petitioners. She has no interest in the Company of any kind.

(B) The MGT-14 Was Filed Without Her Knowledge or Consent

On 17.01.2019, Respondent No. 5 (Mr. Sanjiv Vijay Naidu, CMA, M/12068) approached Respondent No. 6 claiming he could not affix his own digital signature due to a technical error, and requested her to sign Form MGT-14. She refused outright. He emailed the form at 02:32 PM — the form already had his own membership number (M/12068) pre-filled, showing it was under his exclusive control (Annexure-2). She again refused. He then waited for her to leave her cabin, accessed her computer without authority, and fraudulently affixed her digital signature on the MGT-14 form. When confronted upon her return, Respondent No. 5 apologized profusely and promised to remove the signature. He thereafter filed the form with the ROC using his own MCA registration ID, ensuring the ROC acknowledgment was sent to him alone — Respondent No. 6 received no acknowledgment and remained unaware of the filing.

(C) Professional Separation: Resignation and Relocation

On 22.06.2019, Respondent No. 6 formally resigned from Partnership Firm "SNS & Co." by letter addressed to The Secretary, ICAI-CMA, Kolkata — specifically citing "unreasonable behavior of Mr. Sanjiv

Vijay Naidu" as the reason (Annexure-1). In February 2019, she had already entered into a Consultancy Agreement with ManpowerGroup Services India Private Limited (Annexure-3) for consultancy services to the National Skill Development Fund (NSDF) from New Delhi, with services commencing from 01.07.2019. She relocated to New Delhi, further distancing herself completely from the activities of Respondent No. 5.

(D) Discovery of the Fraud in April 2022 and Immediate Action

Respondent No. 6 had absolutely no knowledge of the NCLT proceedings or the misuse of her digital signature until April 2022, when she received the ex-parte NCLT notice. This Tribunal itself acknowledged her lack of knowledge — vide Order dated 22.09.2022 in IA No. 14 of 2022 in this CP, the ex-parte order was set aside and Respondent No. 6 was taken on record.

Upon discovery, she immediately took the following four-pronged action:

- (i)** On 15.04.2022 (at 04:35 PM), emailed Respondent No. 4 (Mr. Praphull Goyal); and at 04:36 PM, emailed Respondent No. 2 — informing both of the misuse of her digital signature and requesting them to convey the facts. No reply was received from either. (Annexure-4)
- (ii)** On 20.04.2022, filed Serious Complaint No. J00073517 before the Registrar of Companies, Gwalior, through the MCA portal, specifically stating: "Form MGT 14 was filed with my Digital signature for the mentioned company, should be considered invalid. I do not have SRN of the Form MGT 14. This form was submitted without my knowledge." The ROC acknowledged the complaint vide communique No. MCA/ROC-Gwalior/J00073517//L2000090054. (Annexure-5)
- (iii)** On 25.04.2022, filed criminal complaint before M.P. Nagar Police Station (Maharana Pratap Nagar), Bhopal against Respondent

No. 5 for breach of trust, fraud, forgery of record, and professional misconduct. (Annexure-6)

- (iv) On 27.04.2022, filed official professional misconduct complaint against Respondent No. 5 (M/12068) before ICAI-CMA, New Delhi. (Annexure-7)

(E) Legal Submissions on Non-Liability of Respondent No. 6

- (i) Non-Maintainability Under Sections 241-242: The Petition under Sections 241-242 is not maintainable against Respondent No. 6. She has never been a shareholder, director, officer, or agent of Respondent No. 1 Company. She has never participated in the management or control of the Company. The jurisdiction under Sections 241-242 lies against persons who manage or control the company — not third-party professionals whose credentials were misused by others without their knowledge.
- (ii) No Jurisdiction Under Sections 447/448: The NCLT has no jurisdiction to try criminal offences under Sections 447 (fraud) and 448 (false statement) in oppression and mismanagement proceedings. These are criminal provisions requiring adjudication by criminal courts. This is confirmed by NCLAT in Company Appeal (AT) No. 190/2019, and NCLT Benches at Ahmedabad (TP 02/2018), Kochi (CP/41/KOB/2020), and Chennai (CP/35/2017).
- (iii) Respondent No. 6 is a Victim, Not a Perpetrator: The totality of the evidence — pre-filled membership number of R-5 on the form, dual refusals by R-6, unauthorized computer access by R-5, routing of ROC acknowledgment to R-5's own ID, criminal and regulatory complaints filed by R-6 against R-5 — conclusively demonstrates that Respondent No. 6 is the victim of the fraud, not its author.
- (iv) No Evidence of Engagement: Petitioners have not produced a single document — no authorization, no engagement letter, no fee receipt, no instruction email, no acknowledgment of signature — showing any connection between Respondent No.

6 and Respondent No. 1 Company. The burden of proof has not been discharged.

F. Unlawful Letting-Out of Factory Premises and Misappropriation of Assets (01.07.2020)

- 3.11. The factory premises of Respondent No. 1 Company have been clandestinely let out to Respondent No. 7 (Mr. Prakash Sabnani) on 01.07.2020 and manufacturing under other brand names (Aqua Tech, Eco, Camper) has been started therein, without any authority from the Board of Directors. Respondent No. 2 is collecting lease rent in his personal account. This constitutes a clear case of breach of trust, fraud, breach of fiduciary duty, and gross mismanagement of internal affairs of the Company. (Refer: Para 7.30; Annexure-21 at Page 271; Para-G at Page 10 of Additional Affidavit.)
- 3.12. Furthermore, Respondents No. 2 to 4 have been taking away and selling the assets of the Company for their personal benefit without any authority of the Board, causing irreparable loss to the Company and its shareholders. (Refer: Additional Affidavit, Para (f) and (g) at Page 9; Annexure-2 at Page 19 of Additional Affidavit.)

G. Pendency of Share Application Money

- 3.13. Share application money of Rs. 15,23,000/- paid by the Petitioners to Respondent No. 1 Company for FY 2016 is shown in the Balance Sheet as pending for allotment. No shares have been allotted to the Petitioners against this amount, nor has the amount been repaid. Instead, 32,500 Equity Shares were allotted to outsider Respondent No. 4. The Petitioner wrote several emails to Respondents seeking repayment, to no avail. (Refer: Para 7.11; Balance Sheet at Page 170; Annexure-17 at Page 259.)

VI. OBSERVATIONS AND ANALYSIS

This Adjudicating Authority has carefully considered the pleadings, documents placed on record, and the submissions advanced by the parties. The appellant has filed a rejoinder to the respondents' responses, however, as it largely reiterates the facts already stated in the petition, the same is not reproduced herein for the sake of brevity. However, it is observed that counsel for the respondents failed to appear on multiple occasions. Consequently, vide order dated 15.01.2026, Respondent Nos. 2, 3, 4 and 6 were proceeded ex parte. Nevertheless, replies on behalf of the said respondents had already been filed prior thereto. Accordingly, this Adjudicating Authority has taken into consideration the averments contained in the said replies while adjudicating the present petition.

Upon consideration of the pleadings, documents on record, and submissions of the parties, the following issues arise for determination by this Bench:

Issue No. 1: Maintainability: Whether the present Petition under Sections 241-242 r/w 213 of the Companies Act, 2013 is maintainable?

Issue No. 2: Appointment of Director: Whether the appointment of Respondent No. 4 as Additional Director on 24.10.2018 was valid and in compliance with the Companies Act, 2013?

Issue No. 3: Preferential Allotment: Whether the allotment of 32,500 equity shares to Respondent No. 4 on 17.01.2019 complied with Sections 42 and 62(1)(c) of the Companies Act, 2013 and Rules thereunder, or was it illegal, void, and made with intent to dilute the Petitioners' majority? I

Issue No. 4: Whether Form MGT-14 bearing the digital signature of Respondent No. 6 was filed without her knowledge and consent, and whether Respondent No. 6 bears any liability in respect thereof?

Issue No. 5: Oppression & Mismanagement: Whether the acts of Respondents constitute "oppression and mismanagement" within the meaning of Section 241 of the Companies Act, 2013?

Issue No. 6: Conduct of Petitioners: Whether the Petitioners' own conduct disentitles them from equitable relief?

ISSUE NO. 1 - MAINTAINABILITY

The preliminary objection on maintainability is two-pronged: first, that the petition under Section 213 is not maintainable at the Petitioners' instance; second, that the Petitioners, having participated in management, cannot allege oppression for the same period.

On the first prong: The Petitioners are shareholders who together hold more than 10% of the paid-up share capital, satisfying the threshold under Section 244. They have full locus to petition under Section 241. The Section 213 relief is sought as a subsidiary prayer within an omnibus petition whose primary reliefs are under Sections 241-242. The petition in its entirety is maintainable. The preliminary objection on maintainability is overruled.

On the second prong: The contention that Petitioner No. 1, having signed Balance Sheets as Director, cannot allege oppression is not a ground to dismiss the petition at the threshold — it is a factor relevant to equitable relief, addressed in Issue No. 7. The acts complained of (illegal Director appointment, illegal share allotment) post-date the period of joint management and allegedly occurred after the Petitioners were being progressively excluded. The objection is overruled as a preliminary objection, without prejudice to the Issue No. 7 analysis.

ISSUE NO. 2: WHETHER THE APPOINTMENT OF RESPONDENT NO. 4 AS ADDITIONAL DIRECTOR ON 24.10.2018 WAS VALID AND IN ACCORDANCE WITH LAW?

The Petitioners have challenged the appointment of Respondent No.4 as Additional Director primarily on the grounds that no valid notice

of the Board Meeting was served upon Petitioner No.1, that the appointment was made behind the back of the Petitioners and that the statutory requirements under the Companies Act, 2013 were not duly complied with.

The Respondents have controverted the said allegations and submitted that Respondent No.4 was inducted at a time when the Company was facing acute financial distress and was struggling with mounting liabilities, recovery proceedings initiated by State Bank of India and operational paralysis. It is further contended that Petitioner No.1 himself introduced Respondent No.4 as a prospective investor and was fully aware of the discussions concerning his proposed induction into the affairs of the Company.

This Tribunal has carefully examined the pleadings and material placed on record.

It is an admitted position that the Company was facing severe financial difficulties during the relevant period. The record further reveals that Respondent No.4 subsequently infused substantial funds into the Company, participated in settlement of SBI dues and contributed towards revival of the Company's operations.

Significantly, the Petitioners have not produced any convincing evidence demonstrating that the appointment of Respondent No.4 was procured by fraud, concealment or misrepresentation. Mere allegations regarding insufficiency of notice, without proof of actual prejudice or deliberate exclusion, are insufficient to invalidate the appointment.

The record further reveals that Respondent No.1 Company had duly filed Form DIR-12 with the Registrar of Companies pursuant to the Board Resolution dated 24.10.2018 approving the appointment of Respondent No.4. The said statutory filing was made contemporaneously and forms part of the records maintained with the Ministry of Corporate Affairs. The filing of Form DIR-12 along with the Board Resolution dated 24.10.2018 indicates that the Company

had formally recorded and reported the appointment to the statutory authorities in accordance with the procedure prescribed under the Companies Act, 2013. The existence of such filing lends support to the Respondents' case that the appointment of Respondent No.4 was not a clandestine act but was duly reflected in the statutory records of the Company

The Tribunal also finds merit in the Respondents' contention that Petitioner No.1 had himself introduced Respondent No.4 to the Company as a potential investor. Such circumstance considerably weakens the allegation that Respondent No.4 was clandestinely inducted into the management of the Company.

The Petitioners have further relied upon alleged discrepancies in statutory forms and the contention that no Annual General Meeting was held for the regularisation of the appointment. Even assuming procedural irregularities existed, the same do not automatically establish oppression or invalidate every act undertaken by Respondent No.4, particularly when the surrounding circumstances demonstrate bona fide efforts towards revival of the Company.

The jurisdiction under Sections 241 and 242 is concerned primarily with acts of oppression and mismanagement. The Tribunal is required to examine the substance of the transaction rather than isolated procedural objections.

Upon consideration of the entire material on record, this Tribunal is unable to conclude that the appointment of Respondent No.4 as Additional Director was actuated by any mala fide intention or was undertaken with the object of prejudicing the rights of the Petitioners.

Accordingly, this Tribunal holds that the Petitioners have failed to establish any ground warranting interference with the appointment of Respondent No.4 as Director of Respondent No.1 Company.

Issue No.2 is therefore answered against the Petitioners and in favour of the Respondents.

Consequently, the prayer seeking declaration that the appointment of Respondent No.4 as Director is illegal, void or non est in law is rejected.

ISSUE NO. 3: WHETHER THE ALLOTMENT OF 32,500 EQUITY SHARES IN FAVOUR OF RESPONDENT NO. 4 ON 17.01.2019 WAS LEGAL AND VALID?

This issue constitutes the significant issue of the present proceedings.

The admitted position emerging from the pleadings and documents is that prior to the impugned allotment, the Petitioners collectively held approximately 54.03% of the paid-up share capital of Respondent No.1 Company and were therefore majority shareholders. Upon allotment of 32,500 equity shares in favour of Respondent No.4 on 17.01.2019, the Petitioners ceased to hold majority control over the Company and came down to 47% of the paid-up share capital of the Respondent No.1 Company.

The principal challenge of the Petitioners is not merely against the induction of Respondent No.4 as an investor, but against the manner in which the allotment was undertaken and the consequences flowing therefrom.

The Respondents have strongly relied upon the financial distress faced by the Company and the fact that Respondent No.4 infused substantial funds for settlement of liabilities owed to State Bank of India and for revival of the Company's operations. There can be no dispute that the material on record demonstrates active participation of Respondent No.4 in the revival efforts of the Company. The settlement of SBI dues, restoration of electricity supply and attempts to revive industrial operations are circumstances which cannot be ignored by this Tribunal.

However, the commercial necessity of raising funds cannot dispense with compliance of mandatory provisions of the Companies Act, 2013.

The legislative scheme governing preferential allotments is intended to protect existing shareholders from arbitrary dilution of their proprietary and voting rights. Compliance with Sections 42 and 62 of the Companies Act, 2013 and the Rules framed thereunder is therefore not a mere technical formality but a substantive safeguard against abuse of majority or managerial power.

The Tribunal further notes that prior to the impugned allotment, the Petitioners were the majority shareholders of Respondent No. 1 Company holding approximately 54.03% of the paid-up share capital. Although the Respondents have sought to justify the allotment of shares in favour of Respondent No. 4, the material available on record does not establish that the Petitioners, being the existing majority shareholders, were afforded a lawful and effective opportunity to participate in, consider or object to the proposed transaction. The Respondents have also failed to demonstrate strict compliance with the mandatory requirements prescribed under Sections 42 and 62 of the Companies Act, 2013 and the Rules framed thereunder.

The Tribunal is of the considered view that the statutory safeguards governing allotments of shares are intended to protect shareholders against arbitrary dilution of their voting and proprietary rights. In the present case, the impugned allotment resulted in the Petitioners being reduced from majority shareholders to a minority position, thereby materially altering the control and shareholding structure of the Company.

Further, the record reveals that notice dated 08.01.2019 was issued for an Extraordinary General Meeting convened on 16.01.2019. Thus, only eight days' notice was provided. Section 101 of the Companies Act, 2013 mandates twenty-one clear days' notice unless shorter

notice is consented to by the requisite majority of members entitled to vote. The Section 101 of the Companies Act, 2013 produced for the reference:

Section 101. Notice of meeting.

(1) A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as maybe prescribed:

[Provided that a general meeting may be called after giving shorter notice than that specified in this sub-section if consent, in writing or by electronic mode, is accorded thereto--

(i) in the case of an annual general meeting, by not less than ninety-five per cent. of the members entitled to vote thereat; and

(ii) in the case of any other general meeting, by members of the company--

(a) holding, if the company has a share capital, majority in number of members entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or

(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at that meeting:

Provided further that where any member of a company is entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for the purposes of this sub-section in respect of the former resolution or resolutions and not in respect of the latter.]

In the present case the Respondents have not produced any material demonstrating that consent for shorter notice was obtained from all members whose consent was statutorily required. The absence of such consent renders the convening of the meeting legally vulnerable.

Equally significant is the absence of any valuation material justifying the issue price and allotment. In a preferential allotment resulting in substantial alteration of voting rights and ownership structure, valuation assumes critical importance. The requirement of valuation by a registered valuer is intended to ensure transparency and fairness to existing shareholders.

No convincing material has been placed before this Tribunal demonstrating compliance with the valuation requirements contemplated under the Act and the applicable Rules.

The Tribunal also finds considerable merit in the grievance of the Petitioners that the impugned allotment had the direct consequence of converting majority shareholders into minority shareholders. Such dilution affects not merely economic interests but also participation in management, voting power and corporate control.

The Supreme Court in *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.* has recognized that although directors possess the authority to issue shares, such authority must be exercised for the benefit of the company and not for the collateral purpose of altering voting control.

The Respondents have argued that the allotment was necessitated by the urgent requirement of funds. While this Tribunal accepts that Respondent No.4 acted as a financier and investor at a time when the Company was under severe financial stress, such circumstance by itself cannot validate an allotment made in derogation of mandatory statutory safeguards resulting in reduction of petitioner's share from majority to minority.

The power to issue shares is coupled with a fiduciary obligation. The directors are expected to balance the financial needs of the company with the rights of existing shareholders. Any exercise of such power resulting in dilution of majority shareholding must withstand strict scrutiny.

It is also pertinent to note that the Respondents have placed reliance upon Form MGT-14 filed with the Registrar of Companies in support of the resolutions allegedly authorising the impugned preferential

allotment. However, the evidentiary value of the said Form MGT-14 is itself clouded by serious controversy.

Respondent No. 6, Ms. Smriti Nagar, whose digital signature appears on the said Form MGT-14, has specifically pleaded in her reply that the form was not digitally signed by her with her knowledge or consent and that her Digital Signature Certificate was allegedly used without authorization. Respondent No. 6 has further brought on record that she has already approached the Registrar of Companies, the concerned professional regulatory authority and the competent police authorities alleging misuse of her digital signature and seeking appropriate action against the persons responsible.

Having considered the totality of circumstances, this Tribunal is of the considered opinion that the Respondents have failed to establish due compliance with the mandatory statutory requirements governing the impugned allotment. The allotment has resulted in substantial prejudice to the Petitioners and has materially altered the balance of shareholding within the Company.

Accordingly, the allotment of 32,500 equity shares made in favour of Respondent No.4 on 17.01.2019 is held to be unsustainable in law and liable to be set aside.

ISSUE NO. 4: WHETHER FORM MGT-14 BEARING THE DIGITAL SIGNATURE OF RESPONDENT NO. 6 WAS FILED WITHOUT HER KNOWLEDGE AND CONSENT, AND WHETHER RESPONDENT NO. 6 BEARS ANY LIABILITY IN RESPECT THEREOF?

The Petitioners have alleged that Respondent No. 6, being a Practicing Cost and Management Accountant, falsely certified and facilitated the filing of Form MGT-14 and other statutory forms before the Registrar of Companies in relation to the affairs of Respondent No. 1 Company. According to the Petitioners, such certification was made without due diligence and in disregard of the provisions of the Companies Act,

2013, thereby enabling the filing of false and misleading information with the Ministry of Corporate Affairs. On the basis of the said allegations, the Petitioners have sought appropriate action against Respondent No. 6, including reference to the concerned professional regulatory body for alleged professional misconduct.

Respondent No. 6 has categorically denied all allegations levelled against her. It is her specific case that she was never engaged by Respondent No. 1 Company in any professional capacity and had no role whatsoever in the preparation, certification or filing of the impugned Form MGT-14. Respondent No. 6 has contended that her digital signature certificate was allegedly used without her knowledge or consent by Respondent No. 5. It has further been submitted that upon becoming aware of the alleged misuse, she immediately lodged complaints before the Registrar of Companies, Gwalior filed a police complaint before Police Station, MP Nagar Bhopal against Respondent No. 5 and also initiated proceedings before The Institute of Cost Accountant of India alleging misuse of her digital signature and professional misconduct.

This Tribunal has carefully considered the rival submissions and the material available on record.

At the outset, it is pertinent to note that the core dispute concerning Respondent No. 6 is not one of oppression and mismanagement in the affairs of Respondent No. 1 Company, but rather whether her digital signature certificate was affixed to the impugned Form MGT-14 with or without her knowledge and consent. Determination of such issue would necessarily require examination of disputed questions of fact, including the circumstances in which the digital signature came to be affixed, the alleged unauthorized access to electronic records, the authenticity of electronic evidence, and the conduct of the persons involved.

The record further reveals that Respondent No. 6 has already approached the competent regulatory authorities in relation to the alleged misuse of her digital signature certificate. It is also not disputed that the matter is presently the subject matter of examination before the appropriate authorities.

In the considered opinion of this Tribunal, adjudication upon the question whether the digital signature of Respondent No. 6 was used fraudulently, without authorization, or with her consent falls within the domain of the competent investigative and regulatory authorities seized of the matter. The present proceedings under Sections 241 and 242 of the Companies Act, 2013 are not the appropriate forum for conducting a detailed inquiry into allegations of forgery, unauthorized use of digital signatures, criminal misconduct or professional misconduct.

Accordingly, this Tribunal refrains from recording any conclusive finding on the disputed allegations concerning the use of the digital signature certificate of Respondent No. 6. All rights and contentions of the parties in that regard are left open to be agitated before the competent regulatory, disciplinary or other appropriate forum in accordance with law.

In view of the above, no relief is granted against Respondent No. 6 in the present proceedings.

Issue No. 6 is answered accordingly

ISSUE NO. 5: WHETHER THE IMPUGNED ACTS CONSTITUTE OPPRESSION AND MISMANAGEMENT?

The jurisdiction of this Tribunal under Sections 241 and 242 is equitable in nature. The Tribunal is not concerned merely with technical illegality. The conduct complained of must be shown to be burdensome, harsh, wrongful or prejudicial to the interests of members.

In the present case, the Tribunal has already held that the preferential allotment of shares in favour of Respondent No.4 cannot be sustained. The consequence of such allotment was the dilution of the Petitioners' majority shareholding and corresponding diminution of their voting rights.

The deprivation of majority control through a legally unsustainable allotment constitutes a continuing prejudice to the proprietary rights of the Petitioners as shareholders.

This Tribunal is therefore satisfied that the impugned allotment amounts to oppression within the meaning of Section 241 of the Companies Act, 2013.

However, insofar as the allegations concerning exclusion from management, operation of factory premises, leave and licence arrangements, alleged collection of rent and other commercial disputes are concerned, the evidence on record is insufficient to record definitive findings of oppression.

Accordingly, oppression is held established only to the limited extent arising from the impugned allotment and consequential dilution of the Petitioners' shareholding.

**ISSUE NO. 6: WHETHER THE CONDUCT OF THE PETITIONERS
DISENTITLES THEM FROM RELIEF?**

The Respondents have raised serious allegations against Petitioner No.1 including failure to fulfil commitments undertaken under the Memoranda of Understanding, unauthorized use of company premises through Geeta Enterprises, withdrawal of company funds and refusal to sign statutory financial statements.

The material placed on record indicates that several of these allegations cannot be lightly brushed aside. The conduct attributed to Petitioner No.1 does not reflect complete adherence to the fiduciary standards expected from a director of a company.

The Tribunal is conscious that proceedings under Sections 241 and 242 are equitable in nature and a petitioner seeking equitable relief must ordinarily approach the Tribunal with clean hands.

Nevertheless, the doctrine of clean hands cannot be invoked to perpetuate an illegality.

Even assuming that the conduct alleged against Petitioner No.1 is substantially correct, such conduct cannot operate as a licence permitting dilution of shareholder rights through a process which does not satisfy statutory requirements.

The remedy granted by this Tribunal is therefore confined to restoration of the lawful shareholding structure and does not extend to grant of compensation, damages or any other discretionary equitable relief.

The conduct of the Petitioners is accordingly treated as a relevant mitigating factor while moulding relief but not as a complete bar to relief.

ORDER

In view of the foregoing observations, analysis and findings on the issues framed hereinabove, this Tribunal passes the following final order:

(i) The Company Petition filed under Sections 241 and 242 read with Section 213 of the Companies Act, 2013 is partly allowed.

(ii) The preferential allotment of 32,500 equity shares made by Respondent No.1 Company in favour of Respondent No.4 on 17.01.2019 is held to be contrary to the mandatory requirements of Sections 42 and 62 of the Companies Act, 2013 and the Rules framed thereunder and is accordingly declared illegal, null and void.

(iii) Consequently, the said allotment is set aside and all rights flowing therefrom, including voting rights and consequential changes in shareholding, shall stand annulled.

(iv) The Register of Members of Respondent No.1 Company shall stand rectified under the powers of this Tribunal under Sections 242 and 59 of the Companies Act, 2013 by deleting the impugned allotment and restoring the shareholding pattern existing immediately prior to 17.01.2019.

(v) Respondent No.1 Company shall carry out all consequential statutory compliances and filings before the Registrar of Companies within a period of sixty (60) days from the date of this Order.

(vi) This Tribunal records that Respondent No.4 had admittedly infused funds into the Company during a period of severe financial distress and had contributed towards settlement of liabilities of the Company. Since the allotment pursuant to which such investment was made has been set aside, the amount infused by Respondent No.4 towards the affairs of the Company shall not stand forfeited.

(vii) The monies infused by Respondent No.4 pursuant to the impugned allotment shall be treated as unsecured financial assistance advanced to the Company and shall be reflected appropriately in the books of account of Respondent No.1 Company in accordance with law, subject to reconciliation of accounts by the statutory auditor.

(viii) Liberty is reserved to Respondent No.4 to seek recovery, repayment, adjustment or conversion of such amount in accordance with law and subject to approval of competent corporate authorities, if so advised.

(ix) The challenge to the appointment of Respondent No.4 as Director is rejected. However, his continuance as Director shall remain subject to the provisions of the Companies Act, 2013, the Articles of Association of the Company and decisions taken by the shareholders in accordance with law.

(x) This Tribunal holds that no case whatsoever has been established against Respondent No.6, Ms. Smriti Nagar. Accordingly, all allegations and reliefs sought against Respondent No.6 are rejected and Respondent No.6 stands discharged from the present proceedings.

(xi) The prayer seeking action under Sections 447 and 448 of the Companies Act, 2013 is rejected as not maintainable in the present proceedings. However, this Order shall not preclude any party from pursuing remedies before competent criminal, regulatory or disciplinary authorities in accordance with law.

(xii) The allegations relating to unauthorized use of company premises, alleged withdrawal of company funds, breach of obligations under the Memoranda of Understanding and other disputes inter se the parties involve disputed questions of fact and accounts. No specific relief is granted in respect thereof in the present proceedings and the parties are left at liberty to pursue such remedies as may be available in law.

(xiii) All other prayers not specifically granted herein are rejected.

(xiv) Accordingly, the Company Petition No. 20 of 2020 stands Partially allowed and disposed of.

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)
Vanshika-LRA

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)