Dr. Sharad Sahai vs Dio Digital Implant India Pvt. Ltd. & Ors on 12 March, 2021

Author: C.Hari Shankar

Bench: C.Hari Shankar

$~5(Original Side)
* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ O.M.P.(I) (COMM.) 87/2021
DR. SHARAD SAHAI ..... Petitio
Through: Mr. Rajshekhar Rao, Mr. Anandh
Venkataramani & Mr. Vinayak Mehrotra, Adv

versus

DIO DIGITAL IMPLANT INDIA
PVT. LTD. & ORS. ..... Responde
Through: Mr. Saubhagya Agarwal, Adv.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% 12.03.2021 IA 3211/2021 (Section 151 CPC for exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

IA 3210/2021 (Section 151 CPC for permission to file long synopsis and list of dates)

1. For the reasons mentioned in the application, the petitioner is permitted to file long synopsis and list of dates within a period of four weeks from today.

2. The application stands disposed of.

O.M.P.(I) (COMM.) 87/2021

1. The petitioner has approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996 ("1996 Act"), seeking pre arbitral interim relief.

2. The controversy relates around two agreements, the second being an offshoot of the first, i.e. a Joint Venture Agreement ("the JV Agreement") dated 2nd March, 2017 and an Employment Agreement dated 3rd May, 2017.

3. The JV Agreement dated 2nd March, 2017 was executed between DIO Corporation, South Korea and Devadi E-technologies Pvt. Ltd. ("DETPL") (in which the petitioner and his wife were shareholders). By the said agreement, the Respondent No. 1 Company, i.e. DIO Digital Implant India Pvt. Ltd. ("the JV") was constituted. The JV Agreement provided that DIO Corporation would have 70% shareholding in the JV, with two directors of its Board of Directors ("BOD"). DETPL was to have a minor shareholding of 30%, with the petitioner being the third director of the BOD of the JV.

4. Clause 6.18.1 of the JV Agreement further provided for appointment of the petitioner as the Chief Executive Officer ("CEO") of the JV and for execution of an Employment Agreement with DIO Digital. The definition of "CEO" in the JV Agreement further provided that in the event of conflict between the provisions of the JV Agreement and the Employment Agreement, the latter would prevail.

5. Clauses 6 and 9 of the Employment Agreement provided for termination of the petitioner and for arbitration as the mode of resolution of any dispute, which would arise thereunder, and read thus:

"6. The Employee's employment with Employer may be terminated by the Employer based on unanimous decision of BOD, if the Employee has been convicted of any fraud, embezzlement, or any offence related to moral turpitude, with or without notice. The Employee may resign from the position of Chief Executive Officer by serving a 3 months' notice.

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9. MEDIATION AND BINDING ARBITRATION Employer and Employee agree to first mediate and may then submit to binding arbitration any claims that they may have against each other, of any nature whatsoever, other than those prohibited by law or for workers compensation, unemployment or disability benefits, pursuant to the rules of Indian Arbitration and Conciliation Act, 1996. The seat of Arbitration shall be New Delhi, India."

6. Problems, for the petitioner, began in February, 2021. On 19th February, 2021, M/s. Nangia Andersen LLP, a representative of DIO Corporation, wrote to the petitioner, calling for a meeting of the BOD of the Company on 26th February, 2021. Item No. 5 on the agenda was termination of the petitioner's employment as CEO of the JV. The following paragraphs of the said communication merit reproduction:

> "ITEM NO. 5:
>
> TO REVIEW THE LEADERSHIP OF THE COMPANY AND TAKE REMEDIAL MEASURES It is to inform the Board that Mr. Sharad Sahai holds office in the Company as Director and Chief Executive Officer as per the CEO Employment Agreement ("the Agreement") between the Company and Dr. Sharad Sahai dated May 3, 2017 and Joint Venture Agreement entered into between the Company, Devadi E Technologies Private Limited and Dr. Sharad Sahai dated March 2, 2017.

> Further clause 2 of CEO Employment Agreement stated that the CEO Employment Agreement cannot be terminated by any party for a period of three (3) years, and this three years' lock in period as is stated in the employment agreement had expired on May 2, 2020.
>
> In view of the dismal performance of the Company, there is a need to try new strategies and leadership. In order to allow new leadership to take over, Dr Sharad Sahai may be relieved of his duties as soon as practicable. There is also a need of how the (this sentence is incomplete in the original document) The Board in this regard is requested to consider the termination of the CEO Employment Agreement between the Company and Dr. Sharad Sahai dated May 3, 2017 with immediate effect and thereby relieving him from all the duties and responsibilities as a CEO of the Company. However, he shall remain as a non-executive Independent Director of the Company representing Minor Shareholder.
>
> Nangia Andersen LLP will assist Mr. Taeyoung Kim and Mr. Sukjoon Chung in deliberating this Item"

7. The petitioner, vide communication dated 25th February, 2021, objected to the aforesaid agenda item, to which DIO Corporation responded on the same day.

8. It is also averred in the petition that, in the meeting of the BOD which took place on 26th February, 2021, the proposal of the petitioner that the matter could be discussed was rejected and that it was decided to terminate his employment as CEO.

9. It is in these circumstances, that the petitioner has moved this Court, invoking Section 9 of the 1996 Act. The prayer clause in this petition reads "In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:

> a) Allow the Petition and restrain the Respondents from implementing or acting upon decisions taken during the invalidly constituted Board of Directors Meeting dated 26.02.2021;

b) Direct the Board of Directors of Respondent No. 1 to maintain status quo with respect to the management and financial affairs of Respondent No. 1 as existed on 25.02.2021;

c) Pass such other further order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."

10. Mr. Rajshekhar Rao, learned counsel appearing for the petitioner, essentially advanced three contentions.

11. Firstly, he submitted that the termination of the petitioner's employment was in the teeth of Clause 6 of the Employment Agreement, which specifically permitted termination, by the

respondents, of the employment of the petitioner only "based on unanimous decision of BOD, if the employee has been convicted for fraud, embezzlement, or any offence relating to moral turpitude". As such, submits Mr. Rajshekhar Rao, the Employment Agreement did not provide any free hand to the respondents to terminate the petitioner's employment; it was only in the case of conviction on the ground of fraud, embezzlement or any offence relating to moral turpitude, that his employment could be terminated. Ex facie, therefore, submits Mr. Rajshekhar Rao, the decision to terminate the petitioner's employment, which was predicated on an alleged poor performance of the JV, was in the teeth of Clause 6 of the Employment Agreement.

12. Mr. Rao thereafter answered the query, of the Court, relating to Section 14(1)(d) of the Specific Relief Act, 1963 ("the Specific Relief Act"), by submitting, on the basis of the judgment of this Court in Tarun Sawhney v. Uma Lal 1, the High Court of Gujarat in Intercontinental Hotels Group- India Private Ltd v. Shiva Satya Hotels Pvt Ltd 2, Narendra Hirawat & Co. v. Sholay Media Entertainment Pvt. Ltd. 3, and the High Court of Madras in Jumbo World Holdings Ltd v. Embassy Property Developments Pvt Ltd 4 that the Employment Agreement could not be treated as "in its nature determinable", which, as an expression, was distinct and different from "determinable" per se. He has relied, for the said purpose, on the following passages from the said decisions:

> From Tarun Sawhney1:
>
> "Section 14(1) of Specific Relief Act deals with the contracts which cannot be specifically enforced and such contracts include a contract which by its nature is determinable. Therefore, the question which comes up for consideration is as to whether the agreements dated 16.09.2009 can be said to be determinable by nature within the meaning of Section 14(1)(c) of Specific Relief Act. In my view, Section 14(1)(c) of Specific Relief Act deals with the contracts which a party to the contracting is entitled to determine, during the subsistence of the contract. This clause, in my view, does not refer to a contract which would stand determined on account of non-performance of his obligation by a party to the agreement. Defendant No. 5 states that Clause 20 of the first agreement and Clause 17 of the second agreement, which are identical clauses, provide for termination of the contract in the event of its not being implemented within the time frame fixed in the agreement and not by an action of a party to the agreement. Even if the interpretation being given by Defendants No. 3 and 5 is accepted, a clause providing for automatic termination of the contract on account of its not being implemented within a given time frame would not make the contract terminable in nature, within the meaning of Section 14(1)(c) of Specific Relief Act, which I feel only to such contracts 2011 (125) DRJ 527 2013 SCC Online Guj 8678 2020 (5) Maharashtra Law Journal, 173 2020 SCC OPnLine Mad 61 Signing Date:15.03.2021 09:30:01 which provide for its termination by a party to the agreement, during the subsistence of the agreement. Section 14(1)(c) refers to agreements, which, either from their special character or from special stipulations, are determinable at the option or pleasure of the party against whom the relief is sought."

(Emphasis supplied) From Intercontinental Hotels2 "46. Learned Senior Advocate Shri Mihir Joshi for the appellants, opening the submission on behalf of the appellants has pointed out that agreement in the present case is not determinable in nature. Much emphasis was placed on this. The question that whether such agreement can be considered to be determinable in nature or not, is considered earlier in many cases by different High Courts. As referred above, in Rajasthan Breweries 5 (Supra) (Delhi High Court) and in Royal Orchid's case (Supra) (Madras High Court) has held that agreement is determinable in nature. On the other hand, in Adhunik Steel's case 6 (Supra), the Orissa High Court has taken the view that agreement is not determinable in nature. I am inclined to agree with the view taken by the Orissa High Court. It may be stated that Adunik Steel's case (Supra) was carried in appeal before the Hon'ble Supreme Court. On this point, the Hon'ble Supreme Court had upheld the view taken by the Orissa High Court. In the present case, in Para. 15.2 it is specifically provided to call upon the other side i.e. non-defaulting party to close the breach within 30 days. It takes care of both types of breach i.e. breach which is capable of being remedied and breach which is not capable of being remedied. Thus, the agreement clearly provides mode of determination. Relevant Clause 15 in the agreement between the parties reads thus;

> "15 TERMINATION:--
>
> 15.1 XXX XXX XXX 15.2 Material breach If either party commits a material breach of this Agreement, the other party may terminate the Agreement at the expiration of thirty (30) days after giving written notice to the party which committed the Rajasthan Breweries Ltd v. Strowh Brewery Co., 2000 (3) Arb LR 509 (Delhi) Orissa Manganese & Minerals (Pvt) Ltd v. Adhunik Steel Ltd, AIR 2005 Ori 113 Signing Date:15.03.2021 09:30:01 breach PROVED the breach has not been remedied or the defaulting party has not demonstrated to the satisfaction of the non-defaulting party within such thirty (30) day period that it has taken appropriate steps to cure the default and is working diligently to complete such cure within a period satisfactory to the non-defaulting party, acting reasonably.

However, if the default is not capable of being cured, the non-defaulting party may serve a notice on the defaulting party providing details of the alleged default and specifying an amount of compensation, to be paid to the non-defaulting party within sixty (60) days after the non-defaulting party's serving the notice on the defaulting party, for which the non-defaulting party is willing to settle the default. If such sixty (60) day period expires without the non-defaulting party receiving the compensation required in its notice or adequate compensation to the reasonable satisfaction of the non-defaulting party, then at any time within six (6) months of the date of expiration of such sixty (60) day period, (or within one (1) month if such sixty (60) day period expires at a time less than six (6) months prior to the Expected Completion Date as provided in Item 6 of the Details), the non-defaulting party has the right to terminate this Contract by notice to the defaulting party.

15.3 XXX XXX XXX 15.4 XXX XXX XXX"

> 47. What is meant by determinable? Its dictionary meaning as per Oxford English Dictionary is, (I) Fixed definable (ii) Able to be authoritatively decided, definitely

fixed or definitely ascertained and

(iii) Liable to come to an end, terminable. In the earlier Act i.e. Specific Relief Act, 1877-Clause (d) of Section 21 had used the word 'revocable'. The Law Commission had suggested that 'revocable' is not the proper expression. Following the recommendation of Law Commission, the word 'determinable' is introduced. So, word 'determinable' can be considered as a synonyms of word 'revocable'. Further, when term in question in the agreement is not incomplete, or not lacking in clarity or it is not uncertain and such term or terms of the agreement is breached and question arose for determination whether the agreement is determinable or not, then answer most likely than 'not', in all cases would be in negative i.e. not determinable. How to consider that agreement is determinable in nature or not? In Rajasthan Breweries Ltd.'s case (supra) gives one test, viz., all voidable agreements are revocable and such agreements are determinable. In Adhunik Steel's case (supra), the Orissa High Court took the view that provision of closing the breach i.e. calling upon the other side to remedy the breach within 90 days makes the agreement not determinable at the instance of either party. In Mariott International Hotel's case 7 the Court found that agreement is not specifically enforceable on account of Section 14(1)(a) and 14(1)(b). Clause- (c) does not appear to have been specifically considered by the Court. One way of looking at it, is to ask the question whether it is possible to issue order of specific performance and possible to enforce that order? In other words, the Court would not issue idle or formal order or the direction. The Court would not issue futile direction. Obviously, the facts and circumstances of the case-mainly the terms of the agreement-would decide whether it is just, proper and legal to enforce the agreement or not. Determinability of the agreement may be determined by applying the test of 'propriety.' "

From Narendra Hirawat3:

"The question now is whether the plaintiff deserves any interim protection pending such trial. Dr. Saraf, for defendant No. 1, submits, and he is joined in this by Mr. Andhyarujina, who appears for defendant No. 2, that the suit agreements being in the nature of a licence, and accordingly, by their very nature being determinable, their specific performance cannot prima facie be granted. Learned Counsel rely on the provisions of section 14(d) of the amended Specific Relief Act. (Amended section 14(b) is in pari materia with old section 14(1)(c) of the un-amended Specific Relief Act.) The word "licence" used in the suit agreements is not some special term of art so as to give rise to any particular consequence, as a matter of law, so far as revocability or determinability of the agreements is concerned; the consequence would rather depend on the agreements read as a whole. Apropos the agreements and having regard to the particular term of determination thereunder, Dr. Saraf and Mr. Andhyarujina argue that the contract is clearly determinable and if that is so, no specific performance is permissible. Learned Counsel rely on the cases of Indian Oil Corporation Ltd. v. Amritsar Gas Service, (1991) 1 SCC 533, Jindal Steel and Power

> Limited v. SAP 1982 (99) DLT 137 Signing Date:15.03.2021 09:30:01 India Pvt. Ltd., (2015) 221 DLT 708 and Spice Digital Ltd. v. Vistass Digital Media Pvt. Ltd., 2012 MhLJ Online 105 :
>
> (2012) 114 Bom LR 3696. Relying on these cases, it is submitted that since the subject agreements contain a termination clause, they must be treated, as, by their very nature, determinable and accordingly, no specific performance should be granted. Learned Counsel are not right there. When the relevant provision [section 14(d) of the Specific Relief Act] uses the words "a contract which is in its nature determinable", what it means is that the contract is determinable at the sweet will of a party to it, that is to say, without reference to the other party or without reference to any breach committed by the other party or without reference to any eventuality or circumstance. In other words, it contemplates a unilateral right in a party to a contract to determine the contract without assigning any reason or, for that matter, without having any reason. The contract in the present case is not so determinable; it is determinable only in the event of the other party to the contract committing a breach of the agreement. In other words, its determination depends on an eventuality, which may or may not occur, and if that is so, the contract clearly is not "in its nature determinable".

(Italics and underscoring supplied) From Jumbo World Holdings4:

> "The other aspect that remains to be considered is whether time is of the essence of the SPA and, therefore, whether the Petitioners were entitled to avoid the SPA as per Section 55 of the Contract Act. In this connection, upon appraisal of evidence, the Arbitral Tribunal concluded that time is not of the essence. In addition, the Arbitral Tribunal also held that the Petitioners were in breach of their obligations under the SPA and, therefore, could not insist on the consummation of the transaction within the stipulated time limit. I see no reason to interfere with these factual findings as per applicable legal principles. As regards the contention that the SPA is not specifically enforceable because it is in its nature determinable, I set out below my analysis from an earlier order dated 26.11.2019 in O.P. No. 698 and 711 of 2012 on this issue:

"16. On examining the judgments on Section 21(d) of SRA 1877 and Section 14(c) of the Specific Relief Act, as applicable to this case, i.e. before Act 18 of 2018, I am of the view that Section 14(c) does not mandate that all contracts that could be terminated are not specifically enforceable. If so, no commercial contract would be specifically enforceable.

Instead, Section 14(c) applies to contracts that are by nature determinable and not to all contracts that may be determined. If one were to classify contracts by placing them in categories on the basis of ease of determinability, about five broad categories can be envisaged, which are not necessarily exhaustive. Out of these, undoubtedly, two categories of contract would be considered as determinable by nature and, consequently, not specifically enforceable : (i) contracts that are unilaterally and inherently revocable or capable of being dissolved such as licences and partnerships

at will; and (ii) contracts that are terminable unilaterally on "without cause"

> or "no fault" basis. Contracts that are terminable forthwith for cause or that cease to subsist "for cause" without provision for remedying the breach would constitute a third category."

(Emphasis supplied)

13. The third submission addressed by Mr. Rao was as to whether the Court could grant an interlocutory mandatory injunction, at an ad interim stage. In this context, Mr. Rao first submitted, on facts, that this may not be a serious hurdle, as no formal communication of termination of the petitioner's employment as CEO, after the meeting of the BOD held on 26th February, 2021, has been received by him. He also submitted that Article 117 of the Articles of Association of the JV required the minutes of the BOD to be circulated within three days and finalized in accordance with law, and that no such circulation had taken place within the aforesaid time. Mr. Agarwal, for the respondents, could not dispute this factual position.

14. In law, moreover, submits Mr. Rao, there is no absolute embargo on grant of interlocutory mandatory injunction. He invites my attention to paras 15 and 16 of Dorab Cawasji Warden v. Coomi Sorab 8, which is the most often cited decision on the point. These passages read thus:

"15. In one of the earliest cases in Rasul Karim & Anr. v.

(1990) 2 SCC 117 Signing Date:15.03.2021 09:30:01 Pirubhai Amirbhai, ILR 1914 38 Bom. 381, Beaman, J. was of the view that the court's in India have no power to issue a temporary injunction in a mandatory form but Shah, J. who constituted a Bench in that case did not agree with Beaman, J. in this view. However, in a later Division Bench judgment in Champsey Bhimji & Co. v. The Jamna Flour Mills Co. Ltd., ILR 191416 Bom. 566, two learned Judges of the Bombay High Court took a different view from Beaman, J. and this view is now the prevailing view in the Bombay High Court. In M. Kandaswami Chetty V.P. Subramania Chetty, ILR 191841 Mad. 208, a Division Bench of the Madras High Court held that court's in India have the power by virtue of Order 39 Rule 2 of the Code of Civil Procedure to issue temporary injunction in a mandatory form and differed from Beaman's view accepting the view in Champsey Bhimji & Co. v. Jamna Flour Mills Co. (supra). In Israil v. Shamser Rahman, ILR (1914) 41 Cal. 436, it was held that the High Court was competent to issue an interim injunction in a mandatory form. It was further held in this case that in granting an interim injunction what the Court had to determine was whether there was a fair and substantial question to be decided as to what the rights of the parties were and whether the nature and difficulty of the questions was such that it was proper that the injunction should be granted until the time for deciding them should arrive. It was further held that the Court should consider as to where the balance of convenience lie and whether it is desirable that the status quo should be maintained. While accepting that it is not possible to say that in no circumstances will the Courts in India have any jurisdiction to issue an ad interim injunction of a mandatory character, in Nandan Pictures Ltd. v. Art Pictures Ltd. & Ors., AIR 1956 Cal. 428 a Division Bench was of the view that if the mandatory injunction is granted at all on an interlocutory application it is granted only to restore the status quo

and not granted to establish a new state of things differing from the state which existed at the date when the suit was instituted.

16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines. Generally stated these guidelines are:

> (1) The plaintiff has a strong case for trail. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.
>
> (2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.
>
> (3) The balance of convenience is in favour of the one seeking such relief."

15. He has also relied on para 9 of the judgment of the Division Bench of this Court in Amit Sinha v. Sumit Mittal 9, which reads thus:

> "On the test to be applied in granting mandatory injunctions on interlocutory applications in Halsbury's Laws of England, 4th edn., Vol.24, para 948 it is stated:
>
> "A mandatory injunction can be granted on an interlocutory application as well as at the hearing, but, in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the court thinks ought to be decided at once, or if the Act done is a simple and summary one which can be easily remedied, or if the defendant attempts to steal a march on the plaintiff, such as where, on receipt of notice that an injunction is about to be applied for, the defendant hurries on the work in respect of which complaint is made so that when he receives notice of an interim injunction it is completed, a mandatory injunction will be granted on an interlocutory applications." "

16. Mr. Aggarwal, learned counsel for the respondent, on being queried regarding the first submission of Mr. Rao, qua the patent illegality in the termination of the petitioner's employment, being violative of Clause 6 of the Employment Agreement, has really no serious answer to provide. He is not able to dispute the fact that the termination is not in accordance with Clause 6, extracted hereinabove. Mr. Aggarwal, however, seeks to rely on Clause 3 of the Employment Agreement, which reads thus:

> "3. PERFORMANCE TERMS Based on representations made by the Employee, as well as expectations of the Employer, the following performance terms are entered into: [See attachment "A"] Employee further understands that reaching these benchmarks or performance terms constitutes a reasonable and substantial condition of employment and shall use hi best endeavor to meet such benchmarks."

17. Mr. Aggarwal's submission is that Clause 3 of the Employment Agreement has to be read as providing as an additional circumstance in which the employment of the petitioner could be terminated, i.e. where his performance was not found to be satisfactory.

18. To my mind, this would be an entirely skewed manner of interpreting the Employment Agreement. Termination is a specific circumstance, for which a specific provision has been engrafted in the agreement in the form of Clause 6. It would be contrary to the most basic principles of interpretation of contractual documents to read Clause 3 as providing for an additional circumstance in which the employment of the petitioner could be terminated, over and above the circumstances envisaged by Clause 6. It is apparent that the parties to the Employment Agreement deliberately restricted the discretionary latitude, of the respondent, to terminate the petitioner's employment as CEO to the specified and extreme exigency of conviction for an offence involving fraud, embezzlement or any offense relating to moral turpitude". Mr. Rao is correct in his contention that even during the course of trial, for an offence involving fraud, embezzlement or (2011) 122 DRJ 273 (DB) Signing Date:15.03.2021 09:30:01 moral turpitude, the petitioner would be entitled to continue as CEO, and could be terminated only on conviction. It is impossible, therefore, to conceive Clause 3 as providing for termination of the petitioner's employment on a vague allegation that the JV was not performing well. Contractual covenants are sacrosanct, and cannot be rewritten by implication and inference even by the parties themselves, much less by a court which has to construe the contract as it stands. Inasmuch as the employment of the petitioner is, apparently, in the teeth of Clause 6, the petitioner has, in my view, a clear, prima facie, case insofar as the plea of invalidity of termination of his employment is concerned.

19. Indeed, the termination of the employment of the petitioner is so directly in the face of the covenants of the Employment Agreement that this Court, as an administrator of the law, cannot but step in to provide interlocutory succour. The decisions in Tarun Sawhney1, Intercontinental Hotels Group-India Pvt Ltd2, Narendra Hirawat & Co.3 and Jumbo World Holdings Ltd4 read with the Statement of Objects and Reasons to the Specific Relief (Amendment) Act, 2018 - on which, too, Mr. Rao placed reliance - make the application of Section 14(1)(d) of the Specific Relief Act, in a case such as this, arguable. Equally, the tests postulated in Dorab Cawasji Warden5 and Amit Sinha6, for grant of interlocutory mandatory injunction, too, make out a case for grant of interlocutory relief as sought, seen in the backdrop of the fact that no official communication, terminating the petitioner's employment as CEO, is yet received by him, and the minutes of the meeting of the BOD, dated 26th February, 2021, were not circulated within the stipulated period.

petition, petitioner would be entitled to ad interim relief, by staying operation of any decision to terminate the employment of the petitioner, consequent on the afore-extracted agenda Item 5 in the meeting of BOD, which was convened on 26th February, 2021 till the next date of hearing. It is

ordered accordingly.

20. Issue notice, returnable on 11th May, 2021.

21. Notice is accepted by Mr. Saubhagya Agarwal on behalf of the respondents. Response to this petition, if any, be filed within a period of four weeks from today with advance copy to learned counsel for the petitioner, who may file rejoinder thereto, if any, within a period of two weeks thereof.

C.HARI SHANKAR, J MARCH 12, 2021 r.bararia