

Judicial (1895.) Department.

ORDINARY MS.

G.O., No. 2473.

Dated 28th Nov 1895.

INDEXED.

[Despatch Abstract.]

APPOINTMENT OF AN INSPECTOR UNDER THE INDIAN COMPANIES ACT.

Referring, with remarks, for the opinion of the Advocate
-General petition from A. Sabapathi Mudaliyar of Bellary and certain
other shareholders of the Srivaikuntam Sugar Manufactory, Tinnevely
district, praying that an Inspector may be appointed to examine the ir-
regular affairs of the above Company under section 82, Clause (a) of Act
VI of 1882 (Indian Companies Act).

Ind:

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	5887		95				

[6
9]
2,000-2-4-95.

Current No. 4461

DEPARTMENT.

From

No.

Dated

Received

Enclosures

SUBJECT.

7-10-95

MR

Endorsement No. 2366.

Referred to the Registrar
Joint Stock Companies, Madras, for
remarks.

3/10/95. (By order)

James L. Davidson
1-10
Asst. Under Secretary

Gotacamed
4 Oct 1895

To
The Registrar of the Joint Stock Companies

MR
1-10-95

TO BE RETURNED
WITH REPLY.

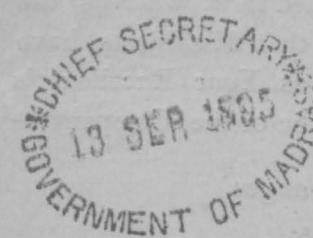
PETITION

1126

REVENUE DEPT.

To

His Excellency the Governor in Council,
Fort Saint George,
MADRAS.



The humble petition of Rao Bahadur A. Sabapathy
Mudaliar, Bellary, and the undersigned shareholders of
the Srivaikuntam Sugar Manufacturing Company, Ltd,
Alwartirunagari, Tinnevely District,

RESPECTFULLY SHEWETH,

That there are at present 1,122 fully paid-up shares, in the Company, including those of the undersigned who own among themselves **610** shares being "not less than one-fifth part of the whole shares of the company for the time being issued".

2. That Your Excellency's humble petitioners beg to approach Your Excellency with the following lines, and earnestly hope that Your Excellency will be pleased to grant your petitioners their prayer for an Inspector, which they make under section 82 clause (a) of Act VI of 1882 (Indian Companies Act).

3. That, as required by section 83 of the Indian Companies Act VI of 1882, Your Excellency's petitioners are prepared to give security for the payment of the cost of inquiry by an Inspector on hearing the amount of security so required.

4. That the Srivaikuntam Sugar Manufacturing Company has been in existence for the past 5 years of which during the past two years it has been manufacturing daily one to two tons of crystallized sugar and thereby earning Rs 75 to 100 per day as net profit. It should, therefore, have made not less than Rs 20,000 a year. But, owing to mismanagement on the part of the agents and office bearers (the President, the Secretary and the Directors) of the Company, it has not only left no profit, but, on the contrary, its debts have been increasing and thereby causing much anxiety to your humble petitioners.

5. That as section 83 of the Indian Companies Act VI of 1882 requires that an application for an Inspector should be supported by evidence as to the mismanagement complained of, and as to the necessity for an investigation by an Inspector to be appointed by Your Excellency, your petitioners respectfully submit herewith some documentary evidences which would substantiate your petitioners' statements against the officers and agents of the Srivaikuntam Sugar Manufacturing Company, Ltd., Alwartirunagari, and which would show that your petitioners are not actuated by malicious motives.

6. That although section 77 of the Indian Companies Act VI of 1882 and the article No. 40 of the Articles of Association (Exhibit A) lay down that previous notices, specifying the intention to propose all special resolutions, should be given to the shareholders, for convening meetings, yet following vital resolutions materially altering the constitution of the corporation have been passed without

any such previous notice and in contravention of section 77 of the Indian Companies Act VI of 1882, and of the Article No. 40 of the Articles of Association (Exhibit A)

A perusal of the notice (Exhibit B) for convening a meeting on the 30th May 1894, and of the Proceedings (Exhibit C) of the 6th June 1894 would show clearly that the notice had only 7 objects mentioned in it, whereas the Proceedings of the 6th June 1894 (Exhibit C) would show that 21 subjects have been disposed of including the following resolutions which, as Your Excellency's petitioners have said above, materially affect the constitution of the Company:—

Illegal changes.

- | | |
|--|--|
| <p>Vide Special resolution
No. 16 of 6th June 1894
Exhibit C and article
No. 42 of the Articles of
Association Exhibit A.</p> | <p>(a) Change of quorum from 25 members to 11.</p> |
| <p>Vide special resolution
No. 19 of 6th June 1894
Exhibit C and article 67,
clause 5 of the Article of
Association Exhibit A.</p> | <p>(b) Change in the qualifications of the Directors
from holding 50 shares to 1 share.</p> |
| <p>Vide Special resolution
No. 21 of 6th June 1894
Exhibit C, and article
82 of the Articles of Association Exhibit A.</p> | <p>(c) Extending the power of registration of
shares to the Secretary.</p> |
| <p>Vide Special resolution
No. 20 of 6th June 1894
Exhibit C, and articles
88 to 92 of the Articles of
Association Exhibit A.</p> | <p>(d) Rescinding the articles from 88 to 92 of the
Articles of Association (Exhibit A) and there-
by transferring the custody of the Company's
treasury from the Bank of Madras, Tuticorin
to the hands of the Secretary and the Presi-
dent.</p> |
| <p>Vide Special resolution
No. 17 of 6th June 1894
Exhibit C and Article 44
of the Articles of Association Exhibit A.</p> | <p>(e) Extending to the Secretary the power of
presiding as Chairman.</p> |

Your Excellency would thus see that the affairs of the Company are being managed high handedly and that their Proceedings are illegal and contrary to law, and highly detrimental to the interests of the shareholders.

7. That owing to some disputes between the Secretary and the President of the Company, factious meetings are held, the Secretary issuing one notice (Exhibit D) and the President another (Exhibit E), on the same date in two different places, although neither the President nor the Secretary has any right to convene an Extraordinary General Meeting himself—Vide article No. 37 of the Articles of Association (Exhibit A).

8. That the Secretary, according to his own whim and fancy, got together a few members of his own, and passed the so called special resolutions which are clearly illegal and went even so far as to remove the President appointed under the Memorandum of Association; and the President in turn passed his so called special resolutions which are also equally illegal suspending the Secretary—each forwarding a copy of his own special resolutions, for registration, to the Registrar of the Joint Stock Companies, Madras. But the Registrar has, after careful inquiry

and scrutiny ruled that the resolutions passed both by the Secretary and the President were quite illegal, and, therefore could not be admitted (Vide letters No. 315 dated the 5th July 1895 and No. 286 dated the 20th June 1895 from the Registrar of the Joint Stock Companies Madras (Exhibit F and Exhibit G).

9. That even after communication from the Registrar of the Joint Stock Companies, Madras, was received by the Secretary intimating to him that special resolutions passed by him on the 1st June 1895, removing the President A. N. Ramasamy Naidu and nominating one Muttukrishna Iyer were illegal, the Secretary persists in violating the said order of the Registrar and continues to get all the papers and books signed by his illegal President. The result is that both Mr. A. N. Ramasamy Naidu and Mr. Muttukrishna Iyer receive and spend money separately on behalf of the company to the great detriment to the interests of the shareholders. A reference to the records of the company will bear out the truth of these statements.

10. That the accounts of the company are in a very confused state and not in conformity with law in many cases, such as the following:—

(a) The Balance Sheet for 1894—95 (Exhibit H) printed and furnished to the members of the company is not certified to as being "correct and in conformity with law" except a declaration by an Auditor in the following words:—

"I certify that this Balance Sheet is according to this Company's accounts"—a declaration or certificate which is contrary to section 74, para 4, of the Indian Companies Act VI of 1882.

11. That although the Balance Sheet of this Company has to be prepared according to the Table A in the first schedule of the Indian Companies Act VI of 1882, it does not show the arrears of calls, the nature of arrears, the names of the defaulters and the particulars of the forfeited shares which are so important and necessary for the shareholders to know, and yet the Balance Sheet furnished by the Secretary and the Directors does not give any of the above information. Your Excellency's petitioners are prepared to prove to the satisfaction of your Excellency that it is only with sinister motives that such an incomplete Balance Sheet like the one submitted by your humble petitioners to Your Excellency's kind perusal is printed and furnished to the members.

Exhibit J a slip of paper attached to the Balance Sheet (Exhibit H), and called "B Form" contains among other things an item of Rs 8547—0—3 as being due by the company to 'the income and expenditure accounts', without mentioning the names of the persons to whom the company owes this amount. Advantage is taken of such vague and indefinite statements and transverse entries are made in the company's account books according as it suits, and is convenient to the Secretary's private transactions.

12. That the officers and agents of the company have not issued any share certificates as yet to the shareholders of the company although the company has been in existence for the past nearly five years.

The absence of share certificates renders transfer of shares almost an impossibility. The President, the Secretary and the Directors have not only given no certificates to the shareholders, but, on the contrary, have issued notices that

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applications for transfer of shares will be rejected without assigning any reasons whatever (Exhibit K), contrary to section 29 of Act VI of 1882.

13. That Your Excellency's petitioners are afraid that the agents and office bearers and their clique will soon pass resolutions giving them all the appearance of legality for the outside world, and thereby will put the shareholders to the greatest inconvenience and hardship imaginable.

14. That the Secretary and the President have been disputing over the right of possession of records, and even had recourse to the local Police and the Registrar of the Joint Stock Companies, Madras, for the settlement but the Police refused to interfere in the matter, and the Registrar had to threaten the disputants. The result of these disputes is positive loss to the shareholders, the President and the Secretary being sure of their commission on the quantity of sugar manufactured whether the business pays or loses in consequence of their conduct.

15. That during the meeting held on the 23rd and the 24th January 1895 when the Secretary wanted a spokesman he allowed a non-shareholder to sit and vote against the Secretary's enemies and to act as a regular share holder. The vote of this non-shareholder is recorded in the books of the company.

16. That the Secretary has been in the habit of removing the records of the company from the Registered Office to distant places even when the Secretary went out on his private businesses. This fact also could be proved by Your Excellency's humble petitioners.

17. That instances of extravagance and mismanagement, passing illegal proceedings, refusing the share holder their right to inspect the company's Share Register, keeping the shareholders out when they go to attend meetings in the registered office of the company, in response to the notices issued by the Secretary, and many other mal-practices would be disclosed on an investigation by an Inspector (to be appointed by Your Excellency) if the same is conducted with the help of, or in the light of, information that may be furnished by your petitioners or their attorneys or representatives.

18. That in conclusion your petitioners respectfully beg to assure Your Excellency that an examination into the affairs of the company by a competent Inspector would bring to light a thousand and one other instances of irregularities mismanagement and malpractices on the part of the agents and office bearers of the company which has become a subject of scandal and a bye word of reproach in this part of the country during the past five years.

19. That Your Excellency's humble petitioners are prepared to point out that the Indian Companies Act VI of 1882 now in force is defective in many respects. If the Presidents or the Secretaries of Joint Stock Companies happen to be men of no character, the Act is used by them as an engine of oppression against persons of character and respectability who unsuspectingly join their concerns relying on the protection the Indian Companies Act holds out to them as shareholders.

5

If a thorough examination by a competent Inspector whose appointment is prayed for, is made into the affairs of the Srivaikuntam Sugar Manufacturing Company, Limited, with which your humble petitioners are immediately concerned, and exemplary punishment is meted out to the delinquents, capitalists will be encouraged to invest their savings of years in concerns calculated to develop trade and industry, and Your Excellency's name and fame will spread far and wide.

For this act of kindness Your Excellency's humble petitioners will ever pray as in duty bound for Your Excellency's health, long life, and prosperity.

August 21, 1895 }
Alwarthunapany }

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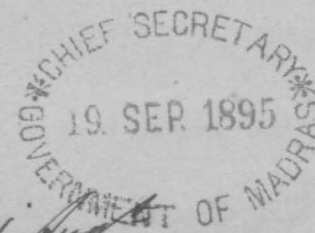
(1895.)

REVENUE DEPARTMENT.

Current Number. 6438.

From

A. Labapathy Mudaliar
Bellary and certain share-
holders of the Sivakuntam
Sugar Manufacturing Co.
Alwarthirunagari
Tennivelly Dist.



Dated 21 Aug

Received 14 Sept

Enclosures 14

No.

SUBJECT.

Praying that an Inspector
may be appointed to examine
the irregular affairs of the above
Co. under Sec: 82 clause (a) of Act
II of 1882 (Indian Cos Act) and
to furnish the delinquents.

ABSTRACT.

CURRENT No. 4

Ende just Sept

Transferred to the
Judicial Department.

W. H. L. King
As: Assistant Secretary

Cotaramund }
17th Sept. 1895 }

Recd 17th September 95
Encls 17.

note. The subject-matter of the
petition appertains to the
Judicial Dept and has
apparently been handed on
to the Rev: Dept by mistake.

M. S. G.
W. S. G.

Ref
S. H.

P. J. O.

[G]
25
600-23-7-98

Enclosure No 2 to letter No 11-5

No 272

Office of the Registrar
Joint Stock Com
Madras 14 June

From

M. K. R.

G. Hari Row Anargal

Registrar of Joint Stock
Madras

To The President

Trinankuntam Sugar
Manufacturing Company

Sir

In reply to your letter No 71

"Instant I have the honor to inform
that it forms no part of my duty
to pronounce any opinion as to
or otherwise of any of the branches
of any companies nor to decide
questions of law or fact. I shall
to register documents presented
in the usual course provided
required formalities of law are
duly and fully complied with.

2. The Resolution sanctions

as all said

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[25]
600-23-7-95.
Judicial DEPARTMENT.
1661 42808/95.
INCURRENT NO 4808
insion of the Secretary is not a special
action as already pointed out until
as required by section 77 of the Act and
warded to me then only for record with Rs
see payable therefor

of late the telegrams received from you
the Secretary have been so numerous
instant ~~that~~ as to compel me to rule
no more telegrams in connection with
affairs of the Gomaikintan Sugar manufacturing
any Ltd will be attended to whether received
you or from the Secretary or any one else
if of your Company but only formal
indence in the usual ordinary routine
"

I have the honor to be
Sir
your most obedient servant
(Sd) S. Hari Row

Registrar of Joint Stock
Companies

ident
Gomaikintan Sugar manufacturing
any Limited.

in copy forwarded to the Chief Secretary
Government Fort Saint George.

Registrar of
Companies
1895

S. Hari Row
Registrar of

2. The statements made in the
are all valid

revision of the Secretary is not a special
action as already

Enclosure No II to Letter
No 453.

CHIEF SECRETARY
11 OCT. 1895
GOVERNMENT OF MADRAS

1895
Jud. Dept.
1
O. No. 4808

copy forwarded to the Chief Secretary
Government Fort Saint George.
Registrar of

[G]
[25]
600-23-7-95.

Judicial DEPARTMENT.

CURRENT NO 4808

No. 453

Office of the Registrar of
Joint Stock Companies
Madras 10 October 1895

From

M R R

G. Hari Row Avargal

Registrar of Joint Stock Companies
Madras.

To

The Chief Secretary to Government
Fort Saint George

Sir,

I have the honor to submit my
remarks on the petition (herewith returned)
addressed to Government by the Honorable
Rao Bahadur A. Lakshapathy Mudaliar
and certain other shareholders of the
Trivakuntam Sugar Manufacturing
Company (Ltd), Alwarthirunagari Tenkasi
District and referred to me with the
accompanying Government Endorsement
No. 2366 Judicial dated the 4 Instant.

2. The statements made in the

Judicial Dept

PRESENT NO 4808

From

Mkky

J. Hari Row Anargal

Registrar of Joint Stock Companies
Madras

1248/9 D 18.6.95
799 D 26.4.92
584/5 D 22.3.92
945 D 19.9.91
924 D 10.9.88
& Co. papers.
7/12/86 No 3308 S.C.
1/9/86 No 2368 S.C.
12/11/86 No 3022 S.C.

To The Chief Secretary
to Government
Fort Saint George

Dated 10

Despatched 10

Received 11
Regd 12

GOVERNMENT OF MADRAS
11 OCT. 1895

October 1895

No 453

Enclosures (2) 15

enc. 4461 with enc. ref.

Please despatch
a present for app.
Supt. under Sec. 82 of
the J. Co. Act, 1882.

Subject

illegal resolution with
remarks

[4]
[25]
600-53-7-95

Judicial DEPARTMENT.

C. No. 4461 & 4808/95.

FOR ORDERS.

FOR ORDERS.

According to the petitioner's representation
they hold more than half the
whole number of shares in the
Company so that they have the
control of the Company entirely in
their own hands. I cannot therefore
see why they should need the assistance
of a Joint Insp. - Nor do I see
what is to result from a Joint in-
spection. - What follows on the
report of such inspection? Nothing,
so far as I am concerned. But look
up the debates on the Act while
still a bill & see if any inference
can be gathered as to the object
of such inspections, & if necessary
consult the Adv. Genl. of India as to
the matter for what their experience
is.

44/11/95

In the earlier of the current reads
about the Honble Rao Bahadur A.
Sabbapathi Mudr. & certain other share
holders of the Sri Sai Kuntum Sugar
Manufacturing Co. (Ld), Alwarthi -
Nagiri, Tanjore Dist., complain of the
mismanagement & lapse of the Co.
by the agents & officer holders thereof; and
request that, under sec. 82 (a) of Act
VI of 1882, an Inspector may be appointed
to examine the irregular affairs of the
Co.

The Registrar of Joint Stock Co.
to whom a reference was thereupon made,
states in the later current - C. No. 4808 -
that the allegations made in the petition
are true & bona fide & that the
Govt. may justly comply with the
petitioner's reasonable request.

~~For orders as to whether a report from the~~
~~St. Magistrate may now be called for~~
~~classification whom he would recommend for~~
~~appointment as Inspectors?~~

If Govt. decides to appoint an Inspector,
perhaps the best course to adopt is
to call on the Dist. Magt. of Dinapore
to nominate an Inspector, & to report
the amount of security to be required
for payment of the costs of the Enquiry,
(§ 83 of the Act), it being intimated to him
that the remuneration shd. be such as
to secure the services of a thoroughly
trustworthy man. On this security being
furnished by the petrs, Govt. will have
to decide in what manner the Inspector
shd. report on the affairs of the Company
(§ 82). It shd. presumably suffice to
direct him to enquire into the allegations
made by the petrs & generally into the
management of the Company. - § 85
prescribes the action shd. be taken on
receipt of the report.
The office can trace no precedent
in such a case as this

8
30-11-95
As such case as this has ever come
up since I joined the Secretariat
Ld
1/10/95

App. H of am. Inspectors
under the I. Co. Act

FOR ORDERS.

G.
25
300-5-10-03

Int. DEPARTMENT.

C. Nos 4461. & 4800. 195

FOR ORDERS.

Refce. H.M. note dated 4.11.95
Githin.

Vols. of Leg^{re} Page. on the Indian
Companies Bill are put up as
ordered, but they contain no in-
formation on the point in question.

The Select Committee's report does
not appear in either the Gazette of India
or the F.S. & Gazette.

The inspection report is probably
wanted for a winding up petition
under sec. 131 of the Act. (Please
see ^{also} sec. 87).

For orders as to whether
further Enquiries should be made.

Submitted that to appoint an
Inspector with Cost Govt. nothing
can do no harm, & that it is
policy to encourage Enquiries into
badly managed companies when

c 2/11.
24/11

29/11/95

1895

FOR ORDERS.

ORDER. 28 Nov 1955 No 2473

2. The following letters will be despatched to the Govts of Bengal & Bombay:-

Letter

To The Secy. to the Govt. of Bombay
Bombay.

Sir,

As an application for the

$\left[\frac{G.}{24.} \right]$
500-23.7-25.

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No. 4461 of 1895, dated 17 Sept., from the Rev. Dept.

4281 " 1895, " 10000, " the Registrar of Joint Stock Co's
 " " 4808 " 1895, " 10000, " Madras.
 " " " 189 " " " "

” ”

189 , , , ,

the last solicitor with } ~~Sept~~ 3/12
papers in orig. - 6 to recd

Nolo.

Note. It is submitted that reply to this may be awaited before the Govt. gives itself away to other Govts by asking for info - which the other drafts can perhaps wait. W. A. 1895

PTO

appointment under sec. 82 (a) of the I. Companies Act, VI of 1882, of a Govt Inspector, to examine the ^{alleged} irregular affairs of a sugar manufacturing Company in this Presy: has been received by Govt. I am directed by ~~the Govt in Council~~ to request that, with the permission of His Honor the Lt. Govr, information may be furnished as to what experience has been gained there from similar applications under the Act, & as to what ultimate use has been made of the inspection reports contemplated by sec. 82 of the Act.

(From order)

11/2
25/11/95

To

The ~~Govt~~ Govt. Solicitor. Please order with papers in reply to be sent with reply.
Letter to Bangalore & Bombay.

App^t of an Inspector under the I. Companies Act.

(From order)

CS

n given for copying _____
n copied _____
n examined _____
n signed _____ } 189

AGAIN G.O., No. _____ DATED _____
189

MENT No.

CLOSURES TO G. No.

AK OF GOVERNMENT

A A A A A A A

ITER OF GOVERNMENT.

ATMENT WITH DITTO.

ERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.