



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH, BENGALURU**  
(Through Physical Hearing / VC Mode (Hybrid))

**ITEM No.04**  
**C.A No.154/2024 in**  
**C.P No.106/BB/2024**

**IN THE MATTER OF:**

M/s. Singapore VII Topco I Pte. Ltd. & Ors. ... Petitioners  
Vs  
M/s. Aakash Educational Services Limited and Ors. ... Respondents

**Order under Section 241-242 of Companies Act, 2013**

**Order delivered on: 20.11.2024**

**CORAM:**

**SHRI K. BISWAL**  
**HON'BLE MEMBER (JUDICIAL)**

**SHRI MANOJ KUMAR DUBEY**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant in C.A No.154/2024	:	Shri Kapil Sibal, Senior Counsel Shri Darius Khambata Senior Counsel Shri Saji.P.John & Shri Nandish Patel
For Respondent No.1	:	Shri Mukul Rohatgi, Senior Counsel Shri K.G Raghavan, Senior Counsel Shri Shyam Sundar
For Respondent No.6	:	Dr. Abhishek M. Singhvi, Sr. Counsel Shri Dhyan Chinnappa, Sr. Counsel Shri A.Murali, Mr. Vishak
For Respondent No.7	:	Shri Rishab Gupta

**ORDER**

**C.A.No.154/2024**

1. This Application has been filed by M/s. Singapore VII Topco I Pte. Ltd. & Anr. (Applicants), Under Section 241, 242 and 244 of the Companies Act, 2013 and Rule 11 of the NCLT Rules, 2016, against M/s. Akash



:2:

Educational Services Limited & 11 Ors. (Respondents) seeking the following as-interim reliefs:

- a. *Direct the Respondent Nos.1 to 5 to remove/delete and not take up agenda items no.8 as set out in the EGM notice with respect to the alternation of Respondent No.1's AoA during the 65<sup>th</sup> EGM of the Respondent No.1 on 20.11.2024;*
- b. *Strictly in the alternative to prayer clause (a), direct Respondent Nos.1 to 11 to not give effect to the resolution, if passed, in relation to agenda Item No.8 alteration of Respondent Nos.1's AoA;*
- c. *Direct Respondent No.12 to not take on record the resolutions passed at the 65<sup>th</sup> EGM on 20.11.2024 in relation to agenda Item 8 – alteration of Respondent No.1's AoA, should the same be filed by Respondent No.1 with Respondent No.12.*

2. The Sr. Counsel for the Applicants argued that the Respondent Nos.1 to 6 are violating the Article 121 which provides the Applicants with special rights pertaining to Reserved Matters as outlined in the Schedule I to the AoA. According to Article 121 of the AoA, without the prior written approval of the Applicants, the shareholders of Respondent No.1 are restricted from taking any action or commitment on Reserved Matters. As per Article 121(b). if any director, officer, committee, employee, agency of Respondent No.1 proposes to include in the agenda of or discuss at a meeting of the board or shareholders meeting any 'Reserved Matter', the Respondent No.1 is required to give a 'Reserved Matter Notice' to this effect. Article 121(e) states that any decision or action taken in breach of Article 121 shall be void *ab initio* and invalid or not binding on Respondent No.1. However, neither approval of the Applicants was taken, nor any Reserved Matter Notice was issued in relation to proposed agenda for the 65<sup>th</sup> EGM pertaining to adoption of the altered AoA of Respondent No. 1. Therefore, any decisions or actions taken in relation to the deletion of Part B of the AoA or any other alteration to the AoA at the 65<sup>th</sup> EGM shall be *void ab initio* and not be valid or binding on Respondent No. 1.



3. In response to the above, the Ld. Sr. Counsel for the Respondent No.1 argued that the Petitioners having failed to any prejudicial, dishonest or inept actions by the Respondent No.1, have not shown any prima facie case for the grant of any interim order, much less an order in the manner sought for. Though aware, the Petitioners have failed to even bring out the basic and fundamental information well within their knowledge, viz., the present shareholding pattern of Respondent No.1 Company. The balance of convenience does not lie in favour of the Petitioners and is in fact in favour of the Respondent No.1, which will be able to function as envisaged. In fact, the balance of convenience in favour of the Respondent for the non-grant of the Interim order, as it would entail the company to perform its functions and duties in the truest sense and in the interest of all involved including the students, teachers, parents etc. No irreparable harm or injury will be caused to anybody if the application is rejected, but it would in fact be in the best interest of the Company. The three-fold test of establishing (i) a prima facie case, (ii) balance of convenience and (iii) irreparable loss or harm for the grant of interim relief, is well-established in the jurisprudence of several High Courts and the Apex Court. (*Bloomberg Television Production Services India Private Limited & Ors. Vs. Zee Entertainment Enterprises Limited- (2024) SCC Online SC 426, Dalpat Kumar & Anr. Vs. Prahlad Singh & Ors.- (1992) 1 SCC 719*).
4. The Ld. Sr. Counsel appearing for the Respondent No.6 in open Court has handed over certain documents which are marked as Exhibit-1.
5. The Ld. Sr. Counsel appearing for the Respondent No.1 also pointed out that the Applicant is suppressing the material documents and not came with clean hands. On the contrary, the Petitioners/Applicants' Sr. Counsel also pointed out that since the documents being confidential as per Clause 12.1 of the Merger Framework Agreement dated 03.04.2021, there is no need to file these documents.



6. Further, as regards to the urgent calling of the meeting as supra, the Ld. Sr. Counsel for the Petitioners/Applicants also pointed out that an email was sent to the Respondent No.1 on 14.11.2024 stating that to decide upon a Reserved Matter, approval of the Petitioners in accordance with Article 121 of the AoA is necessary and they also asked for removal of the Agenda items related to the alteration of AoA. Another email was also sent on 16.11.2024 through their Counsel to the Respondents, however, no response was received from the Respondents.
7. It is *inter alia* stated by the Ld. Sr. Counsels for the Applicants that by deletion of Part-B of the Articles of Association in its entirety, the Petitioners are being deprived of all their rights. Despite holding 6.97% of equity shareholding in Respondent No.1, their rights under Part B have been proposed to be deleted in contravention of Article 146 which suggests that the Petitioners will enjoy their rights as long as they continue to hold shares in Respondent No.1. It is further stated that the Petitioners are aggrieved by Respondents No.1 to 6 actions particularly their violations of the AoA and the Companies Act. Therefore, it is prayed that Respondent No.1 ought to be directed to delete or remove Agenda Item No.8 as detailed in the 65<sup>th</sup> EGM Notice. In the alternative, a direction that R-1 shall not implement or give effect to any resolution passed in relation to Agenda Item No.8. In support of their submissions, Ld. Sr. Counsel for the Applicants/Petitioners have filed brief notes, where under they have *inter alia* relied on the following decisions:
  - a. *Mathrubhumi Printing and Publishing Co. Ltd. V. Vardhaman Publishers Ltd.* 1991 SCC Online Ker 453 – Paragraphs 26(6), 29 and 32.
  - b. *Niklesh Tirathdas Nihalani v. Shah Poddar Nihlani Organizers Pvt. Ltd. and Ors.* 2021 SCC OnLine NCLAT 4395 – Paragraphs 26, 57 and 59.
  - c. *Saroj Hasmukh Patel v. Kantilal Pranlal Patel*, 2006 SCC OnLine CLB 39.
8. Heard the submissions of Learned Senior Counsels for the Parties.



:5:

9. In view of the above and in the interests of justice, this Tribunal directs the Respondents No.1 to 11 not to give effect to the resolutions, if passed, in relation to the Agenda Item No.8 in the Extra Ordinary General Meeting to be held on today i.e. 20.11.2024, till the disposal of the main Petition.

**C.P.No.106/BB/2024:**

1. Heard the Ld. Sr. Counsels appearing for the parties.
2. Issue Notice. The Ld. Sr. Counsels who are appeared accepts notice for the Respondents and seeks time to file objections. Therefore, three weeks' time is granted to the Respondents to file the same and one week thereafter is granted to the Petitioners for filing rejoinder, if any, after duly serving the copy on the other side.
3. List the case for further consideration on **19.12.2024**.

**-Sd-**

**MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

**-Sd-**

**(K. BISWAL)**  
**MEMBER (JUDICIAL)**