



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on : 26th May 2026*
Pronounced on: 01st July 2026
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+ CO.A(SB) 21/2015 & CO.APPL. 968/2015 CO.APPL.21 /2024

ATUL BATRA & ORS.Appellants

Through: M. Prachi Johri and Mr. Sachin
Jain, Advocates.

versus

BHP ENGINEERS PRIVATE LIMITED & ORS.Respondents

Through: Mr. Sumit K. Batra, SC for OL

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This Company Appeal has been filed assailing impugned order dated 17th March 2015 passed by the Company Law Board [**'CLB'**] in CA No.120/2013 in Co. Pet. No.67 (ND)/2009. The essential issue raised is the rejection of appellants' application for interrogatories addressed to the respondents; the interrogatories served on the respondents were not allowed by the CLB.

2. By order dated 15th May 2025, the Joint Registrar (Judicial) closed the opportunity for respondents to file their reply. Subsequently, since no one had been appearing on behalf of the respondents for several dates



before the Court, they were proceeded *ex parte* by order dated 14th July 2025. Further, despite the demise of appellant nos. 2 and 3, the right to sue survives in favour of the Legal Representatives.

Factual Matrix

3. *M/s. BHP Engineers Pvt. Ltd.* (the Company) was incorporated by three promoters in 1982. The name of company was changed twice and finally, in 1989, it assumed its present name, *i.e. M/s. BHP Engineers Pvt. Ltd.*

4. Appellants are minority shareholders who have filed a petition alleging oppression and mismanagement under Sections 397/398 read with Section 402 of the Companies Act, 1956 [*‘Companies Act’*] in respect of *M/s. BHP Engineers Pvt. Ltd.*

5. Various disputes arose between appellants and respondent no.2, including allegation of siphoning of funds, oppression of appellants and mismanagement of the Company. In 2013, CA 120/2013 was filed placing on record interrogatories, which were expected to significantly clarify the statements made by the respondents in their reply to the petition. This was in the backdrop of repeated refusals to permit inspection of records sought by the appellants, leaving interrogatories as the only effective means to elicit facts. Attempts at settlement before CLB did not reach any fruition, and appellants pressed their application for interrogatories which was dismissed by the impugned order dated 17th March 2015.

6. *Ms. Prachi Johri*, counsel for appellants, advanced her submissions, though the respondents were proceeded against *ex parte*.



7. Before assessing the submissions, the position taken in the impugned order needs to be considered. At the outset before the CLB, appellants did not press interrogatories at serial. nos. 1 to 3 and 9 to 12. In respect of the remaining interrogatories, it was contended that they had a direct nexus with the object sought to be achieved in the company petition and that the information sought was relevant thereto. Respondents countered by stating that through interrogatories, appellants seek to indulge in *fishing and roving enquiry* which is impermissible in law. It was further submitted that a detailed inspection had already been conducted and explanations had been offered to the appellants regarding non-production of certain documents during such inspection.

8. The CLB held that proceedings under Section 397/398 of the Companies Act, the permission of discovery by interrogatories cannot be used to undertake *fishing and roving enquiry* and the petition must stand on its own legs. The detailed inspection of documents in the company was undertaken by appellants on 03rd September 2009. If some documents were not available, appellant ought to have filed an application for discovery by interrogatories with dispatch. However, the aforesaid application was filed after a lapse of 6 years and thereby indicating a lack *bona fide*.

9. It was further noted that the main object of delivering interrogatories is to seek an assertion or denial of certain facts in order to seek information in support of their case. However, the interrogatories served sought unidentified information from the company only to substantiate one's case. The power to allow interrogatories was subject to the discretion of the Board and no information can be sought without any



assertion being made. It was therefore held that interrogatories are indulging in *fishing and roving enquiry*.

10. The appeal was filed, *inter alia*, on the following grounds:

- i. Interrogatories served had a direct nexus to the issues raised in the Company Petition;
- ii. There was no *fishing or roving enquiry*, as the appellants were merely seeking information in respect of the allegations directly raised in the petition;
- iii. Inspection carried out *vide* letter dated 3rd September 2009 was incomplete, and several documents relating to allegation of siphoning of funds were not provided;
- iv. The CLB, in passing the impugned order, appears to have considered the merits of the main company petition, although only an interlocutory relief for interrogatories was under consideration;
- v. In the reply to the Company Petition, respondents have not given any particulars of facts with respect to which specific allegations were made and no supporting documents have been given;
- vi. The application for interrogatories was filed in 2013 itself when pleadings in matter were finalized.
- vii. The CLB erred in holding that appellant lacked *bona fides*, as the application for interrogatories could not be filed on an earlier occasion in light of settlement talks going on between the parties on various occasions. The



object of interrogatories is to assert the truth or falsehood of allegations made in the petition.

- viii. Interrogatories have to be read not in isolation, but along the contents of pleadings.

Submissions on behalf of counsel for appellant.

11. In support of the appeal, *Ms. Prachi Johri*, counsel for appellant, placed on record the submissions, which can be categorized under the following heads:

12. ***Applicability of Code of Civil Procedure, 1908 in company law matters***

12.1. At the outset, it was argued that there exists sufficient scope under law for the issuance of interrogatories in company law proceedings. Reference was made to Rule 6 of the Companies (Court) Rules, 1959 [***1959 Rules***] which provides for applicability of Code of Civil Procedure, 1908 (***CPC***).

“6. Practice and Procedure of the Court and provisions of the Code to apply.—Save as provided by the Act or by these rules the practice and procedure of the Court and the provisions of the Code so far as applicable, shall apply to all proceedings under the Act and these rules. The Registrar may decline to accept any document which is presented otherwise than in accordance with these rules or the practice and procedure of the Court.”

12.2. Section 10E of the Companies Act provides for the CLB to order discovery. The section is extracted as under for reference:

“10E. Constitution of Board of Company Law Administration



...

(4-C) Every Bench referred to in sub-section (4-B) shall have powers which are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) discovery and inspection of documents or other material objects producible as evidence;*
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses;*
- (c) compelling the production of documents or other material objects producible as evidence and impounding the same;*
- (d) examining witnesses on oath;*
- (e) granting adjournments;*
- (f) reception of evidence on affidavits.*

(4-D) Every Bench shall be deemed to be a civil court for the purposes of Section 195 and [Chapter 35 of the Code of Criminal Procedure, 1898], and every proceeding before the Bench shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and for the purpose of Section 196 of that Code.]

(5) Without prejudice to the provisions of sub-sections (4-C) and (4-D), the Company Law Board shall in the exercise of its powers and the discharge of its functions under this Act or any other law be guided by the principles of natural justice and shall act in its discretion.

(6) Subject to the foregoing provisions of this section, the Company Law Board shall have power to regulate its own procedure.”

12.3. Section 477 (2) of the Companies Act grants power to the CLB to summon persons and make written interrogatories.

12.4. Regulation 24 of the Company Law Board Regulations, 1991 that governs the procedure for the CLB, reads as under:



“24. Power of the Bench to call for further information/evidence. - The Bench may, before passing orders on the petition, require the parties or any one or more of them, to produce such further documentary or other evidence as the Bench may consider necessary—

(a) for the purpose of satisfying itself as to the truth of the allegations made in the petition; or

(b) for ascertaining any information which, in the opinion of the Bench, is necessary for the purpose of enabling it to pass orders on the petition.”

12.5. Further, Regulation 44 of the Company Law Board Regulations, 1991 provides the inherent power of the Bench and reads as under:

“44. Saving of inherent power of the Bench.-Nothing in these rules shall be deemed to limit or otherwise affect the inherent power of the Bench to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Bench.”

13. ***Interrogatories under CPC and its ambit***

13.1. Reliance was placed on Supreme Court’s decision in ***Union of India v. Ibrahim Uddin***, (2012) 8 SCC 148, wherein the Supreme Court stated as under:

“21. Order 11 CPC contains certain provisions with the object to save expense by obtaining information as to material facts and to obtain admission of any fact which he has to prove on any issue. Therefore, a party has a right to submit interrogatories relating to the same matter in issue. The expression “matter” means a question or issue in dispute in the action and not the thing about which such dispute arises. The object of introducing such provision is to secure all material documents and to put an end to



protracted enquiry with respect to document/material in possession of the other party. In such a fact situation, no adverse inference can be drawn against a party for non-production of a document unless notice is served and procedure is followed.

22. Under Rule 14 of Order 11, the court is competent to direct any party to produce the document asked by the other party which is in his possession or power and relating to any material in question in such suit. Rule 15 Order 11 provides for inspection of documents referred to in the pleadings or affidavits. Rule 18 thereof empowers the court to issue order for inspection. Rule 21 thereof provides for very stringent consequences for non-compliance with the order of discovery, as in view of the said provisions in case the party fails to comply with any order to answer interrogatories or for discovery or inspection of documents, he shall, if he is a plaintiff, be liable to have his suit dismissed for want of prosecution and if he is a defendant, to have his defence, if any, struck out and to be placed in the same position as if he had not defended, and the party interrogating or seeking discovery or inspection may apply to the court for an order to that effect.

(emphasis supplied)

- 13.2. This Court in the matter of **Suresh Kumar Sanghi v. Supreme Motors Ltd.**, 1981. SCC OnLine Del 199, has also allowed filing of interrogatories in petitions under sections 397/398/402/403 of the Companies Act, 1956. The relevant paragraph is extracted as under:



“3. The petitioner filed a rejoinder to the reply. This rejoinder was filed after the petitioner had, with the help of a court order, inspected the records of the company. After the petition was admitted and the pleadings were completed, by order dated 2nd December, 1980, it was directed that the parties may file affidavits by way of evidence and documents within four weeks. Admission and denial of documents was to take place before the Deputy Registrar. The Central Government was given liberty to file a representation and parties were given an opportunity of filing affidavits in reply to the representation, if filed. By the said order liberty was also given to the parties to summon oral evidence, if necessary. The parties were also entitled by the said order to take steps to cut short the trial by service of interrogatories, notice to admit and deny documents, notice to produce documents, etc. It was further directed that if the said steps were not taken by the parties, the case would be notified by the Deputy Registrar and listed for hearing. Reference has been made by me to the aforesaid order for the reason that, though some documents were filed by the parties, no affidavits by way of evidence have been filed nor did the parties take any steps to summon any oral evidence nor were any interrogatories served. The result is that the petition and the various averments made by the parties have to be decided merely on the basis of the pleadings and the admitted documents on the record. During the course of arguments averments were made by the respective counsel but in so far as they go beyond the pleadings, no notice need be taken of them.”

(emphasis supplied)

- 13.3. The Company Law Board, Kolkata in the matter of ***Sutodiya Investment & Trading Company Limited v. Tivoli Park Apartments Private Limited***, 2010 SCC OnLine CLB 115, allowed



the filing of interrogatories. The relevant paragraph is extracted as under:

“12. Interrogatories can be allowed whenever answers to them will serve to prove the case of the party administering the interrogatories or to destroy the case of the adversary. This right is valuable one and the party should not be deprived of that right as held in Ram Lal v. Tare Singh (AIR 1952 Nagpur page 135). It is sufficient if the interrogatories are relevant to the matters in question. Here, proof of Pradip Kr. Kayan signing upon transfer forms is very much relevant to the dispute in this case. Since the interrogatories in this case are not within the ambit of the privilege of communications, not a disclosure injurious to public interest, not scandalous, not irrelevant, not related to question of law and not for making a new case, the relief sought by second respondent is within the ambit of section 10 E of sub-section 4 of the Act.”

(emphasis supplied)

14. **Relevance of Interrogatories**

14.1. A tabulation was presented by counsel for the appellant, providing reference to the relevant interrogatories being pressed, along with the corresponding stand of the respondent and the allegations in the petition. The tabulation is extracted below:

Allegation in Petition	Stand of Respondent	Relevant interrogatory
Para 6.19,6.30,6.38- incorporation of R5 and R6 and diversion of business to these entitled	Para 20, 23 of reply says R5 is a wholly owned subsidiary but not about transfer of business to R4	Interrogatory no. 4 – date of decision by Board to sell plant and machinery to R4
Para 6.20- sale of land at	Para 20 of reply admits	Interrogatory no. 5,6,7,8 and 16 – on



Gurgaon and purchase of cheaper land	sale of land but provides no details	purchase of alternate land at Faridabad in the name of R4
Para 6.29- Annual turnover of R1 decreased and that of R4 increased	No justification in the Reply	Interrogatory no. 17 – why is the Company not doing business since 2006
CA 83/2013 filed seeking interim directions since R1 was disposing off remaining assets	No Reply filed	Interrogatory no. 14, 15- whether there was agreement to sell assets

15. *Nature and scope of the interrogatories*

15.1. It was contended that the impugned order wrongly opines that interrogatories were confined to CA No.83/2013 and that application was not pressed. However interrogatories relate to averments in the petition, which were not sufficiently responded to by respondents in their reply. Moreover, Section 30 CPC allows filing of interrogatories *at any time*. The impugned order was incorrect in stating that interrogatories were filed after lapse of 6 years whereas they were filed in 2013 when pleadings were completed and the application was not pressed on account of settlement talks.

16. *The issue of inspection being granted*

16.1. The interrogatories were filed on the ground that relevant documents were not made available during inspection or annexed to the reply. The inspection granted on 03rd September 2009 were only partially successful and the relevant documents were not shown.

16.2. It was noted in the attendance sheet where inspection was given, at serial nos. 6, 7 and 8, that records in relation to companies in which



directors were interested from 13th March 2009 shown, but previous records were not shown. Similarly, register of contracts with companies in which directors are interested were shown only from 15th April 2008 and not those of the previous year. Further only one resolution dated 28th October 2007 regarding the appointment of *Mr. Ajay Batra* as Managing Director was shown; however, that had no details of terms and only mentions that previous remuneration and terms shall apply. No earlier records were produced.

17. Interest of the company was paramount. There were serious allegations of diverting of business of Company and siphoning of funds have been made. Respondent claimed that decisions were taken in meetings; however, they failed to produce the minutes of such meetings. The interrogatories relate only to these issues and are intended to ascertain the truth or falsity of the statements made.

Analysis

18. The issue of interrogatories has to be assessed on the basis of what information has been elicited. The tabulation provided in *paragraph 14.1* above restricts the interrogatories for which the petition has been pressed to serial nos. 4, 5, 6, 7, 8, 14, 15, 16 and 17.

19. It can be seen that while *interrogatory no. 4* seeks date of the decision by the Board to sell the plant and machinery to respondent no.4; *interrogatory nos. 5, 6, 7, 8 and 16* seek the details of the purchase of alternate land in Faridabad in name of respondent no.4; *interrogatory no. 17* seeks information as to why the company was not doing business since



2006; and *interrogatory nos. 14 and 15* sought information as to whether there was an agreement to sell assets of the company.

20. All these interrogatories are relatable to the respondents' reply, wherein no clear information was provided regarding the transfer of business to respondent no. 4. While the sale of land at Faridabad was mentioned, no supporting details were furnished. The decline in turnover of respondent no.1 and the corresponding increase in turnover of respondent no.4 were not addressed. Similarly, in respect of disposal of assets, details of the relevant agreements were sought.

21. A perusal of the petition would show that petitioners claimed to constitute 1/10th (one-tenth) of the total number of members of the company and therefore entitled to file petition under Sections 397/398/402/403 of the Companies Act.

22. The company was in the nature of a family concern, which included the petitioners who belonged to the same family or were close friends. It was alleged that respondent no.2 took charge as Managing Director of the company, in 2001, a number of changes were brought around and the status of the company was converted from '*Public Limited*' to '*Private Limited*'. Two more companies were incorporated namely, *M/s. BHP Infrastructure Private Ltd.* and *M/s. BHP Conveying Equipment Private Ltd.*, respondent nos.4 and 5. Allegation was that funds began to be diverted from respondent no.1 Company to respondent nos. 4 and 5, and the properties and assets of the Company were transferred to these new entities controlled by respondent no.2. it was alleged that while a decision was taken to sell the land at Gurgaon in order to purchase a land in Faridabad, the land at Faridabad was



purchased in the name of respondent no. 4 without the knowledge of the members of the Board of the Company. It was also alleged that after 2003-2004, the management consisting of respondent nos.2 and 3 chose to dispose of entire assets, as was evident by the balance sheet and profit and loss account of the company for the year 2005-2006. The entire plant and machinery was sold without any valuation for approximately *Rs.72 lakhs*. This came to the knowledge of the petitioners in July 2006 after which objections were raised by the appellants herein on various grounds.

23. It is stated in the petition itself that perusal of the Annual Report of the company has brought out the following facts:

- (i) The land at Gurgaon had been sold for *Rs.33 crores*.
- (ii) The complete machinery had been sold for *Rs.71 lakhs*.
- (iii) Under the head of factory expenses, it is stated that the company paid commission of *Rs. 76.64 lakhs*.
- (iv) Company suffered a loss from operation of *Rs. 76 Lakhs*.
This is not mentioned anywhere in the Annual Report.
- (v) There is no mention of the intangible assets of the company like business, brand, collaborations etc.
- (vi) There is no mention of the human resources of the company.
- (vii) There is no mention of the intellectual property and design data base built up over twenty years.
- (viii) There is no mention of the future plans of the company.
Since BHP Engineers is today a company without any machinery, it is not clear what the company intends to do.



(ix) The Auditors have raised doubts as to the basis of preparing the balance sheet on a “*going concern basis*” yet the Annual Report says that the Balance Sheet has been prepared on a going concern basis.

24. On the question of law, it is evident that sufficient power has been conferred under the Companies Act upon the CLB to exercise powers akin to those vested under the CPC, including discovery and inspection of documents. This is further reinforced by Rule 6 of the 1959 Rules, which makes the provisions of the CPC applicable as far as may be. Reference may also be made to Section 477(2) and Regulation 24 of the 1991 Regulations, as well as the inherent powers of the Bench under Regulation 44 of the 1991 Regulations. Invoking these provisions is apposite in the present context.

25. Reliance on ***Ibrahim*** (*supra*) as regards the purview of Order XI CPC is also material. The object is to obtain information on material facts and to obtain admission of any facts. The object is to secure material documents and put an end to protracted enquiry.

26. Notice is also taken of the decision of this Court in ***Suresh Kumar Sanghi*** (*supra*) concerning a company petition for oppression and mismanagement where the Court stated that the parties were entitled to take steps to cut short the trial *inter alia* by service of interrogatories. The CLB Kolkata Bench in ***Sutodiya Investment & Trading Company Limited v. Tivoli Park Apartments Private Limited*** (*supra*) has also stated that interrogatories can be allowed wherever answers to them itself prove the case of the party administering the interrogatories or to destroy



the case of the adversary, and that it was sufficient that interrogatories are relevant to the matters in question.

27. In these circumstances, aforesaid provisions being applicable, maintainability of the application seeking interrogatories cannot be doubted, nor can the relevance of material sought through the interrogatories, as already discussed.

28. The CLB, therefore, erred in rejecting the interrogatories on the ground of delay as well as on merits. The record shows that the application was filed in 2013 and was not pressed thereafter until 2014–2015 due to the Court’s efforts to facilitate settlement between the parties. It was only in March 2015 that a fresh application was pressed in continuation of CA No. 120/2013. There seems to be no material delay in moving the said application for which there is no limitation, in any event.

29. Order XI Rule 7 CPC seeks to provide grounds for setting aside and striking out interrogatories, the same is extracted below:

“7. Setting aside and striking out interrogatories.— Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous; and any application for this purpose may be made within seven days after service of the interrogatories.”

30. From a perusal of the interrogatories as sought above, in the opinion of the Court, they don't seem to be reasonable or vexatious or oppressive or scandalous and therefore, there is no reason why any of these interrogatories be set aside or struck out.



31. The interrogatories, as in *paragraph 18*, would therefore be responded to by respondents within a period of 8 weeks from date of this judgment.

32. A copy of this order be sent to NCLT, which is successor of the matters before the CLB, as pending matters before the CLB were transferred to NCLT *vide* notification S.O.1936(E) dated 1st June 2016.

33. The appeal is disposed of in above terms. Pending applications, if any, are rendered infructuous.

34. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 1, 2026/sm/zb