S.No.01

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – II
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
22.07.2026 AT 10:30 A.M.

IA (CA)/298/2025, IA (IBC)/159/2025, IA (CA)/157/2025, IA (CA)/103/2025, IA (CA)/102/2025, IA (CA)/101/2025, IA (CA)/83/2025, IA (CA)/96/2025, IA (CA)/13/2026, IA (CA)/62/2026 & IA (CA)/61/2026
Company Petition/10/241/HDB/2025
U/s 241 of Companies Act

IN THE MATTER OF:
Mrs. Bhawna Gupta **…Petitioner**

Vs

Pharmascroll Research ans Consulting Pvt Ltd **…Respondent**

CORAM:-
SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

ORDER

Company Petition/10/241/HDB/2025
Present: Mr. Anish Agarwal & Mr. Chidambara Sastry, Ld. Counsels for the Petitioner.

Orders pronounced, recorded vide separate sheets.

In the result, this Petition is partly allowed and disposed of.

IA (CA)/298/2025, IA (IBC)/159/2025, IA (CA)/157/2025, IA (CA)/103/2025, IA (CA)/102/2025, IA (CA)/101/2025, IA (CA)/83/2025, IA (CA)/96/2025, IA (CA)/13/2026, IA (CA)/62/2026 & IA (CA)/61/2026
As the main Company Petition/10/241/HDB/2025 has been disposed, these IAs becomes **infructuous and is disposed** of accordingly.

Sd/-
MEMBER(T)

Sd/-
MEMBER(J)

siva

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-II
CP.NO.10/241/2025
In the matter of
PHARMASCROLL RESEARCH AND CONSULTING PRIVATE LIMITED

In the matter of Sections 241 to 244 of the Companies Act, 2013

Between:

Mrs. Bhawna Gupta
665, Dakra Cantt, Dehradun
Uttarakhand – 248003

...Petitioner

Versus

1. **PharmaScroll Research and Consulting Private Limited**
   Cl203 Accuratec Wind Chimes
   Survey No: 342/1 & 343
   Opposite Chaitanya College
   Narsingi,Mehdipatnam,
   Hyderabad, Telangana – 500075

...Respondent No. 1

2. **Mr. Sahil Singla,**
   Block-3, Flat no- 709,
   My Home Mangala, Shilpa Valley,
   Kondapur, Hyderabad-500084

...Respondent No. 2

3. **Mr. Ramesh Chandra Nainwal,**
   C-1203, Accuratec Wind Chimes,
   Survey no 342/1 & 343,
   Narsingi Mehadipatnam,
   Hyderabad, Telengana- 500075

...Respondent No. 3

4. Mrs. Vandana Nainwal,
C-1203, Accuratec Wind Chimes,
Survey no 342/1 & 343,
Narsingi Mehadipatnam,
Hyderabad, Telengana- 500075

…Respondent No. 4

5. Mr. Lokesh Kumar Agarwal,
C-1203, Accuratec Wind Chimes,
Sy. No. 342/1 & 343,
Narsingi, Mehadipatnam,
Hyderabad, Telangana - 500075.

…Respondent No. 5

6. Ms. Mandala Aruna,
I-450, Dwaraka Nagar, Anantapur,
Andhra Pradesh - 51500.
India.
Email: naidubvcsb&gmail.com

…Respondent No. 6

7. Shajan K. Baby,
Kidangil Puthen Veedu, Vellappara Konni,
Pramadom, Mathanamthitta Kerala – 689691.

…Respondent No. 7

Date of order : 22.07.2026

CORAM:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Shri Sanjay Puri, Hon'ble Member (Technical)

COUNSELS PRESENT:

For Petitioners	: Mr. Anish Agarwal and Mr. Chidambara Sastry, Ld. Counsels
For Respondents No.2 to 5	: Ms. Devangi, PCS, Ld. Counsel O/o. Mr. Y. Suryanarayana, Ld. Counsel
For Respondents No. 6	: Mr. M. Viswaraj, Ld. Counsel
For Respondents No. 7	: Mr. B. Nitish, Ld. Counsel

1. The present Company Petition is filed by Mrs. Bhawna Gupta, Director of M/s. Pharma Scroll Research and Consulting Private Limited against the other Directors and Company Secretary seeking the following reliefs:

   A. To restrain Respondent Nos.2 to 5 from withdrawing any amounts from the bank accounts of the Company or from disposing off any of the assets of the Company without obtaining prior written approval from the Petitioner.

   B. To restrain Respondent Nos.2 to 5 from making any issuance of securities in the Company without obtaining prior written approval from the Petitioner.

   C. To declare that the Petitioner is the holder of 6500 equity shares of Rs. 10/- each in the Company out of a total issued and paid up capital of 12500 equity shares of Rs. 10/- each. To declare that the Petitioner is entitled to exercise all the rights in relation to 6500 equity shares of the Company and consequently declare the share transfer to Mr. Shajan K. Baby and Ms. Mandala Aruna, as null and void.

   D. To restrain Respondent Nos. 2 to 4 from acting as directors of the Company in any manner till a shareholders meeting is duly convened where the Petitioner is allowed to exercise rights over 6500 equity shares (52%) out of a total of 12500 equity shares.

E. To restrain Respondent Nos. 2 to 5 from acting as representatives of the Company.

F. To set aside the Impugned Notice in so far as it relates to the rights issue of shares and declare that the rights issue proposed in the Impugned Notice is in contravention of the Companies Act, 2013 and the Master Direction for Foreign Investment in India issued by the Reserve Bank of lndia on 4.1.2018 as updated from time to time.

Petition

2. It is submitted that M/s. Pharma Scroll Research and Consulting Private Limited **(Respondent No.1/R1 Company)** was incorporated on 21.06.2017 with an authorised share capital of Rs 10,00,000and a paid-up share capital of Rs. 1,25,000/-. The Petitioner, Mrs. Bhawna Gupta, holds 6,500 equity shares out of the total issued and paid-up capital of 12,500 equity shares, constituting 52% of the Company's shareholding. Respondent No.4, Mrs. Vandana Nainwal, holds 3,500 equity shares, representing 28% of the total issued share capital.

3. It is submitted that Mr. Sahil Singla **(Respondent No.2/R2)** and Mr. Ramesh Chandra Nainwal **(Respondent No.3/R3)**, who are Directors of Respondent No.1 Company, do not hold any equity shares in the Company. It is further submitted that, as per the Valuation Report ***(Exhibit E to the Petition)***, the fair value of each equity share of Respondent No.1 Company was assessed at Rs. 9,299.70/-.

4. It is submitted that an Extraordinary General Meeting was held on 27.05.2022 wherein the consent of the shareholders was obtained for issuance and allotment of 2500 equity shares at an issue price of Rs. 9,300/- at premium of Rs. 9,290/- on preferential basis to Red Valerian

LLC at a total consideration of Rs. 2,32,50,000/- **(Exhibit F of the Petition).**

5. It is submitted that R2 and R3 were appointed as Directors of Respondent No.1 Company on 27.04.2024. It is further submitted that the Independent Auditor's Report dated 07.09.2024 confirms that the Petitioner continued to hold 6,500 equity shares, constituting 52% of the total shareholding of the Company.

6. It is further submitted that, during January/February 2025, the relationship between the Petitioner and R2 became strained. It is alleged that the Respondents in collusion, undertook various acts with the intent to oppress the Petitioner and dilute her shareholding in the Company. It is submitted that the list of shareholders of R1 Company, as reflected on the website of the Ministry of Corporate Affairs as on 31.03.2024 and published on 07.09.2024, is reproduced below:

Sl. No.	Name of the Shareholder	No. of Shares	Percentage of Shareholding
1.	Vandana Nainwal	3500	28%
2.	Bhawna Gupta	6500	52%
3.	Red Valerian, LLC	2,500	20%
Total		**12,500**	**100%**

7. It is submitted that Respondent No.3 issued a notice dated 03.04.2025 convening a meeting of the Board of Directors on 10.04.2025. The agenda proposed the issuance of 87,500 equity shares at an issue price of Rs. 150/- per share by way of a rights issue. It is further submitted that each existing shareholder was offered the right to subscribe to seven equity shares for every equity share held at the aforesaid issue price, and the offer remained open only for the period from 14.04.2025 to 20.04.2025 (both days inclusive).

8. It is submitted that the schedule attached to the Impugned Notice shows that the Petitioner has total 6188 equity shares and that R4 has total 3188 equity shares with 312 equity shares each being held by

Mandala Aruna and Shajan K Baby. Thus, it appears that the R2 to R5 are conniving to ensure that the Petitioner's equity shareholding in the R1 Company goes below 50% and as per the said notice dated 03.04.2025 the shareholding of the Petitioner is only 49.5% only.

9. It is contended that the shareholding disclosed in the notice dated 03.04.2025 is incorrect and that the issuance of the said notice constitutes an act of oppression against the Petitioner and amounts to mismanagement of the affairs of Respondent No.1 Company. It is further contended that the notice is in contravention of Section 62 of the Companies Act, 2013, as the rights issue was kept open for only seven days, whereas, according to the Petitioner, the statutory minimum period prescribed under the Act is fifteen days.

10. It is averred that the proposed rights issue was offered at approximately 98.5% below the fair value of each equity share as determined under the valuation undertaken in the year 2022. It is further averred that R1 Company has recorded substantial growth in its business, with significant increases in sales 2022. Despite the same, the Respondents proposed the rights issue without obtaining any contemporaneous valuation report. It is further contended that, since one of the shareholders is a person resident outside India, compliance with the applicable provisions of the Foreign Exchange Management Act, 1999, and the RBI Master Direction on Foreign Investment in India dated 20.01.2025, was mandatory.

11. It is submitted that Paragraph 6.12.3 of the RBI Master Direction mandates adherence to the prescribed pricing guidelines in respect of rights issues made to person resident outside India. It is further submitted that Paragraph 8 of the Pricing Guidelines stipulates that the issue price shall not be lower than the value determined in accordance with an internationally accepted pricing methodology on an arm's length basis, duly certified in the manner prescribed. According

to the Petitioner, the absence of any such valuation renders the proposed issue price legally impermissible.

12. It is contended that the rights issue was scheduled to remain open from 14.04.2025 to 20.04.2025, during which period this Tribunal was on vacation from 10.04.2025 to 20.04.2025. According to the Petitioner, the timing of the rights issue was deliberately chosen to frustrate any immediate legal challenge to the actions of Respondent Nos.2 to 5. It is further contended that, if the Petitioner were compelled to subscribe to the rights issue at the proposed price, she would be exposed to adverse tax consequences under Section 56 of the Income-tax Act, 1961, as the difference between the issue price and the fair market value of the shares may be treated as taxable income.

13. It is contended that, upon receipt of the impugned notice dated 03.04.2025, the Petitioner realised that Respondent Nos.2 to 5 had fraudulently, and in violation of the prescribed statutory procedure, effected the transfer of her shares in favour of third parties. Consequently, the Petitioner lost confidence in Respondent Nos.2 to 5 and their management of the affairs of the Company.

14. It is submitted that Petitioner is the largest shareholder by a huge margin and has now requisitioned the Board of the R1 Company to call for an EGM, so that R2 to R4 can be removed from the Board of Directors and Ms. Nikita Gupta can be admitted as a director on the Board.

15. It is submitted that the Petitioner, by virtue of her shareholding, is entitled to requisition an Extraordinary General Meeting under Section 100 of the Companies Act, 2013, enabling the shareholders to determine whether Respondent Nos.2 to 4 should continue as Directors of Respondent No.1 Company. Accordingly, the Petitioner issued a requisition notice dated 07.04.2025, which also contained a special notice proposing the appointment of Mrs. Nikita Gupta as a Director

and the removal of Mr. Sahil Singla, Mrs. Vandana Nainwal, and Mr. Ramesh Chandra Nainwal from the Board of Directors.

16. It is submitted that, owing to the strained matrimonial relationship between the Petitioner and Respondent No.2, the Petitioner was constrained to reside separately. Consequently, her original share certificate remained in the custody and possession of Respondent No.2 and could not be retrieved. It is further submitted that any transfer of the Petitioner's shares without her consent, or based upon forged signatures, is void ab initio and non-est in the eye of law.

17. It is contended that Respondent Nos. 2 to 5 are attempting to alter the ownership structure of the Company and that there exists a reasonable apprehension that they may siphon off the assets and resources of Respondent No.1 Company. It is in these circumstances that the present Petition has been instituted alleging acts of oppression and mismanagement.

Counter by Respondent Nos. 2, 3, 4 & 5

18. The Respondent Nos. 3, 4 & 5 filed adoption memo adopting the counter filed by the R2.

19. It is submitted that all the averments, allegations, and contentions advanced by the Petitioner are false, frivolous, vexatious, and devoid of any legal or factual basis. It is contended that the Petitioner has failed to place on record any documentary evidence to substantiate the allegations levelled against the Respondents. It is further submitted that the Petitioner has selectively relied upon isolated incidents in an attempt to falsely portray acts of oppression and mismanagement on the part of the answering Respondents.

20. It is contended that the burden lies upon the Petitioner to plead and establish that the alleged acts of oppression are of such gravity as would justify the making of a winding-up order on the ground that it is just and equitable to do so, and that such winding up would unfairly

prejudice the interests of the Petitioner. It is submitted that the Petitioner has failed to satisfy the said statutory requirements.

21. In support of the aforesaid contention, the Respondents have placed reliance upon the judgments of the Hon'ble Supreme Court in **S.P Jain vs. Kalinga Tubes Ltd.** (1965) 2 SCR 720 : AIR 1965 SC 1535 and **Jaladhar Chakraborthy and Others vs. Power Tools and Appliances Co. Ltd.and Others** 1991 SCC OnLine Cal 300 : (1994) 79 Comp Cas 505,to contend that the Petitioner has failed to make out a case warranting relief under Section 242 of the Companies Act, 2013.

22. It is submitted that Respondent No.1 is a profitable company, having achieved a turnover of Rs. 13,81,71,063/- as on 31.03.2024 and having earned a net profit of Rs. 1,46,18,659/-. It is contended that, in view of the Company's robust financial performance, the allegations made by the Petitioner do not, by any stretch of imagination, justify the passing of a winding-up order on just and equitable grounds.

23. It is submitted that the Petitioner and Respondent No.2 are the promoters and original subscribers to the Memorandum of Association of Respondent No.1 Company and, at the time of incorporation, each held 5,000 equity shares. It is further submitted that Respondent Nos.2 and 3 have been actively involved in the day-to-day management and operations of the Company since its inception.

24. It is averred that R2 and R3 devoted substantial time, effort, expertise, and financial resources towards the growth, expansion, and building networks essential for its sustenance. It is further averred that personal differences arose between the Petitioner and Respondent No.2, who are husband and wife, during October-November 2024, following which they have been residing separately since February 2025 and have initiated matrimonial proceedings seeking dissolution of their marriage.

25. It is further averred that the Petitioner has left no stone unturned in her attempts to cause prejudice to R2 and, in pursuit of her alleged

personal motives, has taken steps that have caused, or are likely to cause, irreparable loss and damage to the business and reputation of R1 Company.

26. It is submitted that the consideration paid towards the Petitioner's share subscription was funded by R2 and that, over the past seven years, R2 transferred an aggregate sum of approximately Rs. 3 Crores to the Petitioner. It is further submitted that the Petitioner was never actively involved in the operational or commercial affairs of Respondent No.1 Company and lacks even a basic understanding of the Company's business activities and operations.

27. It is averred that the Petitioner's requisition for convening an Extraordinary General Meeting seeking the removal of R2, R3, and R4 from the Board of Directors and the appointment of Ms. Nikita Gupta, the Petitioner's sister, as a Director, clearly demonstrates the Petitioner's oblique motives and mala fide intention to take control of the management of the Company for personal reasons.

28. It is submitted that Respondent No.1 Company entered into a commercial arrangement with Novartis for providing market research and analytics services and deployed its employees at the premises of the said client. It is further submitted that the Company generated a turnover of approximately Rs. 23 Crores during the Financial Year 2024–25, out of which nearly Rs. 20 Crores was derived from business generated through Novartis, thereby indicating that the Company is substantially dependent upon a single customer.

29. It is submitted that Novartis had indicated its intention to float a six-month project for which it had invited a Request for Proposal (**RFP**) from R1 Company. However, R2 subsequently learnt from employees stationed at the client's premises that R1 Company might not be permitted to participate in the said project on account of an email allegedly sent by the Petitioner to Novartis informing it about the

internal disputes within the Company and requesting it not to award any business to R1 Company.

30. It is submitted that R2 and R3 were in the process of securing non-dilutive working capital funding through Recur Club Technologies Private Limited, a fintech platform facilitating business financing. It is further submitted that, when the loan application had reached the final stage of processing, the Petitioner addressed an email dated 20.03.2025 to the lender requesting that the proposed disbursement be withheld on the ground of alleged internal management disputes within the Company

31. It is submitted that, on 04.09.2024, the Petitioner and Respondent No.4 each transferred 312 equity shares of face value Rs. 10/- in favour of Mr. Shajan K. Baby and Ms. Mandala Aruna, respectively. Consequently, on the date of institution of the present Petition, the Petitioner held 6,188 equity shares, constituting 49.50% of the issued share capital of the Company. It is further submitted that, by letter dated 04.09.2024, the Petitioner requested the Board to split Share Certificate No.4 into two certificates representing 6,188 and 312 equity shares, respectively[1]. Acting upon the said request, the Board approved the splitting of the share certificate in its meeting held on the same date. It is further submitted that the Petitioner also furnished the duly executed Form SH-4 together with the original share certificate to facilitate the transfer.

32. It is also submitted that the Respondent No.2 was initially appointed as promoter director of R1 Company and had subsequently resigned from R1 Company on 05.10.2017.

33. It is submitted that Respondent No.3 issued the notice dated 03.04.2025 convening the Board Meeting scheduled for 10.04.2025 for the purpose of considering a proposal to raise additional capital by way of a rights issue, as the Company was facing an immediate requirement

[1] Annexure 4 to the R2 Counter

for working capital and was unable to disburse employee salaries for the month of March 2025. Accordingly, Respondent Nos.2 to 4 resolved to raise funds through a proportionate rights issue to the existing shareholders.

34. It is submitted that the proposed rights issue was solely intended to augment the Company's working capital and meet its operational requirements through contributions from the existing shareholders. It is contended that the mere issuance of the Board notice proposing a rights issue cannot, by itself, constitute an act of oppression or mismanagement.

35. It is submitted that the Petitioner's contention that the notice dated 03.04.2025 violates Section 62 of the Companies Act, 2013 is wholly misconceived. It is submitted that, pursuant to the amendment introduced by Section 11 of the Companies (Amendment) Act, 2020, notified on 28.09.2020, read with Rule 2 of the Companies (Share Capital and Debentures) Amendment Rules, 2021, a rights issue may validly remain open for a period ranging from seven to thirty days, depending upon the discretion of the Company. Consequently, the offer period of seven days is fully compliant with the statutory framework.

36. It is submitted that Paragraph 6.12.1(6) of the RBI Master Direction on Foreign Investment in India merely stipulates that, where an unlisted Indian company makes a rights issue to a non-resident shareholder, the issue price shall not be lower than the price offered to resident shareholders. In the present case, the proposed rights issue was uniformly offered to all existing shareholders, including Red Valerian LLC, at the same issue price of Rs. 150/- per share. Accordingly, it is contended that there is no violation of the RBI pricing guidelines.[2]

37. It is submitted that neither the Companies Act, 2013 nor the applicable statutory framework mandates the obtaining of a valuation report for a rights issue. The valuation undertaken in the year 2022 pertained to a

[2]Exhibit “D” of the Petition

preferential allotment made through a private placement in favour of a foreign investor and was conducted using the Discounted Cash Flow (DCF) Method, as required under law. It is further submitted that at the time of investment, the investors not only consider the valuation of shares but will also consider the face value of the promoters.

38. It is contended that, at the time when Red Valerian LLC invested approximately Rs. 2.3 Crores at an issue price of Rs. 9,300/- per share, R1 Company. The investment was made on account of the Company's projected business potential and future prospects, as envisioned and developed by R2 and R3, rather than solely on the intrinsic value of the equity shares.

39. It is submitted that Respondent No.1 Company was in urgent need of funds to meet its working capital requirements and, therefore, the rights issue price of Rs. 150/- per share was determined having regard to the prevailing commercial realities and the Company's immediate financial needs. It is further submitted that the proposed issue was confined exclusively to the existing shareholders on a proportionate basis and did not involve the induction of any third-party investor. The Respondents further contend that a valuation report had, in fact, been obtained from Mr. K. Chiranjeevi Rao, a Registered Valuer.

40. It is submitted that the Petitioner is incorrectly claiming to be the majority shareholder notwithstanding the transfer of shares. Consequently, the Petitioner's assertion that she possesses the requisite majority to remove the existing Directors is legally untenable.

41. It is contended that the Petitioner's arbitrary and mala fide attempts are contrary to the principles of sound corporate governance and are detrimental to the interests of the Company.

42. It is finally submitted that the Petition is founded upon false and misleading allegations. It is contended that the Petitioner has failed to establish any case of oppression or mismanagement warranting the

exercise of jurisdiction under Sections 241 and 242 of the Companies Act, 2013, and the Petition is therefore liable to be dismissed.

Counter by Respondent No.6

43. It is submitted that the Petitioner has no locus standi to challenge the transfer of shares effected by R4 in favour of R6. It is contended that R6 has no connection whatsoever with the inter se disputes between the Petitioner and the other Respondents and, therefore, has been unnecessarily impleaded in the present proceedings.

44. It is submitted that R6 lawfully acquired the subject shares from R4 in accordance with the provisions of the Companies Act, 2013. It is further submitted that the said shares were subsequently transferred by Respondent No.6 to Respondent No.2 through a bona fide transaction supported by valid consideration, duly executed transfer documents, and all requisite statutory compliances. It is further contended that the said transfer was duly approved by the Board of Directors and recorded in the statutory registers of Respondent No.1 Company.

45. It is submitted that the validity of the shareholding acquired by R2 through R6 cannot be questioned by the Petitioner in the present proceedings. It is further alleged that the Petitioner has been continuously harassing R6 by repeatedly contacting her over the telephone, subjecting her to verbal abuse, and issuing threats and intimidation. According to R6, such conduct has caused her immense mental agony, anxiety, and emotional distress.

46. In view of the foregoing, R6 prays that she be deleted from the array of parties, as no cause of action has been disclosed against her.

Counter by Respondent No.7

47. It is submitted that the present Petition is wholly misconceived and has been instituted with the ulterior motive of converting a purely personal

and matrimonial dispute between the Petitioner and Respondent No.2 into a case of alleged oppression and mismanagement. It is further submitted that R7 has been deliberately impleaded only to create a misleading narrative regarding the alleged illegal transfer of shares.

48. It is submitted that R7 is the lawful holder of 312 equity shares of R1 Company, which were validly transferred by the Petitioner. It is further submitted that, by her written request dated 04.09.2024, the Petitioner voluntarily sought the transfer of 312 equity shares in favour of R7. The Board of Directors, in its meeting held on 04.09.2024, duly approved the said transfer, and the same was accordingly recorded in the Register of Members. Consequently, the Petitioner's shareholding stood reduced from 6,500 equity shares to 6,188 equity shares.

49. It is contended that R7 has no role whatsoever in the issuance of the impugned Board Notice dated 03.04.2025, the proposed rights issue, or the management and affairs of R1 Company. It is further submitted that no specific relief has been sought against R7 and that no relief under Sections 241 and 242 of the Companies Act, 2013 can be granted against him, he being merely a shareholder without any managerial or controlling role in the affairs of the Company.

<u>Rejoinder to Counter filed by Respondent No.2</u>

50. It is submitted that the valuation report relied upon by the Respondents is fabricated and manipulated, which is apparent on the face of the record. It is contended that there is no reason as to why the valuation of the R1 Company has gone down from Rs. 9300/- to less than Rs. 150/- per equity share.

51. It is submitted that the letter allegedly executed by the Petitioner requesting the transfer of shares is dated 04.09.2024, whereas the Board Meeting purportedly approving the said request was also held on 04.09.2024. According to the Petitioner, the sequence of events is inherently improbable and contrary to the statutory procedure

prescribed under the Companies Act, 2013. It is further contended that Section 173(3) of the Act mandates a clear notice of not less than seven days for convening a Board Meeting. The Petitioner further submits that the consideration for alleged transfer was grossly inadequate when compared to the value at which identical shares were issued in the year 2022, namely Rs. 9,300 per share.

52. It is submitted that the subsequent transfer of the impugned shares by R7 to R2 itself demonstrates that R2 was behind alleged fraudulent transaction. It is further submitted that R2 had discussed various methods of unlawfully divesting the shareholding and that such conversations were recorded by the Petitioner.

53. It is submitted that R7 allegedly purchased 312 equity shares of the Petitioner, the no. of shares required to reduce the Petitioner's shareholding below 50%. It is further submitted that the identity and contact details of R7 were disclosed only pursuant to the directions of this Tribunal. According to the Petitioner, it was impossible to independently verify whether R7 was a genuine purchaser or acting at the instance of R2. Consequently, the alleged transfer has become incapable of independent verification.

54. It is further submitted that, despite the Petitioner having requisitioned an Extraordinary General Meeting, the Respondents deliberately abstained from attending the meeting, thereby preventing the requisite quorum from being constituted and frustrating the conduct of the meeting.

55. It is submitted that, while the Respondents claim that R1 Company generated revenue exceeding Rs. 23 Crores, they simultaneously contend that the Company lacked sufficient funds even to meet its day-to-day operational expenses. According to the Petitioner, such contradictory stands give rise to a reasonable inference that the assets and funds of the Company are being siphoned off. It is further submitted that the application for financial assistance made to Recur

Club Technologies Private Limited was not preceded by any resolution of the Board of Directors, as mandated under Section 179(3) of the Companies Act, 2013. The Petitioner contends that disclosure of the internal disputes to the proposed lender was necessary for lender to be aware.

56. Itis further contended that the Respondents are engaged in siphoning the business and transferring resources of R1 Company to two competing entities, namely Pharmaleap Research Private Limited, incorporated in Delhi, and Pharmaleap Consulting Private Limited, incorporated in Pune. It is alleged that both entities are controlled by R2 through Ms. Nidhi Sharma, who serves as a Director in both companies. It is further submitted that the Petitioner possesses audio recordings wherein R2 allegedly admitted to making payments to Ms. Nidhi Sharma through Mr. Dinesh Pandey.

57. It is submitted that it is not in dispute that R2 doesn't have any shares in R1 Company and that his subsequent acquisition of shares is itself under challenge in the present proceedings. It is further submitted that R2 and R3 were inducted as Directors only in the year 2024, following which they initiated steps to remove the Petitioner from the management and control of the Company.

58. It is stated that the Petitioner never requested for splitting of Share Certificate and the signatures of the Petitioner is forged. It is further submitted that despite repeated requests, the Respondents failed to disclose or produce any documentary evidence of the consideration allegedly paid for the impugned transfer of shares

59. It is submitted that in the case of an unlisted Indian company issuing equity instruments to a person resident outside India, the issue price shall not be lower than the value determined in accordance with an internationally accepted pricing methodology on an arm's length basis, duly certified by a Chartered Accountant, SEBI-registered Merchant Banker, or Cost Accountant, as the case may be. It is, therefore,

contended that the proposed rights issue, involving an existing non-resident shareholder, could not have been undertaken without obtaining a valid valuation report. The Petitioner submits that the failure to obtain such valuation constitutes a clear violation of the applicable RBI Master Directions.

Rejoinder to the Counter filed R6

60. It is contended that R6 seeks to justify an illegal transfer of shares undertaken with the sole object of defeating the Petitioner's rights as the majority shareholder of Respondent No.1 Company. It is further submitted that there is no material on record to establish that any consideration was paid for the alleged transfer. Moreover, the shares, which were valued at Rs 9,300per share in the year 2022, were purportedly transferred for a nominal consideration of Rs 10per share, rendering the transfer void in the eyes of law.

Rejoinder to the Counter filed by R7

61. It is submitted that, pursuant to the directions of this Tribunal, the Petitioner attempted to contact Respondent No.7 using the contact details furnished by the Respondents. However, Respondent No.7 refused to provide any information regarding the alleged transfer of shares. It is further submitted that the Petitioner categorically denies having received any consideration for the purported transfer of 312 equity shares.

62. It is submitted that no notice was ever issued for the alleged Board Meeting dated 04.09.2024. The Board Report prepared by the Respondents itself suggests that the Petitioner was not present at the said meeting. It is further submitted that the Respondents claim to have, in a single meeting held at 11:00 a.m. on 04.09.2024, processed the request for splitting the share certificate, effected the split, issued split share certificates, received the transfer request and Form SH-4,

and approved the transfer of shares, despite the Petitioner's absence. The Petitioner contends that Form SH-4 could not have been executed prior to the issuance of the split share certificates, thereby rendering the entire sequence of events inherently improbable and lending credence to the allegation that the signatures on the said documents are forged.

63. It is submitted that R7 actively participated in the scheme devised by the Respondents to reduce the Petitioner's shareholding below the majority threshold. It is further submitted that the Respondents sought to further dilute the Petitioner's shareholding by proposing a rights issue of 87,500 equity shares at a nominal price in violation of the applicable statutory provisions.

64. It is contended that the Respondents, in collusion with R7, have meticulously orchestrated the unlawful dilution and misappropriation of the Petitioner's shareholding. The Petitioner submits that the transcript of the audio recording of R2 substantiates the alleged scheme. It is, therefore, contended that R7 is both a necessary and proper party for the complete and effective adjudication of the disputes involved in the present proceedings.

<u>Findings and Decision</u>

65. We have heard the learned counsel appearing for the parties and have perused the pleadings, documents and written submissions placed on record.

66. The questions which arise for consideration are:

(i) whether the Petition is maintainable under Sections 241 and 244 of the Companies Act, 2013;

(ii) whether the Board Meeting of Respondent No.1 Company stated to have been held on 04.09.2024 was validly convened;

(iii) whether the resolutions approving registration of the impugned transfers of shares, and the consequential entries made in the Register of Members, can be sustained;

(iv) whether the conduct complained of constitutes oppression of the Petitioner within the meaning of Section 241 of the Companies Act, 2013;

(v) whether the proposed rights issue of 87,500 equity shares was contrary to Section 62 of the Companies Act, 2013, the applicable foreign exchange regulations, or was otherwise oppressive; and

(vi) the relief, if any, to which the Petitioner is entitled.

Undisputed shareholding and maintainability

67. M/s. Pharma Scroll Research and Consulting Private Limited, Respondent No.1 herein, was incorporated on 21.06.2017 with an authorised share capital of Rs. 10,00,000. The Memorandum of Association records that the Petitioner, Mrs. Bhawna Gupta, and Respondent No.2, Mr. Sahil Singla, were the subscribers to the Memorandum, each having subscribed to 5,000 equity shares. Both were also appointed as the first Directors of the Company. Respondent No.2 subsequently resigned from the office of Director on 05.10.2017.

68. It is not in dispute that, in the year 2022, the Company allotted 2,500 equity shares to Red Valerian LLC at an issue price of Rs. 9,300/- per share, comprising a face value of Rs. 10/- and a securities premium of Rs. 9,290/- for an aggregate consideration of Rs. 2,32,50,000/-.[3] After the aforesaid allotment, the shareholding of Respondent No.1 Company, as reflected in its statutory records, stood as follows[4]:

S.No.	Name of the Shareholder	No.of Shares	% of shares
1.	Vandana Nainwal (R4)	3500	28%

[3]Exhibit E, page no. 152 to Exhibit J page no.168 of the Petition
[4]Exhibit J, page no. 168 of the Petition

2.	Bhawna Gupta (Petitioner)	6500	52%
3.	Red Valerian, LLC	2500	20%
Total		**12,500**	**100%**

Thus, immediately prior to the impugned transfers, the Petitioner was the majority shareholder of Respondent No.1 Company.

69. The Annual Return (Form MGT-7)[5] filed by the Company on 24.10.2024 also shows the Petitioner as the holder of 6,500 equity shares and Respondent No.4 as the holder of 3,500 equity shares as on 31.03.2024. This position remains undisputed. The Respondent's case is that the Petitioner's shareholding stood reduced from 6,500 shares to 6,188 shares only as a result of the transfer allegedly effected on 04.09.2024.

70. Although the complete historical record explaining the earlier changes in the shareholding of the original subscribers has not been placed before us, that omission does not affect the present adjudication. The material position immediately before 04.09.2024, namely that the Petitioner held 6,500 equity shares, Respondent No.4 held 3,500 equity shares and Red Valerian LLC held 2,500 equity shares, is borne out by the statutory records and is not in dispute between the parties.

71. The Petitioner, whether regarded as holding 52% of the issued share capital, as claimed by her, or 49.50%, as claimed by the Respondents, holds substantially more than one-tenth of the issued share capital of the Company. She therefore satisfies the eligibility requirement under Section 244(1)(a) of the Companies Act, 2013. The Petition is accordingly maintainable.

Board Meeting dated 04.09.2024

72. The Respondents contend that, by a letter dated 04.09.2024, the Petitioner requested Respondent No.1 Company to split Share Certificate No.4 into two certificates representing 6,188 and 312 equity

[5]Exhibit K, page no. 169 of the Petition

shares respectively. They further contend that the Petitioner executed Form SH-4 and delivered the original share certificate for transfer of 312 equity shares in favour of Respondent No.7, Mr. Shajan K. Baby.

73. According to the Respondents, the Board of Directors, at its meeting held on the same date, i.e., 04.09.2024, approved the splitting of the share certificate and registration of the transfer of 312 shares from the Petitioner to Respondent No.7, Mr. Shajan K. Baby. At the same meeting, the Board is also stated to have approved the transfer of 312 equity shares from Respondent No.4 to Respondent No.6, Ms. Mandala Aruna.

74. The Petitioner categorically denies having requested the splitting of the share certificate or having executed the letter and Form SH-4 relied upon by the Respondents. She alleges that her signatures were forged. She also contends that the entire process—from receipt of the alleged request, splitting and issuance of the share certificates, receipt of Form SH-4 and approval of the transfer—was purportedly completed in a single Board Meeting held on 04.09.2024, without any notice having been given to her in her capacity as a Director.

75. Articles 19 to 22 of the Articles of Association of Respondent No.1 Company, read with Section 56 of the Companies Act, 2013, contemplate the execution of a proper instrument of transfer accompanied by the relevant share certificate and registration of the transfer by the Company.

76. While the Companies Act, 2013 does not require in express terms prior approval of its Board of Directors for every transfer of shares of a private company, this requirement, however, emerges from the statutory scheme governing registration of transfers. Section 44 makes shares transferable in the manner provided by the Articles of

Association[6], while Section 56 prescribes the conditions which must be satisfied before a company may register a transfer. Section 58 further recognises the authority of a private company to consider and, where permissible, refuse registration of a transfer.

77. This authority of the Board is captured in the AoA of R1 Company in Articles 19-22, which state:

Transfer of Shares

19	(i) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee. (ii) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.
20	The Board may, subject to the right of appeal conferred by section 58 decline to register- (a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or (b) any transfer of shares on which the company has a lien.
21	The Board may decline to recognise any instrument of transfer unless (a) the instrument of transfer is in the form as prescribed under sub-section (1) of Section 56; (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and (c) the instrument of transfer is in respect of only one class of shares
22	On giving not less than seven days' previous notice in accordance with section 91 and rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine: Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.

78. More significantly, Rule 5(1) of the Companies (Management and Administration) Rules, 2014[7] provides that entries in the Register of Members shall be made within seven days after the Board of Directors

[6]**Nature of Shares & Debentures**
Sec. 44 The shares or debenture or other interest of any member in a company shall be movable property transferable in the manner provided by the articles of the company.
[7]**Companies (Management and Administration) Rules, 2014**
Rule 5: (1) The entries in the registers maintained under section 88 shall be made within seven days after the Board of Directors or its duly constituted committee approves the allotment or transfer of shares, debentures or any other securities, as the case may be.

or its duly constituted committee approves the transfer of shares. Thus, in the case of shares held in physical form, execution and delivery of the instrument of transfer do not, by themselves, result in the transferee becoming a member of the Company. The transfer must first be considered and approved for registration by the Board of Directors or its duly constituted committee, where after the name of the transferee may be entered in the Register of Members.

79. Consequently, the impugned transfer could not have been registered or recognised by Respondent No.1 Company except on the basis of a valid resolution of its Board or duly constituted committee. The resolution of the Board approving such transfer therefore must necessarily emanate from a meeting validly convened in accordance with the Act and the Articles.

80. Section 173(3) of the Companies Act, 2013 mandates that notice in writing of every meeting of the Board shall be given to every Director at his or her address registered with the Company, whether by hand delivery, post or electronic means. The provision is expressed in mandatory terms. A Director's entitlement to notice does not depend upon whether that Director would ultimately have attended the meeting, whether the remaining Directors constituted quorum, or whether the excluded Director's vote would have altered the result.

81. Notice is the means by which every Director is afforded an opportunity to participate in the collective decision-making of the Board. Service of notice upon every Director is, therefore, not an empty formality. It is a substantive statutory safeguard intended to ensure transparency and informed participation in the management of the affairs of the Company.

82. In ***Parmeshwari Prasad Gupta***[8], the Hon'ble Supreme Court held that notice to all the Directors of a meeting of the Board is essential for the

[8] Parmeshwari Prasad Gupta v. Union of India, (1973) 2 SCC 543

validity of the meeting and that a resolution passed at a meeting held without notice to a Director cannot be sustained. As held by Hon'ble Supreme Court in that case -

> ***"10.*** *Now, it cannot be disputed that notice to all the Directors of meeting of the Board of Directors was essential for the validity of any resolution passed at the meeting and that as, admittedly, no notice was given to Mr Khaitan, one of the Directors of the Company, the resolution passed terminating the services of the appellant was invalid."*

83. The Petitioner admittedly continued to be a Director[9] of Respondent No.1 Company on 04.09.2024. She was, therefore, entitled to notice of the meeting in that capacity, irrespective of the fact that the proposed business also concerned registration of the alleged transfer of shares standing in her name.

84. The Respondents have neither produced any evidence to show that notice of the Board Meeting was sent or served upon the Petitioner, nor have they even pleaded that any such notice was issued to her. No copy of the notice, email, dispatch record, postal or courier receipt, electronic delivery record, acknowledgment or any other contemporaneous material evidencing issuance or service of notice has been placed before this Tribunal.

85. The notice convening the meeting and the records evidencing its dispatch and delivery were documents which, if they existed, would ordinarily be in the custody and control of Respondent No.1 Company and the persons conducting its affairs. Despite a specific challenge by the Petitioner, the Respondents have failed to produce any evidence available with the Company to establish compliance with Section 173(3).

[9] Exhibit B, page no. 66 of the Petition

86. The Respondents have also not pleaded that the meeting was convened at shorter notice for the transaction of urgent business. No material has been placed before us to show compliance with the statutory requirements applicable to a meeting convened at shorter notice.

87. Section 118(10) of the Companies Act, 2013 requires every company to observe the Secretarial Standards with respect to meetings of the Board. Secretarial Standard–1 similarly contemplates preservation of proof of sending and delivery of the notice of a Board Meeting. The complete absence of any contemporaneous record evidencing issuance or service of notice assumes particular significance in the present case.

88. The Board's Report and Audited Financial Statements produced by the Petitioner record her attendance at the Board Meeting dated 04.09.2024 as "No". Mere absence from a meeting may not, by itself, establish absence of notice. However, when considered together with the Respondents' failure even to plead issuance of notice and their inability to produce any proof of service, the said statutory record lends further support to the Petitioner's case.

89. We are, therefore, constrained to hold that no notice of the Board Meeting dated 04.09.2024 was issued or served upon the Petitioner.

90. The fact that the remaining Directors may have constituted the requisite quorum under Section 174 does not cure the defect. Quorum determines whether the minimum number of Directors is present to transact business at a duly convened meeting. It cannot validate a meeting which was not convened after notice to every Director as mandated by Section 173(3). The requirements of notice and quorum operate in distinct fields, and compliance with one cannot substitute compliance with the other.

91. In ***Claude-Lila Parulekar***[10], the Hon'ble Supreme Court held that "*the majority cannot be permitted to ride roughshod over the provisions of the articles and the Companies Act merely because they could if they so desired follow the proper procedure*". The Court also treated the absence of notice of the Board meeting as a material infirmity in the corporate action taken at that meeting.

92. The defect assumes an aggravated character in the present case because the business transacted at the meeting was neither routine nor merely administrative. The Board purported to approve the splitting of the Petitioner's share certificate and registration of a transfer which directly reduced her shareholding from 52% to 49.50% and deprived her of the majority position in the Company. The Petitioner was thus excluded from the very meeting at which resolutions directly affecting her proprietary, voting and controlling rights were considered and passed.

93. We accordingly hold that the Board Meeting dated 04.09.2024 was not validly convened and that the resolutions stated to have been passed therein are invalid and of no legal effect.

Consequences for the impugned registrations

94. Once the Board Meeting dated 04.09.2024 is held to have been invalidly convened, the resolutions stated to have been passed therein cannot constitute a lawful basis for registration of the impugned transfers.

95. Consequently, the resolution approving registration of the transfer of 312 equity shares standing in the name of the Petitioner in favour of Respondent No.7 cannot be sustained. The corresponding entry made in the Register of Members, and any share certificate issued, cancelled, split or endorsed pursuant to the said resolution, are liable to be reversed.

[10] Claude-Lila Parulekar v. Sakal Papers (P) Ltd., (2005) 11 SCC 73

96. The subsequent registration of transfer of the said 312 equity shares from Respondent No.7 in favour of Respondent No.2 is founded upon the earlier registration made pursuant to the invalid resolution dated 04.09.2024. Since the entry of Respondent No.7 as a member in respect of those shares cannot be sustained, the subsequent entry made in favour of Respondent No.2 must also fall as a necessary consequence.

97. Likewise, the resolution approving registration of transfer of 312 equity shares standing in the name of Respondent No.4 in favour of Respondent No.6, having been passed at the same invalidly convened meeting, cannot be sustained. The entry made pursuant thereto, together with any subsequent registration founded exclusively upon that entry, is also liable to be reversed.

98. We clarify that the above conclusion is confined to the validity of the Board resolutions approving registration of the impugned transfers and the consequential entries made in the statutory records of the Company. In view of our finding that the meeting at which such registration was approved was not validly convened, it is unnecessary for us to return any final finding upon the separate allegations that the signatures appearing upon the transfer documents were forged, that no consideration was paid, or that the underlying instruments of transfer are otherwise invalid or unenforceable inter se between the concerned parties.

99. The rights and remedies of the concerned parties in relation to the genuineness, validity or enforceability of the underlying instruments of transfer are expressly left open to be agitated in such proceedings as may be available to them in law. This clarification, however, shall not permit the impugned entries in the Register of Members to continue on the strength of resolutions passed at an invalidly convened Board Meeting.

Whether the conduct amounts to oppression

100. The Respondents have argued that a mere statutory irregularity cannot constitute oppression and that the Petitioner must establish conduct of such gravity as would justify winding up of the Company on just and equitable grounds.

101. The proposition that every isolated illegality or procedural irregularity does not, by itself, amount to oppression is unexceptionable. However, the nature, object and consequence of the act must be examined. The enquiry cannot stop upon finding that Section 173(3) was breached.

102. In ***Needle Industries***[11], the Hon'ble Supreme Court explained that oppression involves lack of probity and fair dealing in the affairs of a company to the prejudice of a member in the exercise of his or her proprietary rights as a shareholder.

103. In the present case, the failure to give notice was not an irregularity having no bearing upon the rights of the Petitioner. Rather, the invalid meeting was used to approve registration of a purported transfer of precisely such number of shares as reduced the Petitioner from a majority shareholder holding 52% to a shareholder holding 49.50%. The altered shareholding was thereafter adopted by the management as the basis for determining the entitlements under the proposed rights issue.

104. The cumulative sequence—exclusion of the Petitioner from the Board Meeting, registration of a transfer directly affecting her majority position, and subsequent reliance upon the altered Register of Members for a further capital action—goes beyond a mere procedural lapse. It displays absence of the degree of probity, transparency and fair dealing expected in the management of a closely held company and directly prejudices the Petitioner in the exercise of her proprietary and voting rights.

[11] Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd., (1981) 3 SCC 333

105. We therefore hold that the manner in which the affairs of Respondent No.1 Company were conducted in relation to the Board Meeting dated 04.09.2024 and the registration of the impugned transfer of the Petitioner's 312 equity shares was oppressive to the Petitioner within the meaning of Section 241(1)(a) of the Companies Act, 2013.

106. The conduct established on record is of such a nature that, if no less drastic remedy were available, it would justify loss of confidence founded upon lack of probity and intervention on the just and equitable ground. At the same time, Respondent No.1 is a functioning and profitable Company. Its winding up would unfairly prejudice not only the Petitioner but also the other members, employees and the Company itself.

107. The statutory conditions for exercise of jurisdiction under Section 242 are, therefore, satisfied. The circumstances warrant restorative and corrective relief calculated to bring an end to the oppressive consequence, rather than winding up of the Company.

Proposed rights issue

108. Respondent No.3, by notice dated 03.04.2025, convened a meeting of the Board of Directors on 10.04.2025 to consider, inter alia, the issuance of further equity shares by way of a rights issue. The Board thereafter proposed issuance of 87,500 equity shares to the existing shareholders at an issue price of Rs 150per share, comprising a face value of Rs 10and securities premium of Rs 140, in the ratio of seven equity shares for every equity share held.

109. The Draft Letter of Offer stated that the offer would remain open from 14.04.2025 to 20.04.2025, both days inclusive. The entitlements were computed on the basis that the Petitioner held 6,188 shares, Respondent No.4 held 3,188 shares, Red Valerian LLC held 2,500 shares and Respondent Nos.6 and 7 held 312 shares each.

110. The Petitioner has contended that the offer period of seven days violated Section 62 of the Companies Act, 2013, because a rights offer was required to remain open for a minimum period of fifteen days.

111. Section 62(1)(a)(i), as amended by the Companies (Amendment) Act, 2020, read with Rule 12A of the Companies (Share Capital and Debentures) Rules, 2014[12], permits an acceptance period of not less than seven days and not exceeding thirty days. The offer period from 14.04.2025 to 20.04.2025 constituted seven days and was, on its face, compliant with the statutory minimum. The Petitioner's reliance upon the earlier fifteen-day period is therefore not sustainable.

112. The Petitioner next relied upon the valuation obtained in the year 2022 for the preferential allotment to Red Valerian LLC at Rs 9,300 per share and contends that the proposed price of Rs 150 per share was grossly inadequate and could not have been fixed without a fresh valuation.

113. A preferential allotment to an identified investor and a proportionate rights offer to all existing shareholders are governed by different statutory provisions. No provision of the Companies Act, 2013 has been shown to us which makes a valuation report an invariable precondition for every proportionate rights issue under Section 62(1)(a). The absence of a fresh valuation, by itself, therefore does not render the proposed rights issue invalid.

114. The price obtained in a preferential allotment made in the year 2022 cannot, without more, be treated as conclusively establishing the

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[12] **Companies (Amendment) Act, 2020: 62**(1)(a)(*i*) the offer shall be made by notice specifying the number of shares offered and limiting a time not being less than fifteen days or such lesser number of days as may be prescribed and not exceeding thirty days from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined;

Companies (Share Capital and Debentures) Rules, 2014: 12A. Period for notice under sub-clause (i) of clause (a) of sub-section (1) of section 62**.-** For the purposes of sub-clause (i) of clause (a) of sub-section (1) of section 62, the time period within which the offer shall be made for acceptance shall be not less than seven days from the date of offer.

appropriate issue price for a rights offer made in the year 2025. The nature of the two transactions, the commercial circumstances and the persons to whom the shares are offered are materially different.

115. The Petitioner has also contended that, since Red Valerian LLC is a person resident outside India, the Company could not have made the rights offer without complying with the general arm's-length valuation requirement under the RBI Master Direction on Foreign Investment in India.

116. Paragraph 6.12.1(6) of the RBI Master Direction[13] specifically provides that, in the case of a rights issue by an unlisted Indian company, the rights issued to a person resident outside India should not be at a price lower than the price offered to person resident in India. In the present case, the shares were proposed to be offered to all existing shareholders, resident as well as non-resident, at the same price of Rs. 150/- per share.

117. The Petitioner has therefore not established any violation of the pricing requirement applicable to the proportionate entitlement of Red Valerian LLC. This finding is without prejudice to the obligation of the Company and the non-resident investor to comply with the applicable sectoral, reporting, repatriation and other requirements under FEMA and the Non-Debt Instruments Rules, which fall within the domain of the competent authorities.

118. It is settled that even an issue of shares which is facially compliant with the statutory procedure may be interfered with if the power to issue shares has been exercised for an improper or collateral purpose, particularly to create or consolidate control. In ***Dale & Carrington***[14] Hon'ble Supreme Court emphasised the fiduciary character of the

[13] From RBI/FED/2017-18 FED Master Direction No 11/2017-18 dated 04.01.2018 as updated on 20.01.2025, page 84 to 136 at page 97 of the Petition.
[14] Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan, (2005) 1 SCC 212

power vested in Directors to issue shares and held that such power cannot be exercised merely to gain control of the Company.

119. In the present case, however, the proposal was for a proportionate offer to all existing shareholders and not for an exclusive allotment to Respondent Nos.2 to 5 or to an outside investor. The Respondents have pleaded that the Company required working capital and was facing difficulty in meeting its operational expenditure, including payment of salaries. On the material presently placed before us, the mere proposal for a proportionate rights issue, or the price at which it was proposed, does not independently establish that the power was exercised for a collateral purpose.

120. We are, therefore, not satisfied that the proposed rights issue, considered independently of the incorrect shareholding on which the entitlement table was based, constituted oppression or mismanagement merely because the offer period was seven days, a fresh valuation was not obtained, or the proposed price was substantially lower than the price of the preferential allotment made in 2022.

121. This conclusion does not, however, validate the Draft Letter of Offer issued in April 2025. The entitlement table was prepared on the basis of the altered Register of Members resulting from the invalid Board Meeting dated 04.09.2024. It failed to recognise the Petitioner as the holder of 6,500 equity shares and Respondent No.4 as the holder of 3,500 equity shares, and wrongly recognised Respondent Nos.6 and 7 as shareholders in respect of the impugned transfers.

122. The Draft Letter of Offer was thus founded upon an incorrect shareholding pattern and cannot be acted upon. Further, the subscription period specified therein expired on 20.04.2025. The old offer cannot now be revived or implemented by merely modifying the number of shares offered to the concerned shareholders.

123. Nothing contained in this Order shall, however, prevent Respondent No.1 Company from considering a fresh rights issue, if its Board considers such issue necessary in the interests of the Company. Any such proposal must be considered at a validly convened Board Meeting, after restoration of the Register of Members, and must comply with Section 62 of the Companies Act, 2013, the Articles of Association and all other applicable laws.

Remaining allegations and reliefs

124. The Petitioner has also alleged that the Respondents are siphoning the business and resources of Respondent No.1 Company to competing entities and has relied upon certain alleged audio recordings and transactions involving third parties. The material placed before us is insufficient to return a conclusive finding of diversion or siphoning of the assets or business of the Company. No specific transaction supported by primary financial records has been established which may warrant a direction for recovery or restitution in the present proceedings.

125. Similarly, the alleged absence of a Board resolution for the proposed financial assistance from Recur Club Technologies Private Limited, the communications addressed by the Petitioner to Novartis and the proposed lender, and the allegations arising out of the matrimonial dispute between the Petitioner and Respondent No.2 do not require any separate adjudication for deciding the reliefs sought in the present Petition.

126. The Petitioner has sought directions restraining Respondent Nos.2 to 5 from withdrawing any amount from the bank accounts of the Company, disposing of its assets, issuing securities, acting as Directors, or representing the Company without her prior written approval.

127. No material has been placed before us to justify such sweeping restraints. A direction requiring the prior written approval of one

shareholder for every withdrawal, disposition of an asset or corporate decision would confer upon the Petitioner a veto which does not flow either from the Companies Act or the Articles of Association. The restoration of the lawful shareholding and voting position adequately addresses the oppression established in these proceedings.

128. The prayers seeking blanket restraints against Respondent Nos.2 to 5 and their removal from management are therefore declined. This shall not affect the right of the Petitioner or any other member to exercise the statutory rights available under Sections 100, 115, 169 or any other applicable provision of the Companies Act, 2013, on the basis of the rectified Register of Members.

129. Respondent Nos.6 and 7 have sought deletion from the array of parties on the ground that they have no role in the management of the Company. The validity of their entries in the Register of Members and the consequential relief of rectification could not have been effectively adjudicated in their absence. They are, therefore, necessary and proper parties, and their respective requests for deletion are rejected.

130. Prayer C of the Petition specifically seeks a declaration that the Petitioner continues to hold 6,500 equity shares and is entitled to exercise the rights attached thereto. All persons whose entries are affected by the relief sought are before this Tribunal and have filed their respective pleadings. The question of rectification has been fully contested.

131. In the circumstances, and in exercise of the powers under Section 242(2)(a) and Section 242(2)(m), read with Section 59 of the Companies Act, 2013, it is necessary to restore the Register of Members to the position which existed prior to the invalid registrations and to issue appropriate consequential directions.

Order

In view of the foregoing findings, the Company Petition is partly allowed in the following terms:

A. The Board Meeting of Respondent No.1 Company stated to have been held on 04.09.2024 is declared to have been convened in violation of Section 173(3) of the Companies Act, 2013 and is accordingly held to be invalid.

B. The resolutions stated to have been passed at the said meeting are declared invalid and shall not be given effect to consequently, the entries made in the Register of Members pursuant to the aforesaid resolutions, shall stand reversed.

C. Any subsequent registration founded exclusively upon the aforesaid entries, including the registration of transfer of the Petitioner's 312 equity shares from Respondent No.7 in favour of Respondent No.2, and any subsequent registration of the 312 equity shares originating from Respondent No.4, shall also stand reversed.

D. Respondent No.1 Company is directed to rectify its Register of Members and connected statutory records within two weeks from the date of this Order so as to restore the following shareholding as it existed prior to the Board meeting of 04.09.2024

E. Respondent Nos. 2, 6 and 7 shall cease to be reflected as shareholders in respect of any shares derived solely from the impugned registrations approved at the Board Meeting dated 04.09.2024.

F. Respondent No.1 Company shall make the requisite corrective filings with the Registrar of Companies and undertake all consequential corrections to its statutory records within four weeks from the date of this Order.

G. It is clarified that no final finding is returned in this Order upon the genuineness, validity or enforceability inter se of the underlying instruments of transfer, including the allegations of forgery and absence of consideration. The rights and remedies of the concerned parties in that regard are left open in accordance with law.

H. The resolution and Draft Letter of Offer pertaining to the proposed rights issue of 87,500 equity shares in April 2025 shall not be acted upon, having been founded upon an incorrect Register of Members and the offer period specified therein having expired.

I. The prayers seeking blanket restraint upon Respondent Nos.2 to 5 from operating the bank accounts, dealing with the assets, representing the Company or continuing as Directors are rejected.

CP No.10/241/2025 is partly allowed and disposed of accordingly.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)