

S.M. Bose Vs. Emperor

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Court : Allahabad

Decided On : Dec-13-1923

Reported in : AIR1924All314; 77Ind.Cas.826

Judge : Grimwood Mears, C.J.

Appellant : S.M. Bose

Respondent : Emperor

Judgement :

Grimwood Mears, C.J.

1. I am of opinion that this application in revision must be rejected. The facts are very simple. In, November 1919 Mr. Bose sent a prospectus to the Registrar, Joint Stock Company, a memorandum and articles of association, and from those documents it appeared that five persons consented to be Directors of the Company, and as such had undertaken to take up 500 shares of Rs. 10 each. Three of those persons subsequently did discharge their obligations but Raja Ram Gopal Singh of Manda and Goshain Rampuri never paid any sums due from them and beyond the fact that their names were given out as Directors of the Company, they did nothing whatever. On the 10th of September 1920, nearly a year after, Mr. Bose made a declaration, as required by Statute, to the Registrar of Joint Stock Companies, with the object of inducing the Registrar to grant permission to allow the Company to commence business. In that declaration he stated 'Every Director

of the Company has paid to the Company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription.' The only, informal ion that the Registrar had of the persons who were described as Directors was that there were five persons including the Raja of Manda and Goshain Rampuri; that is to say, had he attempted to ascertain what was meant by the phrase 'every Director' and had turned to the list of Directors, furnished by Mr. Bose, he, would have seen five names. It is suggested that if he had turned to another document wherein shares were allotted he would have seen that in point of facts period of two months had expired without the Raja of Manda and Goshain Rampuri having paid their dues as Directors, and, therefore, by a process of reasoning and by applying some knowledge of law, he would have been able to decide for himself: that the Directors had dropped from 5 to 3, I am of opinion that the Registrar was under no duty of that character, that he was entitled to assume that the five Directors, whose names had been given to him by Mr. Bose, were intended to be and were in fact included in the words 'every Director' entered in the declaration given in September, and if anything had happened in the interval between November 1919 and September 1920 to reduce the number of Directors, it was the duty of Mr. Bose to tell that to the Registrar as one of the material facts, to be taken into consideration by him in deciding whether this Company should be allowed to commence business. His omission to make this clear to the Registrar brought him in the opinion of the Joint Magistrate and in the opinion of the Session Judge within Section 282 of the Act, and also in my opinion.

2. It is said that six months' rigorous imprisonment is the severe a sentence in the circumstances. I do not agree with that view. It is of the utmost importance that in a country such as this, where everybody hones that there will be a very great extension of industrial prosperity, and that industrial prosperity probably conducted along the lines of Limited Companies, that the persons who embark on Company flotation, and who assume offices of responsibility, should understand that they have got to carry oat their duties not only carefully but honestly. I accept the conclusion that the Sessions Judge has come to; and as I said at the outset this application in revision must be, and is, rejected.

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