

In Re: United Collieries Ltd.

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Court : Kolkata

Decided On : May-10-1974

Reported in : [1975]45CompCas226(Cal)

Judge : Sabyasachi Mukharji, J.

Acts : [Companies Act, 1956](#) - Section 17

Appeal No. : Company Petition No. 369 of 1973 (Company Application No. 276 of 1973)

Appellant : In Re: United Collieries Ltd.

Judgement :

Sabyasachi Mukharji, J.

1. This is an application under Section 17 of the [Companies Act, 1956](#), for sanction of the alteration of the memorandum of association. The company carried on mainly the business of colliery as the name itself suggests. The colliery business has been taken over by the State as a result of nationalisation. The company, therefore, proposes to venture into new fields. The fields now proposed to be taken by the company are many and are entirely new. The question is whether such alteration should be sanctioned by the court. It has duly received the approval of the shareholders. Notice has been given to the creditors and none is opposing this. The balance-sheets for the last two years indicate that the financial

position of the company is not unsound in the sense that the assets are more than the liabilities and for the last two years the company has been making profits. Only the Registrar of Companies is opposing this application. In my opinion, the alteration should be sanctioned. In this connection reliance may be placed on the decision of the Orissa High Court in the case of Straw Products Ltd. v. Registrar of Companies, [1969] 39 Comp Cas 974 (Orissa) and also the decision of the Punjab and Haryana High Court in the case of Industrial Cables (India) Ltd. v. Registrar of Companies, [1973] 43 Comp Cas 353 (Punj)

2. Counsel for the Registrar of Companies, however, drew my attention to the decision of this court in *In re Bharat Mining Corporation Ltd.*, [1967] 37 Comp Cas 430 (Cal) where it was observed by P.B. Mukharji J., as the learned judge then was, that it would be illogical to allow an alteration of business whereby the company was permitted to do business activity which had nothing to do with the business of the company and that would be misleading. It is true that in a case like this normally such diversification should not be permitted which would defeat the business already carried on by the company but in this case the business that was carried on by the company previously cannot any longer be carried on and that is not because of any inability of the company to carry on the business but because of the nationalisation. It is true that the original objects permitted other ventures but when a company is incorporated various ventures are thought of but a company generally pursues those ventures which are either profitable or feasible and, therefore, the very fact that the company had other objects does not disentitle it to diversify its objects in the peculiar facts and circumstances of this case. After all the company has assets, its directors and shareholders want to carry on business, such business activity would not be illegal or contrary to public policy and the attempt to carry on the business does not appear to be motivated by any desire to defeat the creditors. In this state of affairs if the shareholders of the company have thought it fit to go in for new ventures and have complied with the provisions of law, I see no objection under Section 17 in allowing this alteration subject, however, to the reasonable suggestion by counsel for the Registrar of Companies for alteration by the company of its name appropriately. Furthermore, it has to be borne in mind that the days of devotion to single purpose or limited purposes both for institutions and men are gone. We are living in an age of

multipurpose institutions and projects, men and institutions must go in for multifarious activities and ventures. Whether, however, that is a desirable trend or not is another debate outside the realm of company jurisprudence.

3. Therefore, there will be an order in terms of prayer (a) of the petition subject to the company's altering its name appropriately with the new ventures. The company must pay to the Registrar of Companies costs of this application.

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