



**WP No. 11240 of 2022 A/W  
WP NOS.11242 OF 2022 AND 11243 OF 2022**

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10TH DAY OF JUNE, 2022**

**BEFORE**

**THE HON'BLE MR JUSTICE S.G.PANDIT**

**WRIT PETITION NO.11240 OF 2022 (GM-RES)**

**A/W**

**WRIT PETITION NOS.11242 OF 2022 &11243 OF 2022**

**WP NO.11240 OF 2022**

**BETWEEN:**

1. SMT SHAILA CHEBBI AND OTHERS  
W/O SHRI. G.B. CHEBBI  
AGED ABOUT 63 YEARS  
NO. 100, 34TH MAIN  
2ND CROSS, DOLLARS SCHME,  
BTM 1ST STAGE  
BENGALURU - 560068
2. SMT. MALA MADIKERI GOUDA  
W/O DR. SRINIVAS GOUDA  
AGED ABOUT 66 YEARS  
NO.100, 34TH MAIN  
2ND CROSS, DOLLARS SCHEME  
BTM 1ST STAGE  
BENGALURU - 560068
3. M. GOVIND CHEBBI  
AGED ABOUT 65 YEARS  
NO.100, 34TH MAIN  
2ND CROSS, DOLLARS SCHME  
BTM 1ST STAGE  
BENGALURU - 560068

**...PETITIONERS**





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(BY SRI JAIKUMAR S PATIL, SENIOR COUNSEL A/W  
SRI VANDANA P L, ADVOCATE)

**AND:**

1. MR MADHUKAR G ANGUR  
AGED ABOUT 62 YEARS  
NO. 1128, 21ST A CROSS  
14TH MAIN, HSR 3RD SECTOR  
HSR LAYOUT, BDA COMPLEX  
BENGALURU - 560012
2. THE REGISTRAR  
NATIONAL COMPANY LAW TRIBUNAL  
RAHEJA TOWERS, 12TH FLOOR  
M.G. ROAD,  
BENGALURU - 560001

...RESPONDENTS

(BY SRI K N PHANINDRA, SENIOR COUNSEL A/W  
SRI ABHIMANYU DEVAIAH, ADVOCATE FOR C/R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE INSTITUTION AND PROCEEDINGS IN CP NO.102/BB/2021 VIDE ANENXURE-A PENDING ON THE FILE OF THE NCLT - BANGALORE BENCH INSTITUTED BY THE R1 ARE ILLEGAL UNDER LAW, AND THE NCLTs JURISDICTION IS LIABLE TO BE OUSTED ON THE COUNT OF CORUM-NON-JUDICE UNDER THE PECULIAR FACTS AND CIRCUMSTANCES OF THE MATTER AND IN THE TEETH OF MATTERS PENDING FOR ADJUDICATION BEFORE THE CITY CIVIL COURT OF BANGALORE IN O.S.NO.5148 OF 2017 AND ETC.,



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WP NO.11242 OF 2022

**BETWEEN:**

1. SHRI ABHAY GOVIND CHEBBI  
S/O SRI G B CHEBBI  
AGED ABOUT 30 YEARS  
OCCUPATION: DIRECTOR  
M/S ALIANCE BUSINESS SCHOOL  
NO.100, 34TH MAIN, 2ND CROSS  
DOLLARS SCHEME, BTM I STAGE  
BENGALURU - 560068
2. SHRI PRAKASH BUDOOOR  
S/O SHRI B SIDDAPPA  
AGBED 45 YEARS  
OCCUPATION: DIRECTOR  
M/S ALLIACNE BUSINESS SCHOOL  
NO 100, 34TH MAIN, 2ND CROSS  
DOLLARS SCHEME, BTM I STAGE  
BENGALURU - 560068

...PETITIONERS

(BY SRI. VANDANA P L.,ADVOCATE)

**AND:**

1. MR MADHUKUR G ANGUR  
S/O GUNDAPPA ANGUR AGED  
ABOUT 62 YEARS  
NO 1128, 21ST A CROSS  
14TH MAIN, HSR 3RD SECTOR  
HSR LAYOUT, BDA COMPLEX  
BENGALURU - 560012
2. THE RETISTRAR  
NATIONAL COMPANY LAW



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TRIBUNAL, RAHEJA TOWERS  
12TH FLOOR, MG ROAD  
BENGALURU - 560001

...RESPONDENT'S

(BY SRI K N PHANINDER, SENIOR COUNSEL A/W  
SRI ABHIMANYU DEVAIAH, ADVOCATE FOR C/R1)

THIS WP FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE INSTITUTION AND PROCEEDINGS IN CP NO.102/BB/2021 PENDING ON THE FILE OF THE VIDE ANNEXURE-A PENDING ON THE FILE OF THE NCLT - BANGALORE BENCH INSTITUTED BY THE R1 ARE ILLEGAL UNDER LAW, AND THE NCLT's JURISDICTION IS LIABLE TO BE OUSTED ON THE COUNT OF CORUM-NON-JUDICE UNDER THE PECULIAR FACTS AND CIRCUMSTANCES OF THE MATTER AND IN THE TEETH OF MATTERS PENDING FOR ADJUDICATION BEFORE THE CITY CIVIL COURT OF BANGALORE IN O.S.NO.5148 OF 2017 AND ETC.,

WP NO.11243 OF 2022

**BETWEEN:**

1. SHRI SUHIR ANGUR  
S/O GUNDAPPA AGUR  
AGED ABOUT 59 YEARS,  
NO.48/B, 27TH MAIN,  
1ST CROSS, BTM 1ST STAGE,  
BENGALURU - 560068

...PETITIONER

(BY SRI B V ACHARYA, SENIOR COUNSEL,



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SRI ROHAN HOSMATH.,(ADVOCATE)

**AND:**

1. MR MADHUKAR G ANGUR  
AGED ABOUT 62 YEARS,  
NO.1128, 21ST A CROSS,  
14TH MAIN, HSR 3RD SECTOR,  
HSR LAYOUT BDA COMPLEX  
BENGALURU-560012
2. THE REGISTRAR  
NATIONAL COMPANY LAW TRIBUNAL  
RAHEJA TOWERS,  
12TH FLOOR, M G ROAD  
BENGALURU-560001

...RESPONDENTS

(BY SRI K N PHANINDRA, SENIOR COUNSEL A/W  
SRI ABHIMANYU DEVAIAH, ADVOCATE FOR C/R1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTION DECLARING THAT THE INSTITUTION AND PROCEEDINGS IN CP NO. 102/BB/2021 ANNEXURE-A PENDING ON THE FILE OF THE NCLT-BENGALURU BENCH INSTITUTED BY THE R-1 ARE ILLEGAL UNDER LAW AND THE NCLTS JURISDICTION IS LIABLE TO OUSTED ON THE COUNT OF CORUM-NON-JUDICE UNDER THE PECULIAR FACTS AND CIRCUMSTANCES OF THE MATTER AND IN THE TEETH OF MATTERS PENDING FOR ADJUDICATION BEFORE THE CITY CIVIL COURT OF BENGALURU IN OS NO. 5148/2017; AND ETC.,

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:



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**ORDER**

In these three writ petitions, the respondents 1, 2, 3, 4, 6, and 17 before the National Company Law Tribunal (for short hereinafter referred to as 'NCLT') in C.P.No.102/BB/2021 are before this Court under Articles 226 and 227 of the Constitution of India challenging the entire proceedings in CP No.102/BB/2021.

2. Heard learned Senior Counsels Sriyuths B.V. Acharya, Jayakumar S Patil and Nanjunda Reddy for the petitioners and learned Senior Counsel Sri K.N. Phaneendra, for the first respondent in all the three writ petitions.

3. The learned Senior Counsels for the petitioners urged various grounds and submitted that the petition before the NCLT filed under Sections 59 and 241 of Companies Act, 2013 (for short the Act) is not maintainable in view of the various proceedings before this Court as well as before the Civil Court. Learned Senior Counsels would invite the attention of this Court to order dated 21<sup>st</sup> October, 2017 passed in Original Suit No.5148 of 2017 wherein the first respondent is restrained from representing or claiming before anyone or at any place as the



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Director or Managing Director or shareholders of the plaintiff Alliance Business School and dealing in any manner based upon such acts, pending disposal of the suit. The suit is pending consideration till date. The said order was challenged before this Court in Miscellaneous First Appeal No.8545 of 2017 along with connected appeals, and the order of the Civil Court was confirmed by order dated 28<sup>th</sup> March, 2018. First respondent before the NCLT has prayed for more than 50 reliefs including a direction directing addition/confirmation of name of petitioner as Managing Director. It is submitted that first respondent resigned as Managing Director and sold the share holdings of himself as well as his wife. First respondent has seized to have any interest in the company. Subsequently first respondent disputed the sale of shares. In that circumstance, suit in O.S.No.5148 of 2017 came to be filed and as stated above, the first respondent is restrained from representing or claiming as the Director or Managing Director or share holder of Alliance Business School.

4. Learned Senior Counsel would submit that first respondent filed complaint before the Registrar of Companies complaining mismanagement and misappropriation of funds.



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Registrar of Companies passed order on 24th September, 2019 and held that certain of the forms filed under DIR-12s and revised MGT-7 are defective under Rule 10[6] of the Companies Rules. Respondent No.1 had filed Company Petition and the same was withdrawn subsequently. Again C.P.No.102/BB/2021 is initiated under Sections 59 and 241 of the Act. According to learned senior counsel on the face of it, petition under Section 241 and 59 of the Act is not maintainable. Learned senior counsel referring to Section 59 submits that it relates to rectification of Register of Members and since the dispute between petitioner and first respondent is pending in Civil proceedings, petition before NCLT would not be maintainable. Further, referring to Section 241 of the Act, it is submitted that application could be filed before NCLT for relief where it is alleged oppression and mismanagement. No case is made out under Section 241 of the Act also to maintain petition before the NCLT.

5. Learned Senior Counsel also brings to the notice of this Court the order passed by the Division Bench of this Court in Writ Appeal No.3220 of 2019 wherein notice issued by the





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Registrar of Companies was the subject matter. Thus, it is submitted that without bringing to the notice of the Tribunal the previous order passed by the High Court as well as the Civil Court, the first respondent has approached the NCLT under Sections 241 and 59 of the Act. Several grounds are urged with regard to the jurisdiction of the Tribunal to entertain the petition.

6. During the course of the hearing, on a query by this Court as to why all these aspects should not be brought to the notice of the Tribunal and request the Tribunal to pass orders on the preliminary objection of maintainability of the petition, Sri K.N. Phaneendra, learned Senior Counsel for the first respondent submits that the case was before the Tribunal today and the petitioners have filed preliminary objections as well as interlocutory application for vacating the interim order.

7. In view of the fact that application for vacating interim order as well as preliminary objection with regard to maintainability, learned Senior Counsels appearing for the petitioners submitted that this Court may fix a time-frame to consider the application filed for vacating stay as well as the preliminary objection with regard to maintainability of the



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petition and direct the Tribunal to pass appropriate order within the time-frame. Further the learned Senior Counsels would submit that the Tribunal has passed interim order on 25<sup>th</sup> May, 2022 directing the respondents 10 and 20 to maintain status quo with regard to SRN 6 DIR-12 till next date of hearing. Further, the respondents 10 and 20 are directed to produce the minutes books in a sealed cover before the Tribunal within two weeks from the date of passing the order.

8. Sri K.N. Phaneendra, learned Senior Counsel for respondent No.1 undertakes that the respondent No.1 would not enter the college premises and he would not interfere with the Management till the application with regard to vacating interim order and maintainability is heard and disposed of by NCLT. Further, Sri K.N. Phaneendra, learned Senior Counsel also undertakes to file objections to the application for vacating interim order by the next date of hearing.

9. Writ jurisdiction under Article 226 of Constitution of India is a discretionary relief. The High Courts have imposed upon themselves certain restrictions on the exercise of such power. One of such restrictions not to exercise writ jurisdiction is



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availability of alternative remedy and one another restriction is disputed question of facts. But, those factors are not absolute bar to entertain the writ petition. It always depends on the facts and circumstances of each case. Even though the petitioner has raised question of jurisdiction, in the facts and circumstances of the case which involves voluminous factual position and since the petitioner has already raised preliminary objection with regard to maintainability of petition before NCLT and also filed application for vacating interim order, I deem it appropriate to direct the NCLT to consider the preliminary objection with regard to maintainability as well as the application for vacating interim order and pass appropriate order in accordance with law. Hence, the following:

**ORDER**

Respondent No.1 shall file objections to Interlocutory application filed for vacating stay as well as to the preliminary objection of the petitioners with regard to the maintainability of the petition, on the next date of hearing and thereafter, the NCLT shall hear the application for vacating the interim



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order as well as the preliminary objection with regard to the maintainability of the petition and pass appropriate orders in accordance with law, taking note of the earlier orders of this Court as well as Civil Court between the parties, within four weeks from the next date of hearing.

With the above observations, petitions stand disposed of.

**Sd/-  
JUDGE**

Inn