



DEHRA DUN CLUB LTD.

15, RBUGRASEN ROAD, DEHRA DUN. 248 001

Phones : 0135 2656660, 7505775750

CIN - U91110UR1957NPL000040

www.dehradunclub.com, email : secretary@doonclub.com

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MINUTES OF THE EXTRA ORDINARY GENERAL MEETING OF THE DEHRADUN CLUB LIMITED ("CLUB") HELD ON SATURDAY 29.01.2022 AT 04.00PM IN THE CLUB PREMISES.

The meeting was opened by the president Mr. Samraant Virmani, who was also proposed by the Members present at the Meeting to be appointed as Chairman of the Meeting ("Chairman")

The Chairman welcomed all the Members present at the club for the meeting and the presence of 25 members was noted.

The chairman declared the meeting to be open and welcomed the Members present at the Extra Ordinary General Meeting.

1. The Chairman requested the members to please stand in homage to Members who expired since the last AGM. He read out their obituary (s) and all present observed a two minutes silence in their memory.
2. The Chairman apprised the Members that the Notice & Agenda for this Extra Ordinary General Meeting was circulated to the Members by Email / Post, uploaded on the club's website and published in the newspaper, in compliance with the provisions of the Companies Act'2013.
3. The Chairman read out the Agenda for the Meeting-

ORDINARY BUSINESS:

1. Elections for Management Committee for the period 2021-2022[30.01.2022 to 30.06.2022]

Conclusion of election process initiated by the Managing Committee vide board meeting dated 06.12.2021 on account of non-participation of candidates.

The Managing Committee in its Board Meeting dated 06.12.2021 had issued notices for convening the Extra Ordinary General Meeting on 29.01.2022, *inter alia* to hold elections for the managing committee for the year 2021-2022. The Managing Committee notified 4:00 pm, 14.01.2022 as the last date for filing of nomination and 21.01.2022 as the last date for withdrawal of nomination.

No nomination has been received by the Club from any member till the cut-off date on 14.01.2022 by 4.00 PM for election of Management Committee.

Accordingly, during Meeting of the Board of Directors at club on 14.01.2022 at 4.00 PM, it is decided that considering the above facts, there cannot be any E-voting, however EGM will be convened on 29th January, 2022 and further course of action and fresh election will be called as per decision of the house.

The aforesaid facts and circumstances were placed before the general body on the EGM date and were deliberated at length. The general body recognized that the Managing Committee could not hold the AGM in June 2021 due to the government-imposed lockdown on account of the COVID-19 pandemic. Once the lockdown restrictions were ease, the Managing Committee initiated steps for preparation of the books of accounts and notified the date for AGM. The steps initiated by the Managing Committee for preparing the books of accounts and initiating the process for convening the AGM in the backdrop of COVID-19 lockdown were lauded by the general body, especially as the same was being convened within the extended timeline permitted by the MCA *vide* its General Circular No. 10/2021 (F. No. 2/6/2020-CL-V) dated 23.06.2021 read with the ROC Uttarakhand's letter dated 23.09.2021.

As regards the issues of item no.1, views were invited from members. The members expressed their views on the agenda item, as well as on other issues relating to the Club. The issues specific to agenda item have been captured in details in accordance with the provisions of the Companies Act, 2013 and the secretarial standards referred to therein. The rest of the issues, as they do not pertain to the agenda have merely been referred to separately. The following members put forth their views as under-

1. Mr. Krishan Kumar Verma (M. No. 1350) addressed that Club is running well however more politics is in club and impacting the image of Club.

Revision in Articles is required to align the same with the provisions of the Companies Act, 2013, which is long pending issue and could perhaps address reoccurrence of a situation similar to the present one.

2. Mr. Vimal Deep Singh (M. No. 0447) raised his objection on the word 'Fraud' mentioned in MOM of AGM dated 27.11.2021 and said if the Fraud was there then suspension of Mr. Anurag Sangal cannot be revoked.

He further asked whether withdrawal of nomination by the members of the incumbent managing committee prior to the AGM dated 27.11.2021 or their act of non-filing of nomination for contesting elections at the EGM dated 29.01.2022 tantamount to withdrawal of consent to continue on the managing committee?

3. Mr. Anurag Sangal (M. No. 1587) stood to make 3 specific points, which is reproduced hereunder:

"i) a request, ii) a question cum request and iii) views cum suggestions as desired by the President.

i) The request is that the proceeding of this Meeting and specifically what is said by every Member be recorded fully and properly and written in the Minutes accordingly. The listing of only the names of speakers like done in the Minutes of the AGM of 27-11-21 is not proper; it becomes 'information' instead of 'Minutes'

ii) The Notice of this EGM includes in the Explanatory Statement that ".....Mr Anurag Sangal alleged 'fraud' committed by the members of the Managing Committee to manipulate the elections, allegedly on the grounds that the Managing Committee had advised the members to clear their dues on the last date of GM, in case they wish to vote at the Club during on voting window opened on the last date of AGM..."

My question is to know from you and the Managing Committee Members present as to where and when did I make this allegation?

My request to you and the Managing Committee Members present are -

a) to present the answer to this query to me and this House before close of this EGM today, and

b) if the answer shows my allegation, I shall be enlightened and thankful; and in case you cannot substantiate this allegation, then please circulate this mistake on your part to all the Members of the Club to retract this statement made to them by the Club viz., in the Notice of this EGM and Minutes of the AGM of 29-11-21

iii) My view cum suggestions are as under -

a) The status of the present Board on and after the AGM of 27-1-21 can be better understood if we remove the confusion arising out the same persons being Directors and Candidates for the last scheduled Elections on 27-11-21

- b) Let us take the example of the Director sitting nearest to me as of now Mr Bipin Berry; he had two status prior the AGM one as Candidate Bipin Berry and second as Director Bipin Berry
- c) Irrespective of the validity or otherwise of his withdrawal of his Nomination after the last date of doing the same, the fact is that Elections were canceled by the Board by writing to NSDL and intimating us Members and were not held on 27-11-21 and therefore, Candidate Bipin Berry was not elected to the Board and Candidate Bipin Berry ceased to exist
- d) Director Bipin Berry was, like all other Directors, a fixed tenured Director serving on the Board till the conclusion of the AGM; since our Articles provide a fixed term of service from Election in an AGM to the conclusion of the next year AGM. Once the AGM of 27-11-21 was concluded, as given in the Minutes thereof, Director Bipin Berry ceased to be a Director on the Board. Now just extrapolate this situation for all 6 Directors on the Board on 27-11-21 and accordingly, they all ceased to be Directors on 27-11-21.

The implications of the above can be -

- a) The Board in its wisdom canceled the Elections after its notification was issued and the process was on and this may tantamount to a violation of the Supreme Court of India orders holding multiple times that it is bad in law to interfere/negate/intervene in the Election process.
- b) Cancellation of Elections by the Board has aggrieved Candidate Bipin Berry and all other Candidates by taking away their right to be voted upon by the Members.
- c) Cancellation of Elections by the Board has aggrieved me and all Members of the Club by taking away our right to vote For or Against the Candidates.
- d) Since all 6 Directors' tenure ended on 27-11-21 and they all ceased to be Directors on that date, there were no Directors of the Club on 28-11-21; thus creating a situation envisaged by Section 168 (3) of the Companies Act, 2013 which stipulates that in such a situation the new Directors shall be appointed by the Central Govt.....; where the Central Govt obviously means its constituents ie the Registrar of Companies and the Ministry of Company Affairs etc; and neither the general House of 27-11-21 nor this House today has any powers to allow them to continue or to appoint Directors in their place without the proper process of Elections.
- e) The Club should have written to the Registrar of Companies Uttarakhand on 28-11-21 to intimate them that all Directors on our Board have ceased to exist and asked them to take the next course of action.
- f) I do not know whether that has been done or not, and if not advised to continue to serve on the Board by the ROC, then all the 6 persons who have

continued to be Directors from 28-11-21 till today may be deemed to be in default of the statute and any and all of their decisions and actions may be held to be ultra vires of the statute.

g) In an endeavor to cut this deemed default, the Club should intimate the ROC today of this situation and simultaneously inform the ROC that while waiting for their directions and in the interest of continuity of the Club operations –

i) All the 6 Directors have become Directors in Abeyance with absolutely no decision making and/or action authority.

ii) The general House today has constituted a Stakeholders Committee comprising 5 of its Permanent Members to run the Club and take only routine operational actions and decisions for a specific time of say, 2 months with the specific objective of holding proper Elections to constitute the new Board of Directors”.

4. Mr. Sanjeev Bhasin (M. No. 1184) told that Article 48 to be referred in case of vacancies occurred in the Committee during the year & particular tenure as two directors have resigned during the year. ROC not directly concerned for Election / Appointment of Directors, Club should remain as it is whether there is a director or not. He further asked, whether tenure will be considered as one or two in case of extension of period of existing committee.
5. Mr. H.S. Kushwaha (M. No. 0387) advised that Article should be change as per latest & revised Companies Act, 2013. In case of any confusion / doubts the provisions of the Companies Act, 2013 & Rules made thereunder should be referred. For rest of the points, Club's Articles should be referred. Legal opinion should be taken from Mr. Shikhar Kacker and to be shared with all members, if there is any doubt regarding the applicability/ compliance of the provisions of the Companies Act, 2013.

Mr. Samraant Virmani and Mr. Iqbal Wasu pointed out the emails dated 19.11.2021 and 20.11.2021 sent by Mr. Anurag Sangal, wherein, he has alleged “**fraud**”. Mr. Samraant Virmani mentioned that this issue being a disciplinary issue, be separately taken up by the managing committee in its next meeting and detail reply be sent to Mr. Sangal.

Mr. Shikhar Kacker, Advocate, who is the retainer counsel of the Club was invited to express his views on the legal queries raised by the members. Mr. Kacker submitted the following:

- (i) The power to appoint the board vests with the members. Under Section 152(2) directors are to be appointed at a general meeting. The procedure for filing nomination and convening of general meeting has

to be followed in accordance with the Club Articles read with the Companies Act, 2013. Since, no nominations have been received, there is no rationale for adjourning the EGM. A fresh process needs to be initiated to conduct the elections, which would entail inviting nominations from the candidates. In the context of the right of members to elect the director, he clarified that no person can be forced to be a director and the director is required to provide his consent to become director under Section 152(5).

- (ii) The Article 43 read with Article 53A provides that the directors/ members of the managing committee (including President) shall be appointed at AGM for the ensuing year. As per the Article 53(A) of the Club, AGM has to be held annually on or before 30th June every year and election of managing committee is one of the agenda items to be transacted at the AGM. The Articles do not specifically provide for resignation/ retirement of director at the ensuing AGM. Further, the consequences of non-appointment of director at AGM are also not provided in the Articles. The Article 53(B) merely provides punishment for failure to conduct AGM on or before 30th June in a particular year, except when such failure was on account of a force majeure. In the present case the AGM could not be convened before 30.06.2021 due to the government-imposed lockdown, but was subsequently, convened on 27.11.2021, prior to the statutory deadline specified under Section 96 read with the ROC, Uttarakhand's letter dated 23.09.2021.

In relation to the above, Mr. Kacker clarified that the AGM convened on 27.11.2021 could not have been adjourned due to two reasons. Firstly, it would not have been possible for the Club to defer the AGM on account of item no. 3 (election of directors), unless a specific exemption was sought from ROC, which at such a short notice would have resulted in the Club missing the statutory deadline of 30.11.2021. Secondly, as there were no willing candidates to contest the elections, there was no rationale to adjourn the meeting, as the agenda item stood frustrated.

- (iii) As per Mr. Kacker, it would be incorrect to state that the managing committee canceled the elections, thereby, depriving the contestants as well as the members to participate in the election process. The managing committee is merely responsible for initiating steps for convening the general meeting for conducting elections. The managing committee initiated the steps for convening the AGM on 27.11.2021 and thereafter, the EGM on 29.01.2022. The elections could not be conducted, as there were no candidates who wanted to contest the elections. As mentioned above, no member can be forced

to become a director without his written consent. Thus, no fault can be attributed to the managing committee on account of failure of any member to file nominations for contesting elections for the FY 2021-22.

- (iv) Mr. Kacker submitted that the Hon'ble Supreme Court has provided the general principle that the Courts should not normally interfere with the election process. In the context of Companies Act, 2013, the said principle does not in any manner takes away the right of a member to withdraw his consent to act as director of a company.
- (v) As per Mr. Kacker, the Articles do not provide for retirement of directors at AGM. The circumstances contemplated under Section 152(6) do not arise in the present case, necessitating intervention of the Central Government under Section 168(3) of the Companies Act, 2013.
- (vi) Mr. Kacker submitted that a stakeholder committee aids the board of directors and do not supplant/ supersede the board of directors. Thus, the role and purpose of stakeholders committee as envisaged under Section 178 cannot be extrapolated to the present case. The version of stakeholder committee suggested by Mr. Sangal cannot discharge the statutory functions vested in the board under the Club Articles read with the provisions of the Companies Act, 2013.
- (vii) As regards the query of Mr. Bhasin regarding the status of co-opted members i.e., Mr. Vijay Khanna and Mr. Bipin Berry, Mr. Kacker stated the legal position under Section 161 of the Companies Act, 2013 and suggested that this issue be looked into by the Club to confirm the status of the co-opted members.
- (viii) As regards the second query of Mr. Bhasin, Mr. Kacker expressed a view that the expression 'term' as envisaged in Article 42 necessarily means two contested and elected terms. The present term of the incumbent managing committee has merely been extended due to pandemic, as they are not re-elected at general meeting so it is one term of this committee.
- (ix) Mr. Kacker answered the query of Mr. Vimal Deep Singh regarding the consequence of incumbent members of the managing committee not filing their nominations to contest elections. As per Mr. Kacker, the right of the members of the incumbent managing committee to contest or not contest a subsequent term is exercised by each of them independently in their capacity as a member. The same cannot be inferred as their willingness or lack-thereof to continue

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discharging functions as members of the managing committee in the current, extended term.

Mr. Kacker agreed to circulate a summary of the discussions, including his view on the specific query of Mr. Bhasin regarding the status of co-opted members.

After long discussion the general body advised the Managing Committee to re-initiate fresh election process of the Managing Committee by convening an AGM in last week of May'2022. Until then, the incumbent Managing Committee shall continue to remain in office and their current term be treated as a single term.

The above decision was unanimously accepted by the house except Mr. Anurag Sangal & Mr. Vimal Deep Singh who have dissented for the same.

The above resolution was proposed by Mr. K.K. Verma (M. No. 1350) & seconded by Mr. Ajay Shangari (M.No. 0055)

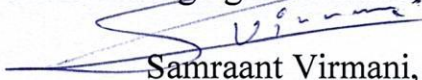
The other issues, which were unconnected with the agenda, but were still taken up and discussed as a matter of good governance:

Mr. Ajay Shangari (M. No. 0055) has shared his views that Minutes of Meeting should be prepared properly including views of all speakers. A meeting is required for detailed discussion on notice received from MCA & briefing is required from the members who have attended the date with MCA and opinion of Mr. Shikhar Kacker should be taken on this subject so that proper reply may be submitted by all concerned members accordingly. In reply of the above Mr. Iqbal Wasu has shared his experience & feedback about his visit to MCA office.

Mr. Vimal Deep Singh (M. No. 0447) has shared his disappointment that no Committee member has attended the Republic Day program at Club on 26.01.2022 even there was no invitation to club members from Club side.

With the aforesaid observations, the Extraordinary General Meeting was declared as concluded.

For and on behalf of the Managing Committee,


Samraant Virmani,
President