



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 55 of 2024

Pakistan Engineering Company Limited

...Appellant

versus

Director/HOD, Adjudication Department-I, SECP

...Respondent

Date of hearing:

January 8, 2025

Present:

For the Appellant:

1. Mr. Muhammad Junaid A. Chauhan, Advocate High Court
2. Mian Anwar Aziz, Company Secretary. CFO

For the Respondent:

1. Mr. Sohail Qadri, HOD/Director, Adjudication-I, SECP
2. Mr. Rizwan-ul-Haq, Additional Joint Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 55 of 2024 filed by Pakistan Engineering Company Limited (the Appellant) through Mr. Mian Anwar Aziz, Company Secretary/CFO (Authorized Representative) against the Order dated April 29, 2024 (Impugned Order) passed by the Director/HOD Adjudication-I (the Respondent) under section 132 of the Companies Act, 2017 (the Act).
2. The brief facts of the case are that the Appellant failed to hold its Annual General Meeting for the year ended June 30, 2023 (AGM) within the period specified under Section 132 of the Act. In view thereof, a show-cause notice dated January 5, 2024 (SCN) was issued to the Appellant and its Board of Directors (the BoD) including the company secretary. A written reply to the SCN was received vide letter dated January 10, 2024 whereas, a hearing in the matter was held on February 1,



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2024. After the hearing, the Appellant gave further submissions received vide letter dated February 19, 2024. The Respondent concluded the SCN proceedings and imposed Rs. 250,000/- penalty on the Appellant whereas, a warning was issued to the BoD and the company secretary.

3. The Appellant challenged the Impugned Order *inter alia* on the grounds that the Respondent had decided the matter hastily and had passed the Impugned Order without proper appreciation of the facts, law and submissions made by the Appellant. The Appellant submitted that the Respondent failed to appreciate that till September 2022, the former Managing Director (MD) namely; Mr. Mairaj Anees Ariff of the Appellant was running the affairs of the Company per his 'whims and fancies' and no person from the BoD or other employees were allowed to enter the premises of the Company. The Appellant stated that the illegalities committed by the former MD were communicated to the SECP time and again with the request to appoint an auditor so that audited accounts could be prepared and laid in the AGM. The Appellant submitted that SECP failed to perform its duties as a regulator at the relevant time, and accordingly, the Appellant cannot be penalized for the inaction of SECP. The Appellant stated that the former MD was transferred on September 13, 2022 and the incumbent MD, Mr. Mohammad Hassan Iqbal was appointed on September 16, 2022, therefore, now, the Appellant and its management is working to undo the defaults.
4. The Respondent rebutted the grounds of Appeal and stated that the members' fundamental rights had been undermined due to the Appellant's failure to hold the AGM. The Respondent further stated that the Appellant had failed to substantiate the reason for non-compliance of Section 132 of the Act. The Respondent submitted that the due process of law had been followed before passing the Impugned Order and multiple hearing opportunities were provided to the Appellant. The Respondent stated that the Impugned Order is well-reasoned and has been passed in accordance with the law after considering the submissions made by the Appellant. The Respondent stated that the violations alleged in the SCN were grave and it has been established that the Appellant has violated the requirements of the applicable provisions of the Act. The Respondent stated that the former MD was transferred on September 13, 2022 and since then the Appellant and BoD had complete control and considerable time to ensure that the AGM is held within the stipulated time, however, they failed to perform the required statutory and regulatory compliances in an efficacious manner.



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5. The Appellate Bench (the Bench) has heard the parties and perused the record. The Bench has noted that the Appellant had not convened the AGM within a period of one hundred and twenty days following the close of its financial year, therefore, a violation of Section 132 is established. The Bench is of the view that a public listed company has a higher responsibility to disseminate a true and accurate state of affairs to all the stakeholders by holding the AGM within the stipulated time so that appropriate and timely decisions with respect to operations and investments are made. In our view, holding the AGM on time is not only a requirement of law but also ensures transparency and provides necessary information about the company's state of affairs to all stakeholders, however, the Appellant's failure to hold the AGM has defeated that purpose.
6. The Bench has noted that the Appellant's the incumbent MD took charge on September 16, 2022, thereafter, the Appellant had ample time to prepare accounts, appoint the auditor and have the accounts audited to be laid in the AGM, however, no such effort was done. The Bench has further noted that the Appellant vide notice dated January 27, 2025, addressed to the Pakistan Stock Exchange and advertisement published in the newspapers, has revealed that the Appellant's 74th AGM for the year ended June 30, 2023, was scheduled to be held on February 17, 2025. In view of the above, the notice and advertisement establishes that the Appellant failed to convene the AGM within one hundred and twenty days from the close of its financial year, therefore, the Appellant cannot avoid penalty for violation of Section 132 of the Act.
7. In view of the foregoing, we find no reason to interfere with the merits of the Impugned Order, therefore, we hereby dismiss this Appeal without any order as to cost.


(Zeeshan Rehman Khattak)
Commissioner


(Akif Saeed)
Chairman/ Commissioner

Announced on:

27 FEB 2025