

Appellate Bench Orders

Appellate Bench Orders Before the Appellate Bench No.2

April 22, 2002

1. Mr. Nafees A. Najmi, Air Vice Marshal (Retd),
Ex-nominee Director of Shaheen Foundation
2. Mr. Aftab Mustafa Khan,
Ex-nominee Director of Shaheen Foundation.....Appellants

Versus

Executive Director (Company Law), SEC.....Respondent

Date of Hearing.....April 12, 2002

Present:

Mr. F. B. Sial, Senior Deputy Director,
Corporate Affairs, Shaheen Foundation, Islamabad.....On behalf of appellant

1. Mr. Atta Mohammad Khan, Director (E&M),
2. Mr. Ahmed Muzammil, Joint Registrar of Companies.....On behalf of respondent

Order

These are two appeals filed by Mr. Nafees A. Najmi, Air Vice Marshal (Retd) Shaheen Foundation and Mr. Aftab Mustafa Khan, Ex-nominee Directors of Shaheen Foundation against an order dated 22.5.2001 of the Executive Director (Company Law), SEC. Mr. F. B Sial, Senior Deputy Director, Shaheen Foundation appeared on behalf of appellants.

2. The brief facts of the case are that the Registrar of Companies imposed a penalty of Rs.5000/- on ten persons including the appellants (on a complaint of Shaheen Foundation) for using the words '(Pvt) Limited' as part of the name of FM Hundred without incorporation of the company in contravention of section 497 of the Companies Ordinance, 1984.

3. The said order was challenged by Mr. F. B. Sial, Senior Deputy Director of Shaheen Foundation with the request that names of Mr. Aftab Ahmed Khan and Mr. Nafees A. Najmee be excluded from the name of persons on whom penalty had been imposed because they have no concern with F M Hundred. Since these two

gentlemen did not file the said petition and, therefore, the Appeal was held not to be maintainable and so was dismissed vide order dated 22.11.2001. Subsequently, the Appellants filed a fresh appeal which came up for hearing on 12-04-2002.

4. We have considered the present appeals of these two persons and come to the conclusion that request of the above mentioned gentlemen for exclusion of their names from list of those on whom penalty has been imposed is genuine because there is nothing on record proving that they had any hand in unlawful use of the words private limited with the name of FM Hundred which was not granted registration by the competent authority under the Companies Ordinance, 1984.

5. The order of the Executive Director (Company Law) dated 22.5.2001 is modified only to the extent of exonerating the Appellants from the penalty imposed on the promoters of the above mentioned company.

Announced : Islamabad
22 April, 2002

(ABDUL REHMAN QURESHI)
Commissioner
(Enforcement & Monitoring)

(SHAHID GHAFAR)
Commissioner
(Securities Market)