

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**AT CHENNAI**

**(APPELLATE JURISDICTION)**

**Company Appeal (AT) (CH) No. 58/2025**

**IN THE MATTER OF:**

**MOHAN RAM PRASAD DEVINENI,**

S/o Venkata Ranga Rao Devineni,  
Residing at 8955, Croquet Court,  
Champions Gate, Florida 33896, USA

**...APPELLANT**

**V**

**M/S. BIOCHEMICAL &  
SYNTHETIC PRODUCTS PRIVATE LIMITED,**

Represented by its Managing Director,  
Having registered office at Plot No. 11-6-2029,  
Phase-II, Sri Venkateshwara Co.op Industries Estate (S.V.C.I.E),  
Balangar, Hyderabad,  
Telangana – 500037.

**...RESPONDENT NO. 1**

**REGISTRAR OF COMPANIES,**

2nd Floor, Corporate Bhawan,  
GSI Post, Tattiannaram Nagole,  
Bandlaguda,  
Hyderabad – 500068.

**...RESPONDENT NO. 2**

**Present:**

**For Appellant** : Ms. R. Moneshaa, Advocate

**For Respondent** : Mr. P.H. Arvindh Pandian, Senior Advocate  
For Krishna Dev Jagarlamudi,  
Mr. Vishnu Kanth Mundada,  
Mr. Shadab Azhar,  
Mr. Arpit Kumar Mishra &  
Ms. Shravya Tirunahari, Advocates for R1

**JUDGMENT**

**(Hybrid Mode)**

**[Per: Justice Sharad Kumar Sharma, Member (Judicial)]**

The Appellant before this Appellate Tribunal is the Applicant in the proceedings under Section 59 of the Companies Act, 2013, which were registered

as C.P. No. 3/59/HDB/2024 before the learned NCLT, Hyderabad Bench. The proceedings initiated by the Appellant, by invoking Section 59 of the Companies Act, 2013, were ultimately rejected on the ground of non-maintainability.

2. For the purpose of addressing the arguments advanced by the learned Counsel for the Appellant who has vehemently attempted to bring the proceedings within the ambit of Section 59 of the Companies Act, 2013, the text of Section 59 itself becomes necessary and inevitable for a clearer elucidation of the controversy. Section 59 of the Companies Act, 2013 reads as follows:-

***“59. Rectification of Register of Members.***

*(1) If the name of any person is, without sufficient cause, entered in the Register of Members of a company, or after having been entered in the register, is, without sufficient cause, omitted there from, or if a default is made, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the person aggrieved, or any member of the company, or the company may appeal in such form as may be prescribed, to the Tribunal, or to a competent court outside India, specified by the Central Government by notification, in respect of foreign members or debenture holders residing outside India, for rectification of the register.*

*(2) The Tribunal may, after hearing the parties to the appeal under sub-section (1) by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within a period of ten days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved.*

*(3) The provisions of this section shall not restrict the right of a holder of securities, to transfer such securities and any person acquiring such securities shall be entitled to voting rights unless the voting rights have been suspended by an order of the Tribunal.*

*(4) Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992 (15 of 1992) or this Act or any other law for the time being in force, the Tribunal may, on an application made by the depository, company, depository participant, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set right the contravention and rectify its register or records concerned.”*

3. On a plain and literal interpretation of the provisions contained in Section 59 of the Companies Act, 2013, it becomes evident that the provision comes into effect only when the applicant seeking relief under Section 59 is a shareholder whose name is required to be entered in the register maintained by the Registrar of Companies, or when such applicant seeks rectification of the existing register of members on the basis of certain wrongful entries made therein. In other words, Section 59 of the Companies Act, 2013 is confined exclusively to the rectification of the register of members either by inclusion of the name of a valid and eligible shareholder or by rectifying existing entries in the register due to alleged anomalies that may necessitate omission or correction. This is subject to compliance with the stipulations prescribed under sub-sections (2), (3), and (4) of Section 59 of the Companies Act, 2013.

4. The Appellant is stated to have initiated proceedings under Section 59 of the Companies Act, 2013 before the learned Tribunal, seeking the following reliefs, which are extracted hereunder:-

- a) *Direct the Respondent No. 1 herein to issue valid Share Certificates aggregating to 12.5% of the total equity shares of the Respondent No. 1 company to the Applicant.*
- b) *To direct the Respondent No. 1 Company to rectify the register of members and enter the name of the Applicant as the member and shareholder of the Respondent No. 1 Company.*
- c) *To direct Respondent No. 2 to take action against the Respondent No. 1 Company under section 447 of the Companies Act, in furtherance of the Complaint dated 27.06.2022 lodged by the Applicant herein.*
- d) *To pass such other order or orders as this Hon'ble Tribunal deems fit and proper in the interest of justice, equity and good conscience and in the circumstances of the case."*

5. If we examine the nature of the relief that has been articulated and prayed for by the Appellant under Section 59, it becomes evident that the Appellant, by invoking Section 59 of the Companies Act, 2013, in fact sought a direction to Respondent No.1, the company in which the Appellant claims to be a shareholder, to issue a valid share certificate aggregating to 12.5% of the total equity shares of Respondent No.1. The relief sought in the application filed under Section 59 of the Companies Act, 2013, therefore, pertains to a direction for the *issuance of a share certificate*. The pertinent question that arises is whether a judicial direction for the issuance of a share certificate falls within the ambit of Section 59 of the Companies Act, 2013, which deals with rectification of the register of members.

6. We are of the considered view that, if the language of Section 59 of the Companies Act, 2013 and its legislative intent are duly taken into account, the provision is confined simpliciter to the inclusion of the name of a shareholder/member who is already the holder of a validly issued share certificate, based on which an application under Section 59 is preferred for entering such name in the register of members. In other words, the first and foremost pre-condition for invoking Section 59 of the Companies Act, 2013 is that the Applicant must already be a valid holder of a share certificate prior to invoking the provision. No relief in the nature of a direction compelling the company to *issue* a share certificate, alleged to be held by the Applicant, can be sought by filing an application under Section 59. A direction for issuance of a share certificate squarely falls outside the scope and ambit of Section 59 of the Companies Act, 2013.

7. The learned Tribunal, while dealing with the aforesaid controversy in the context of the relief sought, took into consideration the correspondence issued by the Appellant on 14.03.2022 to Respondent No.1, wherein a request was made for payment of pending wages amounting to USD 160,000 and for rectification and issuance of valid share certificates. Based on the correspondence dated 14.03.2022, the learned Tribunal recorded a finding that it was an admitted position of the Appellant that, on the date when the application under Section 59 was filed, he did not possess a valid share certificate in his favour. According to the Appellant's own case, the share certificate suffered from several defects for

example, the issued certificate bore no number, was incomplete, and lacked essential particulars. Once the share certificate itself was defective, no rectification of the Register of Members could be undertaken on the basis of such a certificate, which admittedly was not valid.

8. The learned Senior Counsel for the Respondent submitted that the Appellant would have no legs to stand in the present proceedings owing to the implications of the arbitration proceedings and the orders passed therein. As recorded by the learned Tribunal in paragraph 12 of the impugned order, Arbitration Petition No. 43/2023 had already been instituted under Sections 11(5), 11(9), and 11(12)(a) of the Arbitration and Conciliation Act, 1996 before the Hon'ble Apex Court. In the said arbitration proceedings, the cause of action and the relief sought were similar in nature, particularly with respect to the issuance of a legally valid share certificate. It is noted that the Appellant filed a memorandum dated 16.12.2024 expressing his intent to withdraw from the ongoing arbitration proceedings, which concerned the issue of issuance of a legally valid share certificate. The Appellant voluntarily opted out of participating in the arbitration proceedings so as to pursue other appropriate remedies available to him, under the perception that such course would avoid any potential conflict between an arbitral award and the proceedings he intended to initiate, as stated in the memorandum dated 16.12.2024.

9. The learned Tribunal, while considering the rival contentions, recorded a finding that in the absence of any valid share certificate having been issued in favour of the Appellant by Respondent No.1, no rectification of the register could be undertaken. This was because no privity of contract between the Applicant and Respondent No.1 had been established by any evidence brought on record by the Appellant.

10. The Appellant argues that in such a peculiar circumstance, where no valid share certificate has been issued, and where the Appellant has withdrawn from the arbitration proceedings pursuant to the memorandum filed on 16.12.2024, thereby keeping open the liberty to pursue appropriate proceedings, the Appellant would now be left without any remedy to seek a direction against Respondent No.1 for issuance of a valid share certificate. This argument has been advanced by the learned Counsel for the Appellant in the context of the bar created by Section 430 of the Companies Act, which excludes the jurisdiction of civil courts over matters arising under the Act. However, this argument cannot be sustained. A direction sought by the Appellant against Respondent No.1 for issuance of a share certificate, owing to defects in the original certificate, does not fall within the ambit of any act or proceeding contemplated under the Companies Act. Consequently, the bar under Section 430 of the Companies Act would not apply. The exclusion of civil court jurisdiction extends only to matters for which the Companies Act provides a specific remedy or mechanism.

11. To reinforce her submissions, the learned Counsel for the Appellant referred to Rule 70 of the NCLT Rules, 2016, regarding the scope and effect of the appellate provisions under the given set of facts, and the extent of powers vested in the Tribunal in relation to the rights claimed by the Appellant for rectification of the register of members under Section 59 of the Companies Act, 2013. Section 469 of the Companies Act, 2013 empowers the Government of India to frame rules through notification in the Official Gazette for carrying out the provisions of the Act. It functions as an enabling provision intended to facilitate implementation of actions and processes falling within the scope of the Companies Act.

12. In light of the language used in Section 469 of the Companies Act, it assumes the character of subordinate legislation, serving only to facilitate or enable the effective implementation of the provisions already contained in the Companies Act. For this purpose, Section 469(2) must be read with sub-section (3), which prescribes the formulation of rules. It is in exercise of these powers that the Government of India, through Gazette Notification G.S.R. 716(E) dated 21.07.2016, published the National Company Law Tribunal Rules, 2016. Among the rules framed therein, the provision relevant for present purposes, particularly as relied upon by the learned Counsel for the Appellant is Rule 70. Rule 70 is extracted hereunder:-

***“70. Appeal under sections 58 and 59.—*** (1) The appeals against the refusal for registration of transfer or transmission of securities under [section 58](#) or for rectification of register of members under [section 59](#) shall be made to the Tribunal by way of a petition in **Form No. NCLT. 1** and shall be accompanied by such documents as are mentioned in Annexure-B:

*Provided that a copy of the appeal shall be served on the concerned company at its registered office immediately after filing of the petition with the Tribunal.*

(2) *The petitioner shall at least fourteen days before the date of hearing advertise the petition in accordance with rule 35.*

(3) *Where any objection of any person whose interest is likely to be affected by the proposed petition has been received by the petitioner, it shall serve a copy thereof to the Registrar on or before the date of hearing:*

(4) *The Tribunal may, while dealing with a petition under [section 58](#) or [59](#), at its discretion, make-*

*(a) order or any interim order, including any orders as to injunction or stay, as it may deem fit and just;*

*(b) such orders as to costs as it thinks fit; and*

*(c) incidental or consequential orders regarding payment of dividend or the allotment of bonus or rights shares.*

(5) *On any petition under [section 59](#), the Tribunal may-*

*(a) decide any question relating to the title of any person who is a party to the petition to have his name entered in, or omitted from, the register;*

*(b) generally decide any question which is necessary or expedient to decide in connection with the application for rectification.*

(6) <sup>9</sup>[\*\*\*]”

13. Rule 70 is merely an elaboration and extension of the provisions contained in Section 59 of the Companies Act, 2013, in the context of preferring appeals against refusal for registration of transfer or transmission of securities. It restrictively prescribes only the modalities and procedures under which such an appeal may be preferred. It is not a substantive provision determining rights or liabilities, but is purely procedural in nature.

14. In the present case, the controversy for consideration is whether the Appellant is at all entitled to invoke Section 59 of the Companies Act for rectification of the register of members, in light of the so-called share certificates which the Appellant claims to hold in Respondent No.1 company. Upon perusal of the share certificate placed on record, it cannot be said to be a validly executed share certificate, owing to its apparent anomalies. On the basis of such a defective document, proceedings under Section 59 of the Companies Act could not have been initiated.

15. In this regard, the learned Counsel for the Appellant has particularly relied upon Rule 70(5) of the NCLT Rules, 2016, contending that when a petition is preferred under Section 59 of the Companies Act, the powers of the learned Tribunal are sufficiently wide to include the authority to decide questions relating to the title of any person who is a party to the petition, in order to determine whether his name should be entered in or omitted from the register of members.

The learned Counsel further argues that the Tribunal may decide any question that is necessary or expedient for adjudicating an application for rectification.

16. However, if the scope of Rule 70(5) of the NCLT Rules, 2016 is examined in its proper context, as already observed by this Appellate Tribunal, it constitutes subordinate legislation aimed solely at facilitating effective implementation of the provisions contained in Section 59 of the Companies Act. The scope provided under sub-rule (5) is limited to deciding questions of title of any person who is a party to the petition. Rule 70(5) of the NCLT Rules, 2016 therefore cannot come to the aid of the Appellant, in view of the inherent restrictions imposed by Section 59 of the Companies Act itself, which governs the principal substantive provisions relating to the rectification of the register of members.

17. Section 59 already extracted above prescribes a restrictive operation over certain areas of applicability as contained particularly under sub-section (1), which may be understood as follows, it provides for rectification in following cases:

- i. If the name of any person is, without sufficient cause, entered in the register of members.
- ii. After having been entered, is omitted without any sufficient cause.
- iii. Or if a default is made or unnecessary delay takes place in entering a name in the register.

18. These are the three sets of circumstances, under, which an application under Section 59 of the Companies Act, could have been entertained for the purposes of rectification in the register of members. The question is as to what would be the foundation for the purposes of invocation of Section 59 of the Companies Act, for rectification in the register. For the aforesaid purpose, we will have to deal with as to what the literal connotation is, with regard to the word “**rectification**” used by the legislature. Word 'rectification' has been defined in dictionary in the following manner: -

*"**Sth** (formal) to put right Sth that is wrong **Correct:** to rectify a fault. We must take steps to rectify the situation. The damage will be easily rectifiable".*

The word “rectification,” in its literal sense, means “to put right what is wrong” or “to rectify a fault,” which implies carrying out a correction that should otherwise have been appropriately and legally incorporated, or that deserves to be changed based on particular legally acceptable circumstances. It is an admitted position in the present case that the Appellant is not a holder of a validly issued share certificate. According to the Appellant himself, the document is incomplete and has not been validly executed. Therefore, the question that arises is whether, on the basis of such a share certificate one that has not been validly executed and does not even bear a number Section 59 of the Companies Act can at all be invoked for the purpose of rectification of the register of members.

As we have already observed, the invocation of Section 59 of the Companies Act involves a two-stage process for an applicant seeking rectification or correction of the register.

(i) That he should have a valid foundation of holding of a legally executed share certificate to maintain an application under Section 59 of the Companies Act.

(ii) It is only when this aspect of having held a valid certificate is established in the eyes of law, then only the person concerned who holds a validly executed share certificate gets a right to sustain the proceedings under Section 59 of the Companies Act.

19. Admittedly, in the present case, the proceedings before the Arbitrator, initiated pursuant to the arbitration clause, involved consideration of an identical issue namely, a request for a direction against Respondent No. 1 to issue a valid share certificate so as to overcome the deficiencies in the defective share certificate purportedly held by the Appellant. However, for reasons best known to the Appellant, he himself withdrew from the arbitration proceedings and instead chose to initiate proceedings under the Companies Act, 2013 before the Ld. NCLT.

20. We are of the view that, in the absence of a valid share certificate having been issued in favour of the Appellant and particularly when the Appellant himself contends otherwise the question of validity of the share certificate cannot

be scrutinised by the Ld. Tribunal under Rule 70(5) of the NCLT Rules, 2016. Consequently, the withdrawal from the arbitration proceedings has an adverse impact on the maintainability of proceedings under Section 59 of the Companies Act. Furthermore, since the Ld. Tribunal could not exercise its jurisdiction under Rule 70(5) of the NCLT Rules, 2016, the entitlement to title over the shares based on such a certificate cannot be decided by the Tribunal. Hence, the argument advanced by the Ld. Counsel for the Appellant is not acceptable to this Appellate Tribunal. Moreover, a relief in the nature of a direction to issue a valid share certificate would fall outside the scope of Section 59 of the Companies Act, 2013.

21. We find merit in the submission of the Ld. Counsel for the Respondent that the argument advanced by the Ld. Counsel for the Appellant may not be sustainable. This is because, in order to attach validity to the share certificate allegedly issued to the Appellant, the Appellant would be required to establish compliance with the procedure contemplated under the Companies (Share Capital and Debentures) Rules, 2014. The Respondent contends that the powers and parameters governing the issuance of sweat equity shares are provided under Rule 8 of the Companies (Share Capital and Debentures) Rules, 2014, and that certain mandatory covenants must be fulfilled before any validity can be attached to a share certificate issued in favour of a person claiming to be a lawful holder of a sweat equity share certificate. He further submits that when Rule 8(1) and Rule 8(2) of the 2014 Rules are read together, they prescribe various procedural requirements, from Clause (a) to Clause (m), which must be satisfied in order to

hold that a share certificate has been validly issued. For this purpose, there must be an authorisation by way of a special resolution passed in the general meeting of the company approving the issuance of sweat equity shares, along with the other stipulations contained in Rule 8(2) of the 2014 Rules. The relevant conditions required to be satisfied under the Rules are extracted hereunder:-

**8. Issue of sweat equity shares.-**

*(1) A company other than a listed company, which is not required to comply with the Securities and Exchange Board of India Regulations on sweat equity, shall not issue sweat equity shares to its directors or employees at a discount or for consideration other than cash, for their providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called, unless the issue is authorised by a special resolution passed by the company in general meeting.*

*Explanation.—For the purposes of this rule—*

*(i) the expressions "Employee" means—*

*(a) a permanent employee of the company who has been working in India or outside India, for at least last one year; or*

*(b) a director of the company, whether a whole time director or not; or*

*(c) an employee or a director as defined in sub-clause (a) or (b) above of a subsidiary, in*

*(d) India or outside India, or of a holding company of the company;*

*(ii) the expression 'Value additions' means actual or anticipated economic benefits derived or to be derived by the company from an expert or a professional for providing knowhow or making available rights in the nature of*

*intellectual property rights, by such person to whom sweat equity is being issued for which the consideration is not paid or included in the normal remuneration payable under the contract of employment, in the case of an employee.*

*(2) The explanatory statement to be annexed to the notice of the general meeting pursuant to [section 102](#) shall contain the following particulars, namely:-*

- (a) the date of the Board meeting at which the proposal for issue of sweat equity shares was approved;*
- (b) the reasons or justification for the issue;*
- (c) the class of shares under which sweat equity shares are intended to be issued;*
- (d) the total number of shares to be issued as sweat equity;*
- (e) the class or classes of directors or employees to whom such equity shares are to be issued;*
- (f) the principal terms and conditions on which sweat equity shares are to be issued, including basis of valuation ;*
- (g) the time period of association of such person with the company;*
- (h) the names of the directors or employees to whom the sweat equity shares will be issued and their relationship with the promoter or/and Key Managerial Personnel;*
- (i) the price at which the sweat equity shares are proposed to be issued;*
- (j) the consideration including consideration other than cash, if any to be received for the sweat equity;*
- (k) the ceiling on managerial remuneration, if any, be breached by issuance of such sweat equity and how it is proposed to be dealt with;*
- (l) a statement to the effect that the company shall conform to the applicable accounting standards; and*
- (m) diluted Earning Per Share pursuant to the issue of sweat equity shares, calculated in accordance with the applicable accounting standards.*

We so no reasons to differ to accept the arguments of Respondent counsels, and the findings recorded in relation thereto in the impugned order.

22. It is evident that the share certificate on the basis of which the Appellant has raised his claim for invocation of Section 59 of the Companies Act does not satisfy any of the conditions prescribed under Sub-Rule (2), despite the Appellant's attempt to establish compliance. Consequently, the implications contained in Rule 8 of the 2014 Rules become operative, which provide that unless and until a special resolution authorizing the issue of sweat equity shares has been duly passed, the allotment cannot be treated as valid. We are further of the view that the conditions set forth under Rule 8(3) of the 2014 Rules also reinforce the finding that the mandatory requirements for issuance of sweat equity shares have not been fulfilled. In light of this, the Appellant, who does not possess a valid share certificate, is not competent to initiate proceedings under Section 59 of the Companies Act for rectification of the register of members.

23. The possibility of rectifying share certificates or any shortcomings that may arise in the issuance of a valid share certificate was earlier made rectifiable in light of the provisions contained in Section 113 of the Companies Act, 1956, which dealt with the limitation of time for issuance of a valid share certificate, particularly the conditions set out under Section 113(3) of the Companies Act, 1956. The said provision is extracted hereunder: -

**"113. Limitation of time for issue of certificates.—**

<sup>1</sup> [Every company, unless prohibited by any provision of law or of any order of any court, tribunal or other authority, shall, within three months after the allotment of any of its shares, debentures or debenture stock, and within two months after the application for the registration of the transfer of any such shares, debentures or debenture stock, deliver, in accordance with the procedure laid down in Section 53, the certificates of all shares, debentures and certificates of debenture stocks allotted or transferred:

Provided that the<sup>2</sup> [Central Government] may, on an application being made to it in this behalf by the company, extend any of the periods within which the certificates of all debentures and debenture stocks allotted or transferred shall be delivered under this sub-section, to a further period not exceeding nine months, if it is satisfied that it is not possible for the company to deliver such certificates within the said periods.]

*The expression "transfer", for the purposes of this sub-section, means a transfer duly stamped and otherwise valid, and does not include any transfer which the company is for any reason entitled to refuse to register and does not register.*

(2) If default is made in complying with sub-section (1), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to<sup>3</sup> [five thousand] rupees for every day during which the default continues.

**(3) If any company on which a notice has been served requiring it to make good any default in complying with the provisions of sub-section (1), fails to make good the default within ten days after the service of the notice, the<sup>4</sup> [Central Government] may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order; and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.**

<sup>5</sup>*[(4) Notwithstanding anything contained in sub-section (1), where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.]"*

24. Since under the old Act, the right to seek rectification of a defective share certificate was statutorily preserved under Section 113, the Appellant could have relied on that provision earlier. However, with the repeal of the Companies Act, 1956, and by virtue of Section 465 of the Companies Act, 2013, Section 113 of the 1956 Act has neither been saved nor has any corresponding provision been incorporated in the Companies Act, 2013. As a result, the rectification of defective share certificates cannot be brought within the ambit of proceedings under Section 59 of the Companies Act, 2013, particularly in view of the limited grounds and specific circumstances under which Section 59 can be invoked. Even otherwise, by necessary implication, the legislature, under the 2013 Act, has taken away the statutory provision for rectification or correction of defective share certificates. Thus, no such provision exists under the Companies Act, 2013.

25. In fact, we are of the view that the Ld. Tribunal had correctly formed the opinion that the nature of the controversy, particularly in the context of the relief sought in the application preferred under Section 59 of the Companies Act, did not fall within the domain of Section 59, as the Appellant was essentially seeking a direction for issuance of a valid share certificate. The Ld. Tribunal observed that, while exercising its rectificatory jurisdiction, if any seriously disputed questions of fact arise, the Tribunal should relegate the parties to the civil court,

which would be the more appropriate forum to investigate and adjudicate such disputes. In such a situation, the bar contained under Section 430 of the Companies Act would not come into play, considering that the nature of the relief sought falls outside the sphere of matters covered under the Companies Act.

26. The Tribunal has rightly concluded, while interpreting the implications of Clause 4(a) of the Employees Agreement, that under the employment agreement between the Applicant and the Respondent company, the parties had agreed that the employee would be paid a certain amount on a monthly basis. The employer had further agreed, under those terms, to issue to the employee sweat equity shares up to 12.50% of the total paid-up equity share capital of the company upon completion of six months of service a fact which was shown to have occurred.

27. The observations made by the Ld. Tribunal indicate that, in view of the email communication dated 26.08.2021 relied upon by the Appellant, which was sent to the Chairman of Respondent No. 1 regarding the confirmation of 14,150 equity shares of ₹10 each claimed to have been transferred in favour of the Applicant, the Applicant admitted in that communication that the shares were defective. However, there is nothing on record to establish that, at any point in time, the Appellant took any steps to ensure the issuance of a valid share certificate in its favour.

28. In that eventuality, when the employment agreement was never acted upon and the Applicant never rendered any services to the 1st Respondent company,

the basis for issuing the alleged sweat equity shares does not stand established. The Applicant has not placed on record any salary slips or joining letter to show that the employment agreement was ever acted upon, on the basis of which the sweat equity shares could have been issued in the name of the Appellant and recorded in the register of members in accordance with Section 59 of the Companies Act, 2013.

29. The Ld. Tribunal rightly concluded that the controversy raised does not fall within the domain of Section 59 of the Companies Act, 2013, because it involved the non-issuance of a valid share certificate and not the rectification of the register of members. This was due to the fact that no privity of contract, as employer and employee, between the Applicant and Respondent No. 1 was ever established. Hence, for these reasons, the company appeal lacks merit and deserves to be dismissed on the following grounds:

- (i) The Applicant himself had filed an Arbitration Petition No. 43 of 2023 before the Hon'ble Apex Court, under Section 11 (5), 11 (9), 11 (2)(a), for appointment of the sole Arbitrator for the purposes of adjudicating the dispute arising out of the employment agreement. But the Applicant himself had opted out to withdraw the same, by filing a memo to the said effect on 16.12.2024 in order to enable the Applicant to file a proceeding under Section 59 of the Companies Act, 2013.

(ii) The so-called alleged employment agreement was never executed, as the same is evident from the absence of there being any evidence being placed on record by the Appellant of having to show that he had, rendered any services in the Respondent company by producing the joining certificate or the pay slips, which could have entitled the Appellant to draw the benefit of the employment agreement, and the consequential issuance of sweat share certificate.

(iii) The power of rectification of register of members, as conferred under Section 59 of the Companies Act, 2013. In fact, those are summary proceedings, which enable the rectification of the register of members. There cannot be an elaborative procedure which could even include the ambit to decide the entitlement of holding of the valid shares or to decide the issue of passing any directions as such for the issuance of a valid share certificate.

(iv) Since the nature of controversy raised by the Appellant, will not fall within the ambit of Section 59 of the Companies Act, seeking a directions for issuance of a valid sweat share certificates, the application preferred under Section 59 of the Companies Act, by the Appellant, was rightly rejected, by the Ld. Tribunal.

(v) Since the very basis of the application preferred by the Appellant/Applicant, under Section 59 of the Companies Act, is on the basis of a non-existing ground, which admittedly is portrayed

because of the non-issuance of a valid sweat share certificate. Section 59 of the Companies Act, would not lie, and would not be maintainable.

(vi) Even according to the documents which had been on record and the pleadings as raised by the Appellant, the so-called share certificate, which apparently and admittedly too, has not been validly issued, is not in consonance to the provisions contained under Rule 8 of the Rules of 2014.

(vii) In the absence of there being a prior validly issued share certificate, having being held by the Appellant, satisfying the conditions of Rule 8 of the Rules of 2014, there cannot be any proceeding under Section 59 of the Companies Act, 2013.

30. From the arguments advanced by the Ld. Counsels for the parties, it is evident that Section 59 of the Companies Act is exclusively limited to the rectification of the register of members. In the present case, however, the relief sought pertains to a direction for issuance of a valid share certificate, which does not fall within the scope of Section 59 of the Companies Act. There is no anomaly in the findings recorded by the Ld. Tribunal. Since there is no privity of contract as employer and employee between the Applicant and Respondent No. 1, and as the matter involves complex questions of fact requiring scrutiny of evidence before arriving at a conclusion, a proceeding under Section 59, which is summary in nature, cannot be invoked. Hence, the rejection of the application by the

impugned order dated 07.03.2025, holding the proceeding under Section 59 of the Companies Act to be not maintainable, does not suffer from any apparent error warranting interference. Accordingly, the company appeal lacks merit and is hereby dismissed.

Any interlocutory applications stand closed.

**[Justice Sharad Kumar Sharma]**  
**Member (Judicial)**

**[Jatindranath Swain]**  
**Member (Technical)**

**23/12/2025**  
SN/MS/AK