

News

Is it possible for NCLAT to refer split verdicts to a third member? Supreme Court to take into account



In order to investigate the matter, the Court has asked the Solicitor General for help.

In R Narayananswamy v. The Registrar of Companies, Tamil Nadu, the Supreme Court recently announced that it would investigate whether the National Company Law Appellate Tribunal (NCLAT) can refer cases that end in a split verdict to a third member for decision, or whether such matters must be heard again by a larger coram.

Observing that the matter raised a procedural gap in the NCLAT's operation, a bench of Justices JB Pardiwala and KV Viswanathan asked the Solicitor General of India for assistance in clarifying the proper procedure.

The issue came up in an appeal against the Registrar of Companies (ROC), Tamil Nadu's decision to remove a company's name from the Register of Companies in accordance with Section 248(5) of the Companies Act, 2013.

The appellant filed a complaint with the National Company Law Tribunal (NCLT), Chennai Bench, after the company's name was deleted from the Register in 2018. In 2020, the appellant moved the NCLAT after the NCLT dismissed the appeal.

The case led to a divided decision before the NCLAT. The ROC's striking-off order was affirmed by one member, while the other maintained that it was illegal. After that, the case was referred to a third member, who supported the ROC's order and agreed with the latter viewpoint.

The appellant appealed this process to the highest court.

The appellant contended before the Supreme Court that an issue in which members disagree should be brought before a new three-person coram for a full rehearing rather than being directed to a third member for tie-breaking since there is no explicit NCLAT guideline to govern such circumstances.

The appellant's attorney argued that the need of collective adjudication might not be satisfied by sending the case to a single third member to settle a dispute between two members.

This argument was noted by the Supreme Court, which declared that the procedural issue required authoritative advice.

As a result, the Court instructed its Registry to send a copy of the order to Solicitor General Tushar Mehta and requested that the appellant's attorney notify him of the directive.

Following the Solicitor General's input, the matter will now be discussed on November 19.

Senior Advocate Viraraghavan Rama Krishnan, as well as Advocates NC Ashok Kumar, B Karunakaran, Pooja Lakshmi, G Nishanth, Anoop Prakash Awasthi, Vivek Kr Tripathi, Rushikanta Dash, and Shubham Dubey, represented the appellant.

Advocates Arvind Kumar Sharma, Shailesh Madiyal, Anmol Chandan, Annirudh Sharma, Anuj Udupa, Prashant Singh, and Sudharshan Lamba represented the respondent.