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2024 C L D 872

[Lahore]

*Before Shahid Karim, J*

**MUHAMMAD YOUNIS---Petitioner**

**versus**

**Messrs SHAHID SURGICAL (PVT.) LTD.  
and others---Respondents**

Civil Original No.81451 of 2021, decided on 24th April, 2024.

***Companies Act (XIX of 2017)---***

***---Ss. 126, 136 & 160---Limitation Act (IX of 1908), S. 5 & Art. 181-  
Petition for rectification of register of members and to declare inval  
the proceedings of a general meeting as well as election of director  
filing of---Limitation---Application for condonation of delay-  
Sufficient / reasonable cause---Scope---Petitioner (director  
shareholder of the company) moved petition in the year 202  
challenging proceedings held in the year 2003---Petitioner also filed a  
application for condonation of delay on the ground that he came  
know about impugned proceedings during perusal of certified tru***

CLD

(Shahid Karim, J)

*copies issued by Securities and Exchange Commission of Pakistan in the year 2020---Validity---Ground, taken by the petitioner, did not furnish a reasonable cause to compel the Court to condone the delay---Such petitions, like the present one for rectification etc., where no period of limitation is provided would be governed by Art. 181 of the Limitation Act, 1908, for which a period of three years is provided---Present petition was clearly beyond that period and challenged the transfer of shares which took place in the year 2003---Each day's delay had to be explained by the petitioner which had not been done sufficiently---Present petition being beyond the period of three years provided by law is clearly barred by statutes, which was dismissed---Consequently, main petition for rectification etc. filed in the year 2021 by the director / shareholder was also dismissed. [pp. 873, 874] A, B & C*

Messrs Bentonite Pakistan Ltd. v. Bankers Equity Ltd. 2023 SCMR 1353 ref.

Masood Ahmad Zafar and Awais Bin Tariq for Petitioner.

Usman Nasir Awan, Wajahat Ali and Mirza Waqas Baig for Respondents Nos.1, 2, 4 and 5.

Shan Saeed Ghumman for Respondent No.3.

Ruman Bilal for SECP.

### ORDER

SHAHID KARIM, J.----This is a petition under Sections 126, 136 and 160 of the Companies Act, 2017.

2. C.M No.2 of 2021 has been filed as an application for condonation of delay under Section 5 of the limitation Act, 1908. The only ground given for seeking condonation is the following:

*"2. That the applicant came to know regarding the impugned AGM-along with Election of Directors dated 26.12.2022, impugned AGM dated 30.10.2003 along with all subsequent AGMs and Elections of Directors, Form-A and Form-29 filed thereof during perusal of certified true copies issued by SECP on 18.08.2020, so that the applicant filed the said petition as and when came to his knowledge, the applicant could not approach this Hon'ble Court in time due to late knowledge of the impugned Annual General Meetings as well as Election of Directors."*

3. Suffice to say that the above ground does not furnish a reasonable cause to compel this Court to condone the delay. It is

pertinent to mention that in *M/s Bentonite Pakistan Ltd. v. Bankers Equity Ltd.* (2023 SCMR 1353) it has been held that such petitions where no period of limitation is provided would be governed by Article 181 of the Act, 1908 for which a period of three years is provided. The instant petition is clearly beyond that period and challenges the transfer of shares which took place in the year 2003. Each day's delay has to be explained by the petitioner which has not been done sufficiently. This petition is beyond a period of three years provided by law and is clearly statute barred. C.M No.2. of 2021 is dismissed. Consequently, C.O No.81451 of 2021 is dismissed too.

MQ/M-50/L

Petition dismissed.

2024 C L D 874

[Competition Appellate Tribunal]

*Before Mazhar Alam Khan Miankhel, Chairperson,  
Muhammad Asghar Ch., Member Technical-I and  
Raja Saad Sultan, Member Technical-II*

Messrs OPTIONS INTERNATIONAL (SMC PVT.)  
LIMITED---Appellant

versus

COMPETITION COMMISSION OF PAKISTAN  
and another---Respondents

Appeal No.45 of 2023, decided on 29th May, 2024.

**Competition Act (XIX of 2010)---**

---Ss.10 & 41---Trade Marks Ordinance (XIX of 2001), S.86---  
Competition Appellate Tribunal Rules 2015, R. 25---Competition  
(General Enforcement) Regulations, 2007, Reglns. 16 & 17---Dominant  
position, abuse of---Deceptive Marketing Practice---Mis-using brand  
name---Enhancement of penalty---Appellant company was aggrieved of  
penalty imposed on it for using logo/trademark of "Starbucks"---Plea  
raised by appellant was that trademark in question had no commercial  
existence in Pakistan---Validity---All undertakings are prohibited under  
S.10(1) of Competition Act, 2010, from entering into deceptive  
marketing practices without making any distinction between a foreign  
company not registered or operating in Pakistan---Any undertaking  
whether based in Pakistan or not for the purpose of S.10 of  
Competition Act, 2010 and Reglns. 16 & 17 of the Competition  
(General Enforcement) Regulations, 2007, can file a comp' int to