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TAMILNAD MERCANTILE BANK LIMITED

Results of 97th Annual General Meetings held on 28th October 2020 through Video Conference (VC)/ Other Audio Visual Means (OAVM)

Based on the results declared by the Hon'ble High Court of Madras on 3rd November 2020

97th Annual General Meeting

Agenda No.4 - Reduction in authorized share capital from ₹ 500 crore to ₹ 280 crore

As per the order passed by the Hon'ble High Court of Madras dated 3rd November 2020, the resolution with respect to agenda item No.4 was passed with requisite majority and the order reads as follows:

"A perusal of Annexure-III (D) which pertains to Item No.4, viz., Alteration of Clause V of Memorandum of Association – Reduction of Authorised Share Capital, would disclose that, as per the Consolidated Voting portion, 95.58% favour the reduction of Authorised Share Capital"

Agenda No.8 – Election of Directors

As per the order passed by the Hon'ble High Court of Madras dated 3rd November 2020, 10 directors were elected and the order reads as follows:

*"Now coming to the appointment of Directors in respect of 97th Annual General Meeting Notice dated 17.10.2020, Annexure-V would indicate the Vote cast on the basis of descending order of Votes polled including the voting of three non-resident shareholders and Annexure-VII would indicate the Vote cast on the basis of descending order of Votes polled excluding the voting of three non-resident shareholders. A comparison of Annexures-V and VII would disclose that the 10 Directors elected on the basis of descending order of Votes polled including or excluding the voting of three non-residential shareholders are (1) **Mr.P.C.G.Ashok Kumar**, (2) **Mr.D.N.Nirranjan Kani**, (3) **Mr.A.Nirranjan Sankar**, (4) **Mr.B.Vijayadurai**, (5) **Dr.S.R.Ashok**, (6) **Mr.S.Ezhil Jothi**, (7) **Mr.B.Prabaharan**, (8) **Mr.K.Nagarajan**, (9) **Mr.B.S.Keshavamurthy**, (10) **Mr.C.Chiranjeeviraj**, and would also indicate that, even by including or excluding the voting of three non-residential shareholders, the 10 persons above named have been elected as Directors in the 97th Annual General Meeting of TMBL held on 28.10.2020"*

Prakash Chandra Panda
Company Secretary



W.A.No.2 of 2016
and
C.M.P.Nos.10145, 16385, 16388, 16389 and 16419 of 2019 &
W.P.No.23056 of 2019 and W.M.P.No.22748, 22751 of 2019
(Through Video Conferencing)

M. SATHYANARAYANAN, J.
and
N. KIRUBAKARAN, J.

ORDER

(Order of the Court was made by M. SATHYANARAYANAN, J.)

This Court, in continuation and in conjunction with the earlier order dated 06.02.2020, is passing the following order :

2.M/s.Rank Associates, learned counsel for Tamil Nadu Mercantile Bank Limited (“TMBL” for brevity), had filed a memo dated 02.11.2020 enclosing the report of 94th to 97th Annual General Meetings of TMBL held on 28.10.2020 along with Annexures, containing complaints from shareholders, consolidated scrutinizer's report on e-voting process given by M/s.Nagendra D Rao & Associates LLP dated 30.10.2020, and along with Annexures enclosed with the said Scrutinizer's report, numbering from I to VII.

3.Mr.Sankaranarayanan, learned Senior Counsel, for M/s.Rank Associates, appearing for TMBL, would submit that, in the light of the statutory requirement, the resolution pertaining to reduction of Authorised Share Capital may be approved.

4.Mr.M.S.Krishnan, learned Senior Counsel, assisted by Mr.Krishna Prasad, appearing for the three non-residential shareholders, would submit that the voting for election of Directors has also been done, by including the voting of three non-residential shareholders, as well as excluding them, and subject to the outcome of the pending litigations, this Court may pass appropriate orders.

5.Mr.Karthik Seshadri, learned counsel appearing for Mr.R.Kannan Adityan, has drawn the attention of this Court to Para No.17 of the earlier order dated 06.02.2020, and prays for appropriate directions directing the Registry to furnish a copy of the above cited report with Annexures, so that Mr.R.Kannan Adityan can file his response and thereafter, this Court can take a call.

6.Mr.A.R.Ramanathan, learned counsel appearing for Nadar Mahajana Sangam, would submit that the said Sangam/Association had filed C.S.No.491 of 2007 relating to the principal shares transferred to Mr.R.Kannan Adityan and would further add that C.S.No.386 of 2014 has also been filed by Mr.R.Kannan Adityan with regard to the physical shares and as such, the primordial submission made by Mr.Karthik Seshadri may not be considered at this moment and it may be considered and adjudicated while taking into consideration the connected pending litigations.

7.In response to the said submission, the respective learned counsel appearing for the parties had also invited the attention of this Court to the order dated 29.02.2016, passed in W.A.Nos.2 of 2016 and 1752 of 2015, and would submit that, in almost similar circumstances, the Division Bench, in the said order, had directed the declaration of results and had also accorded permission to the elected members to assume charge and had also made it clear that it is also subject to the final orders to be passed in all cases, in the interest of the welfare of the Association, and in these matters also, this Court may pass similar orders.

8.This Court has carefully considered the rival submissions and perused the materials including the report of 94th to 97th Annual General Meetings of TMBL held on 28.10.2020, dated 31.10.2020, submitted by Hon'ble Mr. Justice R.Balasubramaniam, Retired Judge of this Court, as well as the Annexures.

9.A perusal of Annexure-III (D) which pertains to Item No.4, viz., Alteration of Clause V of Memorandum of Association – Reduction of Authorised Share Capital, would disclose that, as per the Consolidated Voting portion, 95.58% favour the reduction of Authorised Share Capital. Now coming to the appointment of Directors in respect of 97th Annual General Meeting Notice dated 17.10.2020, Annexure-V would indicate the Vote cast on the basis of descending order of Votes polled including the voting of three non-resident shareholders and Annexure-VII would indicate the Vote cast on the basis of descending order of Votes polled excluding the voting of three non-resident shareholders. A comparison of Annexures-V and VII would disclose that the 10 Directors elected on the basis of descending order of Votes polled including or excluding the voting of three

non-residential shareholders are (1) Mr.P.C.G.Ashok Kumar, (2) Mr.D.N.Nirranjan Kani, (3) Mr.A.Nirranjan Sankar, (4) Mr.B.Vijayadurai, (5) Dr.S.R.Ashok, (6) Mr.S.Ezhil Jothi, (7) Mr.B.Prabaharan, (8) Mr.K.Nagarajan, (9) Mr.B.S.Keshavamurthy, (10) Mr.C.Chiranjeeviraj, and would also indicate that, even by including or excluding the voting of three non-residential shareholders, the 10 persons above named have been elected as Directors in the 97th Annual General Meeting of TMBL held on 28.10.2020.

10.In Para No.9 of the report dated 31.10.2020, it is stated that, one Mr.K.Anand had filed S.L.P.No.9642 of 2020 against the order dated 06.02.2020 made in W.A.No.2 of 2016 and C.M.P.Nos.10145, 16385, 16388, 16389 of 2019 and 16419 of 2019 and W.P.Nos.23056 of 2019 and W.M.P.No.22748, 22751 of 2019 and the Special Leave Petition was dismissed by the Hon'ble Supreme Court of India on 25.09.2020 and while dismissing the same, a request was made to this Court to dispose of the matter within a period of six months from the date of the order. A perusal of Annexures-V and VII would indicate that the votes polled in favour of

Mr.K.Anand was 59,36,591 and he stands 14th in both Annexures.

11.It is relevant to extract Para Nos.31 to 34 of the order dated 29.02.2016 made in W.A.Nos.2 of 2016 and 1752 of 2015.

“31. We could have resorted to another option namely to keep the results on hold. But we are unable to do so due to one important factor. The last time that the elections were held was in the year 2009. It was pursuant to the orders passed by one of us (VRSJ). Thereafter, the Annual General Meetings could not take place, since the parties dragged the Bank to various Courts all over India, in a series of litigation, some of which were proxy litigation fought by different groups, to gain control over the Bank. As a consequence, the Board elected in the year 2009 continued for about 7 years, till 29.01.2016. Upon the AGM being held on 29.01.2016, the Directors elected in 2009, vacated their office. Therefore, as on date, there is only one Managing Director and two Directors nominated by RBI. The Managing Director has virtually fallen ill, as could be seen from one of the resolutions passed in the AGM, sanctioning his medical bill. Therefore, the functioning of the Bank has actually been paralysed by the litigation.

32. *If normalcy has to be restored in the functioning of the Bank, a full fledged Board should assume office. This is possible either by declaring the results subject to the outcome of the cases or by nominating someone to the Board. The second option is ruled out, since RBI is not agreeable to nominate anyone. They fear conflict of interest. Therefore, there is only one option, namely to declare the results and allow the elected Directors to assume charge, subject to the outcome of the litigation pending in all these proceedings.*

33. *Therefore, for the present without pronouncing a final verdict on the question of validity of the votes polled by certain shareholders and without also recording a finding whether these votes have been calculated or not, we pass an order declaring the aforesaid 10 persons as having been elected. They are permitted to take charge subject to the ultimate outcome of these proceedings.*

34. *For the purpose of secretarial work, and for payment of dividend, the statutory time limit of 30 days shall start counting only from today. This is due to the fact, by today the period of 30 days has already expired from the date of the meeting. The declaration of results and the permission given to the elected members to assume charge are subject to final*

orders to be passed in all the cases that will be taken up for hearing on 7.3.2016. Call all the cases on 7.3.2016.”

12.In the considered opinion of this Court, the same situation continues to remain and therefore, this Court permits the elected Directors to assume charge and it is made clear that the assuming of charge by the elected Directors is subject to the outcome of these pending litigations.

13.As already indicated, the reduction of Authorised Share Capital, in terms of Annexure-III D, has been passed with vote percentage of 95.58% with a dissent of 4.42%, and therefore, it is open to the TMBL to comply with all statutory formalities/requirements.

14.Interested parties are at liberty to apply for the certified copy of the report dated 31.10.2020 submitted by Chairman/Hon'ble Mr. Justice R.Balasubramaniam, Retired Judge of this Court, along with Annexures, and the Registry shall furnish certified copy of the report as well as Annexures subject to the payment of necessary charges.

15.It is represented by Mr.Sankaranarayanan, learned Senior Counsel, appearing for TMBL, that, for the purpose of conducting the meeting, the Chairman/Hon'ble Mr. Justice R.Balasubramaniam, Retired Judge of this Court, had personally visited Tuticorin even during this Covid-19 pandemic and had discharged his duties responsibly and impeccably and he has no serious objection to the additional remuneration whatever being ordered by this Court.

16.A perusal of the report dated 31.10.2020 along with Annexures would disclose that the Chairman appointed by this Court to head the Annual General Meeting of TMBL had done an arduous and elaborate exercise and this Court, in the fitness of things, is of the considered opinion that an additional remuneration of Rs.12.50 lakhs would meet the ends of justice and accordingly, the TMBL is directed to pay an additional remuneration of Rs.12.50 lakhs to Hon'ble Mr. Justice R.Balasubramaniam, Retired Judge of this Court, who had been appointed as the Chairman to conduct the 94th to 97th Annual General Meetings of TMBL.

M. SATHYANARAYANAN, J.
and
N. KIRUBAKARAN, J.

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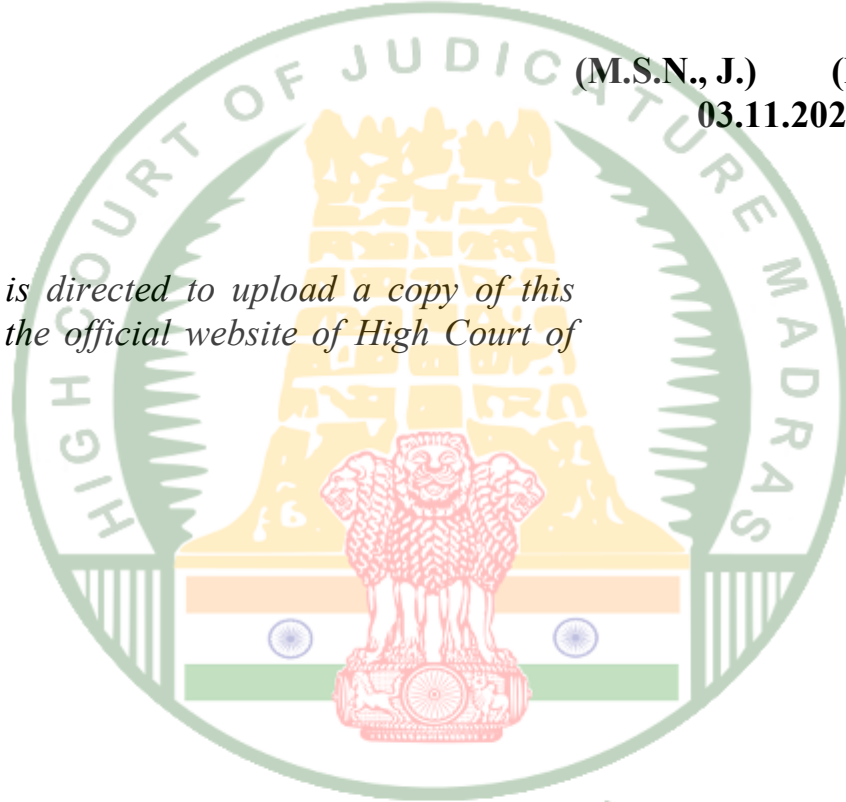
Call on 28.01.2021.

(M.S.N., J.) (N.K.K., J.)
03.11.2020

Note :

Registry is directed to upload a copy of this order in the official website of High Court of Madras.

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W.A.No.2 of 2016
and

C.M.P.Nos.10145, 16385, 16388,
16389 and 16419 of 2019 &
W.P.No.23056 of 2019 &
W.M.P.No.22748, 22751 of 2019

(Next Hg. Date : 28.01.2021)