

(2018) 02 DEL CK 0583

In the Delhi High Court

Case No : Civil Writ Petition No. 1777 Of 2018, Civil Miscellaneous Application No. 7375, 7376 Of 2018

Ashok Kumar Aggrawal & Anr

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 26-02-2018

Acts Referred:

Companies Act, 2013 — Section 252

Citation : (2018) 02 DEL CK 0583

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Saurabh Kalia, Siddhartha Nagpal, Manish Mohan, Shubham Pundir, Manisha Saroha

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM APPL.7376/2018 (exemption)

1. Allowed, subject to all just exceptions.

W.P. (C) 1777/2018, CM APPL.7375/2018 (seeking stay)

2. Issue notice. Mr. Manish Mohan accepts notice on behalf of respondents. Since counsel for the petitioners seek to place reliance on judgment of

another Single Judge of this Court in W.P.(C) 10659/2017, dated 20.12.2017, titled: Navneet Kumar Kohli and Others v. Union of India and Anr, no

purpose would be served in filing the counter affidavit. This is so especially in view of the fact that the stand of the respondents is no different which

was taken in Navneet Kumar Kohli (supra).

3. Briefly, the facts obtaining in this case are as follows. The petitioners were

appointed as directors on the board of the company known as Jhanji Batteries Pvt. Ltd. (in short JBPL). The name of JBPL was, however, removed from the Register of Companies on account of its failure to file financial statements and requisite returns for a period of more than three years.

3.1 I am informed by the counsel for the petitioner that apart from JBPL, there is another company which is M.J. Finvest Pvt. Ltd. whose name has also been removed from the Register of Companies.

3.2 Apart from these two companies, counsel for the petitioners says that the other companies are active and fully functional.

3.3 For this purpose, my attention has been drawn to pages 68-72 of the paper book.

4. It is the case of the petitioner that no prior notice was given before including their names in the list comprising of disqualified directors.

4.1 Furthermore, petitioners claim that inclusion of their names in the impugned list (i.e., Annexure P-1) has impeded their role as directors qua companies which are active and fully functioning.

5. Accordingly, counsel for the petitioner says that they would like to prefer an appeal to the National Company Law Tribunal under Section 252 of the Companies Act, 2013 (in short the Act).

5.1 Furthermore, counsel for the petitioners says that the petitioners wish to avail the benefit of the Condonation of Delay Scheme, 2018 (in short the Scheme).

6. Having regard to the aforesaid, the writ petition is disposed of with the liberty to the petitioners to file the appeal with the National Company Law Tribunal and file an appropriate application under the Scheme to avail all its benefits.

7. Counsel for the petitioners, however, undertake to take steps for filing the appeal and an application under the Scheme within a period of two weeks from today.

8. In view of the above undertaking given by the counsel for the petitioners, the operation of the impugned list insofar the petitioners are concerned shall remain stayed till 31.3.2018. Furthermore, respondents will also activate the DIN and DSC of the petitioner. This facility, however, is granted with the caveat that the petitioners will take requisite steps, as indicated above,

within a period of four weeks.

9. No costs.