(2018) 03 P&H CK 0194

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4911 Of 2018

Deepak Bhatia and others APPELLANT

Vs

Union of India and others RESPONDENT

Date of Decision : 28-03-2018

Acts Referred:
Companies Act, 2013 — Section 164(2)(a), 248(2)
Constitution of India, 1950 — Article 226, 227

Citation : (2018) 03 P&H CK 0194

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Advocate : Yash Pal Gupta, Shivoy Dhir

Judgement

Daya Chaudhary, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside

the impugned action [Annexure P-1 (Colly)] of the respondents by which the petitioners have been declared disqualified by the Registrar of

Companies under Section 164 (2)(a) of the Companies Act, 2013 (hereinafter referred to as â??the Actâ??).

The petitioners are having Director Identification Numbers (DINs) 02128000, 00106035, 00620765 and 00785478, respectively, which have been

deactivated in view of the order passed under Section 164(2)(a) of the Act.

Learned counsel for the petitioners submits that names of the Companies of the petitioners have been stuck off from the website of the Registrar of

the Companies under Section 248 (2) of the Act and the petitioners are not in a position to submit the Financial Statements of the companies online,

whereas after activation of DIN, they would like to submit the Financial

Statements of their companies as well. At the end, learned counsel for the

petitioners submits that the petitioners be allowed to submit the Physical Financial Statements of the companies to the Registrar of Companies under

the Condonation of Delay Scheme 2018 (hereinafter referred to as â??the CODSâ?"2018â??). The case of the petitioners is at par with the

petitioner who filed CWP No.4807 of 2018 titled as Harpreet Singh Vs. Union of India and others.

Heard arguments of learned counsel for the parties and have also perused the documents available on the file.

Facts of the case are not disputed. Same issue was there in CWP No.4807 of 2018. The order passed in said petition is reproduced as under:-

â??Learned counsel for the petitioner has submitted that the petitioner is having Director Identification Number [DIN] 02848452, which has been

deactivated in view of an order passed under Section 164(2)(a) of the Companies Act, 1956. He relies upon an order passed by this Court in CWP

No.24977 of 2017 in which notice has been issued and disqualification of the petitioners therein as Directors has been ordered to be stayed and their

DIN have been ordered to be activated.

Notice of motion for 16.3.2018.

In the meantime, disqualification of the petitioner as Director shall remain stayed and his DIN, which has been de-activated, is directed to be

activated/restored.

At this stage, learned counsel for the petitioner has also submitted that petitioner is a Director of the proforma respondents-Companies No.4 & 5. The

names of these companies have been struck off from the website of the Registrar of Companies under Section 248(2) of the Companies Act, 2013,

therefore, the petitioner is not in a position to submit the financial statements of the said companies online and whereas after activation of the DIN, he

would like to submit the financial statements of these companies as well. It is thus prayed that the petitioner may be allowed to submit the physical

financial statements of the companies to the Registrar of Companies under the Condonation of Delay Scheme, 2018 (Annexure P-13).

Ordered accordingly.â??

The present petition is also for the same relief as sought in said CWP No.4807 of 2018 as the names of the Companies have been stuck off from the website of the Registrar of Companies under Section 248(2) of the Act. They are not in a position to file Financial Statements of the Companies as

their Director Identification Numbers (DINs) have been deactivated in view of the order passed under Section 164 (2) (a) of the Act. The Financial

Statements of the Companies are required to be filed upto 31.03.2018. Not only they would be deprived to file their Financial Returns but they would

not be in a position to get benefits of CODS-2018 Scheme.

Similarly, in CWP No.7695 of 2018, the same claim was sought by the petitioners and they were held entitled to avail the benefit of CODS-2018

subject to making good any shortcomings which may be pointed out by the respondents. It was held that the petitioners would be entitled for the same

benefits with the same terms and conditions as directed in order dated 22.03.2018 passed by the Division Bench of Delhi High

Court in case W.P.(C) No.9439/2017 titled as Atul Khosla and another Vs. Union of India and others as well as Single Bench judgment of Delhi High

Court in case W.P.(C) No.1297/2018 titled as Syed Muzaffar Ali Khan and another Vs. Union of India and others decided on 12.02.2018.

In view of the facts as mentioned above and by taking into consideration the interest of the petitioners and to ensure that no prejudice be caused to

either of the party, it is directed that the petitioners be permitted to file the application under the CODSâ?"2018 with hard copies with the respondents.

It is further directed that the petitioners shall ensure that the fee, other charges and documents which are necessary under the CODSâ?"2018 shall be

deposited with the Registrar of the Companies.

Accordingly, the petitioners are held entitled to avail the benefit of CODSâ?"2018 subject to making good any shortcomings which may be pointed out

by the respondents. It is also made clear that the petitioners shall also be entitled for the same benefits with the same terms and conditions as directed

in Writ Petition (Civil) No.9439 of 2017 and other connected matters before the Division Bench of Delhi High Court as well as Writ Petition (Civil)

No.1297 of 2018.

Disposed of accordingly.

