

(2018) 03 DEL CK 0106
In the Delhi High Court
Case No : W.P.(C) 10884 Of 2017

Deepak Dwivedi

APPELLANT

Vs

Union Of India And Anr

RESPONDENT

Date of Decision : 15-03-2018

Acts Referred:

Companies Act, 2013 — Section 164(2)(a)

Citation : (2018) 03 DEL CK 0106

Hon'ble Judges : GITA MITTAL;ACJ, C.HARI SHANKAR

Bench : Division Bench

Advocate : Mr. Abhishek Singh, Ms. Maninder Acharya, Mr. Amrit Pal Singh, Mr. R.K. Tiwari

Final Decision : Disposed Of

Judgement

1.This writ petition has been filed by the petitioner, who is a director in a company named Shri Balaji Quarries and Minerals Private Limited

(hereinafter referred to as "Company"), registered under the provisions of Indian Companies Act, 1956.

2.Apart from this company, the petitioner is stated to be directors of other companies as well.

3.So far as the affairs of the company are concerned , we are informed that these companies are still active companies.

4.The writ petition has been instituted in view of the notice dated 6th September, 2017 and 12th September, 2017 issued under Section 164(2)(a) of the

Companies Act, 2013 by the respondents disqualifying the petitioners as Directors in the company for the reason that there was default in submitting

returns with regard to the affairs of the said Company which were statutorily required to be filed with the Registrar of Companies for a continuous

period of three financial years.

5.The writ petition inter alia seeks quashing of the said notices dated 6th September, 2017 and 12th September, 2017.

6.At the time of issuing notice to show cause in the writ petition, we had also granted interim stay of the impugned notices dated 6th September, 2017

and 12th September, 2017 so far as they concern the writ petitioners.

7.We are informed by Ms. Maninder Acharya, learned ASG, on instructions from on instructions from Mr.Kirtiman Singh, learned CGSC; Mr. Sanjay

Shorey, Director (Legal) for the Union of India and Mr. Rakesh Tiwari, Registrar of Companies that pursuant to the said orders granted by this court,

the Director Identification Number (DIN) of the petitioner was activated by the respondents.

8.A submission has been made before us that in view of the above, so far as the defaults attributed to the Directors is concerned, all deficiencies have

been addressed by them.

9.Our attention has been drawn to the Condonation of Delay Scheme, 2018 (hereinafter referred to the "CODS Scheme, 2018") floated

by the respondents, enabling such defaulters to seek removal of the disqualification. It is submitted that in case the petitioners wish

to avail the benefit of restoration of the directorship, they would be required to comport to the requirements of this Scheme.

10.Ms. Maninder Acharya, learned ASG further submits, on instructions, that if the petitioner wishes to avail the benefits of the CODS-2018, they are

required to fill up the CODS Form; pay the requisite fee of Rs.30,000/- and file the returns. Whereupon the matter of removal of the petitioners

names from the list of disqualified directors would be undertaken in accordance with the notified scheme.

11.It is submitted by learned counsel for the petitioner that it wishes to avail the CODS Scheme, 2018.

12.In view of the above, we direct as follows:

(i)Subject to the petitioner submitting the requisite fees with the respondents within a period of two weeks as prayed, the respondents shall forthwith

take steps for removal of the petitioners names from the disqualified directors. In case the petitioners have not submitted the prescribed form

under the CODS Scheme, 2018 the same may be also submitted within the same

period.

(ii) It is made clear that given the fact that the petitioners have already submitted the deficient returns it shall not be necessary for them to submit the same afresh along with this writ petition.

(iii) The orders to this effect would be posted on the website and shall also be communicated to the petitioners within two weeks from the deposit of the requisite form and fees.

This writ petition is disposed of in the above terms.