

(2018) 04 DEL CK 0112
In the Delhi High Court
Case No : W.P.(C) 3840 of 2018

MOHAMMAD AFTAB ALAM

APPELLANT

Vs

UNION OF INDIA AND ANR

RESPONDENT

Date of Decision : 18-04-2018

Acts Referred:

Citation : (2018) 04 DEL CK 0112

Hon'ble Judges : RAJIV SHAKDHER

Bench : Single Bench

Advocate : Arunima Dwivedi, Preeti Kumra, Rajesh Gogna, Akhilesh Kumar,

Final Decision : Disposed Of

Judgement

RAJIV SHAKDHER, J.

CM APP No.15217/2018

1. Allowed, subject to just exceptions.

W.P.(C) 3840/2018 & CM APP No.15216/2018

2. Issue notice to the respondents. Mr. Rajesh Gogna accepts notice on behalf of the respondents.

2.1 Mr. Gogna says that in view of the order that I propose to pass today, he does not wish to file a counter affidavit in the matter.

3. Briefly the petitioner's case is that he was appointed as Director on the Board of Company by the name of Amenity Trading Private Limited (in

short ATPL). The petitioner avers that he resigned from ATPL on 1.10.2011. For this purpose, reliance is placed on Annexure P-1, which is

appended at page 38 of the paper book.

3.1 Furthermore, in support of this submission, reliance is also placed on a typed

copy of the Board of Director resolution dated 1.10.2011, which is appended at page 39 of the paper book.

3.2 This apart, petitioner also places reliance on a letter dated 1.10.2011 issued by the then Director of ATPL. This letter is appended at page 40 of the paper book.

3.3 The petitioner has also avers that apart from being appointed as Director of ATPL, at the moment, he is also acting as a Director for the Company by the name of RBAS Global Trading Private Limited (in short RGTP).

3.4 It is averred that the RGTP is fully active and functional.

4. It appears that the other Directors on the Board of ATPL did not ensure that financial statements and requisite statutory returns qua ATPL are filed; a situation which resulted in its name being removed from the Register of Companies.

5. Apparently, though, the Board of Directors of ATPL accepted the resignation of the petitioner, they did not communicate this information to the Registrar of Companies (ROC) which resulted in his name being included in the list of disqualified directors of companies for the year 2012-2014

(Annexure P-4).

6. Given these circumstances, the petitioner has approached this court. Mr. Gogna, who appears on advance notice for the official respondents says

that the petitioner's case could be remitted to the ROC, who after examining the documents placed on record would pass a speaking order.

7. I find merit in the submission advanced by Mr. Gogna. Accordingly, the writ petition is disposed of with the following directions:

(i) Petitioner will appear before the Registrar of Companies on 26.4.2018 at 03:00 p.m.. The ROC will grant personal hearing to the petitioner.

Thereafter the ROC will pass a speaking order; copy of which will be furnished to the counsel for the petitioner. In case the petitioner is still

aggrieved by the order passed by ROC, he will have the liberty to assail the same in the manner known to law.

(ii) Pending the aforesaid exercise, the operation of the impugned list of Directors (Annexure P-4) shall remain stayed insofar as the petitioner is

concerned. Furthermore, the DIN and DSC number of the petitioner will also be activated by the ROC. (iii) The Registrar of Companies will

have the authority to either extend the aforesaid interim facility granted to the petitioner pending disposal of the matter by him or withdraw the same if the situation demands taking such an action.

8.Dasti.Â Â