(2020) 01 CAL CK 0135

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 24196 (W) Of 2019

Pramod Kumar Jaiswal APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 03-01-2020

Acts Referred:

Citation : (2020) 01 CAL CK 0135

Hon'ble Judges : Sabyasachi Bhattacharyya, J

Bench : Single Bench

Advocate : Saptarshi Banerjee, A.K. Upadhyay, Subhankar Chakraborty, Saptarshi Bhattacharjee

Final Decision : Allowed

Judgement

Sabyasachi Bhattacharyya, J

The grievance of the petitioner is that the petitioner's Director Identification Number (DIN) was cancelled by disqualifying the petitioner in respect of all companies, of which he was a director, due to default apparently committed by one of such companies only.

Learned counsel appearing for the petitioner relies on two unreported judgments of this Court, dated November 22, 2019, passed in W.P. No. 21504(W) of 2019 (Chetan Chikhani vs. Union of India & Ors.), and dated December 03, 2019, passed in W.P. No. 22071 (W) of 2019 (Dhiraj Kumar Mantri vs. Union of India & Ors.), for the proposition that Rule 14 of the Companies (Appointment and Qualification of Directors) Rules, 2014 pertains, on the face of it, only to the company at default and not to the other companies with regard to which the DIN of the director operates. As such, it cannot be mandatory for the director-in-question to comply with the said provision in respect of all other companies of which he/she is a director but which are not at fault, but in respect of the defaulting company.

Learned counsel appearing for the respondent-authorities cites a Division Bench judgment, also unreported, of this Court dated February 28, 2019 passed in M.A.T. 1248 of 2018 with C.A.N. 8275 of 2018 (Wajahat Husain vs. Union of India & Ors.), for the proposition that the disqualification in respect of the DIN operates not merely in respect of the earring company but all the other companies, of which the person concerned is a director, as well.

A perusal of the said Division Bench order shows that the appeal therein had been preferred against an ad interim order, which was set out in its entirety in the Division Bench order itself. It is palpable from the said order of the learned Single Judge, which was impugned before the Division Bench, that the said order of the co-ordinate Bench pertained merely to exchange of affidavits and only recorded prima facie submissions of the parties.

The Division Bench categorically held that in an intra-court mandamus appeal, no interference is usually warranted unless palpable infirmities or perversity are noticed on a plain reading of the impugned order. On such premise, the said appeal was dismissed.

From the aforementioned narrative, it is amply clear that no ratio of law pertaining to the question-in-dispute in the present case was decided at all, either by the Division Bench or by the learned Single Judge, against whose order such appeal was preferred before the Division Bench. As such, the judgment cited on behalf of the respondent-authorities has no relevance to the instant case. However, the co-ordinate Bench judgments cited by the petitioner are binding on this Court.

Accordingly, the respondent-authorities acted palpably de hors the law in disqualifying the present petitioner from his status pertaining to the petitioner's DIN in respect of all companies where he was a director and not merely the non-compliant company.

Accordingly, W.P. No. 24196 (W) of 2019 is allowed on contest, thereby setting aside the decision by which the DIN status of the petitioner was disqualified in respect of all the companies in respect of which the petitioner was a director prior to such disqualification, barring the non-compliant company, in respect of which such disqualification remains.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of necessary formalities.