

(2018) 03 DEL CK 0409

In the Delhi High Court

Case No : Civil Writ Petition No. 2272 Of 2018, Civil Miscellaneous Application
No. 9416 of 2018

Purna Nand & Ors

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 12-03-2018

Acts Referred:

Companies Act, 2013 — Section 248(2)

Citation : (2018) 03 DEL CK 0409

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Anuj Arora, Amrita Prakash

Judgement

Rajiv Shakdher, J

CM APPL. 9416 of 2018(Exemption)

1. Allowed, subject to just exceptions.

W.P.(C) 2272/2018

2. Issue notice. Ms. Prakash, who appears for the respondents accepts notice on behalf of respondents.

3. According to counsel for the petitioners, the issue which arises in the present petition is covered by the judgment of another Single Judge of this Court dated 21.12.2017, passed in W.P.(C)11381/2017 titled: Sandeep Singh & Anr. vs. Registrar of Companies & Ors.

3.1 Therefore to my mind, no counter affidavit is required as the stand of the respondents is no different than that which obtained in Sandeep Singh & Anr (supra). Furthermore, I am told that directives contained in the said judgment were incorporated with the assistance of learned ASG.

4. The case of the petitioners is that they were appointed, inter alia, as Directors

on the Board of the company by the name: Purnanand Construction Pvt. Ltd. (for short "PCPL").

4.1 It is averred that since PCPL failed to file its financial statements and/or requisite annual returns, its name was struck off from the Register of Companies by respondent no.2/ROC.

4.2 It is also the petitioners' case that besides the aforementioned company, the petitioners are Directors in PNSC Infrastructure Pvt. Ltd., which is presently, active and functional.

5. It is, thus, the petitioners' case that the inclusion of their names in the list of disqualified Directors for financial years 2014-2016 has impacted their role as Director qua companies which are presently active and functional.

5.2 Petitioners further aver that PCPL has not carried out any business for past several years.

5.3 In these circumstances, the petitioners wish to take recourse to provisions of Section 248(2) of the Companies Act, 2013 and accordingly, have the name of PCPL removed from the Register of Companies.

5.4 The Counsel for the petitioners says that this liberty has been given by this Court in Sandeep Singh & Anr.(supra). Furthermore, petitioners also submit that they wish to take benefit of Condonation of Delay Scheme, 2018 (in short "Scheme")

6. Having regard to the submissions made by the counsel for the parties and also assertions made in the petition, I am inclined to dispose of the writ petition with the directions that the directives contained in the Sandeep Singh & Anr.(supra) will apply mutatis mutandis to the petitioners as well.

6.1 The petitioners will, however, take appropriate steps under Section 248(2) of the Companies Act, 2013 within a period of four weeks from today.

6.2 In addition, thereto, the petitioners will also take requisite steps under the Scheme, albeit, within a period of four weeks from today. Pending the consideration of petitioners' request, the impugned list, insofar as petitioners are concerned, shall remain stayed till 31.3.2018 or till such time a decision is taken by respondent no.2/ROC, on the request of the petitioner, whichever is later. In order to facilitate this exercise, the respondent no.2/ROC will also activate petitioners DIN and DSC.

7. Dasti.