
(2018) 03 DEL CK 0355

In the Delhi High Court

Case No : Civil Writ Petition No. 2053 Of 2018, Civil Miscellaneous Application
No. 8463 Of 2018

Rajeev Mukhija And Ors

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 08-03-2018

Acts Referred:

Companies Act, 2013 — Section 248(2)

Citation : (2018) 03 DEL CK 0355

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Gaurav Varma, Bhagvan Swarup Shukla, Kamaldeep

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM APPL. 8464/2018

1. Allowed, subject to just exceptions.

W.P. (C) 2053/2018 & CM APPL.8463/2018

2. Issue notice. Mr. Bhagvan Swarup Shukla, CGSC who appears for the respondent, accepts notice.

2.1. Learned counsel for the petitioners says that the issue which arises for consideration in this case 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. v. Registrar of Companies & Ors. This aspect is not disputed by the counsel for the respondent. Therefore, waiting for a counter affidavit would serve no purpose as the stand of the respondent is the same as in Sandeep Singh & Anr. (supra).

3. It is the case of the petitioners that they were appointed as Directors on the

Board of the Company by the name: Future Outsourcing Management Services Private Limited (for short "FOMS"). The name of FOMS was struck off from the Register of Companies on account of failure to file the requisite financial statements and annual returns.

3.1 Furthermore, the petitioners submitted that FOMS had not been carrying on business due to unavoidable circumstances.

4. Besides this, I am informed that the petitioners are Directors on the Boards of several other companies also, which are active and functional.

4.1. Counsel for the petitioners says that since petitioners' names were included in the impugned list of disqualified directors for the financial years 2011 to 2013, their role as Directors is impeded insofar as the other companies are concerned, which are active and running.

4.2. Counsel for the petitioners says that since the petitioners do not wish to revive FOMS, they would take steps under Section 248 (2) of the Companies Act, 2013 in consonance with the directives contained in Sandeep Singh (supra).

4.3 Furthermore, counsel for the petitioners says that the petitioners would also like to avail the benefit of the Condonation of Delay Scheme, 2018.

5. Having regard to the assertions made in the petition and the records which are presently available with me, I am of the view that this petition can be disposed of with the direction that respondent will follow the directives contained in Sandeep Singh (supra). It is made clear that the directives contained therein will apply to the petitioners *mutatis mutandis*.

5.1 The petitioners will, however, take steps both in consonance with the provisions of Section 248 (2) of the Companies Act, 2013 and under the Condonation of Delay Scheme, 2018 within a period of two weeks from today.

5.2 In order to facilitate this exercise, operation of the impugned list, insofar as it concerns the petitioners, will remain stayed till 31.3.2018 or, till such time the respondent takes requisite decision with regard to the request of the petitioners made to it in consonance with the provisions under Section 248 (2) of the Companies Act, 2013 and under the Condonation of Delay Scheme, 2018.

5.3 Needful will be done by the petitioners within two weeks from today. In addition thereto, for the moment, the Registrar of Companies will also activate the petitioners' DIN and DSC.

6. It is also made clear that the aforesaid order will be subject to the final outcome of the appeals which, I am told, are pending before Division Bench-I.

7. Consequently CM APPL.8463/2018 shall stand closed.

8. Dasti.