
(2018) 03 DEL CK 0392

In the Delhi High Court

Case No : Civil Writ Petition No. 2142 Of 2018, Civil Miscellaneous Application
No. 8875 Of 2018

Rakesh Tiwari

APPELLANT

Vs

Union Of India And Ors.

RESPONDENT

Date of Decision : 09-03-2018

Acts Referred:

Companies Act, 2013 — Section 248(2)

Citation : (2018) 03 DEL CK 0392

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Shobhan Mahanti, Rohit Saroj, Bharathi Raju

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM APPL.8875/2018

1. Allowed, subject to all just exceptions.

W.P.(C) No.2142/2018

2. Issue notice. Mr. Rohit Saroj, who appears for respondent No.1 and 2, accepts notice.

2.1. Learned counsel for the petitioner 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)11275/2017 titled: Harpreet Singh Batra and Anr. v. Union of India and Ors. This aspect is not disputed by the counsel for respondent no. 1 and 2. Therefore, waiting for a counter affidavit would serve no purpose as the stand of respondent no. 1 and 2 is the same as in Harpreet Singh Batra (supra).

3. It is the case of the petitioner that he was appointed as Director on the Board

of the companies namely: Modern Transit Solutions Private Limited ("MTSPL"), Nimbus Transport Infra Private Limited ("NTIPL") and Avendus Engineering Private Limited ("AEPL"). The names of MTSPL, NTIPL and AEPL were struck off from the Register of Companies on account of failure to file the requisite financial statements and annual returns.

4. Besides this, I am informed that the petitioner is also a Director on the Boards of the following companies, which are active and functional:

(i) Sobha Applied DSP Private Limited.

(ii) Global Transit Solutions Private Limited.

4.1. Counsel for the petitioner says that since the petitioner's name was included in the impugned list of disqualified directors for the financial years 2014-16, his role as a Director is impeded insofar as the abovementioned active companies are concerned.

4.2. Counsel for the petitioner says that since the petitioner does not wish to revive MTSPL, NTIPL and AEPL, he would take steps under Section 248 (2) of the Companies Act, 2013 in consonance with the directives contained in Harpreet Singh Batra (supra).

4.3 Furthermore, counsel for the petitioner says that he 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 respondents will follow the directives contained in Harpreet Singh Batra (supra). It is made clear that the directives contained therein will apply to the petitioner mutatis mutandis.

5.1 The petitioner 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 10 days from today.

5.2 In order to facilitate this exercise, operation of the impugned list, insofar as it concerns the petitioner, will remain stayed till 31.3.2018 or, till such time the respondents take requisite decision with regard to the request of the petitioner made to them 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 petitioner within 10 days from today. In addition thereto, for the moment, respondent no.2/Registrar of Companies will also activate the petitioner's 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. Dasti.