

(2018) 03 DEL CK 0032

In the Delhi High Court

Case No : W.P.(C) 2168 Of 2018 & CM Nos.8976-77 Of 2018

Sudhir Kumar Windlass

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 09-03-2018

Acts Referred:

Citation : (2018) 03 DEL CK 0032

Hon'ble Judges : RAIV SHAKDHER

Bench : Single Bench

Advocate : Mr. Himanshu Harbola, Mr. Ketan Madan, Mr. Kirtiman Singh, Mr. Prateek Dhanda

Judgement

1.Allowed, subject to just exceptions. W.P.(C) 2168/2018 & CM No.8976/2018

2.Issue notice. Mr. Kirtiman Singh, CGSC accepts notice on behalf of the respondents.

3.Learned counsel for the petitioner relies upon the judgment dated 11.1.2018 passed by another learned Single Judge of this Court in WP(C)

No.11664/2017, titled: Satender Kumar Jain vs. Union of India & Ors.

4.I have perused Satinder Kumar (Supra). Broadly, the facts obtained in the said judgment are pari materia with the facts and circumstances

obtaining in the instant case. Given this circumstance and the order that I propose to pass, a counter affidavit would not be necessary.

5. Briefly, the grievance of the petitioner is that he was fraudulently shown as a Director on the Board of a Company by the name: Rissala Polo

Sports Private Limited (in short RPSPL). The petitioner upon getting know this fact, lodged a complaint with the Registrar of Companies (ROC). The

complaint, which is, dated 8.4.2015, according to the petitioner was received in

the ROC's office on 15.4.2015.

5.1 Furthermore, it is the petitioner's case that a response dated 29.4.2015 was received from the ROC's office.

6. My attention has been drawn to Annexure P-5 which is at page 35 of the paper book. The response received from the ROC's office reads as

follows :

â...This office has received a complaint from you regarding fraudulent appointment of Director. We are taking up the issue at our end. Meanwhile,

you are advised to file a case with the competent authority/Honorable Company Law Board, Delhi....â

(emphasis mine)

7. The petitioner avers that he has not received any communication from the ROC's office as to what action has been taken on his complaint. The

petitioner, however, is, presently aggrieved by the action of the ROC in including his name in the list of disqualified Directors, that is, Annexure P-1, on

account of failure of RPSPL in filing its financial statements and annual reports, resulting in its name being struck off from the Register of Companies.

8.Learned counsel for the petitioner, thus, says that the petitioner has been wrongly disqualified. It is stated that no notice was issued to the petitioner

prior to inclusion of his name in the list of disqualified Directors.

9.Upon being queried, learned counsel for the petitioner concedes that the petitioner has not taken any action against RPSPL for including his name, at

the relevant point, in its Board of Directors.

10.Having regard to the aforesaid facts and circumstances, I am inclined to direct the exclusion of the petitioner's name from the list of

disqualified Directors with a direction to the ROC to consider the complaint dated 8.4.2015, filed by the Petitioner, if not, already deliberated upon.

11.In addition thereto, the ROC will consider the assertions made in the instant writ petition in support of what is indicated above.

12.Needless to say the aforementioned exercise will be carried out at the earliest, though, not later than four weeks from today.

13.At this stage, learned counsel says that because the petitioner's role as a Director is getting impacted qua the companies which are active and

fully functional, the Court could consider directing the respondents to activate his DIN and DSC. For this purpose learned counsel in support of this

plea has handed over an affidavit in court, today, setting out details of all such companies. Learned counsel prays that, therefore, the DIN and DSC

be activated till the decision is taken by the ROC as directed by this court. The copy of the same has been furnished to Mr. Kirtiman, who appears for

the respondents.

14. I am inclined to direct the activation of the petitioner's DIN and DSC till such time petitioner's complaint is considered by the ROC.

15. To hasten the aforesaid exercise the Petitioner will appear before the ROC on 16.03.2018 at 11 A.M. If for any reason the said date is not

convenient to the ROC he will fix another date which would be proximate to the date set forth above.

16. Accordingly, pending application shall stand closed.

17. Liberty is also given to the respondents to approach this Court if assertions made on behalf of the Petitioner are not found to be correct.

18. Dasti under the signature of Court Master.