

20.08.2026
Court No.25
D/L No.14
S. Gayen

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 16891 of 2026
Sunil Tolaram Kukreja
Versus
Union of India & Ors.

Mr. Anirban Ray, Sr. Adv.
Mr. Sankarsan Sarkar
Mr. Tanmoy Sett
Ms. Jaita Ghosh
Mr. Dwip Raj Basu
Mr. Subhajit Biswas

...for the Petitioner

Mr. Siddhartha Bhattacharyya
Ms. Priti Jain

...for the Union of India

1. The petitioner has filed the present writ application praying for mandamus by directing the respondents to quash and rescind the Director Identification Number (DIN) disqualification under Sections 164(2)(a)/164(2)(b) with effect from November 1, 2024 published by the respondent No.2 on the website of respondent No.1, being Annexure P-9 of the present writ application.
2. Mr. Ray, learned senior counsel appearing for the petitioner submits that in the website of the Ministry of Corporate Affairs the DIN status of the company has been shown as disqualification under Section 164(2)(b) of the Companies Act. He further submits that the respondent authorities have published the said disqualification in the website without giving any

opportunity of hearing to the petitioner. He has relied upon Section 164(2)(b), which reads as follows:-

“164.(2)(b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,”

3. By referring the Section 164, learned counsel for the petitioner submits that Section 164 of the Companies Act only with regard to the disqualification for appointment of directors and not for deactivation of DIN but in the present case, the respondent authorities by taking into recourse of Section 164(2)(b) has deactivated the DIN of the company. He submits that with regard to cancellation or surrender or deactivation of the DIN of the company is provided under Rule 11 of the Companies (Appointment of Directors) Rules, 2014 but the respondents have deactivated the DIN of the company under Section 164(2)(b) of the Companies Act.
4. Learned counsel appearing for the petitioner has relied upon the judgment in the case of **Imraj Ali Molla vs. Union of India & Ors.** reported in **[2011] 224 Comp Cas 231(Cal)** and submits that the Coordinate Bench of this Court, by considering the judgment of the Division Bench of the Allahabad High Court, has held that in any event, the disqualification of the DIN of the petitioners could not operate in respect of other companies than the defaulting company. In the event

the DIN of a director is to be deactivated and not merely the name of the company struck out from the Registrar of Companies, the said person has to be given notice individually and heard and given an opportunity to establish that he was not liable for the alleged default committed by the company. By referring the said judgment, learned counsel for the petitioner submits that in the present case the respondent authorities have deactivated the DIN by taking into consideration of Section 164(2)(b) of the Companies Act and admittedly no opportunity of hearing was not given to the petitioner.

5. Learned counsel for the petitioner has also relied upon the judgment in the case of ***Jai Shankar Agrahari vs. Union of India & Anr.*** reported in ***[2020] 222 Comp Cas 429 (All)*** and submits that the Hon'ble Division Bench of the Allahabad High Court has considered Section 164(2) of the Act, 2013 and held that the condition of disqualification actually exists and for this purpose, a bare minimum requirement of notice to such directors would be necessary to verify, whether such condition exists or not. By referring the said judgment, the learned counsel for the petitioner submits that in the present case, no opportunity of hearing was provided to the petitioner. He prays for setting aside the impugned website notice wherein the DIN status has been shown as disqualification under Section 164(2)(b) of the Companies Act.

6. *Per contra*, learned counsel for the respondent authorities submits that the DIN status has been disqualified not under Section 164(2)(b), it is only 164(1)(a). Thus, there is no necessity for issuance of any notice in terms of the Amended Act, 2018.
7. Learned counsel for the respondent authorities has handed over the documents and submits that on December 17, 2024 the Registrar of Company has issued the CRF wherein it is mentioned that the instruction has been received from DGCoA in the month of August, 2024 and in terms of Section 164(2)(a) read with the proviso of Section 167(1) of the Act, the directors have been made disqualified for other companies except M/s. Safforn Tradelink Private Limited for non-filing of annual returns and balance-sheets of the company for consecutive period three years, i.e., from financial year 2021-22, 2022-23 and 2023-24.
8. He relied upon Section 164(2)(a) and submits that if the director of the company has not filed financial statements or annual returns for any continuous period of three financial years, the directors can be disqualified and taking into consideration of Section 164(2)(a), the directors of the companies have been disqualified. He further submits that once the directors have been disqualified, accordingly, the status of DIN has been disqualified under Section 164(2)(a) of the Act.

9. In reply to the judgment relied upon by the learned counsel for the petitioner, the learned counsel for the respondent authorities submits that the said judgment has been considered by the Coordinate Bench of this Court as well as the Division Bench of this Court prior to the amendment of the Companies Act but the said judgment is not applicable in the present case as in the present case the authorities have taken action in terms of the amended act.
10. Heard the learned counsel for the respective parties. Perused the materials on record and the judgments relied upon by the parties.
11. The only question in the present writ application whether the status of the DIN of the company has been shown as disqualified under Section 164(2)(b) or Section 164(2)(a) and whether the petitioner is entitled to get any opportunity of hearing before the status of the DIN is disqualified.
12. Section 164(2)(a) provides that if the financial statements or annual returns for any continuous period of three financial years is not submitted, the directors will be disqualified. Section 164(2)(b) provides that if the directors failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more, shall be eligible to be re-appointed as a director of that company or

appointment in other company for a period of five years from the date on which the said company fails to do so.

13. The submission of the respondent authorities that the case of the petitioner is coming under Section 164(2)(a) as the directors have not filed the annual returns for the years of 2021-22, 2022-23 and 2023-24 but this Court finds that the document which the respondents relied upon, i.e., the CRF dated December 17, 2024 is the internal correspondence between the authorities, neither the said correspondence was forwarded to the petitioner nor it was uploaded in the website of the Ministry of Corporate Affairs, as such, the petitioner has denied the existence of the said document as the said document has not supplied to the petitioner. The learned counsel for the respondent authorities has also not shown any document that the CRF dated December 17, 2024 was supplied to the petitioner or was uploaded in the website of the Ministry of Corporate Affairs.

14. Section 164 provides that the disqualifications for appointment of director. In the said provision, the DIN status of the company cannot be disqualified. Cancellation or surrender or deactivation of DIN is provided under Rule 11 of the Companies (Appointment of Directors) Rules, 2014. Rule 11 reads as follows:-

“11. Cancellation or surrender or Deactivation of DIN.–[1] The Central Government or Regional Director, (Northern Region), Noida or any officer authorised by

the Regional Director may, upon being satisfied on verification of particulars or documentary proof attached with the application received [alongwith fee as specified in Companies (Registration Offices and Fees) Rules, 2014] from any person, cancel or deactivate the DIN in case —

(a) the DIN is found to be duplicated in respect of the same person provided the data related to both the DIN shall be merged with the validly retained number;

(b) the DIN was obtained in a wrongful manner or by fraudulent means;

(c) of the death of the concerned individual;

(d) the concerned individual has been declared as a person of unsound mind by a competent Court;

(e) if the concerned individual has been adjudicated an insolvent.”

15. It is the specific case of the petitioner that the respondent authorities have not followed the Rule 11 by deactivation of the DIN. The respondent authorities have also not placed any materials on record before this Court to say that the respondent authorities have complied with the Rule 11 by deactivation of the DIN of the company. The respondents have deactivated the DIN of the company in terms of Section 164(2)(a) but this Court finds that Section 164 is provided only for the disqualifications for appointment of director not with regard to the deactivation of the DIN.

16. In the case of **Imraj Ali Molla** (supra) and **Jai Shankar Agrahari** (supra) the Coordinate Bench and the Hon'ble Division Bench of Allahabad High Court

held that an opportunity of hearing to the petitioner is required but in the present case admittedly no opportunity of hearing has been provided and it is the specific case of the respondent authorities that the opportunity of hearing is not required as the respondent authorities have invoked the provision of Section 164(2)(a).

17. Considering the above, this Court finds that the impugned website notice wherein the DIN status of the company has been shown as disqualified under Section 164(2)(b) but the said disqualification of the status of DIN of the company has been issued without giving any opportunity of hearing to the petitioner.

18. Accordingly, the impugned website notice wherein the status of the DIN of the company is shown as disqualified under Section 164(2)(b) is set aside and quashed. However, the respondent authorities are free to take appropriate steps in accordance with law if the petitioner violates any terms and conditions of the Act.

19. Accordingly, **WPA 16891 of 2026** stands **disposed of**.

20. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

21. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)