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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7873/2014**

JAGRAN PRAKASHAN LIMITED & ANR. Petitioners
Through: Mr. P.V. Kapur, Sr. Advocate with Mr.
S. Kapur and Mr. Joydeep Bhambhani, Advocates

versus

UNION OF INDIA Respondent
Through: Mr. Akshay Makhija, CGSC with Ms.
Sanjugeeta Moktan and Ms. Mahima Bahl,
Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **12.03.2015**

CM No.4259/2015 (early hearing)

1. With the consent of the parties, the captioned application for early hearing is allowed.

2. The petition is put on board for hearing.

W.P.(C) 7873/2014 and CM No.18469/2014

3. By way of this writ petition, a challenge is laid to the order dated 05.08.2014. By the impugned order, petitioner no.2's application to continue to hold an office or a place of profit at an increased remuneration for a period of 5 years with effect from 01.10.2013 to 30.09.2018 was rejected.

4. Rejection, it appears, is based on the fact that the petitioner no.2 was working as a Director in other companies, and thus, was not in exclusive employment of petitioner no.1 company; which according to the respondents

is a statutory requirement under the Director's Relatives (Office or Place of Profit) Rules, 2011.

5. It is not disputed by Mr. Makhija, the learned counsel for the respondents that this order was passed without according a hearing to the petitioners herein. Mr. Makhija cannot but submit that this order entails civil consequences.

6. Mr. Kapur, the learned senior counsel for the petitioners says that in so far as petitioner no.2 was concerned, permission was accorded on the same facts, twice, i.e., in 2005 and 2008. It is also Mr. Kapur's contention that in the application filed with the respondents, in particular, in Annexure VII, it was indicated that petitioner no.2 was a non-Executive Director in companies to which there is an oblique reference in the impugned order.

6.1 In other words, it is Mr. Kapur's contention that neither petitioner no.2 was getting remuneration from the companies referred to in Annexure VII nor, was he spending any time qua management of the said companies.

7. Therefore, in these circumstances, what would have to be ascertained by the concerned authority is as to whether the submissions made hereinabove, on behalf of petitioner no.2, were grounded in facts. The impugned order, as indicated above, was passed without hearing the petitioners, and therefore, the aforementioned aspect as well as other aspects raised in the petition were obviously not noticed by the concerned officer, who passed the impugned order. The consequences of assertions made in Annexure VII of the application are not noticed in the impugned order, leading to a very unsatisfactory state of affairs. This error could have occurred, possibly, for two reasons. First, prolixity of the record. Second, on account of failure of the respondents to seek participation of the

petitioners in the proceedings.

8. Therefore, in view of the above, the impugned order is set aside having regard to the peculiar facts and circumstances of this case. The respondents will, thus, issue a notice to the petitioners fixing a date on which they can present themselves for hearing in the matter.

9. With the aforesaid observations in place, the captioned petition and the pending application are disposed of.

10. Needless to say, I have not expressed any opinion on the merits of the case. Consequently, the date already fixed in the matter i.e., 24.04.2015 stands cancelled.

11. Dasti.

RAJIV SHAKDHER, J

MARCH 12, 2015

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