

188
\$~187, 188, 189

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

+ **W.P.(C) 11224/2017 & CM 45879/2017**

JITENDRA DAS MAGANTI

..... Petitioner

Through Mr Azeem Saimul, Advocate.

versus

MINISTRY OF CORPORATE AFFAIRS
AND ORS.

..... Respondents

Through Mr Sanjay Jain, ASG with Ms Ripu
Daman Bhardwaj, CGSC with Mr T.p. Singh.
Mr Dev P. B hardwaj, CGSC for UOI.
Mr Sanjay Shorey, Joint Direrctor Legal Ministry
of Corporate Affairs and Sh Raesh K. Tiwari,
ROC, NCT of Delhi & Haryana MCA for UOI.

188.

+ ✓

W.P.(C) 11227/2017 & CM 45881/2017

CHAGANTI SRI PADMAVATI & ANR

..... Petitioners

Through Mr Azeem Saimul, Advocate.

versus

MINISTRY OF CORPORATE AFFAIRS & ANR Respondents

Through Mr Sanjay Jain, ASG with Ms Ripu
Daman Bhardwaj, CGSC with Mr T.p. Singh.
Mr Dev P. B hardwaj, CGSC for UOI.
Mr Sanjay Shorey, Joint Direrctor Legal Ministry
of Corporate Affairs and Sh Raesh K. Tiwari,
ROC, NCT of Delhi & Haryana MCA for UOI.

189.

+ ✓

W.P.(C) 11238/2017 & CM 45947/2017

JALAGAM VIDYA SAGAR AND ANR.

..... Petitioners

Through Mr Azeem Saimul, Advocate.

versus

MINISTRY OF CORPORATION AFFAIRS

AND ANR.

..... Respondents

Through Mr Sanjay Jain, ASG with Ms Ripu Daman Bhardwaj, CGSC with Mr T.p. Singh. Mr Dev P. B hardwaj, CGSC for UOI. Mr Sanjay Shorey, Joint Direrctor Legal Ministry of Corporate Affairs and Sh Raesh K. Tiwari, ROC, NCT of Delhi & Haryana MCA for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

19.12.2017

1. Learned counsel for the petitioners seeks to withdraw the present petitions with liberty to avail of the Condonation of Delay Scheme, 2018 (CODS-2018).
2. Paragraph 6 of CODS-2018 provides that the scheme is without prejudice to any action under Section 167 (2) of the Companies Act, 2013 or any Civil or Criminal liabilities, if any, of such disqualified directors during the period they remained disqualified.. Mr Sanjay Jain Learned ASG clarifies, on instructions, that this provision would be applicable only in respect of those directors who do not avail of the CODS-2018. He states that this is amply clarified by the opening sentence of paragraph 6, which expressly indicates that that the Registrar will withdraw prosecution(s) for all documents filed under the scheme. Thus, the question of instituting fresh prosecution against those disqualified directors who avail of the CODS-2018 does not arise.
3. Learned counsel further requests that the DIN numbers of the petitioners may be temporarily activated as contemplated under the scheme.
4. It is seen that the scheme itself contemplates that the DIN Numbers of

4

the disqualified directors would be temporarily activated with effect from 01.01.2018.

5. In view of the request made by the petitioners, the impugned list to the extent it includes the names of the petitioners is stayed. This is to enable the petitioners to carry on their business. This order is passed on the basis of the unequivocal statement made on behalf of the petitioners that they would be availing of the CODS-2018.

6. It is clarified that if the petitioners do not avail of the CODS-2018 as stated by them; in addition to other consequences, the petitioners would also be liable to be prosecuted for contempt of Court.

7. The petitions are dismissed as withdrawn, with the aforesaid clarification/observations. The pending applications are also disposed of.



VIBHU BAKHRU, J

DECEMBER 19, 2017

pkv

6
\$~33 (writ)

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

+ **W.P.(C) 11227/2017**

CHAGANTI SRI PADMAVATI & ANR Petitioners

Through: Mr Azeem Samuel, Advocate.

versus

MINISTRY OF CORPORATE AFFAIRS & ANR Respondents

Through: Mr Jaswant Rai Aggarwal and Mr
Vivek Goyal, Advocates for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **02.05.2018**

IA No. 16887/2018

1. The petitioners have filed this application, *inter alia*, praying that orders be passed to enable the petitioners to avail of the Condonation of Delay Scheme - 2018 (CODS-2018). The above-captioned writ petition was withdrawn by the petitioners on 19.12.2017 to avail of the CODS-2018. The petitioners now state that they are unable to avail of the benefits of the said scheme as the companies in which they were directors have been struck off from the Register of Companies.

2. The learned counsel appearing for the petitioners has handed over the order dated 27.04.2018 passed by a Coordinate Bench of this Court in W.P.(C) 4446/2018 captioned "*Lakavarapukota Gang Trinadha Rao and Anr. v. Ministry of Corporate Affairs and Anr.*", whereby the petition was disposed of in terms of the interim order passed by the Division Bench of this Court on 21.03.2018 in a batch of writ petitions.

3. The learned counsel appearing for the respondents does not dispute that the subject matter of the present petition is identical to the subject matter in case of *Lakavarapukota Gang Trinadha Rao and Anr. (supra)*. Accordingly, the present application is disposed of with the following directions:-

(i) The operation of list of disqualified directors in so far as the inclusion of the name of the writ petitioner is concerned, shall remain stayed.

(ii) The DIN and DSC of the writ petitioner will stand activated.

(iii) The writ petitioner will have liberty to apply under the Condonation of Delay Scheme, 2018 (hereafter "scheme"). Permission is granted to make the requisite filings in the form of hard copies.

(iv) The writ petitioner will deposit a sum of ₹30,000/- qua each such company vis-a-vis whom steps for voluntary striking off are required to be taken. The said amount will be deposited in the form of Fixed Deposit Receipt (FDR) with the Registry of this Court on or before 07.05.2018. The FDR will be created in favour of the ROC.

(v) The amount deposited by way of FDR, as adverted to in clause (iv), will be in addition to other charges that would be payable under the Scheme. These sums will be deposited in the form of FDR as well. The writ petitioner will also furnish their calculations in that behalf.

4. The writ petitioners will abide by the Division Bench-I order dated 21.03.2018, passed in a batch of writ petitions, the lead petition being W.P. (C) 9439/2017, captioned "*Atul Khosla & Anr. v. Union of India and Ors*".

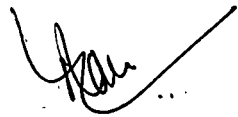
5. Liberty, however, is given to both the petitioners and the official

8

respondents to revive the petition, in case, there are issues which are not covered by the Division Bench judgment.

6. Needless to say, the disposal of the writ petition will not come in the way of the official respondents presenting their point of view before the Division Bench.

7. Order *dasti* under signature of Court Master.



VIBHU BAKHRU, J

MAY 02, 2018
RK