

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2018

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

W.P.No.11848 of 2018 and
W.M.P.Nos.13832 & 13833 of 2018

M.Krishna Sai

... Petitioner

Vs.

1.The Union of India
rep by its Secretary,
Ministry of Company Affairs,
New Delhi.

2.The Registrar of Companies,
Block No.6, B-Wing, 2nd Floor,
Shastri Bhawan, #26, Haddows Road,
Chennai - 600 034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records of the notification dated 01.11.2016 list published in the 2nd respondent site on 01.11.2017 in respect of the petitioner DIN 1756018 and quash the same and direct the respondent to permit the petitioner to get re-appointed in the Company without any hindrance.

For Petitioner : Mr.A.S.Baalaji

O R D E R

This Writ Petition is filed challenging the order passed by the Registrar of Companies under Section 164(2) of the Companies Act, 2013.

2.The said impugned order is attacked on the ground that no opportunity was given to the petitioner before passing the impugned order disqualifying him from holding the post of Director in any Company for a period of five years.

3.On factual matrix, it is contended that he has not violated any of the provisions, particularly, non-filing of the financial statements of the Company in which he is holding the Director post.

4.The Companies Act, 2013, is a composite Act, which provides for appellate remedy and if the contention of the petitioner is correct that no opportunity was given, the Authority, who has passed, can review the order himself, after affording an opportunity to the petitioner.

5.Therefore, this Writ Petition is disposed of directing the petitioner to approach the Registrar of Companies and make his submissions for reviewing the impugned order. If he is aggrieved by the order of the ROC, then it is always open to the petitioner to approach the NCLT, which is the Appellate Forum under the Act. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar/Vacation officer

True Copy

Sub-Assistant Registrar

va

To

1.The Secretary,
Union of India,
Ministry of Company Affairs,
New Delhi.

2.The Registrar of Companies,
Block No.6, B-Wing, 2nd Floor,
Shastri Bhawan, #26, Haddows Road,
Chennai - 600 034.

+1 CC to Mr.A.S. Balaji, Advocate sr 33157.

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SP(08/05/2018)