

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.4911 of 2018

Date of decision : 28.03.2018

Deepak Bhatia and others

..... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Yash Pal Gupta, Advocate for the petitioners.

Mr. Shivoy Dhir, Central Government Counsel
for respondent No.1.

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DAYA CHAUDHARY, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the impugned action [Annexure P-1 (Colly)] of the respondents by which the petitioners have been declared disqualified by the Registrar of Companies under Section 164 (2)(a) of the Companies Act, 2013 (hereinafter referred to as 'the Act').

The petitioners are having Director Identification Numbers (DINs) 02128000, 00106035, 00620765 and 00785478, respectively, which have been deactivated in view of the order passed under Section 164(2)(a) of the Act.

Learned counsel for the petitioners submits that names of the Companies of the petitioners have been stuck off from the website of the

Registrar of the Companies under Section 248 (2) of the Act and the petitioners are not in a position to submit the Financial Statements of the companies online, whereas after activation of DIN, they would like to submit the Financial Statements of their companies as well. At the end, learned counsel for the petitioners submits that the petitioners be allowed to submit the Physical Financial Statements of the companies to the Registrar of Companies under the Condonation of Delay Scheme 2018 (hereinafter referred to as 'the CODS-2018'). The case of the petitioners is at par with the petitioner who filed **CWP No.4807 of 2018** titled as ***Harpreet Singh Vs. Union of India and others.***

Heard arguments of learned counsel for the parties and have also perused the documents available on the file.

Facts of the case are not disputed. Same issue was there in CWP No.4807 of 2018. The order passed in said petition is reproduced as under:-

“Learned counsel for the petitioner has submitted that the petitioner is having Director Identification Number [DIN] 02848452, which has been deactivated in view of an order passed under Section 164(2)(a) of the Companies Act, 1956. He relies upon an order passed by this Court in CWP No.24977 of 2017 in which notice has been issued and disqualification of the petitioners therein as Directors has been ordered to be stayed and their DIN have been ordered to be activated.

Notice of motion for 16.3.2018.

In the meantime, disqualification of the petitioner as Director shall remain stayed and his DIN, which has been deactivated, is directed to be activated/restored.

At this stage, learned counsel for the petitioner has also submitted that petitioner is a Director of the proforma respondents-Companies No.4 & 5. The names of these companies have been struck off from the website of the Registrar of Companies under Section 248(2) of the Companies Act, 2013, therefore, the petitioner is not in a position to submit the financial statements of the said companies online and whereas after activation of the DIN, he would like to submit the financial statements of these companies as well. It is thus prayed that the petitioner may be allowed to submit the physical financial statements of the companies to the Registrar of Companies under the Condonation of Delay Scheme, 2018 (Annexure P-13).

Ordered accordingly.”

The present petition is also for the same relief as sought in said CWP No.4807 of 2018 as the names of the Companies have been stuck off from the website of the Registrar of Companies under Section 248(2) of the Act. They are not in a position to file Financial Statements of the Companies as their Director Identification Numbers (DINs) have been deactivated in view of the order passed under Section 164 (2) (a) of the Act. The Financial Statements of the Companies are required to be filed upto 31.03.2018. Not only they would be deprived to file their Financial Returns but they would not be in a position to get benefits of CODS-2018 Scheme.

Similarly, in CWP No.7695 of 2018, the same claim was sought by the petitioners and they were held entitled to avail the benefit of CODS-2018 subject to making good any shortcomings which may be pointed out by the respondents. It was held that the petitioners would be entitled for the same benefits with the same terms and conditions as directed in order dated 22.03.2018 passed by the Division Bench of Delhi High

Court in case ***W.P.(C) No.9439/2017*** titled as ***Atul Khosla and another Vs. Union of India and others*** as well as Single Bench judgment of Delhi High Court in case ***W.P.(C) No.1297/2018*** titled as ***Syed Muzaffar Ali Khan and another Vs. Union of India and others*** decided on 12.02.2018.

In view of the facts as mentioned above and by taking into consideration the interest of the petitioners and to ensure that no prejudice be caused to either of the party, it is directed that the petitioners be permitted to file the application under the CODS-2018 with hard copies with the respondents. It is further directed that the petitioners shall ensure that the fee, other charges and documents which are necessary under the CODS-2018 shall be deposited with the Registrar of the Companies.

Accordingly, the petitioners are held entitled to avail the benefit of CODS-2018 subject to making good any shortcomings which may be pointed out by the respondents. It is also made clear that the petitioners shall also be entitled for the same benefits with the same terms and conditions as directed in ***Writ Petition (Civil) No.9439 of 2017*** and other connected matters before the Division Bench of Delhi High Court as well as ***Writ Petition (Civil) No.1297 of 2018***.

Disposed of accordingly.

28.03.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No