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

Judgment pronounced on: 13.02.2018

W.P. (C) 1352/2018, CM APPL.5594-5595/2018

MR. ROHIT THAKUR AND ANR. Petitioners
Through: Mr. Pradeep Mittal, Advocate.

versus

UNION OF INDIA AND ANR. Respondents
Through: Mr. Ajay Digpaul, Advocate.

CORAM:-
HON'BLE MR. JUSTICE RAJIV SHAKDHER
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RAJIV SHAKDHER, J. (ORAL)

CM APPL.5595/2018 (exemption)

1. Allowed, subject to all just exceptions.

W.P. (C) 1352/2018, CM APPL.5594/2018 (seeking interim relief)

2. Issue notice. Mr. Ajay Digpaul accepts notice on behalf of the respondents. Counsel says that since the petitioner relies upon the judgment of another Single judge of this Court dated 12.1.2018, passed in W.P.(C)317/2018, titled: *Rajesh Varma & Anr. v. Union of India & Ors.*, he does not wish to file a counter affidavit in the matter as the issue articulated therein is similar to the issue which arises for consideration in the present petition.

3. To be noted, the petitioners claim to have been appointed as Directors on Board of a company by the name of Pyramid Apparels Private Limited (for short "Pyramid Apparels"). Pyramid Apparels has had its name struck off from the Register of Companies on the ground

that it failed to file the requisite financial statements and/or annual returns. Consequent thereto, the petitioners' names were included in the list of disqualified directors by respondent no.2 in consonance with provisions of Section 164 (2) (a) of the Companies Act, 2013 (2013 Act), in respect of financial years 2014-16.

4. The petitioners have raised several grounds in the petition including the one that provisions of Section 164 apply only in case of fresh appointment and re-appointment.

4.1 The petitioners also claim that no notice was issued to them before including their names in the impugned list.

5. Counsel for the petitioner, however, says that the petitioners wish to voluntarily dissolve Pyramid Apparels so that they can avail of the benefit of Condonation of Delay Scheme, 2018 (in short "the scheme") as was permitted by this Court in *Rajesh Varma's case (supra)*.

5.1 Counsel for the petitioners, in this behalf, seeks to place reliance on Section 248(2) which allows for a running company to have its name removed from Register of Companies upon fulfilment of conditions prescribed therein. However, in *Rajesh Varma's case* leeway has been given to move respondent no.2 in such like cases as well.

6. Thus, having regard to the assertions made in the petition, the writ petition is disposed of with a direction that the directions contained in *Rajesh Varma's case (supra)* would apply *mutatis mutandis* to the petitioners as well. The petitioners will take steps for voluntarily winding up Pyramid Apparels. The petitioners' application under the Scheme, if filed, will be considered sympathetically by respondent no.2. Needful will be done by the

petitioners within four weeks from today. Pending the consideration of the petitioners' request, the inclusion of the petitioners' name in the list of disqualified directors will remain stayed till 31.3.2018.

7. Consequently, all pending applications shall stand closed.

RAJIV SHAKDHER, J

FEBRUARY 13, 2018

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