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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1739/2018 and CM Nos.7215-7216/2018

SHOUKAT RAI MALHOTRA & ANR Petitioners

Through: Appearance not given.

versus

REGISTRAR OF COMPANIES & ORS Respondents

Through: Mr. Bhagwan Swarup Shukla, CGSC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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23.02.2018

1. Issue notice. Mr. Shukla, CGSC, who is present in Court, accepts notice on behalf of respondents.

2. According to counsel for the petitioner, the issue which arises in the present petition is covered by the judgment of another Single Judge of this Court dated 21.12.2017, passed in W.P.(C)11381/2017, titled: *Sandeep Singh & Anr. vs. Registrar of Companies & Ors.*

2.1 Therefore, to my mind, no counter affidavit is required as the stand of respondents is no different to that which obtained in *Sandeep Singh & Anr. (supra)*. Furthermore, I am told that the directions contained in the said judgment were incorporated with the assistance of learned ASG.

3. According to the petitioners, they were appointed, *inter alia*, as Directors on the Board of the company by the name: SRM Resorts Private Limited (SRM).

3.1 It is averred that since SRM failed to file its financial

statements and requisite annual returns, its name was struck off from the Register of Companies by respondent no.1/ROC.

3.2 It is also the petitioners' case that besides the aforementioned company, the petitioner no.1 is a Director on the Board of SRM Infrastructure Private Limited, which is, presently, active and functional.

3.3 Likewise insofar as petitioner no.2 is concerned, it is averred that she is a Director on the Board of Keshavi Financial Services Private limited and SRM Infrastructure Private Limited.

3.4 I am told that Keshavi Financial Services Private Limited is also active and fully functional.

4. It is, thus, the petitioners' case that the inclusion of their names in the list of disqualified Directors for financial year 2014-2016 has impacted their role as Director qua companies which are, presently, active.

4.1 The Petitioners, *inter alia*, claim that the provisions of Section 164(2)(a) of the Companies Act, 2013 can only apply to the case of reappointment or fresh appointment.

4.2. Furthermore, it is the petitioners' case that they were not given notice prior to their names being included in the impugned list i.e., Annexure P-4.

4.3 Petitioners further aver that SRM has not carried out any business for past several years.

4.4 In these circumstances, the petitioners' wish to take recourse to provisions of Section 248(2) of the Companies Act, 2013 and accordingly, have the name of SRM removed from the Register of

Companies.

4.5 The Counsel for the petitioners says that this liberty has been given by this Court in *Sandeep Singh & Anr.(supra)*. Furthermore, petitioners also say that they wish to take benefit of the Condonation of Delay Scheme, 2018 (in short ‘Scheme’)

5. Having regard to the submissions made by the counsel for the parties as also assertions made in the petition, I am inclined to dispose of the writ petition with the direction that the directives contained in the *Sandeep Singh & Anr.(supra)* will apply *mutatis mutandis* to the petitioners as well.

5.1 The petitioners will, however, take appropriate steps under Section 248(2) of the Companies Act, 2013 within a period of four weeks from today.

5.2 In addition, thereto, the petitioners will also take requisite steps under the Scheme, albeit, within a period of four weeks from today. Pending the consideration of petitioners’ request, the impugned list, annexed as P-4, insofar as petitioners are concerned, shall remain stayed till 31.3.2018 or, till such time a decision is taken by respondent no.1/ROC whichever is later. In order to facilitate this exercise, the respondent no.1/ROC will also activate petitioners DIN and DSC.

10. *Dasti*

RAJIV SHAKDHER, J

FEBRUARY 23, 2018
Mk/ck