

\$~43

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment pronounced on: 26.02.2018

+

W.P. (C) 1783/2018, CM APPL. 7385-7386/2018

NAND LAL BHATIA & ORS.

..... Petitioners

Through: Mr. Ketan Madan with Mr.
Himanshu Harbola, Advocates.

versus

REGISTRAR OF COMPANIES & ORS.

..... Respondents

Through: Mr. Rajesh Kumar with Mr.
Nikhil Kumar, Advocates

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

%

RAJIV SHAKDHER, J. (ORAL)

CM APPL.7386/2018 (exemption)

1. Allowed, subject to all just exemptions.

W.P. (C) 1783/2018, CM APPL.7385/2018 (stay)

2. Issue notice. Mr. Rajesh Kumar accepts notice on behalf of the respondents.

3. Counsel for the petitioners relies upon the judgment of another Single Judge of this Court dated 21.12.2017, passed in W.P.(C)11381/2017, titled: *Sandeep Singh and Anr. v. Registrar of Companies and Ors.* Learned counsel says that the

issue which arises for consideration in the present petition is similar to the issue which arises in *Sandeep Singh (supra)*. This fact is not disputed by the counsel for the respondents. Therefore, according to me, giving time to file the counter affidavit will not serve any purpose as the stand of the respondents in this case is no different which was taken in *Sandeep Singh (supra)*.

4. Briefly, the case of the petitioners is that they were appointed as directors on the board of a company by the name of Omnitech Transport Services Pvt. Ltd. (in short “OTSL”). Since financial statements and requisite annual returns were not filed by OTSL for more than three years, its name was removed from the Register of Companies.

4.1 Consequently, the petitioners’ name was included in the impugned list i.e., Annexure P-4. Counsel for the petitioners says that apart from anything else, the impugned order is unsustainable in view of the fact that no notice was given to the petitioners before including their names in the list of disqualified directors.

4.2 It is further submitted that the impugned order has impacted the petitioners’ role as directors in other companies which are fully active and functional.

4.3 For this purpose, my attention has been drawn to paragraph 4 of the writ petition.

5. Furthermore, the petitioners' state that they wish to approach the Registrar Of Companies ("ROC") i.e., respondent no.1 for having the names of OTSL remove from the Register of Companies.

5.1 For this purpose, the petitioners say that they would take recourse to provisions of Section 248 (2) of the Companies Act, 2013 and would like to rely upon the directives contained in *Sandeep Singh (supra)*.

6. The petitioners also submit that they would like to take benefit of the provisions of the Condonation of Delay Scheme, 2018 (in short "Scheme"). Counsel for the petitioners says that requisite steps in that behalf will be taken within a period of two weeks from today.

7. Having regard to the submissions made by the learned counsel for the petitioners and the directives contained in the judgment of this Court rendered in *Sandeep Singh (supra)*, this writ petition is disposed of with the following directions: -

- (i) Directives contained in *Sandeep Singh (supra)* will apply *mutatis mutandis* to the petitioners as well;
- (ii) The petitioners will take requisite steps under Section 248 (2) of the Companies Act, 2013 and Scheme within two weeks from today;
- (iii) Pending consideration of the petitioners' request, the operation of the impugned list insofar as the

petitioners are concerned shall remain stayed till 31.3.2018 or till such time their request is disposed of whichever is later;

- (iv) In order to facilitate this exercise, the respondents will also activate the petitioners' DIN and DSC. This leave way will be available only if the petitioners adhere to the timeline set out above.

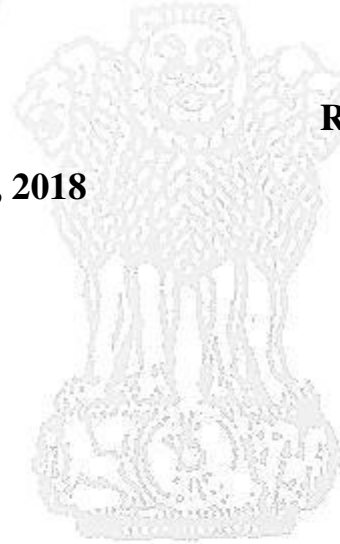
8. Writ Petition is disposed of in the above terms.

9. No costs.

RAJIV SHAKDHER, J

FEBRUARY 26, 2018

/vikas/



सत्यमेव जयते