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

+ W.P.(C) 2184/2018 and CM No.9029/2018

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Date of decision : 23rd March, 2018

SANJEEV KUMAR AND ORS.

..... Petitioners

Through : Mr. Alok Kumar Kuchhal, Mr.
Manish Jain and Ms. Chanchal
Yadav, Advs.

versus

UNION OF INDIA AND ORS.

... Respondents

Through : Ms. Maninder Acharya, ASG
with Mr. A.P. Sahay and Ms. J.
Priyadarshini, Adv. for UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. The petitioners were the Directors of Jupiter Information Technologies Private Limited. The Directors of the company had submitted their resignation to the Board of Directors on 20th November, 2007. However, the Board of Directors failed to file Form 32 with the Registrar of Companies. The averments to this effect have been made on affidavit.

2. The resignation of the petitioners is supported by the Investor

Complaint Form which is made by them on 16th November, 2012 with the Registrar of Companies wherein also the petitioners had made a grievance regarding non-filing of Form 32 depicting cessation of the petitioners' directorship. The Registrar of Companies is not in a position to admit or deny this fact.

3. We therefore, have no option but to accept this statement of fact made on affidavit.

4. At the time of issuance of notices in this writ petition, we had granted interim stay of the impugned notices. As a result the DIN numbers of the petitioners were restored.

5. In this background, the petitioners had ceased to be the Directors of the company, as stated by them, on 20th November, 2007 and could not have been penalized for the failure of the company to effect statutory compliances.

6. In view of the above, it is directed as follows :

(i) The respondents shall forthwith take steps for removal of the petitioner's name from the list of disqualified directors.

(ii) The orders to this effect would be posted on the website and shall also be communicated to the petitioner within two weeks from today.

(iii) It is clarified that this would not preclude the Registrar of Companies from passing a fresh order disqualifying the petitioner, if any material is found or produced before the ROC to indicate that the petitioner's statement that the petitioner had never consented to act as a Director of the Company, is false, or any material is produced which establishes that the petitioner had acted as a Director of the Company

in any manner.

7. This writ petition is allowed in the above terms.

Dasti.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

MARCH 23, 2018

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