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

\+ W.P.(C) 3717/2018

ROYAL LUTHRA AND ANR. ..... Petitioners

Through: Ms. Arunima Dwivedi, Adv. with Ms. Preeti Kumra, Adv.

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Ms. Shiva Lakshmi, CGSC with Mr. Siddharth Singh, Mr. Ruchir Ranjan, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

O R D E R

% **16.04.2018**

CM 14728/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 3717/2018 & CM 14727/2018

2. Issue notice. Ms. Shiva Lakshmi accepts notice on behalf of the official respondents. In view of the order that I propose to pass, learned counsel for the official respondents says that he does not wish to file a counter-affidavit in the matter.

3. To be noted, the petitioners seek to avail of the benefits vis-a-vis the company going by the name Ashoka Hydro Power Private Limited (in short 'AHPL'). This company AHPL evidently got strike off from the Register of Companies on account of its failure to file requisite financial statements and statutory returns. It is averred AHPL has not carried out any business since the date of its incorporation. AHPL, it appears, was incorporated on 02.06.2010.

4. The record also shows that the petitioner No. 1 is also a Director of Bhuvneshwari Energy Power Limited (in short 'BEPL') and

Bhuvneshwari Hydro Private Limited (in short ‘BHPL). Furthermore, it is claimed by the petitioners that while BEPL has been strike off from the Register of Companies. BHPL is still active and functional. The petitioners, however, averred that insofar as BHPL is concerned, they wish to revive the said company and for this purpose filed a separate petition which has not been listed as yet before Court. This statement is taken on record.

5. Therefore, directions are sought by the learned counsel for the petitioners only vis-a-vis AHPL.

6. The petitioners have filed the present petition, inter alia, impugning a list of disqualified directors published by respondent no.1 and 2 to the extent that it includes the names of the petitioners.

7. The petitioners claim that they were appointed as Directors on the Board of company by the name: Ashoka Hydro Power Pvt. Ltd (hereinafter referred to as "Company"). The learned counsel for the petitioners states that the Company has not carried out any business since its incorporation. Furthermore, the petitioners state that they had not filed the Company's financial statements and statutory returns as required under the extant provisions of law. The petitioners aver that it is on account of the aforementioned infraction of law that their names came to be included in the impugned list.

8. In this matter, I am informed by the learned counsel for the official respondents that the issues raised in the captioned matter are similar to those issues which have been raised before Division Bench-I in various matters pending before it.

9. Counsel for writ petitioner(s) are agreed that the interim directions passed by this court and those which have been passed by the Division Bench can form the basis of the disposal of the present writ petition with a

right to revive the captioned petition, in respect of those issues which are not addressed by the Division Bench judgment.

10. Accordingly, the captioned writ petition is disposed of with the following directions:-

(i) The operation of list of disqualified directors in so far as the inclusion of the name(s) of the writ petitioner(s) is concerned, shall remain stayed.

(ii) The DIN and DSC of the writ petitioner(s) will stand activated.

(iii) The writ petitioner(s) will have liberty to apply under the Condonation of Delay Scheme, 2018 (hereafter "Scheme"). Permission is granted to make the requisite filings in the form of hard copies.

(iv) The writ petitioner(s) will deposit, if not deposited already, a sum of Rs.30,000/- qua each such company *vis-a-vis* whom steps for voluntary striking off are required to be taken. The said amount will be deposited in the form of Fixed Deposit Receipt (FDR) with the Registry of this court on or before 24.04.2018. The FDR will be created in favour of the ROC.

(v) The amount deposited by way of FDR, as adverted to in clause (iv), will be in addition to other charges that would be payable under the Scheme. These sums will be deposited in the form of FDR as well. The writ petitioner(s) will also furnish their calculations in that behalf.

11. The writ petitioner(s) will abide by the Division Bench-I order dated 21.03.2018, passed in a batch of writ petitions, the lead petition being W.P. (C) 9439/2017, titled: *Atul Khosla & Anr. v. Union f India and Ors.*

12. Liberty, however, is given both to the petitioner(s) and the official respondents to revive the petition(s), in case, there are issues which are not covered by the Division Bench judgment.

13. Needless to say, the disposal of the writ petition will not come in the way of the official respondents presenting their point of view before the

Division Bench.

14. Pending application(s), if any, shall stand closed.

15. To be noted, even though counsel for petitioner(s) submitted that they wish to avail of benefit of CODS 2018, the same has not been prayed for in the captioned Writ Petition.

15.1 Therefore counsel for petitioner(s) will file an affidavit to that effect with registry of this court. The affidavit, *inter alia*, would state that the petitioner(s) would want to avail CODS 2018, and that they have not done business for the past three years and that no bank account has been operated.

15.2 The affidavit shall be filed on or before 24.04.2018.

16. Pending application(s), if any, shall stand closed.

17. *Dasti* under signatures of Court master.

RAJIV SHAKDHER, J

APRIL 16, 2018

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