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

+ **W.P.(C) 4512/2018**

KAPIL GARG

..... Petitioner

Through: Ms. Sima Gulati with Ms. Ridhima Gulati &
Ms. Revati Gulati, Advs.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. B.S.Shukla, CGSC for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **01.05.2018**

CM APP No. 17340/2018

1. Issue notice.

2. Mr. B.S.Shukla, learned counsel accepts notice on behalf of the official respondents. Mr. Shukla states that he does not wish to file a reply in the matter in view of the directions I intend to pass.

3 The record shows that the petitioner had approached this Court in the first instance by way of writ petition bearing No.11709/2017. This petition was disposed of by order dated 2nd January, 2018. By virtue of the said order, the ROC was directed to carry out an enquiry as to whether the petitioner had acted as a director since 28.11.2011 qua the subject company.

3.1 To be noted, it was the petitioner's stand that he had resigned from the subject company on 28.11.2011 and that he had transferred his shares in favour of one, Mr. P.K. Jain, the husband of Ms. Shriya Jain, the person who was appointed as a Director on the Board of the subject company.

4. A perusal of the impugned order shows that the ROC did not call

upon Ms. Shriya Jain to give her version of events while ascertaining as to whether or not the petitioner had acted as Director of the subject company after 28.11.2011.

4.1 The ROC, in my opinion, given the circumstances obtaining in the case ought to have called upon Ms. Shriya Jain to explain her stand in the matter.

5. Given these circumstances, the impugned order is set aside. The matter is remanded to the ROC for a fresh enquiry.

6. At this stage, learned counsel for the petitioner states that the petitioner is a Director on the Board of other companies which are active and fully functional and the continued inclusion of the petitioner's name in the list of disqualified directors is impacting his functionality qua such companies. For this purpose my attention is drawn to Annexure B. Unfortunately, the master data of companies referred to in Annexure B has not been placed before the Court.

6.1 Therefore, in case the petitioner files an affidavit with the ROC bringing to light this fact, the ROC will be authorized to activate the DIN and DSC of the petitioner after he has ascertained the correct facts qua this aspect of the matter.

6.2 The petition is disposed of in the aforesaid terms.

7. Dasti under signatures of the Court Master.

RAJIV SHAKDHER, J

MAY 01, 2018/ak