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

**+ W.P.(C) 5009/2018 and CM No.19290/2018**

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**Date of decision : 23<sup>rd</sup> May, 2018**

KARN GUPTA

..... Petitioner

Through : Mr. Ishaan Madaan and  
Mr. Ayush S. Sahni, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through : Mr. Vikas Mahajan, CGSC  
with Mr. Deepak Goyal,  
Adv. for UOI.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**JUDGMENT (ORAL)**

**GITA MITTAL, ACTING CHIEF JUSTICE**

**W.P.(C) 5009/2018**

1. The writ petitioner complains that he had been appointed as a Director in a company registered under the name and style of Eternal Wellness Centre Pvt. Ltd. (hereinafter referred to as the 'Company') on 11<sup>th</sup> July, 2012 wherefrom he resigned on 5<sup>th</sup> December, 2012. The company failed to submit Form 32 regarding his resignation in accordance with the provisions of the erstwhile Companies Act, 1956 with the Registrar of Companies-respondent no.2.

2. This writ petition has been necessitated inasmuch as the respondent no.1, on the 6<sup>th</sup> of September, 2017 and 12<sup>th</sup> September, 2017 notified a list of directors who have been disqualified under Section 164(2)(a) of the Companies Act, 2013 as directors with effect from 1<sup>st</sup> November, 2016. To the petitioner's shock, he found his name featuring in this list. As a result, the petitioner stands prohibited from being appointed or re-appointed as a director in any other company for a period of five years.

3. Issue notice to the respondents. Mr. Vikas Mahajan, learned CGSC accepts notice on behalf of the respondents.

4. It is submitted that in the above facts and circumstances of the case that the petitioner has resigned from the directorship of the company in question, the petitioner would not incur a disqualification under Section 164 of the Companies Act. Consequently, the disqualification of the petitioner as notified in the lists dated 6<sup>th</sup> September, 2017 and 12<sup>th</sup> September, 2017 by the respondent no.1 was incorrect and illegal.

This position is not disputed by the respondents.

5. In view of the above, the disqualification of the petitioner as notified in the impugned list as disqualification of the petitioner as a director of the company and the resultant prohibition under Section 164(2)(a) by virtue of the petitioner's name featuring in the list dated 6<sup>th</sup> and 12<sup>th</sup> September, 2017 is hereby set aside and quashed. The respondent no.2 shall also ensure that its records are properly rectified to delete the name of the petitioner from the lists

dated 6<sup>th</sup> September and 12<sup>th</sup> September, 2017. Action in this regard shall be positively taken within a period of two weeks from today. Name of the petitioner, as a director, shall be removed from all records of the respondent no.2 in the Ministry of Corporate Affairs.

The writ petition is disposed of in the above terms.

**CM No.19290/2018**

9. In view of the disposal of the petition, this application does not survive for adjudication and is dismissed.

*Dasti* under signatures of the Court Master.

**ACTING CHIEF JUSTICE**

**C.HARI SHANKAR, J**

**MAY 23, 2018**

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