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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5366/2018**
RAJESH KHANNA

..... Petitioner

Through Mr. Ravi Prakash, Adv.

versus

UNION OF INDIA AND ORS

..... Respondents

Through Mr. Vikram Jetly, CGSC for R-1 & R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **18.05.2018**

C.M. Appl. No. 20809/2018

1 Allowed, subject to just exceptions.

W.P.(C) 5366/2018 & C.M. Appl. No. 20808/2018

2 Issue notice.

2.1 Mr. Jetly accepts notice on behalf of the official respondents.

2.2 Mr. Jetly, says, in view of the order that I propose to pass, he does not wish to file a counter affidavit in the matter.

3 Briefly, the petitioner is aggrieved by the fact that his name has been included in the list of disqualified directors, despite the fact that information was given to the ROC, as far back as on 27.04.2015, that he was no longer a director on the Board of the defaulting company.

3.1 The defaulting company in this case is the company by the name of Khanna Resorts Pvt. Ltd. ('KRPL').

4 The record shows that the petitioner along with his family

members claims to have entered into an oral settlement on 11.03.2013, which was reduced to a written settlement on 22.03.2013.

4.1 The petitioner claims that he resigned from the Board of KRPL, on 21.03.2013, in view of the family settlement. In this behalf, reliance is placed by the petitioner on Annexure P-5, which is his resignation letter dated 21.03.2013.

4.2 It is also submitted by counsel for the petitioner that the said resignation was accepted by the Board of Directors of KRPL at their meeting held on 22.03.2013. The said contention is sought to be supported by relying upon Annexure P-7, which is an extract of copy of the resolution passed by the Board of Directors of KRPL, on 22.03.2013.

5 The record further shows that a general notice was issued to the defaulting company in and about March, 2017 intimating that ROC intended to remove its name from the register of companies.

5.1 The petitioner, accordingly, wrote to the ROC on 27.04.2017, indicating thereby, that he had resigned from the Board of Directors of KRPL.

5.2 Furthermore, record shows that a representation was made by the petitioner to the Secretary, Ministry of Corporate Affairs, Government of India as well as the ROC on 21.09.2017.

6 It appears that the petitioner's grievance has not been redressed. It is, in these circumstances, that the petitioner has approached this Court by way of the instant petition.

7 Mr. Jetly, who, appears for the official respondents says that the matter needs to be enquired into by the ROC.

7.1 I tend to agree with the submission of Mr. Jetly.

8 Accordingly, the writ petition is disposed of with the following directions:

- (i) The ROC is directed to consider the representation dated 21.09.2017 filed by the petitioner.
- (ii) The ROC will enquire that as to whether or not the petitioner acted as a Director of KRPL after 21.03.2013.
- (iii) The ROC will grant a personal hearing to the petitioner and pass a speaking order thereafter. A copy of the order passed by the ROC will be furnished to the petitioner. In case the petitioner is aggrieved by the final determination made by the ROC, he will be at liberty to assail the same in the manner known to law.
- (iv) Pending the aforesaid, the operation of the list of disqualified directors, insofar as it includes the name of the petitioner, shall remain stayed.
- (v) The ROC will activate the DIN & DSC of the petitioner. It is, however, made clear that the ROC will have the authority to vary or withdraw the said facility, in case the situation demands issuance of such an order.

9 No order as to costs.

10 *Dasti.*

RAJIV SHAKDHER, J

MAY 18, 2018

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