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

+ **W.P.(C) 5520/2018**

AJAY MALHOTRA

..... Petitioner

Through: Mr. Shailendra Singh with Ms.
Rachita Garg, Advs

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Abhay Prakash Sahay, CGSC
for Respondent No. 1

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **22.05.2018**

CM APPL. 21508/2018 (exemption)

1. Allowed, subject to just exceptions.

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2. Issue notice.
3. Mr. Abhay Prakash Sahay accepts notice on behalf of official respondents.
4. In view of the order that I propose to pass, counsel for the petitioner does not wish to file a counter affidavit in the matter.
5. Briefly, the grievance of the petitioner is that even though he resigned from the Board of defaulting company i.e. Parish Caterers Pvt. Ltd. (PCPA), as far back as on 1.4.2013, his name has been included in the list of Disqualified Directors.

6. According to the petitioner, the resignation was accepted by one of the Directors on the Board of PCPA.

7. It appears that the PCPA's name was removed from the register of companies on account of failure to file statutory returns and financial statements.

8. Counsel for the petitioner says that the petitioner is also a Director on Board of the other companies which are fully active and functional.

8.1 For this purpose, my attention is drawn to annexure 7 (collectively) append at page 41 to 44 of the paper book.

8.2 Thus, the petitioner's counsel submits that the petitioner is unable to function as a director qua these companies, which are active, as his DIN has been deactivated.

9. Mr. Abhay Prakash Sahay, who appears on behalf of official respondents says that matter needs to be inquired into, in particular, as to whether the petitioner's resignation letter is genuine.

10. I tend to agree with this submission of the learned counsel.

11. In these circumstances, the Writ petition is disposed of with the following directions:-

(i) The ROC will make enquiry as to whether or not the petitioner's resignation letter dated 01.04.2013 is genuine. Furthermore, ROC will enquire whether the petitioner acted as Director of PCPA after 1.4.2013.

(ii) For this purpose, if necessary notice will be issued to other persons who were at the relevant time, on the Board of Directors of PCPA.

- (iii) The ROC will grant a personal hearing to the petitioner and only thereafter pass a speaking order in the matter.
- (iv) A copy of speaking order will be furnished to the petitioner.
- (v) In case petitioner is aggrieved by the final determination made by the ROC, he will have liberty to assail the same in the manner known to law.
- (vi) Pending aforesaid inquiry, for the moment, operation of list of disqualified directors in so far as includes the name of the petitioner shall remain stayed. In addition thereto the petitioner's DIN will be activated.
- (vii) The ROC will, however, have the liberty to vary or withdraw this facility in case he is of view such an order needs to be passed.

12. *Dasti* under the signatures of the Court Master.

RAJIV SHAKDHER, J

MAY 22, 2018

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