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

+ W.P.(C) 5817/2018 & CM No.22588/2018

ALOK GUPTA

..... Petitioner

Through: Mr Rahul Ahuja, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Shivalakshmi, CGSC with Mr
Pratyush Miglani, Advocates for
UOI/ROC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **11.12.2018**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- “a) issue a writ, order or direction in the nature of writ of Certiorari or any other appropriate writ, in the nature of directing the Respondent No. 2 for removing the name of the director from Impugned List as being illegal, arbitrary and devoid of merit and consequentially direct the Respondent no. 1 herein to permit the Petitioner to continue as director of any company as also be permitted to be appointed as a director of any company without any hindrance;
- b) issue a writ, order or direction in the nature of writ of certiorari or any other appropriate writ, in the nature thereby directing the Respondents no. 1 and 2 herein to restore the Director Identification Number (DIN) - allotted to the Petitioner, Viz. 03523520;
- c) direct the Respondent no. 2 to initiate appropriate proceedings against the Company and its directors on account of its inaction, which has also played a positive role in prejudicing the Petitioner.”

2. The name of the petitioner has been included in the list of Directors who have been disqualified to act as such in terms of Section 164 (2)(a) of the Companies Act, 2013. The said action is based on account of the defaults committed in respect of M/s DelSolar India EPC Company Private Limited (hereafter 'the Company').
3. The petitioner states that he was appointed as a Director of the company on 24.05.2011 and continued to act as such till 31.05.2013. He states that he resigned from the company on 31.05.2013, however, the company defaulted in filing Form 32 with the Registrar of Companies (ROC).
4. The petitioner also made a complaint with ROC on 30.07.2013 enclosing therewith copy of his resignation from the company. In view of the above, there could be little doubt that the petitioner had resigned from the company and inclusion of his name in the impugned list of disqualified directors is erroneous.
5. The petition is, accordingly, allowed and the impugned list of the Disqualified Directors to the extent it includes the petitioner's name is set aside. The ROC is directed to reinstate the petitioner's DIN (Directors Identification Number) and DSC (Digital Signature Certificate) within a period of two weeks from today. The pending application is also disposed of.
6. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

DECEMBER 11, 2018/MK