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

+ **W.P.(C) 5910/2018**

GUDIYA GUPTA AND ORS

..... Petitioners

Through

Mr. Rajnish Sinha, Mr. Nikhil Jain
and Ms. Bhawna Pal, Advs.

versus

UNION OF INDIA AND ANR

..... Respondents

Through

Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Kamaldeep, Adv. for
R-1 & 2

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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28.05.2018

CM APP No. 23030/2018

1. Allowed, subject to just exceptions.

W.P.(C) 5910/2018 & CM APP No. 23029/2018

2. In this petition, the limited relief counsel for the petitioners seeks is that a direction be issued to the ROC for activating the petitioners' DIN.

3. The record shows that the petitioners had moved an application before the NCLT for this purpose. The said application is numbered as CA No. 44/C-11/ND of 2018.

3.1 There were three prayers made in the application. The same are set out hereafter for the sake of convenience:

“a) to appoint any Independent Audit firm as Statutory Auditor of Company replacing existing Auditors so the company can avail the scheme;

b) Or, in the alternative as an interim protection, pass appropriate directions to direct for the activation of DIN of the petitioners, Directors of Company till the pendency of Petition CP No.100(ND)/2014 so that petitioners be permitted to use their DIN for filing in other companies in which they are directors;

c) Or, in the alternative, adjudicate the pending Application CA No.168/C-1/2014 for Removal of Statutory Auditor.”

4. I am informed that the NCLT vide order dated 20.4.2018 has passed the following order:

“CA 44/2018 has been filed by the Respondents praying for appointment of an independent Auditor for the purpose of carrying out the audit of accounts required for statutory compliances. This is moreso in view of the action initiated by the ROC in striking off the name of the defaulting companies from their register. Keeping in view the management dispute and that the matter is sub judice, it is directed that the ROC shall not take any step for striking off the name of the company till further orders.”

5. Clearly, the NCLT has not dealt with prayer clause (b), for which the petitioners have approached this Court. However, in this petition, no challenge is made to the order of the NCLT dated 20.4.2018.

6. Having regard to this fact, counsel for the petitioners seeks leave to withdraw the writ petition with liberty to take recourse to an appropriate remedy, albeit, in accordance with law.
7. The writ petition is dismissed as withdrawn with liberty as prayed for.
8. Pending application shall also stand closed.

RAJIV SHAKDHER, J

MAY 28, 2018
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