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

+ W.P.(C) 7048/2018

HARIHAR PATRA

..... Petitioner

Through: Mr Sumit Wadhwa and Ms Perna
Beri, Advocates.

versus

UNION OF INDIA MINISTRY OF CORPORATE
AFFAIRS & ANR

..... Respondents

Through: Mr Bhagvan Swarup Shukla, CGSC
with Mr Suraj Kumar, Advocates for
UOI/R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.07.2018

CM No.26760/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 7048/2018 & CM No. 26759/2018

3. Issue notice. Mr Shukla, learned counsel appearing for respondent nos.1 & 2 accepts notice.
4. The petitioner has filed the present petition impugning a list of Directors qualified under Section 164(2)(a) of the Companies Act, 2013 (hereafter 'the Act'), as published by the respondent, to the extent that it includes the name of the petitioner's in the said list. The petitioner claims that he has been disqualified to act as a Director on the assumption that he

was a Director of a company named M/s Zoom Motels (Bhubaneswar) Private Limited. The petitioner states that the said company was a joint venture company formed pursuant to an agreement entered into by M/s Zoom Motels (Bhubaneswar) Private Limited and T. K. Investments Limited. The petitioner claims that he was appointed as an Additional Director of M/s Zoom Motels (Bhubaneswar) Private Limited on 20.06.2009 in order to represent the interests of M/s T. K. Investments Limited. It is claimed that he resigns as a Director of M/s Zoom Motels (Bhubaneswar) Private Limited on 01.10.2009. He further claims that information in this regard was forwarded by him to ROC by letters sent on 15.11.2009 and 14.12.2009. It is stated that on 05.09.2011, the petitioner also sent a letter to the Registrar of Companies (ROC) complaining that the Directors of M/s Zoom Motels (Bhubaneswar) Private Limited were intentionally not filing Form-32 with regard to his demitting office as a Director of that company.

5. Undisputedly, if the above averments made by the petitioner are correct, the action taken against the petitioner for disqualifying him under Section 164(2)(a) of the Act would be unsustainable.

6. In view of the above, the present petition is allowed and the impugned list of disqualified directors to the extent it includes the name of the petitioner, is set aside. The ROC shall reactivate the petitioner's DIN (Director Identification Number) and DSC (Digital Signature Certificate).

7. It is clarified that this order would not preclude the ROC from passing appropriate orders disqualifying the petitioner as a director in the event, he is of the view that the averments made by the petitioner are not correct. In such event, ROC shall issue a show cause notice to the petitioner and pass

an appropriate order after affording the petitioner an opportunity of being heard.

8. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

VIBHU BAKHRU, J

JULY 10, 2018

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