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

+ W.P.(C) 7219/2018

MANAB CHAKRABORTY

..... Petitioner

Through: Mr Sushil K. Tekriwal and Dr Mamta
Tekriwal, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Gaurang Kanth, CGSC with Ms
Biji Rajesh and Ms Eshita Baruah,
Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **16.07.2018**

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

“(A) Setting aside/quash/declare ultra vires the impugned order and website uploading of the R1 whereby the petitioner has been declared disqualified and his DIN being made inactive as exhibited and annexed in ANNEXURE P3 as disqualified from the period 1.11.2015 to 31.10.2020 for violation of section 164(2)(a) of The Companies Act, 2013 at serial no. 10492 and consequently the DIN to be declared active.”

2. The petitioner is essentially aggrieved by the inclusion of his name in the list of disqualified directors published by the respondents.

3. He states that he has been disqualified pursuant to the failure on the part of M/s Go Dairy Private Limited (hereafter ‘the Company’) to file the

requisite returns with the Registrar of Companies (ROC). The said action has been taken on an assumption that the petitioner is a Director of the Company. The petitioner states that he had resigned from the Company on 02.01.2012 and further had also sent a legal notice to the Board of Directors of the Company on 01.04.2013. This was followed by the petitioner filing a petition before the Company Law Board in respect of the affairs of the Company on 30.04.2013.

4. Plainly, if the petitioner had tendered his resignation and was otherwise not in control of the Company, the punitive action of disqualifying him from acting as a Director under section 164(2)(a) of the Companies Act 2013, would be unsustainable.

5. In view of the above, the present petition is disposed of by setting aside the impugned list of disqualified directors to the extent it includes the petitioner's name.

6. The ROC may consider the averments made in the present petition and if the ROC still intends to pursue any action against the petitioner, the ROC shall issue a show cause notice calling upon the petitioner to meet the allegations against him. Needless to state that the ROC shall also afford the petitioner a reasonable opportunity of being heard before passing any adverse orders.

7. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

JULY 16, 2018
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