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

+ W.P.(C) 8836/2018

AMRIT LAL SURI

..... Petitioner

Through: Mr Mohit Chaudhary and Ms Srishti
Gupta, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Gigi C. George with Ms Shiva
Lakshmi, CGSC for UOI/R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.12.2018

CM No. 35911/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 8836/2018 in CM No. 33977/2018

3. The petitioner has filed the present petition, *inter alia*, impugning an action of respondent no.2 in disqualifying the petitioner under the provisions of Section 164(2)(a) of the Companies Act, 2013.
4. The petitioner has been disqualified on account of default committed in respect of respondent no.3 (M/s Vibha Build Tech Private Limited). It is the petitioner's case that he had resigned as a director of the said company way back as on 01.07.2010. The petitioner states that thereafter, he had not acted in any manner in connection with the affairs of respondent no.3 company. The petitioner has also filed a letter dated 07.06.2010 issued by the then directors of M/s Vibha Build Tech Private Limited, *inter alia*, removing the petitioner as an authorised signatory of the bank accounts maintained with Axis Bank.

5. Ms Shiva Laxmi states that the petitioner had not taken any steps to inform the Registrar of Companies (ROC) of his resignation from respondent no.3. She also referred to section 168 of the Companies Act 1956 in support of her contention that the petitioner was obliged to inform the ROC of his resignation.

6. The above contention is not persuasive as there was no provision in the Companies Act 1956 which required the director to submit information as to his resignation with the ROC. It also, *prima facie*, appears that the petitioner had resigned as claimed by him as that would also explain his removal as an authorised signatory of the company.

7. In view of the above, the impugned list of disqualified directors to the extent that it includes the petitioner's name, is set aside. The respondents are directed to revalidate the petitioner's DIN and DSC.

8. It is clarified that the ROC is not precluded from taking further steps for disqualifying the petitioner in the event the ROC is of the view that the petitioner's statement that he had resigned from respondent no.3 company is incorrect. Needless to state that, if any, such action is proposed to be taken by the ROC, he shall do so only after affording the petitioner an opportunity of being heard and after examining the relevant facts.

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

VIBHU BAKHRU, J

DECEMBER 11, 2018/RK