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

+ **W.P.(C) 1106/2019**

ABHIMANYU UPADHAYA

..... Petitioner

Through: Mr Sanjeev Panda and Mr Sumit
Shukla, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Manoj Kohli, Advocate for R1.
Mr R. D. Makheeja, Advocate for
R-2.

AND

30.

+ **W.P.(C) 1165/2019**

DEBASIS DIXIT

..... Petitioner

Through: Mr Sanjeev Panda and Mr Sumit
Shukla, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Manoj Kohli, Advocate for R1.
Mr R. D. Makheeja, Advocate for
R- 2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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04.02.2019

CM No.5037/2019 in W.P.(C) 1106/2019

CM No. 5246/201 in W.P.(C) 1165/2019

1. Allowed, subject to all just exceptions.
2. The applications are disposed of.

W.P.(C) 1106/2019

W.P.(C) 1165/2019

3. The petitioners have filed the present petitions, *inter alia*, praying that the order dated 07.01.2019 passed by respondent no.2 (Institute of Company Secretaries of India – ICSI) be stayed till the Appellate Authority is notified and constituted by respondent no.1.
4. By the order dated 07.01.2019, the Board of Discipline of the ICSI had concluded that the actions of the petitioners had brought disrepute to the profession and the ICAI. The allegations against the petitioners were that they had signed the balance sheets of several companies for the year ending on 31.03.2012, the modus being that were employed by these companies for a short period of four days to seven days. It was alleged that by this subterfuge of taking up short term appointments only to sign the balance sheets, the petitioners had effectively assisted in circumvention of the provisions of Section 383(A) of the Companies Act, 1956 read with the Companies (Appointment & Qualification of Secretary) Rules, 1988.
5. The present petition does not indicate any grounds on which the said order can be faulted. In this view, this Court is unable to accede to the prayer as made before this Court to stay the impugned order.
6. The learned counsel appearing for the ICSI submits that a Chairperson of the Appellate Authority has been appointed. However, its members are yet to be appointed. He further submits that although there is no restriction on the petitioners in filing the appeal, the petitioners

have not preferred any appeal against the order dated 07.01.2019, as yet.

7. In this view, the present petition is dismissed. However, it is clarified that the petitioners are not precluded from filing an appeal before the Appellate Authority. The petitioners are also not precluded from filing a separate petition to assail the impugned order on merits.

VIBHU BAKHRU, J

FEBRUARY 04, 2019
MK