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

+ W.P.(C) 1724/2019

MRS. RITA MALIK AND ANR.

..... Petitioners

Through: Mr Rakesh Khanna, Mr Sanjeev
Saraswat and Mr Nitin Gupta,
Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms Amrita Prakash, CGSC for UOI
with Mr Hari Shankar Sharma,
Advocates for R-1 & 2.
Ms Manpreet Kaur Bhasin, Advocate
for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **20.02.2019**

1. Issue notice. The learned counsel appearing for the respondents accept notice.
2. The petitioners have filed the present petition, *inter alia*, impugning the action of the respondents in declaring the petitioners as disqualified directors under Section 164(2)(a) of the Companies Act, 2015. The names of the petitioners have been included in the list of disqualified directors published by respondent no.1 (MCA) on its website.
3. The averments made in the petition indicate that the petitioners were appointed as directors of Explorers Travels and Tours Private Limited on 20.10.2017. It is apparent from the list published on the website of

respondent no.1 that the action against the petitioners has been taken on account of failure on the part of the said company (Explorers Travels and Tours Private Limited) to file its annual returns for a consecutive period of three years (FY 2014-15, 2015-16 and 2016-17).

4. The petitioners contend that there are disputes between certain shareholders and the same are pending consideration before the National Company Law Tribunal (NCLT). The petitioners also claim that an application has been moved before NCLT for holding an Annual General Meeting and the same is pending.

5. It is the petitioners' case that the Annual General Meetings could not be conducted in view of the disputes pending before NCLT. It is stated that directors' report and the auditor's report of the company was also objected to and was subject matter of proceedings before the NCLT. It does appear from the averments made in the petition that despite the petitioners' endeavouring to do so, the Annual General Body Meetings of the company could not be conducted.

6. Plainly, the petitioners cannot be penalised on account of non-submission of returns in these circumstances. In view of the above, the petition is allowed and the impugned list of disqualified directors, to the extent it includes the names of the petitioners, is set aside. The respondents are also directed to restore the DIN/DSC of the petitioners.

7. It is, however, clarified that if the respondents are of the view that the petitioners are disqualified to act as directors, it would be open for the respondents to issue a show cause notice and pass an appropriate order uninfluenced by the observations herein, after affording the petitioners an

opportunity to be heard.

8. The petition is disposed of in the aforesaid terms.
9. Order *dasti* under signatures of the court master.

FEBRUARY 20, 2019
RK

VIBHU BAKHRU, J