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

+ W.P.(C) 2730/2019

SANDEEP JINDAL

..... Petitioner

Through: Mr Rohit Mehra, Advocate.
versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms Sarika Singh, Sr. Panel Counsel
for respondent.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.03.2019**

CM No. 12597/2019

1. Allowed, subject to all just exceptions.

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2. The learned counsel appearing for the respondents states that the counter affidavit has been filed. However, the same is not on record. A photocopy of the same has been handed across. It is seen from the counter affidavit that there is no averments disputing the essential facts as stated in the petition.

3. The petitioner has filed the present petition, *inter alia*, impugning the list of disqualified directors to the extent it includes the petitioner's name. The petitioner's name features at SI. No.4124 of the list of Directors, who have been disqualified under Section 164(2)(a) of the Companies Act, 2013 for the Financial Years 2014-15, 2015-16 and 2016-17. The petitioner is stated to have incurred the disqualification under Section 164(2)(a) of the Companies Act, 2013 on account of default committed by M/s Colors

Developers and Promoters Pvt. Ltd. in not filing the returns for the consecutive period of three Financial Years (FY 2014-15, 2015-16 and 2016-17).

4. The company in question (M/s Colors Developers and Promoters Pvt. Ltd.) was incorporated on 30.11.2012. The petitioner was appointed as an Additional Director on the Board of the said company on 12.06.2014. In terms of Section 161 of the said Act, the petitioner would hold office as an Additional Director till the date of the next Annual General Meeting (AGM) or the last date on which such AGM ought to have been held, whichever is earlier.

5. In the present case, the last date of holding the AGM was 30.09.2014. Concededly, no AGM was held after the petitioner was appointed and, therefore, the petitioner ceased as an Additional Director on 30.09.2014. Clearly, in the circumstances, the petitioner cannot be penalised for non-filing of returns for the FY 2014-15, 2015-16 and 2016-17.

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 respondents are directed to forthwith restore the Director Identification Number (DIN) and Digital Signature Certificate (DSC). The parties are left to bear their own costs.

7. The petition and the pending application are disposed of.

8. Order *dasti* under signature of the Court Master.

VIBHU BAKHRU, J

MARCH 28, 2019

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