

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.01.2020

Pronounced on :27.01.2020

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.35499 & 35504 of 2019

and

W.M.P.Nos.36332, 36334, 36339 & 36341 of 2019

- 1.Ramnarayan Amarlal ...Petitioner in W.P.No.35499 of 2019
2.Shankar Amarlal ...Petitioner in W.P.No.35504 of 2019

-Vs-

- 1.The Union of India
Represented by its
Ministry of Corporate affairs,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi - 110001.

2.Registrar of Companies
Tamilnadu, Chennai,
Block No.6, B Wing, 2nd floor,
Shastri Bhawan
26, Haddows road,
Chennai - 600 006.

...Respondents in both WPs

Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned order dated 18.12.2018, uploaded and hosted on the website of the 1st respondent in so far as the petitioners herein are concerned, and quash the status "Disqualification under Section 164(2)" against their Director Identification Numbers (DIN Nos.739806 & 739657) and consequentially direct the respondents herein to permit the petitioners to get reappointed as Director of any Company or appointed as Director in any company or to act as Director in any Active Company without any hindrance.

For Petitioner : M/s.Varam Legal, Mr. A.Ram Kumar

For R1 & R2 : Mr.G.Rajagopalan,
Additional Solicitor General,
for Mr.A.K.Manojkumar,
Central Government Standing Counsel.

COMMON ORDER

These Writ Petitions have been filed in the nature of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned order dated 18.12.2018, uploaded and hosted on the website of the 1st respondent in so far as the petitioners herein are concerned, and quash the status "Disqualification under Section 164(2)" against their Director Identification Numbers (DIN Nos.739806 & 739657) and consequentially direct the respondents herein to permit the petitioners to get reappointed as Director of any Company or appointed as Director in any company or to act as Director in any Active Company without any hindrance.

2. Heard M/s.Varam Legal, Mr.A.Ram kumar, learned Counsel for the Petitioner and Mr.G.Rajagopalan, learned Additional Solicitor General for A.K.Manojkumar, Central Government Standing Counsel.

3. In the instant cases, the Directors have been disqualified under the provision of Sections 164 and 167 of Companies Act, 2013. It is however pointed out by the learned counsel for the petitioners that subsequently, the National Company Law Tribunal by orders dated 17.07.2019 and 04.09.2019 has revived the Companies and has directed the Companies to file accounts. It must be noted that the Companies were struck off from the role of Registrar of Companies under Section 248 of the Companies Act, 2013. It has been pointed out by the learned counsel that since the Tribunal has revived and restored the Companies, then consequential orders to activate the Directors Identification Number has to be necessarily passed. The fact that the Companies have been restored shows that the Companies are not in default. When the Companies are not in default, naturally the Directors would not suffer disqualification under Section 264 (2)(a) of the Companies Act, 2013. If the Directors do not suffer disqualification under the said provision, naturally, they need not vacate the office of the Directorship in any other companies as given in the proviso under Section 167 (1) (a) of the Companies Act, 2013.

4. In view of these reasons, which are borne out by the facts and it is not disputed, particularly, in view of the fact that the Companies have been restored, there is an obligation for the Tribunal to give such directions placing the Companies and all other persons in the same position as nearly as may be as if the Companies had not been struck off from the Registrar of Companies. This is specifically provided in Section 252(3) of the Companies Act, 2013. Therefore, a direction is issued to the Registrar of Companies, namely, 2nd respondent to activate the Director Identification Numbers of the petitioners on or before 31.01.2020. The Companies and the Directors are to be placed in the same position as if the Companies have not been struck off and the Directors have not suffered any disqualification and the Director Identification Numbers have not been deactivated. The Writ Petitions are allowed. No order as to costs. Consequently, connected Writ Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

smv

To

1.The Union of India
Ministry of Corporate affairs,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi - 110001.

2.Registrar of Companies
Tamilnadu, Chennai,
Block No.6, B Wing, 2nd floor,
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26, Haddows road,
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+1 CC to M/s.Varam Legal, sr 6029.

W.P.Nos.35499 & 35504 of 2019

RGN(CO)
SP(26/02/2020)