

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 28756 of 2019

ORDER:

This Writ Petition is filed for the following relief:

“....to issue any appropriate writ order or direction more particularly in the nature of a Writ of Mandamus

a) declaring the action of the Respondents in disqualifying the Petitioner invoking Section 164(2)(a) as arbitrary illegal contrary to the principles of natural justice in violation of the provisions of the Companies Act 2013 and in contravention of the rights guaranteed under Article 14 and Article 19 (1)(g) of the Constitution of India and consequently direct the Respondents to restore the DIN of Petitioner being DIN 06524368 that the list of directions passed by the Ministry of Corporate Affairs MCA on the website i e www mca gov in as arbitrary illegal without jurisdiction contrary of the provisions of the Companies Act 2013 as Rule 11 of the Companies Appointment of Directors Rules 2014 violate the principles of natural justice besides violating the rights guaranteed under the Article 14 and Article 19 (1)(g) of the Constitution of India and quash/set aside the same to the extent it declares /treats the petitioner as disqualified in terms of section 164(2)(a) of the Companies Act 2013 in the interest of justice.

b) That the petitioner is not disqualified in terms of section 164(4)(a) of the Companies Act 2013 for the reason of the alleged default of non-filing of Annual Returns and financial statements with the by company.”

When the matter is taken up, it is submitted by the learned counsel for the petitioner that the issue raised in the present Writ Petition is squarely covered by the common order dated 18.07.2019 passed by this Court in W.P.No.5422 of 2018 and batch.

Learned Standing Counsel for the Registrar of Companies (For the State of Telangana) appearing for respondent No.2 does not dispute the aforesaid submission.

Operative portion of the aforesaid order reads as under:

“For the foregoing reasons, the impugned orders in the writ petitions to the extent of disqualifying the petitioners under Section 164(2)(a) of the Act and deactivation of their DINs, are set aside, and the 2nd respondent is directed to activate the DINs of the petitioners, enabling them to function as Directors other than in strike off companies.

It is made clear that this order will not preclude the 2nd respondent from taking appropriate action in accordance with law for violations as envisaged under Section 164(2) of the Act, giving the said provision prospective effect from 01.04.2014 and for necessary action against DIN in case of violations of Rule 11 of the Rules.

It is also made clear that if the petitioners are aggrieved by the action of the respondents in striking off their companies under Section 248 of the Act, they are at liberty to avail alternative remedy under Section 252 of the Act.

All the writ petitions are accordingly allowed to the extent indicated above.”

In those circumstances, following the above said common order and for the reasons recorded therein, this Writ Petition is also allowed in terms thereof.

Miscellaneous Petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

3rd JANUARY, 2020.

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