

50-51
06.01.2022
TN

CPAN No.417 of 2021
In
WPA No.7464 of 2020
IA No: CAN 1 of 2020

Subhrangsu Das and others
Vs.
Shri U.K. Sahoo

(Via Video Conference)

Mr. Puspall Chakraborty,
Mr. Arkadipia Sengupta,
Ms. Prisanika Ganguly

.... for the petitioners

Mr. Avinash Kankani

.... for the alleged contemnor

The supplementary affidavit filed by the petitioners today be kept on record.

Learned counsel for the petitioners argues that, despite the clear order of this court dated March 1, 2021 for the alleged contemnor to consider the writ petition as representation of the parties as well as to reconsider the disqualification of the DINs of the petitioners upon giving the petitioners an opportunity of representation within the time stipulated in the said

order, no such opportunity of hearing/representation has been given to the petitioners. Moreover, instead of the Registrar of Companies, who was to give such hearing as per the order, the Assistant Registrar of Companies has made a unilateral communication indicating that the petitioners have already been disqualified as Directors and the DIN numbers cancelled on the basis of a past action, without giving any further scope of representation to the petitioners and/or any reason for coming to such decision.

Learned counsel for the alleged contemnor submits that the alleged contemnor has complied with the order of this court by considering the writ petition as a representation and issuing the communication dated December 23, 2021 only thereafter.

However, it is evident that much was left to be desired in the action of the alleged contemnor. First, the alleged contemnor did not give any reason for the matter being delegated to the Assistant Registrar of Companies and not taking any decision himself as per the court's order. Secondly, the alleged contemnor did not give any opportunity of representation whatsoever to the petitioners while deciding the writ petition as representation.

On a more serious note, the plea taken by the alleged contemnor that the writ petition was treated

as a representation was not coupled with any *bona fide* intention of ‘reconsideration of the disqualification of the DINs’ of the petitioners and/or any semblance of opportunity of representation being given to the petitioners. *Prima facie* it appears that the Assistant Registrar has merely issued a cursory communication regarding past action and failed to reconsider the disqualification of the DINs. As a last chance, on the prayer of learned counsel for the alleged contemnor, the alleged contemnor is permitted to rectify such error and, upon appropriate notice to the petitioners, to give the petitioners an opportunity of hearing and only thereafter, to **reconsider** the writ petition of the petitioners as a representation.

It is made clear that mere reiteration of a past action and/or decision of the alleged contemnor will not suffice in lieu of a reasoned reconsideration order.

The matter shall next be enlisted for hearing on January 20, 2022.

In the event the alleged contemnor fails to comply with this order and/or the order dated March 1, 2021 to the letter by that date, appropriate Rule of Contempt may be issued on the next occasion.

(Sabyasachi Bhattacharyya, J.)