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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3430 OF 2021

Mourya Ispat Private Limited and anr. ... Petitioners
V/s.
Union of India and ors. ... Respondents

Mr.Alankar Kirpekar alongwith Mr.Sagar Kasar and Mr.Sachin P. Patil
i/by M/s V.M.K.Legal, Advocates for the Petitioners.
Mr.Aditya Thakkar alongwith Mr.D.P.Singh, Advocates for the
Respondents.

**CORAM : UJJAL BHUYAN &
MADHAV J. JAMDAR, JJ.
DATE : OCTOBER 04, 2021.**

P.C.:-

Heard learned counsel for the parties.

2. By filing this petition under Article 226 of the Constitution of India, petitioner seeks a direction to respondent No.2 to remove the name of petitioner No.2 from the disqualification list and to restore the Director Identification Number (DIN) of petitioner No.2.

3. Petitioner No.1 is a private limited company incorporated under the Companies Act, 1956. Petitioner No.2 was a Director of petitioner No.1 who was disqualified from the directorship under section 164(2) (a) of the Companies Act, 2013 vide order dated 31st August, 2018 by the Registrar of Companies, Maharashtra, Mumbai.

4. This court vide order dated 31st August, 2021 had summed up the controversy in the following manner :-

“2. The learned counsel for the Petitioners submits that in the present proceedings, Respondents Office of the Registrar of Companies, Maharashtra Mumbai published the list of directors disqualified under section 164(2)(A) of the Companies Act, 2013 for financial year 2014-15, 2015-16 and 2016-17. He submits that in that list at page 83 at Serial No.4247 Petitioner's name is shown where it is stated that they are disqualified from 01.11.2016 to 31.10.2022 i.e. for six years which is contrary to law.

3. At this stage, the learned counsel for the Respondents submits that he requires some time to take instruction from the concerned officer whether they should rectify this case if there is a mistake as per the law. For this purpose, he requires some time.

4. Not only that, the learned counsel for the Respondents also placed on record compilation of orders passed by this court in several matters. He submits that this court in Writ Petition No.1224 of 2018 Satish Kumar Gupta vs. Union of India and Anr. with connected matters by order dated 07.02.2020 refused to grant any interim or ad-interim order. Hence, there is no question of granting any interim relief in the present matter.”

5. We find that vide order dated 31st August, 2018 issued by the Registrar of Companies, Maharashtra, Mumbai, the directors of companies enlisted in annexure-A attached to the said order were disqualified under section 164 (2) (a) of the Companies Act, 2013 for having not filed financial statement or annual return for any continuous period of three financial years, being 2015, 2016 and 2017. At serial No.4247 of annexure-A appended to the order dated 31st August, 2018 is the name of petitioner No. 2 having DIN No.266803. The period of disqualification is shown as from 1st November, 2016 to 31st October, 2022.

6. Section 164 of the Companies Act, 2013 deals with disqualification for appointment of Director. As per sub-section (2)

no person who is or has been a director of a company which has not filed a financial statement or annual return for any continuous period of three financial years etc. shall be eligible to reappointment as director of that company or in any other company for a period of 5 years from the date on which the said company fails to do so.

7. Thus from the above we find that the disqualification to be reappointed as a director in the parent company or appointed in other company is for a period of 5 years. However from annexure -A appended to the order dated 31st August, 2018, we find that the period of disqualification in so far petitioner No. 2 is concerned is for six years, i.e., from 1st November, 2016 to 31st October, 2022.

8. Learned counsel for the respondents fairly submits on instructions that this was an inadvertent mistake and that the expiry date should be read as “ 31st October, 2021” instead of 31st October, 2022.

9. That being the position and having regard to the provisions of section 164(2)(a) of the Companies Act, 2013, we clarify and direct that disqualification of petitioner No.2 for appointment /reappointment as director would come to an end with effect from 31st October, 2021, whereafter the DIN shall be restored to petitioner No.2.

10. With the above directions, writ petition is disposed of.

(MADHAV J. JAMDAR, J.)

(UJJAL BHUYAN, J.)

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