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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Petition No. 12762 of 2021
and W.M.P.Nos.13561 & 13562 of 2021

Emmanuel

... Petitioner

Vs

1. Union of India
Represented by its
Ministry of Corporate Affairs
Shastri Bhavan
Dr.Rajendra Prasad Road
New Delhi - 110 001.

2. The Registrar of Companies
Tamil Nadu, Chennai
Block No.6, B Wing 2nd floor
Shastri Bhavan 26
Haddows Road, Chennai-600 006.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 2nd respondent relating to the impugned order dated 17.12.2018 uploaded in the website of the 1st respondent insofar as the petitioner herein vide DIN-6407805 is concerned, quash the same as illegal, arbitrary and devoid of merit and consequentially direct the respondents herein to permit petitioner to get reappointed as Director of the company or appointed as Director in other company without any hindrance.

For Petitioner : Mr.N.V.Prakash
For R1 : Ms.A.Anuradha
Addl. Central Govt. Standing Counsel

For R2 : Mr.G.Krishnaraja
Govt. Advocate

O R D E R

The prayer made in this writ petition is to issue a Certiorarified Mandamus, calling for the records of the 2nd



respondent relating to the impugned order dated 17.12.2018 uploaded in the website of the 1st respondent, insofar as the petitioner vide DIN-6407805 is concerned and quash the same and for consequential relief.

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2. According to the petitioner, the 2nd respondent released a list of disqualified directors, who have been disqualified under Section 164(2)(a) of the Companies Act, 2013, as directors with effect from 01.11.2017 to 31.10.2022, in which, his name was also mentioned as item no.594 (DIN No: 6407805). In other words, the 2nd respondent, by including the name of the petitioner, has disqualified him as Director under Section 164(2)(a) of the Companies Act, 2013 for non-filing of financial statements or annual returns for continuous period of three financial years by the defaulting companies on whose board, the petitioner is also a Director, due to which, he is prohibited from being appointed or reappointed as director in any other company for a period of 5 years. Stating that the action so taken by the 2nd respondent is arbitrary and unreasonable, the petitioner has filed the present writ petition with the aforesaid prayer.

3. Today, when the matter was taken up for consideration, the learned counsel appearing for the parties jointly submitted that the issue involved herein is no longer res integra. Earlier, this Court by order dated 03.08.2018 in WP.No.25455 of 2017 etc. batch, in Bhagavan Das Dhananjaya Das case reported in (2018) 6 MLJ 704, allowed those writ petitions and set aside the orders dated 08.09.2017, 01.11.2017, 17.12.2018, etc. passed by the Registrar of Companies, disqualifying the petitioners therein to hold the office of directorship of the companies under Section 164(2)(a) of the Companies Act, which came into effect from 01.04.2014. Thereafter, yet another set of disqualified directors approached this court by filing WP.No.13616 of 2018 etc. batch (Khushru Dorab Madan v. Union of India) which were dismissed by order dated 27.01.2020. The said order of the learned single judge was challenged by some of the petitioners therein before the Division Bench of this Court in W.A.No.569 of 2020, etc. batch (Meethelaveetil Kaitheri Muralidharan v. Union of India, 2020 SCC OnLine Mad 2958 : (2020) 6 CTC 113), which after elaborately dealt with the issue as to whether the RoC is entitled to deactivate the Director Identification Number (DIN), allowed those writ appeals on 09.10.2020, the relevant passage of which, are profitably, extracted below:

"41. As is evident from the above, Rules 9 and 10 deals with the application for allotment of DIN. Rule 10(6) specifies that the DIN is valid for the life time of the applicant and shall not be allotted to any other person. Rule 11 provides for the cancellation or



43. In the result, these appeals are allowed by setting aside the impugned order dated 27.01.2020. Consequently, the publication of the list of disqualified directors by the ROC and the deactivation of the DIN of the Appellants is hereby quashed. As a



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corollary to our conclusion on the deactivation of DIN, the DIN of the respective directors shall be reactivated within 30 days of the date of receipt of a copy of this order. Nonetheless, we make it clear that it is open to the ROC concerned to initiate action with regard to disqualification subject to an enquiry to decide the question of attribution of default to specific directors by taking into account the observations and conclusions herein. No costs. Consequently, connected miscellaneous petitions are closed."

4. Therefore, following the aforesaid decision, the writ petition stands allowed, in the terms as indicated in the judgment in Meethelaveetil Kaitheri Muralidharan's case. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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W.P.No.12762 of 2021

AK-II(CO)
CT(28/07/2021)