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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.15740 OF 2021

AND

W.M.P.NOS.16644 & 16645 OF 2021

Hariharan Sengunam Ramamoorthy

...Petitioner

Versus

1. Union of India

Rep. by its Secretary
Ministry of Corporate Affairs,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi - 110 001.

2. Registrar of Companies,

Tamil Nadu, Chennai,
Block No.6, B-Wing, 2nd Floor,
Shastri Bhawan, 26, Haddows Road,
Chennai - 600 034.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the second respondent relating to the impugned order dated 18.12.2018 uploaded in the website of the first respondent in so far as the petitioner is concerned, quash the same as illegal, arbitrary and unconstitutional and consequentially, direct the respondents herein to permit petitioner to get reappointed as Director of the Company.

For Petitioner : Mr.D.Peruman Saranyan

For Respondents : Mr.R.Subramani,
Asst.Central Govt. Standing Counsel

O R D E R

The present writ petition has been filed seeking a certiorarified mandamus calling for the records of the second respondent relating to the impugned order dated 18.12.2018 uploaded in the website of the first respondent in so far as the



petitioner herein is concerned, quash the same and for consequential relief.

2. According to the petitioner, the second 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 01.11.2016, in which, his name was also mentioned as item nos.12831, 11620 & 12748 (DIN No: 01269578). In other words, the second 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 second 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 W.P.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 W.P.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 1958 : (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 surrender or deactivation of the DIN. It is very clear



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 corollary to our conclusion on the deactivation of



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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, this 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(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Ministry of Corporate Affairs,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi - 110 001.
2. The Registrar of Companies,
Tamil Nadu, Chennai,
Block No.6, B-Wing, 2nd Floor,
Shastri Bhawan, 26, Haddows Road,
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W.P.No.15740 of 2021

PMK(CO)
CS/20/09/2021