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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.9527 of 2022

&

WMP.Nos.9272 & 9274 of 2022

Elavarasan P.M.

... Petitioner

Vs

1.Union of India,

Rep. by its Ministry of Corporate Affairs,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi-110001.

2.The Registrar of Companies,

Tamil Nadu, Chennai,
Block No.6, B Wing, 2nd Floor,
Shastri Bhawan,
No.26, Haddows Road,
Chennai 600 006.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent relating to the impugned order of disqualification under Section 164(2) dated 08.09.2017, read with the updated list dated 01.11.2017 uploaded and hosted on the website of the 1st Respondent and also the order dated 17.12.2018, uploaded and hosted on the website of the 1st Respondent on 18.12.2018 in so far as the petitioner concerned and quash the status "Disqualified under Section 164(2)" against his Director Identification Number (DIN No:05226693) as illegal, arbitrary and devoid of merits and consequentially direct the Respondents herein to permit petitioner to get reappointed as Director of any Company or appointed as Director in any company or to act as Director in any Active Company without any hindrance.

For Petitioner : Mr.S.Sivalinga Kesavan

For Respondents : Mr.E.Perambur Palani,
Central Government Standing Counsel



O R D E R

Mr.E.Perambur Palani, learned Central Government Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter finally. Hence, by consent expressed by both counsel, this Writ Petition is disposed finally even at the stage of admission.

2. Both learned counsel would concur on the position that the issue that arises in this Writ Petition, being the disqualification of the petitioner as a Director in M/s.Arinna Business Solutions Private Limited is liable to be set aside in light of decision of the First Bench of this Court in Meethelaveetil Kaitheri Muralidharan Vs Union of India in W.A.No.569 of 2020 reported in [2020 (7) Mad LJ 641] wherein while considering identical cases of disqualification of Directors without notice, this Court has been pleased to set aside the publication of such list by the Registrar of Companies and the consequent deactivation of Director Identification Number (DIN).

3. I have had an occasion to consider the similar issue on 18.02.2022 in W.P.No.2889 of 2022 and applying the aforesaid decision, have passed the following order:

Mr.K.B.Arul, learned Additional Central Government Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter finally. Hence, by consent of both counsel, this Writ Petition is disposed finally even at the stage of admission.

2. The petitioner is a Director in a company under the name and style of Super Tech Solar System Private Limited. He challenges the records of the second respondent, i.e., the Registrar of Companies, Tamil Nadu, Chennai dated 01.11.2017 read with updated list dated 17.12.2018 uploaded on the website of the 1st respondent, i.e., Union of India, rep. by its Ministry of Corporate Affairs and quash of the same.

3. The necessity for the challenge at this point of time despite the list having been reflected in the website of Rlas early as in 2017 is for the reason that the petitioner seeks re-employment as a Director in another company and the aforesaid disqualification poses a hindrance to the same.

4. Learned Counsel for the respondents



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would admit that such disqualification was without any notice having been issued to the petitioner. In this connection, both the learned counsel drawn my attention to the decision of Division Bench of this Court in the case of Meethelaveetil Kaitheri Muralidharan Vs Union of India in W.A.No.569 of 2020 reported in [2020 (7) Mad LJ 641] wherein while considering identical cases of disqualification of directors without notice, this Court has been pleased to set aside the publication of such list by the Registrar of Companies and the consequent deactivation of Director Identification Number (DIN).

5. The operative portion of the decision reads as follows:

"...

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 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."

6. In light of the identity of facts between the present Writ Petition and in the matters dealt with by the First Bench in the aforesaid batch, the same order is taken to be passed in the present Writ Petition as well. The disqualification of the Director stands quashed and consequently, his DIN shall be reactivated within a period of 30 days from today.

7. This Writ Petition allowed. No costs. Consequently, connected miscellaneous petitions are closed.



4. In light of the identity of facts between the present Writ Petition and in the matters dealt with by the First Bench in the aforesaid batch, the same order is taken to be passed in the present Writ Petition as well. The disqualification of the Director stands quashed and consequently, his DIN shall be reactivated within a period of 30 days from today.

5. This Writ Petition allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vs/ska

To

1. The Ministry of Corporate Affairs,
Union of India,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi-110001.

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

+2cc to Mr.Prakash Goklaney, Advocate SR.No.27037

+1cc to Mr.Perambur E.Palani, Advocate SR.No.27718 (23/06/2022)

W.P.No.9527 of 2022 &
WMP.Nos.9272 & 9274 of 2022

MT(CO)
GN(04/05/2022)