



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.15021 and 15025 of 2022

and

WMP Nos.14240, 14241, 14244 and 14245 of 2022

Ganapathy Sivaprakash

..Petitioner in WP No.15021 of 2022

Babu Govinda Rajulu

..Petitioner in WP No.15025 of 2022

-Vs-

1. Union of India

Represented by its

Ministry of Corporate Affairs,

Shastri Bhawan, Dr.Rajendra Prasad Road,

New Delhi-110001.

2. Registrar of Companies,

Tamil Nadu, Chennai

Block No.6, B Wing 2nd Floor,

Shastri Bhawan, 26, Haddows Road,

Chennai - 600006

... Respondents in both the writ petitions

Prayer in W.P.No.15021 of 2022:

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to impugned orders dated 08.09.2017, read with impugned updated list dated 01.11.2017 and the impugned order dated 17.12.2018 uploaded and hosted on the website of the 1st respondent on 18.12.2018 insofar as the petitioner is concerned and quash the status "Disqualified under section 164(2) against his Director Identification Number (DIN No.05298342) as illegal, arbitrary and devoid of merits and consequently direct the respondents herein to permit the 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.



Prayer in W.P.No.15025 of 2022:

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to impugned orders dated 17.12.2018 uploaded and hosted on the website of the 1st respondent, insofar as the petitioner herein is concerned, quash the status "Disqualified under section 164(2) against his Director Identification Number (DIN No.6523606) as illegal, arbitrary and devoid of merits and consequently direct the respondents herein to permit the 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 Petitioners : Mr.Salai Varun
in both WPs

For Respondents : Mr.R.Sidharth
in both WPs Central Govt.Standing Counsel

COMMON ORDER

Mr.R.Sidharth, learned Central Government Standing Counsel accepts notice on behalf of the respondents. By consent of both the parties, the writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions have been filed challenging the disqualification orders passed under Section 164(2) of the Companies Act, 2013.

3. The respective petitioners have been disqualified to act as Directors under the impugned orders. It is well settled by the decision rendered by the Division Bench of this Court in Meetgelaveetil Kaitheri Mudalidharan vs Union of India & another dated 09.10.2020 in W.A.No.569, 718, 720, 721, 841 and 842 of 2020 that disqualification order disqualifying any person as a Director without issuance of any prior notice and without conducting an enquiry is bad in law.

4. Since the procedure as prescribed under the Companies Act, 2013 has not been followed before passing the impugned orders disqualifying the respective petitioners as Directors, the impugned order will have to be necessarily quashed and the writ petitions will have to be allowed. In the instant cases also, the respective petitioners were not served with any show cause notice and no enquiry was also held before disqualifying them as Directors. While deciding a similar issue, I had also



followed the aforementioned Division Bench judgment and allowed the writ petition on 24.03.2021 in W.P.No.7677/2021.

4. For the forgoing reasons, the impugned orders dated 08.09.2017, 01.11.2017, 17.12.2018 and 18.12.2018 insofar as the petitioners are concerned are hereby quashed and the Writ Petitions are allowed. However, it is made clear that it is open to the respondents to initiate fresh action with regard to the respective petitioners' disqualification subject to holding an enquiry and to decide the question of attribution of default committed by them. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi

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,
Shasthri Bhavan,26, Haddows Road,
Chennai - 600006.

+2ccs to Mr.R.Sidharth, Advocate, S.R.No.35950,35951

W.P.Nos.15021 and 15025 of 2022

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NSK/30/06/2022