

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2022

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.15412 of 2022

and

W.M.P.Nos.14564 & 14565 of 2022

Saravanan Sengoda Gounder (DIN:03483392)

.. Petitioner

Vs.

1. Union of India,
represented by its Ministry of Corporate affairs,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi - 110 001.

2. Registrar of Companies,
Coimbatore, Tamil Nadu,
Stock Exchange Building,
II-Floor, 683, Trichy Road, Singanallur,
Coimbatore - 641 005.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of 2nd respondent relating to the impugned order dated 01.11.2018 uploaded in the website of 1st respondent, insofar as the petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merit and consequently direct the respondents herein to permit the petitioner to use his Director Identification Number and to act as Director of any existing Company or to be appointed as a Director in any new company.

For Petitioner : Mr.Dhanaram Ramachandran

For Respondents : Mr.L.Infant Dinesh
Central Government Standing Counsel

O R D E R

This Writ petition has been filed challenging the disqualification of the petitioner as a Director under Section 164(2)(a) of the Companies Act, 2013. The impugned order is dated 01.11.2018. The petitioner has challenged the impugned

order on the ground that no notice was issued to him prior to his disqualification as a Director. The Director Identification No.3483392 has also been deactivated/suspended under the impugned order without affording any opportunity of hearing to the petitioner.

2. The issue raised in this Writ Petition is covered by the decision of the Division Bench of this Court in 'Meethelaveetil Kaitheri Mudalidharan Vs. Union of India & another' dated 09.10.2020 in W.A.Nos.569, 718, 720, 721, 841 and 842 of 2020. In the said Division Bench judgment, the same issue was involved where notice was not issued to the Director prior to his/her disqualification. The Hon'ble Division Bench set aside the disqualification order and passed the following order:

"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."

3. The petitioner in the instant case is similarly placed. Therefore, the order of the Division Bench referred to supra applies to this case also and similar direction needs to be issued in favour of the petitioner also by this Court.

4. Accordingly, the impugned order dated 01.11.2018 passed by the first respondent, uploaded in the website of the first respondent insofar as the petitioner herein is concerned, is quashed. The status of disqualification under Section 164(2)(a) against the Director Identification DIN No.3483392 is declared to be arbitrary, illegal and devoid of merits.

5. With the above observation, this Writ Petition is allowed as prayed for. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. Union of India,
represented by its Ministry of Corporate affairs,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi - 110 001.
2. Registrar of Companies,
Coimbatore, Tamil Nadu,
Stock Exchange Building,
II-Floor, 683, Trichy Road, Singanallur,
Coimbatore - 641 005.

+1cc to M/s.D.R.Law Chambers, Advocate, S.R.No.38699

W.P.No.15412 of 2022

NK (CO)
UMA (07/07/2022)