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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 7th February, 2023

+ **W.P.(C) 12615/2022**
BHARAT PERAJ BHANUSHALI Petitioner
Through: Mr. Yashoj Guglani, Advocate.
versus
UNION OF INDIA & ANR. Respondents
Through: Ms. Shiva Lakshmi, CGSC (M:
9818054806)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 3540/2023 in W.P.(C) 12615/2022

2. The disqualification of directors, which was undertaken in respect of a large number of companies by the Ministry of Corporate Affairs in 2017 resulted in the Directors Identification Number ('DIN')/Digital Signature Certificate ('DSC') of the said directors also being deactivated.

3. Several judgments have been passed by High Courts across the country in respect of the said disqualification. The decisions of this Court that dealt with the substantive legal aspects relating to the disqualifications include -

- i. *Mukut Pathak & Ors. V. Union of India & Anr. [WP(C) No.9088/2018 decided on 04th November, 2019]* and
- ii. *Anjali Bhargava and Anr v. Union of India & Anr. [WP(C) No. 11264/2020 decided on 6th January 2021]*

4. Following the above two decisions, a number of petitions have been filed before this Court seeking reactivation of the DIN/DSC as also setting aside the disqualification and the same have been disposed of by various Id.

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Single Judges.

5. In one category of cases, there were difficulties being faced by the Petitioners as also the ROC, Delhi which is usually a party in these writ petitions. Such petitions involved individuals, who are directors in multiple companies, which are registered not only with ROC, Delhi but also with ROCs in other jurisdictions. In such cases, if even one company is registered in Delhi, the view taken has been that the Delhi High Court may exercise jurisdiction. Examples of such cases are –

- i. ***Maha Nand Sharma & Anr. v. Union of India & Ors. [WP(C) No.6793/2022 decided on 12th December, 2022]*** and
- ii. ***Deepak Chaudhary v. Union of India & Ors. [WP(C) 745/2023 vide Order dated 20th January, 2023]***

6. Considering the fact that individuals can be directors in multiple companies, which may be registered with different ROCs, it cannot be expected that such individuals will have to approach different High Courts for each of the companies to seek setting aside of the disqualification and reactivation of the DIN/DSC. If even one of the companies is registered in the jurisdiction of a particular High Court, then such a High Court would be competent to exercise jurisdiction. No decision holding to the contrary has been placed before this Court.

7. In the present case, the Petitioner is the director in three companies namely –

- (i) Flexipak Agro Foods Private Limited – ROC Mumbai,
- (ii) Circle Cargo Private Limited – ROC Delhi;
- (iii) Suntek Solar Energy Solutions Private Limited – ROC Hyderabad.

8. Vide order dated 19th September, 2022, the Id. Single Judge of this Court has, following the decision in **Anjali Bhargava (supra)**, directed in this petition as under:

“In view of the aforesaid, the Court finds no justification to hold against the petitioner in light of the judgement rendered in Anamika Devi.

In view of the aforesaid, the ends of justice would warrant the instant writ petition along with the pending application being disposed of with directions being framed to the second respondent to duly consider the prayer of the petitioner for reinstatement of the Director Identification Number and Digital Signature Certificates held by him bearing in mind the law as laid down in Anjali Bhargava.

Let the aforesaid exercise be concluded by the Registrar of Companies with expedition and preferably within a period of one month from today. It shall be open to the Registrar of Companies to verify all facts while proceeding to take a final decision in terms of the directions issued hereinabove.”

9. As can be seen from the above order dated 19th September, 2022 in this writ petition, the direction was that ROC, Delhi would dispose of the pending application in accordance with the principles laid down in **Anjali Bhargava (supra)**.

10. An application has now been moved by the Petitioner stating that the ROC, Delhi has not activated the DIN/DSC and has disposed of the representation of the Petitioner on account of lack of jurisdiction. The said order dated 19th January, 2023 has been annexed with the application. In the said order, the ROC, Delhi has taken a view that since the company Suntek Solar Energy Solutions Private Limited is registered with ROC, Hyderabad and the DIN has been deactivated by ROC, Hyderabad, ROC, Delhi would

not have any jurisdiction.

11. The orders for reactivation of DIN/DSC are being passed in a large number of matters. Considering that thousands of companies have been struck off and thousands of directors have been disqualified, the disqualification period has also come to an end, even in the present case, the Petitioner need not be, again referred to the concerned High Court for seeking their remedies. Accordingly, the following directions are being issued -

- i. DIN/DSC of the Petitioner shall be re-activated by the concerned ROCs with whom all the above three companies are registered;
- ii. In the present case, the ROC, Delhi shall forward today's order to ROC, Hyderabad and ROC, Mumbai, if required, for the purpose of reactivation of the DIN;
- iii. The reactivation of the DIN/DSC shall take place within a period of 2 weeks from now.

12. Considering that all the ROCs in the country function under the overall supervision and control of the Ministry of Corporate Affairs, the ROCs are bound to give effect to orders passed by the various High Courts, in respect of activation of DIN/DSC, especially in cases where the disqualification period has come to an end.

13. Application is disposed of.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 7, 2023/dk/rp