

43- 19.04.2023
44 Ct. No. 1
RP
AN

FMA 859 OF 2021
+
IA No. CAN 1 of 2021

Garima Rungta
Vs.
Union of India & Ors.

With

MAT 1390 of 2021
+
IA No. CAN 1 of 2022
CAN 3 of 2022

Krishna Kumar Rungta
vs.
Union of India & Ors.

Mr. Krishna Raj Thaker
Mr. Tanay Chakraborty
Mr. Debsoumya Basak
Mr. Viswajit Dasgupta (Neogi)
Ms. Twinkle Santra

... for Appellant

Mr. Ratnanko Banerjee
Mr. Shaunak Mitra
Mr. Rishav Dutt
Mr. Amardeep Singh
Ms. S. Basu

... for Respondent no.5

Mr. Avinash Kankani

... for respondent nos.1 to 3

1. This intra-Court appeals are directed against the judgment and order dated 26th July, 2021 passed in CAN 2 of 2021 in WPA 6697 of 2021 and the judgment and order dated 8th November, 2021 passed in CAN 1 of 2021 in WPA No.4347 of 2020. Though both the orders are separate orders passed by the learned writ Court but the issue involved in both the appeals and the writ petitions were identical. The appellants approached the

writ Court against the order passed by the Registrar of Companies deactivating the Director Identification Number (DIN) of the appellants. The appellants in both the appeals sought for setting aside such order and reactivating the DIN.

2. The learned writ Court after considering the submissions made by the parties had allowed the prayer sought for in the writ petition and went one step further by issuing a direction to the Registrar of Companies to upload the return of the company. The private respondent was not a party to the writ proceedings and therefore filed an application for recalling the order of the learned writ Court dated March 8, 2021. This application was taken up for consideration and the learned writ Court has passed certain orders and directions. So far as the first limb of the order whereby the learned writ Court had directed reactivation of DIN is concerned the appellants do not have any grievance but the appellants have got a grievance with regard to other observations and directions given by the learned writ Court insofar as the second limb of relief in regard to uploading of the return is concerned.
3. In our considered view, when the prayers sought for in the writ petition pertains only with regard to deactivation of DIN, no occasion arose for the Court to go beyond the relief sought for in the writ petition, more particularly, when the issue relating to whether returns

can be permitted to be uploaded is the issue which was emanated from a complaint filed by the private respondent before the Registrar of Companies. The contention of the appellant before us is that the complaint will not fall within the four corners of the circular dated February 10, 2012 issued by the Ministry and therefore the same cannot be cited as a reason for refusal to upload the returns of the company. In our view, this question has to be decided first by the Registrar of Companies, who has been impleaded as second respondent in the writ petition and it is for the second respondent to consider as to whether the complaint would fall within the four corners of the said circular and while doing so it is not only essential that the appellants should be heard but the private respondent, the complainant should also be heard in the matter.

4. It is submitted by the learned senior counsel for the respondent that there is inter se dispute between the appellants and the private respondent and arbitration proceedings have been initiated and certain orders have been passed by the learned Arbitrator.
5. In the light of the above, we are of the considered view that the portion of the order passed by the learned Single Bench with regard to whether returns can be permitted to be uploaded or not should be deleted and the matter may be relegated back to the Registrar of

Companies to decide this dispute. Therefore, the appeals stand **disposed of** by affirming the order passed by the learned Single Bench directing reactivating DIN of the appellants and the same shall be continued to be active insofar as whether the returns can be refused to be uploaded or not. The Registrar of Companies is directed to adjudicate this issue after notice to all parties concerned and afford an opportunity of hearing to them either in person or through virtual hearing to facilitate themselves. The appellant is directed to file a petition/representation/complaint before the Registrar of Companies after serving an advance copy on the private respondent and the private respondent is at liberty to file reply/objection to the said petition/representation/complaint and on receipt of the same the Registrar of Companies shall adjudicate the dispute and examine the matter and pass a reasoned order on merits and in accordance with law.

6. Needless to say that the Registrar of Companies while examining the complaint should decide as to whether the complaint relates to a management dispute at the instance of the private respondent and this should be decided after hearing all parties concerned. The Registrar of Companies is directed to comply with the above direction as expeditiously as possible preferably within a period of three months after conclusion of the personal hearing.

7. Consequently, the connected applications are all disposed of.

(T. S. Sivagnanam)
Acting Chief Justice

(Hiranmay Bhattacharyya, J.)