



WEB COPY



W.P.No.11275 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.06.2023**

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 11275 of 2020

W.M.P.Nos.13742, 13745 & 13747 of 2020

1. Manjeshwar Koppala Moose Kunhi
2. Marakkarakath Nachet Mohamed Abdurahiman
3. Ibrahim Farseen

... petitioners

VS

1. The Secretary,
Ministry of Corporate Affairs,
Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi – 110 001.
2. The Registrar of Companies,
2nd Floor, No.6, Haddows Road,
Shastri Bhawan,
Chennai – 600034.

... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned order undated published on December/2019 uploaded in the website of the 1st Respondent in so far as the Petitioners herein are concerned, quash the same as illegal arbitrary and devoid of merit and restore back the Directors Identification Numbers (having DIN No.01881253, 00242575 and 06818933) as active and consequently direct the respondents herein to permit the petitioners (having DIN No.01881253, 00242575 and 06818933) to get reappointed as director in the Company or appointed in any other Company without any hindrance or comply with the Companies Act 2013 to obtain Dormant Status as per law.

For the Petitioner : M/s. B.C.Balasubramanian
for M/s.Aiyar and Dolia

For the Respondents : Mr. M. Stahyan
Additional Central Government Standing
Counsel for R1 and R2



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ORDER

The writ petition has been filed in the nature of a Writ of certiorarified mandamus seeking interference with an order of the second respondent/Registrar of Companies at Chennai which had been issued under Section 164(2)(a) of Companies Act, 2013.

2. According to the petitioners, the second respondent released a list of disqualified directors, who have been disqualified under Section 164(2)(a) of the Companies Act, 2013, as directors with effect from 01.11.2018 in which, their name was also mentioned. (DIN Nos:01881253, 00242575 and 06818933). In other words, the second respondent, by including the names of the petitioners, has disqualified them as Directors under Section 164(2)(a) of the Companies Act, 2013 for non-filing of financial statements or annual returns for continuous period of three financial years by the defaulting companies on whose board, the petitioners are also the directors, due to which, they are prohibited from being appointed or reappointed as directors in any other company for a period of



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5 years. Stating that the action so taken by the second respondent is arbitrary and unreasonable, the petitioners have filed the present writ petition with the aforesaid prayer.

3. The issue is no longer resintegra as judgments have been passed by learned Single Judges of this Court interfering with such orders. I can cite one, namely the order dated 18.01.2021 in ***W.P.Nos. 584, 588 and 592 of 2021, Pandy Athipathy and two others vs Union of India represented by its Secretary, Ministry of Corporate Affairs, New Delhi and another.***

4. The learned Single Judge in that particular common order relating to three writ petitions had placed reliance on a Division Bench order of this Court in ***W.A.No. 569 of 2020 batch, Meetgelaveetil Kaitheri Muralidharan vs Union of India and another***, wherein it had been held as follows:

“ 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



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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. No costs. ”

5. The same order enures to the petitioner herein.

6. Another ground taken by the petitioners was that notice was not issued prior to the impugned orders being passed.

7. In view of the above pronouncement of the Division Bench, the impugned order is set aside and the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

05.06.2023

Index: Yes/no
nhs



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M.DHANDAPANI, J
nhs

To

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