

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

103+230

CWP-28352-2022 (O&M).
Date of Decision: 11.08.2023.

Shailja Thapa

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Swarnendu Chatterjee, Advocate,
Ms. Deepakshi Garg, Advocate, and
Mr. Anmol Gupta, Advocate, for the petitioner.

Mr. Piyush Khanna, Advocate,
for respondents No.1 and 2.

Mr. R.D. Gupta, Advocate, for
Mr. Vivek Dahiya, Advocate,
for respondent No.3.

VINOD S. BHARDWAJ. J (ORAL)

CM-13211-CWP-2023

The instant application has been filed under Section 151 of the Code of Civil Procedure, 1908 on behalf of the petitioner for placing on record the subsequent facts post issuance of notice of motion along with Annexures A-1 to A-3.

The application is allowed subject to all just exceptions.

Annexures A-1 to A-3 are taken on record.

The Registry is directed to tag the same at appropriate place.

Main case

Prayer in the present petition is for seeking issuance of directions to respondents No.1 and 2 to take a decision on the pending complaint dated 22.07.2022 (Annexure P-1) filed by the petitioner before the Registrar of Companies expeditiously and in a time bound manner.

Pursuant to the notice of motion issued by this Court, short affidavit on behalf of respondent No.2 has been filed today in the Court which is taken on record. A copy thereof has been handed over to the learned counsel for the petitioner.

It has been averred in the above said affidavit that respondent No.2 had taken up the complaint dated 22.07.2022 against respondent No.3 wherein it had been alleged by the complainant that respondent No.3 has miserably failed to fulfill her duties as Director of the Company under Section 166 of the Companies Act, 2013 and has also failed to act in good faith to promote the objects of the Company for the benefit of its member as a whole. The matter was taken up with the Company and its Directors vide email dated 22.09.2022 requesting to furnish their comment on the complaint within a period of 15 days, however, no response was received whereafter a reminder was also sent. The response was eventually received on 26.03.2023 and similar allegations were also leveled by respondent No.3 against the petitioner herein. Objections were also taken that the petition is misconceived,

based on false facts, motivated and has been filed with the oblique object to harass respondent No.3. Various communications had been relied upon by respondent No.3 to support her contention. It was also pointed out that a petition under Section 241 of the Companies Act 2013 has already been filed by the petitioner before the National Company Law Tribunal and reference was also made to an agreement between respondent No.3 and the petitioner w.e.f. 01.04.2022 which allowed both the parties to do their respective business under the umbrella of the Company and retain 100% revenue generated by their respective clients. It is also averred that the complaint largely pertains to oppression and mismanagement which is to be adjudicated by the National Company Law Tribunal and as the complaint involves adjudication of a dispute, the same has to be pursued before appropriate Judicial Forum.

Learned counsel for the petitioner contends that he has already submitted his response to the communication sent by the Registrar of Companies, and that no decision on the said complaint has been conveyed to her.

Learned counsel appearing on behalf of respondent No.2 undertakes to convey the decision of the Registrar of Companies to the petitioner.

The present petition is accordingly disposed of as not pressed at this stage. The decision on the application/complaint dated 22.07.2022 (Annexure P-1) shall be conveyed by respondent No.2-the Registrar of Companies to the petitioner herein whereafter petitioner

would be at liberty to take recourse to the appropriate remedies available to her in accordance with law.

August 11, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No