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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision:- 15<sup>th</sup> May, 2023.*

+ **W.P.(C) 6246/2023 and CM APPL. 24575/2023**

SUNIL RAWAT

..... Petitioner

Through: Mr. Amit Goel, Adv. (M:  
9810122373)

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Ms. Shiva Lakshmi, CGSC along  
with Ms. Srishti Rawat, Adv. for R-  
1. (M: 9818054806)  
Ms Perna Dhall, Adv. (M:  
8920466128)  
Mr. Anil Sharma, Mr. Gagan Gupta  
& Mr. Arpit Sharma, Advs. for R-2.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The Petitioner- Mr. Sunil Rawat has approached this Court under peculiar circumstances. The grievance of the Petitioner is that owing to the identity in names, the Petitioner has been wrongly reflected as a Director in Respondent No.2 company- Katariya Multi Trade Private Limited.
3. The brief background of the matter is that sometime in December, 2022, Company Secretary 'Kipaliben Chiragkumar Desai' filed certain documents for incorporation of Respondent No.2 company. While submitting the details of directors, the name of the Petitioner- Mr. Sunil Rawat with the DIN number being "03115497" was incorrectly submitted. The said DIN

number belongs to the Petitioner and the actual DIN number ought to be “00737598” which belongs to another person with the same name. The Petitioner is not associated with Respondent No.2 in any capacity.

4. Thus, upon realizing that his DIN number has been used for incorporation of Respondent No.2 company, he sent a representation to the Ministry of Corporate Affairs (MCA) as also to the said Company Secretary. However, the case of the Petitioner is that till date he has not been able to disassociate himself from Respondent No.2 company.

5. Ld. counsel for the Petitioner submits that the Company Secretary upon being informed of the difficulty of the Petitioner, submitted, through Respondent No.2 company, form DIR-12 reflecting the exit of the Petitioner from the Company in the form of a resignation. The Petitioner objected to the filing of Form DIR-12 as illegal as he neither consented to the appointment as a director nor he resigned from the said post. Thereafter, multiple emails were written by the CS, Respondent No.2 to MCA seeking changes in the incorporation form however, to no avail.

6. The fact that the Petitioner’s DIN number was incorrectly used is not in dispute. The apprehension of the Petitioner is that he may be embroiled in some difficulties or faced with penalties or other actions due to the incorrect use of his DIN number for incorporating Respondent No.2 company, as he has no association with the said Company. It is under these circumstances that the present writ petition has been filed with the following prayer:

*“a. writ in the nature of mandamus or any other appropriate writ, order or direction to the Respondent No. 1 to **cancel the Certificate of incorporation issued by the Respondent No.1, or strike off the name of the Respondent No.2 Company** from its records on the*

ground of incorporation of company by misusing DIN of the Petitioner herein;

*b. pass/grant such order/relief and further orders/reliefs in favour of the Petitioner and against the Respondents as this Hon'ble Court may deem just and proper in the facts and circumstances of the present case.”*

7. On behalf of Respondent No.2, Id. Counsel submits that the Company has already given an indemnity to the Petitioner that the Petitioner would not be liable for any of the activities of said company. It has also been clarified that the Petitioner's DIN number came to be used inadvertently and by sheer *bona fide* mistake.

8. On behalf of the Ministry of Corporate Affairs, Ms. Shiva Laxmi, Id. CGSC submits that the Court of appropriate jurisdiction in the present case would be the High Court of Gujarat as the company was incorporated there. She further submits that none of the conditions under Section 248 of the Companies Act, 2013 are attracted in the present petition.

9. A perusal of the master data of Respondent No.2 currently reflects the following individuals as its directors:

| <i>DIN/PAN</i>         | <i>Name</i>                                  | <i>Begin date</i> |
|------------------------|----------------------------------------------|-------------------|
| <b><u>00737598</u></b> | <b><u>SUNIL RAWAT</u></b>                    | 09/12/2022        |
| 06875562               | RAGHVENDRA<br>SINGH KRISHNA<br>KUMAR CHAUHAN | 09/12/2022        |
| 09180167               | CHINTAN<br>KANJIBHAI<br>KATARIYA             | 09/12/2022        |
| 09726157               | POONAM<br>HARENDRA SINGH                     | 09/12/2022        |

|  |                  |  |
|--|------------------|--|
|  | <i>BHADAURIA</i> |  |
|--|------------------|--|

10. This, according to the Petitioner as also Respondent No.2, is the correct position of directors of Respondent No.2 and their DIN numbers. However, at the time when the form for incorporation of the company was submitted, the following were shown as the directors with the DIN numbers:

| <i><b>DIN/PAN</b></i>  | <i><b>Name</b></i>                         | <i><b>Begin date</b></i> |
|------------------------|--------------------------------------------|--------------------------|
| <i>09180167</i>        | <i>Chintan Kanjibhai Katanya</i>           | <i>07/12/2022</i>        |
| <i>09726157</i>        | <i>Poonam Harendra Singh Bhadauna</i>      | <i>07/12/2022</i>        |
| <i>06875562</i>        | <i>Raghvendra Singh KmhnaKumar Chauhan</i> | <i>07/12/2022</i>        |
| <i><u>03115497</u></i> | <i><u>Sunil Rawat</u></i>                  | <i>07/12/2022</i>        |

11. Clearly, even the addresses were reflected as under:

|                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Name: Chintan Kanjibhai Katanya</i><br><i>S/o: Kanji Veera Katariya</i><br><i>Address: Bunglow No-14, Tulip 37 Society, Gotri, Beside Gokul Party Plot, Vadodara, GUJARAT-390021, India</i><br><i>Business: Occupation</i><br><i>Mobile No: 9825232774</i> |
| <i>Name: Poonam Harendra Singh Bhadauna</i><br><i>D/o: Pradipkumar Ambade</i><br><i>Address: Ambade House, Pradhan Marg Opp. Lakdi Pool, Dandia Bazar, Vadodara, Gujarat? 390001, India</i><br><i>Business: Occupation</i>                                    |

|                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Mobile No: 9723820516</i>                                                                                                                                                                                                                                                                             |
| <i>Name: Raghvendra Singh Krishna Kumar Chauhan</i><br><i>S/o: Krishna Chauhan</i><br><i>Address: Nanavati Menson,</i><br><i>Near Pandya Hotel,</i><br><i>Vadodara, Gujarat-390002, India</i><br><i>Business: Occupation</i><br><i>Mobile No: 9512062625</i>                                             |
| <u><i>Name: Sunil Rawat</i></u><br><u><i>S/o: Shyam Sundar Rawat</i></u><br><u><i>Address: 54 Ananda Colony, Ring Road, Near velocity</i></u><br><u><i>Cinema, Vijay Nagar, Indore, Madhya Pradesh - 452010, India.</i></u><br><u><i>Business: Occupation</i></u><br><u><i>Mobile No: 9827028900</i></u> |

12. Thus, at the time of the incorporation of Respondent No.2, the name of Sunil Rawat along with Indore, Madhya Pradesh address was mentioned. However, the DIN number of the Petitioner, who is a resident of Delhi, has been wrongly mentioned. It is this error that needs to be corrected in the records.

13. In the facts and circumstances of the case, when there is no dispute that the DIN number has been wrongly mentioned due to an error of the Company Secretary concerned, the Petitioner cannot be visited with consequences unknown to him and for which he is not to blame. It is accordingly directed that Respondent No.2 company Kataria Multi Trade Pvt. Ltd. shall be deemed to have been incorporated with the details of Directors given at **page 43 of the petition** as the correct details of the directors with the DIN numbers, as reflected in **paragraph 7 of the present order** above.

14. The Petitioner, whose DIN number has been incorrectly used, shall be

saddled with no liability in respect of Respondent No.2 company or its subsidiaries including any of their businesses or activities.

15. The Petitioner / Respondent No.2 company shall file the requisite form or fee, which may be required.

16. If any rectification has to be carried out on the MCA website or ROC, Ahmedabad records, the same shall be done within 4 weeks from the date of filing of an application to this effect.

17. The petition, alongwith pending applications, is disposed of in the above terms.

18. *Dasti.*

**PRATHIBA M. SINGH  
JUDGE**

**MAY 15, 2023/dk/sk**

