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

+ LPA 196/2018

UNION OF INDIA & ANR ..... Appellants  
Through: Ms. Shivalakshmi, CGSC with  
Ms. Ridhima Malhotra, Advocate.

versus

MANISH CHADHA & ANR. .... Respondents  
Through: Mr. S.P. Singh Chawla, Amicus Curiae.  
Mr. Zeeshan Ansari, Advocate.  
Mr. Kartik Rathi, Advocate for  
respondents (through video  
conferencing).

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Date of Decision: 10<sup>th</sup> April, 2023

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**  
**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**J U D G M E N T**

**MANMOHAN, J: (ORAL)**

**CM Appl. 16786/2023**

Present application has been filed on behalf of Mr. Robin George and Mr. Zeeshan Ansari, counsel for the respondents seeking discharge in the present appeal.

Issue notice.

Mr. Kartik Rathi, Advocate enters appearance on behalf of the respondents. He states that he will file his Vakalatnama during the course of the day.

Keeping in view the aforesaid development, the present application is allowed and Mr. Robin George and Mr. Zeeshan Ansari, Advocates are discharged.

Accordingly, application stands disposed of.

**LPA 196/2018 & CM Appls. 14094-14096/2018**

1. It is pertinent to mention that present appeal has been filed by the Union of India challenging the judgment and order passed by the learned Single Judge, whereby the Court has directed that the removal of the company from the Register of Companies under Section 248(1) of the Companies Act, 2013 would be deemed to be voluntarily struck-off under Section 248(2) of the Companies Act, 2013 and that the respondent-company would be entitled to a sympathetic consideration by the Registrar of Companies under the Condonation of Delay Scheme, 2018.
2. Learned counsel for the appellant-Union of India states that the appellant-Union of India is not in a position to comply with the impugned direction of the learned Single Judge as the company in question has been struck-off under Section 248(1) of the Companies Act, 2013 and necessary gazette notification thereof has been issued. She states that the computer software does not permit the struck-off company to be transposed as voluntarily struck-off company.
3. Learned counsel for the appellant-Union of India submits that the remedy for such struck-off company is by filing a revival application before the National Company Law Tribunal (NCLT) under Section 252 of the Companies Act, 2013.
4. However, learned counsel for the Union of India states that as the period of disqualification of the respondents-original writ petitioner as

director has now expired by efflux of time, she has no objection if the present appeal is disposed of in accordance with the order dated 11<sup>th</sup> November, 2022 passed by this Court in a batch of writ petitions in which lead writ petition was W.P.(C) 62/2019.

5. Learned counsel for the respondents-original writ petitioners states that though in the original writ petition there was a prayer that original writ petitioners be permitted to avail Condonation of Delay Scheme, 2018 and also be permitted to voluntarily seek removal of the name of respondent No.3 from the Register of Companies, yet he has instructions not to press for the aforesaid two reliefs.

6. Learned counsel for the respondents-original writ petitioners states that they would be satisfied if the relief granted vide order dated 11<sup>th</sup> November, 2022 is granted to them.

7. Since the present respondents-original writ petitioners are similarly placed to the writ petitioners in a batch of writ petitions (in which lead writ petition was W.P.(C) No.62/2019) which have already been disposed of by this Court, the present appeal is disposed of holding that as the period of disqualification of respondents-original writ petitioners/director has expired by efflux of time i.e. on account of lapse of five years, the respondents-original writ petitioners are eligible for appointment/re-appointment as directors. However, it is clarified that the writ petitioner-director, who carried on as director due to subsistence of interim order passed by this Court, shall not be visited with any civil or penal consequences. It is further clarified that the writ petitioner-director will not be eligible for appointment/re-appointment as director if he has incurred any other disqualification or was disqualified for any subsequent period on account of

non-filing of returns.

8. The parties are held bound by the undertaking/statements made by their learned counsel. The questions of law and fact raised by the appellant-Union of India are also left open.

9. With the aforesaid direction, the present appeal along with pending applications stand disposed of.

**MANMOHAN, J**

**SAURABH BANERJEE, J**

**APRIL 10, 2023**

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