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

\+ **W.P.(C) 2132/2021 & CM APPL. 6225/2021**

AMAN SURI ..... Petitioner

Through: Mr. Deepak Singh, Advocate.

versus

UNION OF INDIA & ANR. ..... Respondents

Through: Mr. J.P.N. Shahi, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% 08.03.2021

1. This hearing has been done through video conferencing.

2. The Petitioner was a Director in Ferramech Building Systems Pvt. Ltd. which was struck off from the Register of companies due to non-filing of its annual returns and balance sheets. The Petitioner was also disqualified from 1st November, 2016 to 31st October, 2021 under Section 164(2)(a) of the Companies Act, 2013 and his DIN/DSC was deactivated.

3. Ld. counsel for the Petitioner submits that the Petitioner wishes to start a new company in view of the legal position in ***Mukut Pathak & Ors. v. Union of India & Ors., 265 (2019) DLT 506*** as also in ***Anjali Bhargava & Anr. v. UOI & Anr. [W.P.(C) 11264/2020, decided on 6th January, 2021]***.

4. This Court has considered the legal position relating to activation of DIN/DSC numbers of directors of defaulting companies in ***Anjali Bhargava & Anr. v. UOI & Anr. [W.P.(C) 11264/2020, decided on 6th January, 2021].*** The relevant portion of the said order reads:

> *"4. There are four categories of Directors that are approaching Courts seeking setting aside of*

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disqualification and activation of DIN/DSC numbers.

(a) to (c)……

(d) <u>Disqualified directors of struck off companies seeking appointment as directors in other/new companies:</u>

The purpose of CFSS-2020 has been elucidated in the circular of the Ministry of Corporate Affairs as follows:

> *"In furtherance of the Ministry's Circular No 11/2020, dated 24th March, 2020 and in order to facilitate the companies registered in India to make a fresh start on a clean slate, this Ministry has decide to take certain alleviative measures for the benefit of all companies."*

This scheme has been introduced in view of the COVID-19 pandemic with the aim to enable a fresh start to defaulting companies and directors of such companies. The disqualification of defaulting companies was a step which was taken sometime in 2016-17 in order to ensure that filing of regular returns and compliances are undertaken strictly as per the provisions of the Act. It was also meant to be a measure to ensure that entities that are not conducting businesses are not misused as `shell companies' for any improper activities. A substantial part of the disqualification period has already been completed. The introduction of the CFSS is itself a step for `providing a fresh start'. Under such circumstances, continuation of the disqualification would defeat the Scheme and its purpose.

5. In furtherance of the purpose of this scheme,

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directors of struck off companies who seek to be appointed as directors of other/new companies, ought to be provided an opportunity to avail of this scheme, provided that they have undergone a substantial period of their disqualification. The scheme clearly seeks to provide a fresh start for directors of defaulting companies who seek appointment in other companies or wish to start new businesses. Therefore, if a substantial period has passed since the disqualification of such directors, they ought to be given an opportunity to avail of the scheme."

5. Following the judgment of this Court in ***Anjali Bhargava (supra)***, the Petitioner would fall under category 'd' as the disqualification took place in 2017 for the period from 1st November, 2016 to 31st October, 2021. A substantial period of disqualification has already been undergone. Accordingly, the DIN/DSC of the Petitioner is directed to be reactivated within one week by the Registrar of Companies, Delhi.

6. With these observations, the present petition, along with all pending applications is disposed of.

PRATHIBA M. SINGH, J.

MARCH 8, 2021
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