Bharat Bhushan vs Union Of India And Anr on 8 February, 2019

Author: V. Kameswar Rao

Bench: Chief Justice, V. Kameswar Rao

```
$~42
*       IN THE HIGH COURT OF DELHI AT NEW DELHI
+       W.P.(C) 1322/2019
        BHARAT BHUSHAN                                    ..... Petitioner
                Through:        Mr. T. Singh, Adv.

                        versus

        UNION OF INDIA AND ANR.                 ..... Respondents
                    Through: Mr. Nawal Kishore Jha, Sr. Panel
                    counsel

        CORAM:
        HON'BLE THE CHIEF JUSTICE
        HON'BLE MR. JUSTICE V. KAMESWAR RAO
                    ORDER
```

% 08.02.2019 Allowed, subject to all just exceptions W.P.(C) 1322/2019 & CM APPL.6019/2019

1. This writ petition has been filed by person who is the director in a company incorporated under the provisions of the Indian Companies Act, 1956.

2. Apart from this company, this petitioner has stated in the writ petition that he was director in other companies as well.

3. This writ petition has been instituted in view of the list dated 7th December, 2018 published in public domain on the website of Respondent No.1 issued under Section 164(2)(a) of the Companies Act, 2013 by the respondents disqualifying the petitioner as Directors in the Companies wheresoever he may be Director. This disqualification has resulted for the reason that there was default in submitting returns which were statutorily required to be filed with the Registrar of Companies with regard to the affairs of the Company in question, for a continuous period of three financial years.

4. The writ petition inter alia seeks quashing of the list dated 7th December, 2018 published in public domain on the website of Respondent No.1.

5. The matter however does not rest here. Apart from the disqualification under Section 164(2)(a), the writ petitioner has stated that in purported exercise of power under Section 248(1) of the Companies Act, 2013, the Registrar of Companies has additionally struck off the name of the said company from the Register of Companies, disqualified for the period w.e.f. 1st November, 2017 to 31st October, 2022.

6. The writ petitioner has raised several questions of fact and law challenging these acts and orders of the Registrar of Companies.

Inter alia, it has been contended that the action of the Registrar of Companies in disqualifying the petitioner under Section 164(2)(a) is in gross violation of the principles of natural justice.

7. It cannot be denied that the issues raised in this writ petition require adjudication and are of grave importance so far as the working of the spirit, intendment and object of the Companies Act, 2013, more specifically the manner in which the respondents would operate Sections 164 of the enactment.

8. Issue notice to the respondents. The learned counsel accepts notice on behalf of the respondents.

9. Till the next date of hearing, there shall be a stay of list dated 7th December, 2018 published in public domain on the website of Respondent No.1 whereby the petitioner was declared disqualified as Director under Section 164(2)(a) of the Companies Act, 2013.

10. The DIN numbers as well as digital signatures of the petitioner shall be forthwith revived.

11. It also cannot be denied that so far as the legal submissions are concerned, several other writ petitions have raised identical questions of law and for this reason, are required to be heard together.

12. We, therefore, direct that an individual counter affidavit dealing with the factual averments in this writ petition shall be filed separately within four weeks. The full details of the issuance and service of the notice(s) shall be placed on record with copies of the supporting documents. Rejoinder thereto, if any, shall be filed within four weeks thereafter.

13. The respondents shall produce the original records relating to this company with regard to the impugned notices before this court on the next date of hearing.

14. List on 29th April, 2019.

CHIEF JUSTICE V. KAMESWAR RAO, J FEBRUARY 08, 2019 ns