

Raj Kumar Dhawan And Anr vs Union Of India And Anr on 18 February, 2019

Author: V. Kameswar Rao

Bench: Chief Justice, V. Kameswar Rao

\$~32,33,36,48-52,54,56-58

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 1607/2019

RAJ KUMAR DHAWAN AND ANR. Petitioners

Through: Ms.Arunima Dwivedi, Adv. with
Ms.Preeti Kumra, Adv.

Versus

UNION OF INDIA AND ANR. Respondents

Through: Mr.Abhay Prakash Sahay, CGSC

+ W.P.(C) 1608/2019

BAL KISHAN RATHI AND ANR. Petitioners

Through: Mr.Amit P.Shahi, Adv. with Mr.Rohit
Bansal, Adv.

Versus

UNION OF INDIA AND ANR. Respondents

Through: Mr.Niraj Kumar, Adv.

+ W.P.(C) 1611/2019

GAURAV BAJAJ & ANR Petitioner

Through: Mr.Nikhil Verma, Adv.

Versus

UNION OF INDIA & ANR Respondents

Through: Mrs.Abha Malhotra, Adv.

+ W.P.(C) 1680/2019

SOURABH MALHOTRA AND ORS. Petitioners

Through: Mr.Gautam Singh, Adv. with
Mr.Snehil Sonam, Adv.

Versus

UNION OF INDIA AND ANR. Respondents

Through: Mr.Dilbag Singh, Adv.

+ W.P.(C) 1681/2019

DARPAN BAJAJ. Petitioner

Through: Mr.Abhinav Trehan, Adv.

Versus

UNION OF INDIA AND ANR. Respondents

Through: Mr.Prakash Kumar, Adv.

+ W.P.(C) 1682/2019

BHAG SINGH AND ANR. Petitioners

Through: Mr.Rishi Sood, Adv.

Versus

UNION OF INDIA AND ANR. Respondents

Through: Mr.Dev P.Bhardwaj, CGSC with
Mr.Jatin Teotia, Adv.

- + W.P.(C) 1683/2019
BHAG SINGH GAMBHIR AND ORS. Petitioners
Through: Mr.Rishi Sood, Adv.
Versus
UNION OF INDIA AND ANR. Respondents
Through: Mr.Dev P.Bhardwaj, CGSC with
Mr.Jatin Teotia, Adv.
- + W.P.(C) 1684/2019
RAMANDEEP SINGH AND ANR. Petitioners
Through: Mr.Gautam Singh, Adv. with
Mr.Snehil Sonam, Adv.
Versus
UNION OF INDIA AND ANR. Respondents
Through: Mr.Anurag Ahluwalia, CGSC.
- + W.P.(C) 1686/2019
MANSOORALI WASIQUAEALI SHAIKH Petitioner
Through: Mr.Simranjeet Singh, Adv.
Versus
UNION OF INDIA AND ANR. Respondents
Through: Mr.Brajesh Kumar, Adv.
- + W.P.(C) 1688/2019
SHARWAN KUMAR & ANR. Petitioners
Through: Mr.Gautam Singh, Adv. with
Mr.Snehil Sonam, Adv.
Versus
UNION OF INDIA AND ANR. Respondents
Through: Mr.Anurag Ahluwalia, CGSC.
- + W.P.(C) 1689/2019
JANGVEER SINGH & ANR. Petitioners
Through: Mr.Manmohan Shringirishi, Adv.
Versus
UNION OF INDIA AND ANR. Respondents
Through: Ms.Sunieta Ojha, Adv.
- + W.P.(C) 1690/2019
AMANJEET SINGH & ANR. Petitioners
Through: Mr.Rishi Sood, Adv.
Versus
UNION OF INDIA AND ANR. Respondents
Through: Mr.Dev P.Bhardwaj, CGSC with
Mr.Jatin Teotia, Adv.
- CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO
ORDER

% 18.02.2019 C.M.No.7379/2019 (exemptions) in W.P.(C) No.1607/2019 C.M.No.7381/2019 (exemptions) in W.P.(C) No.1608/2019 C.M.No.7403/2019 (exemptions) in W.P.(C) No.1611/2019 C.M.No.7682/2019 (exemptions) in W.P.(C) No.1680/2019 C.M.No.7688/2019 (exemptions) in W.P.(C) No.1681/2019 C.M.No.7692/2019 (exemptions) in W.P.(C) No.1682/2019 C.M.No.7698/2019 (exemptions) in W.P.(C) No.1683/2019 C.M.No.7700/2019 (exemptions) in W.P.(C) No.1684/2019 C.M.No.7707/2019 (exemptions) in W.P.(C) No.1688/2019 C.M.No.7710/2019 (exemptions) in W.P.(C) No.1689/2019 Allowed, subject to all just exceptions.

W.P.(C)1607/2019 & C.M.No.7378/2019 (stay) W.P.(C)1608/2019 & C.M.No.7380/2019 (stay) W.P.(C)1611/2019 & C.M.No.7404/2019 (stay) W.P.(C)1680/2019 & C.M.No.7681/2019 (stay) W.P.(C)1681/2019 & C.M.No.7687/2019 (stay) W.P.(C)1682/2019 & C.M.No.7691/2019 (stay) W.P.(C)1683/2019 & C.M.No.7697/2019 (stay) W.P.(C)1684/2019 & C.M.No.7699/2019 (stay) W.P.(C)1686/2019 & C.M.No.7703/2019 (stay) W.P.(C)1688/2019 & C.M.No.7706/2019 (stay) W.P.(C)1689/2019 & C.M.No.7709/2019 (stay) W.P.(C)1690/2019 & C.M.No.7711/2019 (stay)

1. This writ petition has been filed by persons who are directors in a company incorporated under the provisions of the Indian Companies Act, 1956.

2. 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 petitioners as Directors in the Companies wheresoever they may be Directors. 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.

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

4. The matter however does not rest here. Apart from the disqualification under Section 164(2)(a), the writ petitioners have 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

5. The writ petitioners have 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 petitioners under Section 164(2)(a) is in gross violation of the principles of natural justice.

6. 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 and 248 of the enactment.

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

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

9. The DIN numbers as well as digital signatures of the petitioners shall be forthwith revived.

10. 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.

11. We, therefore, direct that an individual counter affidavit dealing with the factual averments in this writ petition be filed separately within four weeks from today. 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, be filed before the next date of hearing.

12. 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.

13. List on 29th April, 2019.

CHIEF JUSTICE V. KAMESWAR RAO, J FEBRUARY 18, 2019 'anb'