

Jesudas A Juliyas vs Union Of India And Anr on 4 February, 2019

Author: V. Kameswar Rao

Bench: Chief Justice, V. Kameswar Rao

\$~19, 20, 23, 25, 28, 40, 41, 44-45, 47, 55-56, 63, 67, 69, 91, 97, 813, 817, 820, 822-827, 832, 845, 846, 849, 853, 857, 858-860

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 430/2019 & CM APPL.1956-1957/2019
JESUDAS A JULIYAS Petitioner

versus

UNION OF INDIA AND ANR. Respondents

ALONGWITH

W.P.(C). No. 446/2019, 515/2019, 531/2019, 578/2019, 698/2019, 699/2019, 740/2019, 741/2019, 743/2019, 781/2019, 782/2019, 816/2019, 822/2019, 824/2019, 445/2019, 495/2019, 1114/2019, 918/2019, 979/2019, 1023/2019, 1055/2019, 1058/2019, 1073/2019, 1074/2019, 1075/2019, 1091/2019, 1130/2019, 1131/2019, 1134/2019, 1180/2019, 1185, 1186, 1187, 1188/2019

Present:
For the petitioners

Ms. Payal Agrawal, Adv. for the petitioners in Item No.41
Ms. Shweta Bharti, Mr. J.K. Chaudhary & Mr. Avinash Singh, Advs. for petitioners in Item no.45
Mr. Nikhil Verma, Adv. for the petitioners in Item Nos.69 & 820.
Mr. Himanshu Harbola, & Mr. Ketan Madan, Advs. for the petitioners in Item No.91, 825 & 832
Mr. Ajay Singh, Adv. for petitioner in Item No.822.
Mr. Sanjiv Dagar & Mr. Plash Mittal, Advs. for the petitioner in Item No.823.
Mr. Rohit Arora, Adv. for petitioner in Item No.23
Ms. Aarti Chopra, Mr. Dhiraj Thakur & Mr. Mukesh Kumar, Advs. for the petitioner in Item No.47 & 813.
Ms. Arunima Dwivedi & Ms. Preeti Kumra, Advs. for the petitioners in Item No.824.
Mr. Pankaj Khullar & Mr. Ketan Madan, Advs. for the petitioners in Item No.858-860.
Mr. Awnish Kumar, Adv. for the petitioners in Item No.857, 849
Mr. Mansoor Ali, Adv. for the petitioners in Item No.845
Ms. Sonika Sharma, Adv. for the petitioners in Item No.44, 817.
Mr. Rakesh Kumar, Ms. Chetna Bisht, Mr. Sahil Gupta & Mr. Aditya

Nayyar, Advs. for petitioners in item No.97, 846
Mr. Ashutosh Gupta, Mr. Gaurav Rana & Mr. Abhishek Aggarwal, Advs.
for petitioners in Item No.28, 853.
Mr. Karan, Adv. for the petitioner in Item Nos.55, 63, 67
Mr. Simranjeet Singh, Adv. for the petitioners in Item No.40, 53

For the Respondents

Ms. Priynaka Swami, Adv. for the respondents in Item No.56.
Ms. Anju Gupta & Mr. R.L. Goel, Advs. for UOI in Item No.19.
Mr. Pratyush Miglani & Ms. Smriti Varma, Advs. for the UOI in Item
No.23.
Mr. Avnish Singh, Sr. Counsel Panel & Ms. Shweta Yadav, Adv. for UOI in
Item No.20, 824.
Mr. Ashwani Kumar Sharma, Adv. for UOI in Item No.849
Mr. Chiranjeev Kumar, Adv. for R-1 & R-2 in Item No.813
Mr. N. K. Srivastava, Adv. for R-1 & R-2 in Item Nos.817, 853
Mr. Mahendra Singh, Sr. Govt. Counsel for R-1 in Item No.47
Mr. Shankar Kumar Jha, Adv. for the respondents in Item No.820, 858-860.
Mr. Jivesh Kr. Tiwari, Sr. Panel Advocate for the UOI in Item No.823.
Mr. P.S. Singh, Senior Panel Counsel for UOI in Item No.91 & 822
Mr. Vikram Jetly, CGSC for UOI in Item No.827
Mrs. Bharathi Raju, CGSC for R-1 & R-2 in Item No.826
Mr. Sanjeev Sabharwal, Sr. Government Counsel with Mr.Hem Kumar,
Adv. for R-1 & R-2 in Item No.845
Mr. Rahul Raj Malik, Adv. for UOI in Item No.44.
Mr. K.V. Sreemithun, Senior Panel Counsel for UOI in Item No.69.
Mr. Jayant Bhatt & Ms. Prachi Aggarwal, Advs. for R-1 & R-2 in Item
No.857
Mr. Rahul Sharma & Mr. C.K. Bhatt, Advs. for UOI in Item No.97
Mrs. Maninder Acharya, ASG with Mr. Siddharth Khatana, Adv. for
Respondent No. 1 & 2 (UOI) in Items No.45, 832
Mr. Vijay Joshi, Sr. Panel Counsel for R-1 & R-2 in Item No.846
Mr. Anil Dabas & Mr. Praveen Kumar, Advs. for R-1 & R-2 in Item No.28
Mr. Kamal Kant Jha, Sr. Panel Counsel with Mr. Siddharth Jha &
Mr.Prabhakar Thakur, Advs. for the respondents in Item No.41.
Ms. Gargi Khanna, Adv. for UOI in Item No.825

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 04.02.2019

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. Apart from this company, these petitioners have stated in the writ petition that they were directors 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 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.

4. The writ petition inter alia seeks quashing of the said notice dated 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 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

6. 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.

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 and 248 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 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.

10. The DIN numbers as well as digital signatures of the petitioners 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. 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 04, 2019/ns