

Jitendra Kumar Sarangi vs Union Of India And Anr on 29 September, 2021

Author: Rekha Palli

Bench: Rekha Palli

Via Video-Conferen

\$~58 & 69 to 91

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 11066/2021 & CM APPL. 34124/2021

JITENDRA KUMAR SARANGI

..... Petiti

Through Mr. Awadhesh Kumar Singh, Adv

versus

UNION OF INDIA AND ANR

..... Respon

Through

(69)

+ W.P.(C) 3354/2021 & CM APPL. 10219/2021 (Stay)

SATYENDRA KUMAR SRIVASTAVA

..... Petitioner

Through Mr. Ashutosh Pandey, Adv.

versus

MINISTRY OF CORPORATE

AFFAIRS AND ANR

..... Responde

Through Ms. Mala Naryan and Mr. Shashwat
Goel, Adv.

Ms. Gouri K. Das with Gitanjali
Malviya, Adv. for R-8

(70)

+ W.P.(C) 6125/2021

SWATI SRIVASTAVA

..... Petitioner

Through

Mr. Abhishek Aggarwal, Ms. Ch
Aggarwal, Ms. Maleeni and Ms.
Anjali Agarwal, Adv.

versus

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UNION OF INDIA & ANR.

..... Responde

Through Mr. Narendra Kumar Srivastava
Senior Panel Counsel

(71)

+ W.P.(C) 6241/2021 & CM APPL. 19745/2021
RAJAT KUMAR Petitioners

Through Mr. Nikhil Verma and Ms. Ka
Singh, Advs.

versus

UNION OF INDIA & ANR.

Through

(72)

+ W.P.(C) 6243/2021 & CM APPL. 19749/2021 (Interim Direct
VIKAS SHARMA & ANR. Petitioners

Through Mr. Nikhil Verma and Ms. Ka
Singh, Advs.

versus

UNION OF INDIA & ANR. Respondents

Through Mr. Chiranjiv Kumar,

(73)

+ W.P.(C) 6470/2021 & CM APPL. 20346/2021 (Interim Relief
JASBIR SINGH KAPOOR & ANR. Petitioners

Through Mr. Ankur Chawla, Adv. for
petitioner no. 1 and petitioner

versus

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UNION OF INDIA & ANR. Respondents

Through Mr. Aman Mailk, Senior Panel
Central Government Counsel
Mr. Santosh Kumar, Adv. for R0

(74)

+ W.P.(C) 6795/2021
MOHAMMAD QADEEM QURESHI & ORS. Petitioners

Through Mr. Himanshu Harbola, Adv.

versus

UNION OF INDIA & ORS. Respondents
Through Mr. Arnav Kumar, SPC
(75)
+ W.P.(C) 6869/2021
RANA ABHINAV SINGH Petitioners
Through Mr. Rajat Jain and Mr. Bhaskar
Adv.

versus

UNION OF INDIA & ANR. Respondents
Through Mr. Aman Mailk, Senior Panel
Central Government Counsel
Mr. Santosh Kumar, Adv. for RO
(76)
+ W.P.(C) 7053/2021
KUSHAL NAGAR Petitioners
Through Mr. Shobhan Mahanti , Adv.

versus

UNION OF INDIA & ORS. Respondents
Through Mr. Satyananad, Sr. Counsel for

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1&2 and Mr. Awadhesh Kumar
Adv. for respondent nos. 1 &

(77)
+ W.P.(C) 7065/2021
NARENDER KUMAR SINGHAL & ANR. Petitioners
Through Mr. Varun Kashyap, Adv.

versus

UNION OF INDIA & ANR. Respondents
Through Mr. Vijay Joshi and Mr. Amit
Adv.

(78)
+ W.P.(C) 7069/2021 & CM APPL. 22340/2021 (Interim Direction)
SHIV KUMAR PAL & ANR. Petitioners
Through Mr. Nikhil Verma and Ms. Kamna
Singh, Adv.

versus

(79)

UNION OF INDIA & ANR. Resp
Through Mr. Ajay Gupta, Sr. Central
Counsel

+ W.P.(C) 7118/2021 Petit
DHEERAJ SINGH BHARANA
Through Mr. Shobhan Mahanti ,

versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF
CORPORATE AFFAIRS & ORS. Respondents
Through Mr. Satyananad, Sr. Counsel for R
1&2

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(80)

+ W.P.(C) 7146/2021 Petitioner
MADHUR SEHGAL
Through Mr. Shobhan Mahanti , Adv.

versus

UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF
CORPORATE AFFAIRS, & ORS. Respondents
Through

(81)

+ W.P.(C) 7322/2021 & CM APPL. 23063/2021 (stay), CM.APPL
34027/2021 (condonation of 35 days delay in filing coun
affidavit)

PRADEEP KUMAR SHARMA Peti
Through

versus

UNION OF INDIA THROUGH MINISTRY OF CORPORATE
AFFAIRS , SHASTRI BHAWAN , & ANR. Responde
Through Mr. Ashish Verma and Mr.
Debopriyo Moulik, Adv.

(82)

+ W.P.(C) 7521/2021 & CM APPL. 23606/2021 (stay), CM.APPL. 34015/2021 (condonation of 31 days delay in filing coun affidavit)

HARPARTAP SINGH
Through

..... Petitioner

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versus

UNION OF INDIA THROUGH MINISTRY OF CORPORATE
AFFAIRS , SHASTRI BHAWAN , & ANR. Responde
Through Mr. Ashish Verma and Mr.
Debopriyo Moulik, Advs.

(83)

+ W.P.(C) 7652/2021
RAJNIGANDHA MITHILESH Petitione
Through Mr. Abhishek Aggarwal, Mr. Chahat
Aggarwal, Ms. Maleeni and Mr.
Anjali Agarwal, Advs.

versus

UNION OF INDIA & ANR. Respo
Through Mr. Narendra Kumar Srivastava
Senior Panel Counsel,

(84)

+ W.P.(C) 7666/2021
PRADEEP KUMAR JINDAL & ANR. Peti
Through

versus

UNION OF INDIA & ANR. Respondents
Through

(85)

+ W.P.(C) 8566/2021 & CM APPL. 26525/2021 (Interim Directio
VIVEK JAIN Petitioner

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Through

versus

UNION OF INDIA & ANR.

Through

..... Respondent

Mr. Niraj Kumar, Senior Cent
Government Counsel

(86)

+ W.P.(C) 8624/2021 & CM APPL. 26685/2021 (Interim Directio

KESHAV SHARMA

..... Petiti

Through

Mr. Ashutosh Pandey, Adv.

versus

MINISTRY OF CORPORATE AFFAIRS AND ANR.....Respondents

Through

(87)

+ W.P.(C) 9709/2021

MANJEET SINGH TOOR

..... Peti

Through

Mr. Abhishek Aggarwal, Mr. C
Aggarwal, Ms. Maleeni and Mr
Anjali Agarwal, Adv.

versus

UNION OF INDIA & ANR.

Through

..... Respondent

Mr. Niraj Kumar, Senior Cent
Government Counsel

(88)

+ W.P.(C) 9916/2021 & CM APPL. 30563/2021 (Interim Relief

ATIN CHAUDHARY

..... Petitioner

Through

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versus

UNION OF INDIA & ANR.

Through

..... Respondent

Mr. Satyananad, Sr. Counsel
1&2

(89)

+ W.P.(C) 9987/2021 & CM APPL. 30890/2021 (Interim Relief
SARVESH KUMAR TIWARI Pet
Through

versus

UNION OF INDIA & ANR. Resp
Through Mr. Satyananad, Sr. Counsel
1&2

(90)

+ W.P.(C) 10107/2021 & CM APPL. 31202/2021 (stay)
SATYANARAYAN JHUNJHUNWALA & ANR.

Through

versus

UNION OF INDIA & ANR. Respondents
Through Mr. Avnish Singh with Mr.
Ms.Pushplata Singh, Adv.

(91)

+ W.P.(C) 10180/2021 & CM APPL. 31408/2021 (stay)
DEEPAK AGGARWAL Petitioner

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Through Mr. Nitesh Kumar Sinha
Amit Manchanda, Adv.

versus

UNION OF INDIA, THROUGH
SECRETARY & ANR. Respondents
Through Ms. Suman Chauhan and Mr. Jivesh
Tiwari, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
ORDER

% 29.09.2021

1. The present batch of writ petitions have been filed seeking quashing of lists of disqualified directors published by respondent no.1 between the years 2017-18, wherein the petitioners were disqualified as directors under Section 164(2)(a) of the Companies Act, 2013 (hereinafter 'Act') on account of non-filing of annual returns and financial statements for three consecutive years by the companies in which they were directors. Pursuant to their disqualification, the petitioners' Director Identification Numbers (hereinafter 'DIN') and Digital Signature Certificates (hereinafter 'DSC') were also deactivated and consequently, they are not in a position to file any returns, even in respect of other companies where they are directors.

2. The case of the petitioners is premised on the fact that the penal provisions introduced in the statute vide Section 164(2)(a) and Section 167(1)(a) of the Act, came into effect only from 07.05.2018 and therefore, could not be applied retrospectively. In support of their plea, the petitioners have relied on the decision of a Division Bench of this Court in Radhika Byrn v. Union of India (W.P.(C) 5534/2020, decided on 28.12.2020) as also the decisions of Co-ordinate Benches in Mukut Pathak & Ors. v. Union of India & Ors. (W.P.(C) 9088/2018 decided on 04.11.2019), Sandeep Agarwal & Anr. V. Union of India & Anr (W.P.(C) 5490/2020, decided on 02.09.2020) and Anjali Bhargava & Anr. v. Union of India & Anr. (W.P.(C) 11264/2020, decided on 06.01.2021).

3. When the present batch of petitions was taken up for hearing on 28.09.2021, it transpired that some of the petitions were sought to be opposed on the ground of delay and laches by placing reliance on a judgment of the Division Bench in Anamika Devi v. Union of India & Anr., (W.P.(C) 4356/2020, decided on 20.07.2020), while the others were not opposed and the learned counsel for the respondents had fairly submitted that the issue was covered by the decision in Mukut Pathak (supra).

4. In the light of these contradictory stands being taken, Mr. Santosh Kumar, ROC, Delhi & Haryana, was directed to remain present in Court today. Pursuant to the said direction, Mr. Santosh Kumar has joined the proceedings through video conferencing and submits that since the decision in Mukut Pathak (supra) wherein this Court had allowed similar petitions, was not stayed, the respondents do not have any objection to the present petitions being allowed.

5. Despite this stand taken by the ROC, learned counsel for the respondents, in some of the petitions, while not denying that the issue is covered by the decision of the Co-ordinate Bench in Mukut Pathak (supra) and Anjali Bhargava (supra), have contended that the petitions are liable to be dismissed on the ground of delay and laches, for which purpose, they have relied on the decision of the Division Bench in Anamika Devi (supra). I have, therefore, considered the said decision and find that the same does not lay any such broad proposition as sought to be contended by the respondents. In the said case, the Division Bench had dismissed the petition on the ground of delay and laches after finding that not only was the period of disqualification ending very soon, but there was absolutely no explanation or reason given for approaching the Court at a belated stage. However, in the present batch of petitions, it is the specific case of the petitioners that on account of their disqualification, they are not in a position to apply for the benefits sought to be extended by the respondents themselves under recent welfare schemes, including the Companies Fresh Start Scheme, as also the recent orders passed by the NCLT reviving the companies in which they were

directors. I am, thus, of the view that in the light of these facts, the deactivation of DIN and DSC of the petitioners would constitute a continuing cause of action. It is also apposite to note that after the decision in Anamika Devi (supra) dismissing the petition on the ground of delay, another Division Bench of this Court has, in Radhika Byrn (supra), allowed similar petitions. I, therefore, have no hesitation in rejecting the respondents' plea that the present petitions are barred by delay and laches.

6. For the aforesaid reasons, the writ petitions are entitled to succeed and are, accordingly, allowed. The impugned list of disqualified directors, insofar as it relates to the petitioners herein, are quashed. The respondents are directed to reactivate the Director Identification Number ("DIN") and the Digital Signature Certificate ("DSC") of the petitioners within a period of three weeks from today.

7. The petitions, along with the pending application(s), if any, are disposed of in the aforesaid terms.

REKHA PALLI, J SEPTEMBER 29, 2021 acm