

# Sumit Vohra & Anr vs Union Of India & Anr on 9 March, 2021

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 3132/2021  
SUMIT VOHRA & ANR. . . . . Petitioners  
Through: Mr. Nikhil Verma, Advocate  
(M:981843481)  
versus  
UNION OF INDIA & ANR. . . . . Respondents  
Through: Mr. Alok Singh, Sr. Panel counsel  
with Mr. Gaurav Bhardwaj,  
Advocates  
(M: 9871638609)  
CORAM:  
JUSTICE PRATHIBA M. SINGH  
ORDER

% 09.03.2021

1. This hearing has been done through hybrid mode (physical and virtual hearing).

CM APPL. 9502/2021 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of. WP(C) 3132/2021 & CM APPL. 9503/2021 (ex parte ad interim directions)

3. The Petitioners are Directors in the company- Aditya Homes and Builders Private Limited. It is submitted by ld. Counsel for the Petitioners that the said company was struck off due to non-filing of annual returns and balance sheets. Consequently, the Petitioners, who were directors in the said company were disqualified for a period of 2017-2022, in 2017, under Section 164(2) of the Companies Act, 2013, and their DIN/DSC's were deactivated.

4. Ld. counsel for the Petitioners submits that the Petitioners wish to start a new business and also seek restoration of the said struck off company.

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5. 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 disqualification and activation of DIN/DSC numbers.

(a) to (c).....

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

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 decided 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 Digitally Signed By: DINESH SINGH NAYAL Signing Date: 10.03.2021 19:01:59 '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, 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."

6. Following the judgment of this Court in Anjali Bhargava (supra), the Petitioners would fall under category 'd' as the Petitioners have been disqualified for the period from 2017 to 2022. A substantial period of disqualification has already been undergone. Accordingly, in view of the legal position in Mukut Pathak & Ors. v. Union of India & Ors., 265 (2019) DLT 506 and Anjali Bhargava & Anr. v. UOI & Anr. (supra), the disqualification of the Petitioners is set aside. The DIN/DSC of the Petitioners are directed to be reactivated within one week by the Registrar of Companies, Delhi, so

that the Petitioners can undertake the requisite procedures for incorporating the new company. The Petitioners are permitted to seek restoration of the Company from the NCLT in accordance with law.

7. With these observations, the petition and all pending applications, are disposed of.

PRATHIBA M. SINGH, J MARCH 9, 2021/mw/AK