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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4234/2018 & CM Nos.16577-78/2018**

% **Date of decision : 27th April, 2018**

SACHIN GARG

..... Petitioner

Through : Mr. Alok Kumar Kuchhal,
Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through : Mr. Vikas Mahajan, CGSC with
Mr. Shyam Sunder Rai and Mr.
Deepak Goyal, Advs. for UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

CM No.16578/2018

Allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) 4234/2018

1. The writ petitioner complains that he had been appointed an Additional Director in a company registered under the name and style of Shapers Realtors Pvt. Ltd. (hereinafter referred to as the 'Company'). It is stated that the Annual General Meeting was thereafter held in 2010 wherein the petitioner had not been regularized

as a Director and therefore, ceased to be a Director by operation of law.

2. This writ petition has been necessitated inasmuch as the respondent no.1, on the 6th of September, 2017 and 12th September, 2017 notified a list of directors who have been disqualified under Section 164(2)(a) of the Companies Act, 2013 as directors with effect from 1st November, 2016. To the petitioner's shock, he found his name featuring in this list. As a result, the petitioner stands prohibited from being appointed or re-appointed as a director in any other company for a period of five years.

3. Issue notice. Mr. Vikas Mahajan, Central Government Standing Counsel accepts notice on behalf of the respondents.

4. It is submitted that in the above facts and circumstances of the case that the petitioner has resigned from the directorship of the company in question and information thereof has been filed with the Registrar of Companies-respondent no.2 as well as notified in the annual returns of the company with the respondent no.2, the petitioner would not incur a disqualification under Section 164 of the Companies Act. Consequently, the disqualification of the petitioner as notified in the lists dated 6th September, 2017 and 12th September, 2017 by the respondent no.1 was incorrect and illegal.

5. In view thereof, the disqualification of the petitioner as notified in the impugned list as disqualification of the petitioner as a director of the company and the resultant prohibition under Section 164(2)(a) by virtue of the petitioner's name featuring in the list dated 6th and 12th

September, 2017 is hereby set aside and quashed. The respondent no.2 shall also ensure that its records are properly rectified to delete the name of the petitioner from the lists dated 6th September and 12th September, 2017. Action in this regard shall be positively taken within a period of two weeks from today. Name of the petitioner, as a director, shall be removed from all records of the respondent no.2 in the Ministry of Corporate Affairs.

The writ petition is disposed of in the above terms.

CM No.16577/2018

In view of the orders passed in the writ petition, this application does not survive for adjudication and is hereby dismissed.

Dasti under signatures of the Court Master.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

APRIL 27, 2018/kr