

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

CP NO. 02 (ND)/2017

IN THE MATTER OF:

Rajeev Jately

.... Applicant/petitioner

Vs.

D.R. John's Pvt. Ltd.

.... Respondent

Order under Section 241/242 of the Companies Act

Order delivered on 13.12.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR

Hon'ble President

Ms. Deepa Krishan

Hon'ble Member (T)

For the Applicant/petitioner :

For the Respondent :

ORDER

C.A. No. 373(PB)/2017

The present application has been filed for appointment of such members of independent directors in respondent no. 1 company on account of vacancies created by directors from its Board or for issuance of direction by appointing of an administrator during the intervening period, till the board of directors of respondent company is legally constituted.

Learned Counsel for the respondent has at the outset cited order dated 24.11.2017 challenging the disqualification of the director by invoking writ jurisdiction of the High Court under Article 226 of the Constitution. The order of the High Court reads as under:

“IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P(C) 10435/2017



MR. RAMNISH KUMAR SHARMA

.....Petitioner

Through: Mr. H.S. Chandhoke, Advocate

Versus

Union of India and Ors.

Through: Mr. Vivek Goyal, CGSC with Mr. Rajeev Ranjan Shahi,
Advocates for UOI

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

24.11.2017

CM No. 42633/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 10435/2017 & CM No.42632/2017

2. Issue notice. The learned counsel for the respondents accepts notice. The name of the petitioners features in the list of disqualified Directors published by the respondents and the same is impugned in the present petition. The learned counsel for the petitioners states that there is no automatic disqualification under Section 164(2) of the Companies Act, 2013 and the petitioners were not issued any Show Cause Notice prior to holding that the petitioners were disqualified as a Director.

3. The learned counsel for the respondents seeks time to take instructions/file a reply.



4. List on 19.12.2017.
5. In the meantime, the impugned list of disqualified directors to the extent it includes the names of the petitioners is stayed.
6. Order *dasti* under signatures of the Court Master.

Sd/-

VIBHU BAKHRU, J”

In view of above, the present application is not maintainable and the same is dismissed with liberty to the applicant to make representation before the High Court, if so, advised.

Application dismissed in the above terms.

Sd/-
(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

Sd/-
(DEEPA KRISHAN)
MEMBER(TECHNICAL)