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

+ W.P.(C) 4240/2018 & CM Nos.16603-16604/2018

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Date of decision : 27th April, 2018

GAGNISH ARORA

..... Petitioner

Through : Mr. Alok Kucchal, Adv.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through : Mrs. Bharathi Raju, CGSC for
R-1 & 2/IOI

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

CM No.16604/2018 (*exemption*)

Allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) 4240/2018 & CM No.16603/2018

1. The writ petitioner complaints that he had been appointed a Director in a company registered under the name and style of Lords & Knights Hospitality Services Private Limited (hereinafter referred to as the 'Company') wherefrom he resigned in the year 2012. The company failed to submit Form 32 regarding his resignation in

accordance with the provisions of the erstwhile Companies Act, 1956 with the Registrar of Companies-respondent no.2.

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 to the respondents. Ms. Bharathi Raju, learned CGSC 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, 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.

This position is not disputed by the respondents.

5. In view of the above, 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 and the pending application are disposed of in the above terms.

Dasti under signature of the Court Master.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

APRIL 27, 2018/kr