



DIVISION BENCH
COURT - II

0-208

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (IB)/990(KB)2018
IA(I.B.C)/2078(KB)2024, IA (LIQ.) PROGRESS REPORT/141(KB)2025,
IA(I.B.C)/2489(KB)2024, IA(I.B.C)/625(KB)2025,
IA(I.B.C)/1074(KB)2023, IA (LIQ.) PROGRESS REPORT/23(KB)2025,
IA(I.B.C)/1566(KB)2023, IA(I.B.C)/1617(KB)2024

CORAM: 1. HON'BLE MEMBER(J), SHRI LABH SINGH
2. HON'BLE MEMBER(T), MS. REKHA KANTILAL SHAH

ORDER SHEET OF THE HEARING ON 28TH JULY 2025

IN THE MATTER OF	ANKIT KUMAR VS ADVANCE POWERINFRA LTD
UNDER SECTION	IBC UNDER SEC 9

Counsel appeared through physically or virtually

Mr. Rahul Parasrampuria, Adv.] For Special Officer

Ms. Namrrataa Basu, Adv.] For erstwhile Director

O R D E R

The special officer has filed his interim report. As per interim report, he has referred to an Order dated 09th February 2025 passed in IA No. 1931 of 2023. Ld. Special Officer stated that there is a clerical error in report regarding Order dated 9th February 2025, instead of 9th February 2025 it is Order dated 9th February 2024. Accordingly, Special officer is hereby directed to correct the interim report dated 16th January 2025. Even, otherwise the date of the report has also not mentioned in the interim report. The said correction be carried out in the report. Fresh report be filed within a period of seven days from today. Ld. Special Officer has also stated that



valuer has not prepared his report as he has made an excuse that Order of appointment has not been given by the liquidator to him. Therefore, he is unable to file the report.

Registry is hereby directed to forward a copy of Order dated 9th February 2024 to Mr. Bhavin R Patel, valuer on his email addresses as provided by him. Upon receipt of email, he is directed to comply the Order dated 09.02.2024.

List this matter on 03.09.2025.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)



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ORDER SHEET OF THE HEARING ON 28th JULY 2025

IN THE MATTER OF	ANKIT KUMAR VS ADVANCE POWER INFRA LTD
UNDER SECTION	IBC UNDER SEC 9

Appearances (via video conferencing/physically)

Ms. Namrrataa Basu, Adv.] For Erstwhile Director

O R D E R

PER: Ms. Rekha Kantilal Shah, Member (Technical)

C.P.(IB)/990(KB)2018

1. This matter is listed before us today pursuant to a Mentioning Memo moved by the Learned Counsel on behalf of the Suspended Board of Directors of Corporate Debtor viz. Advance Power Infra Limited, seeking urgent directions for removal of the present Liquidator, Ms. Sonu Jain, who was appointed by this Tribunal vide order dated 26.09.2019.
2. The learned counsel submits that although the Liquidator was appointed over four years ago, she has grossly failed to discharge her statutory duties under the Insolvency and Bankruptcy Code,



2016 and relevant rules and regulations. The grounds for seeking her removal are detailed as follows:

a) That the Disciplinary Committee of the Insolvency and Bankruptcy Board of India (IBBI) has passed an order dated 06.03.2025, whereby the registration of the Liquidator, Ms. Sonu Jain, has been suspended for a period of one year.

b) That no Stakeholders Consultation Committee (SCC) has been constituted, which leaves no available body of stakeholders to move an application for such removal.

3. In this peculiar factual matrix, the Learned Counsel submits that in the absence of a Stakeholders' Consultation Committee, the erstwhile Board of Directors of the Corporate Debtor itself, being the most affected party and relying upon the reasoned order of Disciplinary Committee of the IBBI, may be permitted to seek the removal of the Liquidator upon showing sufficient cause.

4. Having heard the submissions, and perusing the material placed on record by the Ld. Counsel for the Corporate Debtor. The Present mentioning memo has been moved seeking to remove the present Liquidator.

5. In this regard, we may refer to section 16 of the General Clauses Act, 1897 which states as follows:

Power to appoint to include power to suspend or dismiss.— Where, by any Central Act or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment



shall also have power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power.

6. Thus, it could be seen a conjoint reading of Section 33 of IBC, 2016 with Section 16 of General Clauses Act, 1897 would show that the Authority which has the power to appoint a person, equally has the power to suspend or dismiss that person, in absence of any specific powers conferred thereto. Thus, by virtue of Section 16 of the General Clauses Act, 1897 it is clear that this Adjudicating Authority has the power to dismiss the Liquidator since this Authority is vested with the power under section 33 and 34 of IBC, 2016 to appoint a Liquidator.

7. Now, this Tribunal takes judicial notice of the disciplinary action initiated and the consequential suspension of registration of the Liquidator by the Insolvency and Bankruptcy Board of India via order dated 06.03.2025. Such regulatory action severely impairs the Liquidator's ability to continue holding such fiduciary position under the IBC framework. For the sake of convenience, the relevant portion of the Disciplinary Committee Order, is being reproduced herein below:

Order:

- i. The DC, in exercise of the powers conferred under Section 220(2) of the Code read with Regulation 11 of the IP Regulations and Regulation 13 of the Investigation Regulations hereby suspends the registration of Ms. Sonu*



Jain having Registration No. IBBI/IPA-001/IP-P00575/2017-2018/11016 for a period of one year.

ii. This order shall come into force on expiry of 30 days from the date of its issue.

8. Moreover, in exercise of the inherent powers of this Tribunal under Rule 11 of the National Company Law Tribunal Rules, 2016, read with Section 16 of the General Clauses Act, 1897 which recognizes the power to “appoint, suspend or remove” any appointee unless a contrary intention appears, this Tribunal is empowered to remove or replace or change a liquidator where such action is necessary to secure the ends of justice and preserve the sanctity of the process.

9. Accordingly, this Tribunal is satisfied that the Liquidator, Ms. Sonu Jain, has failed to carry out her duties in accordance with the IBC, 2016, the IBBI (Liquidation Process) Regulations, 2016, and related laws and guidelines, and her continuation would defeat the objectives of the liquidation process.

10. In view thereof this Tribunal is inclined to pass following order:

a) The Mentioning Memo moved by the Learned Counsel for the Corporate Debtor is allowed on the ground that the present Liquidator have continued the Liquidation process for more 4 years without receiving any claims and in the absence of Stakeholders Consultation Committee.



- b) The Disciplinary Committee Report dated 06.03.2025 of IBBI is taken on record.
- c) Ms. Sonu Jain, the present Liquidator in respect of corporate debtor viz. Advance Power Infra Limited, is hereby replace from her position with immediate effect.
- d) Thus, under the provision of Section 33 and 34 of IBC, 2016 read with Section 16 of the General Clauses Act, 1897 and read with Rule 11 of NCLT Rules, 2013, from the latest list provided from IBBI, we hereby appoint **Mr. Rajesh Lihala**, [Registration No: IBBI/IPA-001/IP-P00525/2017-18/10950], [Email Id: lihalaco@gmail.com] as the Liquidator in respect of Corporate Debtor viz. Advance Power Infra Limited. The outgoing Liquidator is directed to handover the charges to the newly appointed Liquidator within a period of 7 days from the date of this order.
- e) The Registry is directed to send a copy of the order to the IBBI for its record and further consideration, as may be deemed fit in accordance with law.

11. List this matter be listed on 03.09.2025 for further considerations.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)