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

+ **W.P.(C) 2901/2025**

SANJAY GARG

.....Petitioner

Through: Mr. Ashish Dholakia, Sr. Advocate
along with Mr. Gaurav Bhatt, Ms.
Meghna Jandu and Mr. Anuj
Malhotra, Advocates.

versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA & ANR.

.....Respondents

Through: Advocate for R-1 (appearance not
given)
Mr. Ripudaman Bhardwaj, CGSC
along with Mr. Kushagra Kumar, Mr.
Abhinav Bhardwaj and Mr. Amit
Kumar Rana, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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07.03.2025

CM APPL. 13807/2025 (Exemption from filing typed copies etc.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 2901/2025 & CM APPL. 13806/2025 (Stay)

3. The present petition assails the order dated 16.12.2024 passed by the respondent no.1 (Insolvency and Bankruptcy Board of India). By virtue of the said order, the Disciplinary Committee of the respondent no.1 has issued the following directions :-

“3. Order.

3.1. In view of the foregoing, the DC in exercise of the powers conferred



under section 220 of the Code read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 hereby

(a) directs the Board to re-investigate the issues raised in paragraph 2.3.8, 2.6.3 and 2.6.4 above.

(b) suspends the authorisation for assignment of Mr. Sanjay Garg having registration No.IBBI/IPA-001/IP-P-01865/2019-2020/12919 for a period of 3 months for contravening clause 14 of the Code of Conduct.

(c) warns Mr. Sanjay Garg not to misrepresent facts while making submissions before the Board and the DC.”

4. Broadly, three submissions have been made by the learned senior counsel for the petitioner.

5. Firstly, it is stated that the paragraph 2.3.8 of the impugned order goes beyond the allegations made in the show cause notice inasmuch as it renders a finding that the petitioner considered the resolution plan of an entity i.e., United Biotech Private Limited (‘UBPL’) after expiry of the deadline for submission of the resolution plan. The observations made in paragraph 2.3.8 are as under :-

“2.3.8 It is seen from the sequence of events given in paragraph 2.3.1 that resolution plan was received from UBPL on 24.02.2022 when resolution plans received from 4 PRAs had already been presented before the CoC on 27.12.2021. It is seen that Regulation 39(1B) of the CIRP Regulations prohibits CoC from considering any resolution plan received after the time as specified by the committee under regulation 36B. Therefore, the conduct of RP in proposing for consideration of this plan by the CoC is questionable. In fact, the DC finds that the allegation in this regard is present in the complaint dated 06.03.2024 which forms part of the documents forwarded to the DC. Therefore, this allegation needs to be investigated.”

It is submitted that the said allegation does not even form part of the show cause notice dated 26.06.2024 served on the petitioner.

6. Secondly, it is contended that even otherwise, the finding is completely perverse inasmuch as the impugned order itself notices that the petitioner did not accept any resolution plan and instead referred the matter



to the Committee of Creditors ('CoC') to take a view as to whether the resolution plan of UBPL should be accepted or not. The communication addressed by the petitioner to the CoC has been taken note of in paragraph 2.3.3 of the impugned order which reads as under :-

"2.3.3 Thereafter, Mr. Sanjay Garg received an email dated 03.02.2022 from UBPL who expressed its willingness to submit resolution plan after last date of submission of resolution plan and discussion of 4 submitted resolution plan by CoC. Mr. Sanjay Garg informed the UBPL as follows:

"Dear Mr. Ashwani Kumar,

Last date of filing the resolution is already over. As such your Resolution Plan cannot be accepted by me at this hour but I may discuss the same in COC subject to the condition that you submit the EMD amount of Rs 10000000 (Rs One crore only) alongwith Resolution Plan.

Please note that Submission of Resolution Plan along with BID BOND amount is not a guarantee from my side of your inclusion in the process. Your inclusion in the process would be subject to consent of COC and rule and regulations of Insolvency and Bankruptcy Code, 2016."

7. As such, it is contended that it is completely perverse to allege that the petitioner accepted any resolution plan beyond the stipulated deadline.

8. It is further submitted that paragraph 2.3.7, again, wrongly records that the petitioner has acquiesced to the request of UBPL to participate in the corporate insolvency resolution process ('CIRP') after the vacation of the stay order by the Supreme Court. It is submitted that the said finding is also completely contrary to the record. In this regard, reference is made to the email addressed by the petitioner to the CoC on 06.04.2023, which is referred to in paragraph 2.3.6 of the impugned order. The same reads as under :-

"2.3.6 Mr. Sanjay Garg forwarded the mail of UBPL to CoC vide email dated 06.04.2023 as follows:

"Dear COC Members



*We have received request from the one of the PRA united Biotech Pvt LTD for refund of the EMD amount received from them against Submission of EOI and Resolution Plan **for the time being** in view of the long pending litigation in Hon'ble Supreme Court which has ordered of Stay on CIRP of Corporate Debtor.*

We will comply accordingly. However, United biotech Pvt Ltd mail mentions that they would be willing to participate once the CIRP resumes on vacation of stay granted.

This is for your information and record.”

9. On the basis of the aforesaid email, it is submitted that the occasion to allow UBPL to participate in the CIRP after vacation of the stay order did not arise at all. All that the petitioner did was to inform the CoC about the request of the UBPL that it be allowed to submit its resolution plan after vacation of the stay in the pending proceedings before the Supreme Court.

10. Lastly, it is submitted that paragraph 2.6.3 of the impugned order castigates the petitioner for charging the corporate debtor twice for the same services. It is implied or suggested in the impugned order that the services being provided by Mr. Surinder Babbar were overlapping with the services provided by IPE Osrik Resolution Private Limited. It is submitted that this was not even an allegation in the show cause notice.

11. It is submitted that even otherwise, factually, there was no overlap between the services provided by Mr. Surinder Babbar and IPE Osrik Resolution Private Limited. It is submitted that the impugned order also renders a factually perverse finding as regards the reimbursement of expenditure to Mr. Varun Mangla from the bank account of the corporate debtor, inasmuch as the same is also contrary to the material available on record.

12. As such, it is contended that the impugned order is completely



perverse. It is further submitted that the impugned order itself warrants that it would be appropriate to re-investigate the issues referred in paragraphs 2.3.8, 2.6.3 and 2.6.4 of the impugned order. As such, pending re-investigation, it is completely unfair to pass a pre-emptory order against the petitioner suspending the authorization of his assignment.

13. Issue notice.

14. Learned counsel, as aforesaid, accept notice on behalf of the respondent nos.1 and 2.

15. Let reply be filed by the respondents within a period of two weeks from today. Rejoinder thereto, if any, be filed within a period of one week thereafter.

16. List on 02.04.2025.

17. In the meantime, considering the aforesaid aspects of the matter, the directions contained in Paragraph 3.1 (b) of the impugned order dated 16.12.2024 shall remain stayed.

18. It is made clear that this Court has not interdicted the Board from re-investigating the matter as directed *vide* paragraph 3.1 (a) of the impugned order dated 16.12.2024.

19. Needless to say, during the process of re-investigation, the respondents shall adhere to the principles of natural justice and take into account the representation of the petitioner dated 26.12.2024.

SACHIN DATTA, J

MARCH 7, 2025/r