

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

## (Disciplinary Committee)

No. IBBI/DC/297/2025

11 November 2025

### ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP- 11011/25/2025-IBBI/1027/865 dated 03.06.2025, issued to Mr. Swapnil Jain, who is a Professional Member of the Indian Institute of Insolvency Professionals of ICAI and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-001/IP-P-02498/2021-2022/13872.

#### 1. Background

- 1.1. M/s Bengal Emta Coal Mines Limited (Corporate Debtor/CD) was admitted into Corporate Insolvency Resolution Process (CIRP) *vide* order dated 30.06.2022 by National Company Law Tribunal, Kolkata Bench (AA) wherein Mr. Swarnil Jain was appointed as the Interim Resolution Professional (IRP/IP) and later confirmed as Resolution Professional (RP).
- 1.2. The Board received a complaint against Mr. Swarnil Jain in the matter of CIRP of the CD. The Board *vide* e-mail dated 02.04.2025 sought reply of Mr. Swarnil Jain to the allegations raised in the complaint. Mr. Swarnil Jain submitted his reply the said email *vide* email dated 08.04.2025.
- 1.3. The Board examined the allegations in the above complaint vis-à-vis reply of Mr. Swapnil Jain and based on such examination and material available on record, the Board formed a *prima facie* opinion that Mr. Swapnil Jain has contravened provisions of the Code and Regulations made thereunder and therefore issued SCN to Mr. Swapnil Jain on 03.06.2025.
- 1.4. The SCN and its response by Mr. Swapnil Jain were referred to the Disciplinary Committee (DC) for disposal. Mr. Swapnil Jain availed the opportunity of personal hearing before the DC through virtual mode on 29.10.2025 wherein he appeared along with his legal counsel Ms. Shweta Bharti. Mr. Swapnil Jain also submitted his additional written submissions on 07.10.2025.
- 1.5. The DC has considered the SCN, the reply to SCN, oral and written submissions of Mr. Swapnil Jain, and proceeds to dispose of the SCN.

#### 2. Alleged Contravention, submissions of Mr. Swapnil Jain and findings of the DC.

**Providing financial support to SRA in the process of submission of resolution plan thereby attracting conflict of interest.**

- 2.1. It is noted by the Board that Mr. Swapnil Jain, while working as the RP in the CIRP of the CD, provided an amount of Rs. 1,00,000/- to Sarika Maiwall, the Successful Resolution Applicant (SRA) for enabling the SRA to deposit Earnest Money Deposit (EMD) in order to submit the Expression of Interest (EOI) for participation in the process of submission of resolution plan. Further, Mr. Raj Singhania, the Process Advisor (PA), appointed by Mr. Swapnil Jain and his family member, Ms. Namrata Singhania, also provided Rs. 50,000/- each to the SRA towards the EMD. Bank statements of the SRA confirm the transfer of funds from Mr. Swapnil Jain bank account and that of the PA on 21.01.2023, coinciding with the last date for submission of the Expression of Interest (EOI) as per Form G.
- 2.2. Further, the SRA has acknowledged in an affidavit dated 14.11.2023 (filed in IA 971/2023) that the PA is known to the SRA and has a long standing business relationship and amount deposited by Mr. Swapnil Jain to the SRA's account was on behalf of PA only.
- 2.3. The Board noticed that during the CoC meeting held on 29.05.2023, when questioned by Mr. Saugat Upadhaya, the authorized representative of the Corporate Debtor's ex director, about the transfer of funds to the SRA, Mr. Swapnil Jain confirmed the transaction but declined to provide further details, citing the sub-judice nature of the matter.
- 2.4. In the reply of Mr. Swapnil Jain to the IA, he has stated that there was no personal interest or undue benefit involved. Relationship disclosures were duly filed, and the SRA was not a related party under the provisions of the Code or Regulations. The CoC was kept informed and acted with full knowledge of facts. It is, however, observed by the Board that Mr. Swapnil Jain failed to disclose to the CoC, at the time of approval of the SRA's resolution plan, the relationship between the SRA and the PA, as well as the fact that funds had been provided by him and PA to the SRA for submission of EMD amount.
- 2.5. It is therefore observed by the Board that Mr. Swapnil Jain *prima facie* failed to maintain independence in handling the matter. By assisting the SRA in the submission of the EOI, he compromised the objectivity expected in professional conduct as an RP.
- 2.6. In view of the above, the Board held *prima facie* view that Mr. Swapnil Jain has violated Section 208(2)(a) & (e) of the Code, Regulation 7(2) (a) and (h) of Insolvency Professionals Regulations, hereinafter referred to as (IP Regulations) read with Clause 3, 3A, 5 and 14 of the Code of Conduct for Insolvency Professionals, hereinafter referred to as Code of Conduct.

**Submissions by Mr. Swapnil Jain.**

- 2.7. Mr. Swapnil Jain submitted that the CD had not been a going concern for nearly a decade, and the first round of EoIs had failed to result in any resolution plan. Even in the extended

second round, no EoI was received until the last day, and liquidation was imminent. The Process Advisor (PA), who was actively scouting for PRA, approached one of his clients who expressed interest but lacked sufficient liquid funds to furnish the EMD. The PA undertook to arrange the EMD and contributed a part himself, requesting the RP to extend Rs. 1 lakh on his behalf. Accordingly, the PA and the RP together enabled the applicant to submit the plan. The entire amount was later returned to the PA, who refunded it to the RP. The RP emphasised that this support was bona fide, transparent, and aimed solely at rescuing the CD from liquidation, consistent with the IBC's objective of prioritising resolution over liquidation as recognised by the Supreme Court.

- 2.8. He further submitted that independence must be examined from structural, functional, actual, and perceived dimensions, and no aspect of his conduct indicates any bias, conflict, or collateral motive. There was only one applicant, eliminating any possibility of favouritism, and the assistance neither affected any stakeholder nor distorted any competitive process. Mr. Swapnil Jain submitted that he had no relationship with the applicant, derived no personal benefit, and exercised no influence over the CoC or AA, whose decisions alone determine approval of a resolution plan. He emphasised that a nominal, short-term assistance extended without expectation of return, benefit, or influence does not impair actual or perceived independence, and the relevant test is whether the act undermined objectivity or created a reasonable apprehension of bias. In the present case, no such apprehension could arise.
- 2.9. Mr. Swapnil Jain further submitted that the Code of Conduct is principle-based and does not enumerate every situation that may affect independence, and isolated errors of judgment, absent mala fide intent or adverse impact, should not amount to misconduct. He highlighted his unblemished professional record as a Chartered Accountant and as an IP, including successful completion of a CIRP within timelines in another matter. Acknowledging the need for greater caution in future, he reiterated that all actions were taken in good faith and solely in the interest of stakeholders and therefore requested that the SCN be closed without adverse directions.
- 2.10. During the course of hearing as well as in the additional written submissions filed, Mr. Swapnil Jain submitted that though I.A. No. 971 of 2023 filed by Yaduka Agrotech has been withdrawn, but I.A. No. 1502 of 2024 and I.A. No. 1520 of 2024 filed by Authum Investment are still pending for adjudication before the AA, it is incumbent to highlight that the present SCN being founded solely on identical issues and prayers raised by Authum in the said applications, may result in conflicting findings by the IBBI and AA. As the subject matter of the present proceedings substantially overlaps with the issues pending before the AA, the same cannot be concurrently adjudicated by the Disciplinary Committee of the IBBI, as the same would result in multiplicity of proceedings, double jeopardy and possible conflicting findings. In fact, the proceedings before DC pursuant to SCN would result in overreaching the jurisdiction of AA, hence, the same warrants to be dropped directing withdrawal of the SCN.

## Analysis and Findings of the DC

- 2.11. The DC has gone through the SCN, reply of SCN and oral and written submissions made by Mr. Swapnil Jain in detail. The core allegation relates to the RP providing financial assistance to the SRA for submission of the EMD, thereby creating a conflict of interest and compromising the independence expected of an insolvency professional.
- 2.12. The DC notes that four issues were raised in the complaint. The observations of the IA on each issue are summarised below: -

| Sr. No | Issue                                                              | IA Observation                                                                                                                                                                                 |
|--------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.     | Non-sharing of documents and denial of substitution of complainant | <i>As regards substitution of complainant in CoC and discrepancies in the plan approval process, the IAs are pending adjudication before the AA. Therefore, the matter remains sub judice.</i> |
| 2.     | Providing funds to the SRA and conflict of interest                | SCN issued                                                                                                                                                                                     |
| 3.     | Failure to conduct Swiss Challenge                                 | The issue raised in the complaint is presently pending adjudication before the AA.                                                                                                             |
| 4.     | Publication of EoI                                                 | The reply of IP <i>prima facie</i> satisfactory. It has been noted that the complainant has also raised this issue in IA 1502/2024 and the same is pending adjudication.                       |

- 2.13. A perusal of the above table shows that out of the four issues raised in the complaint; in three issues it was mentioned that the matter is sub judice before the AA. In the present matter too, where the SCN has been issued on the allegation of providing financial assistance to the SRA, the RP has submitted that identical issues arising from the same set of facts are presently pending before the AA in IA No. 1502/2024, and that the findings of the AA may materially influence the factual basis of the allegations in the SCN.
- 2.14. The RP has requested the DC to await the AA's decision. The DC has considered this submission. The issues pending before the AA overlap substantially with the factual matrix forming part of the SCN. The outcome of the pending applications may directly bear upon the events and responsibilities attributed to the RP. It is further noted that other parties i.e., Mr. Raj Singhania, Process Advisor and M/s Authum Investment & Infrastructure Limited, in the IAs are also not before the DC but are before the AA where they have the opportunity to present their case. Therefore, it will be better if the issue is decided by AA first where all

the parties can have their say. Therefore, the DC finds merit in the submission made by RP to defer the matter until the AA adjudicates the pending applications.

**3. Order.**

- 3.1. In view of paragraph 2.15 above, the DC in exercise of the powers conferred under Section 220(2) of the Code read with Regulation 13 of the Inspection and Investigation Regulations and Regulation 11 of the Insolvency Professionals Regulations, disposes the SCN with a direction to the Board to examine the matter afresh after disposal of applications pending before the AA which deal with the same issue.
- 3.2. In view of paragraph 3.1 above, this Order shall come into force immediately.
- 3.3. A copy of this order shall be forwarded to Indian Institute of Insolvency Professionals of ICAI (IIPI) where Mr. Swapnil Jain is enrolled as a member.
- 3.4. A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.
- 3.5. Accordingly, the show cause notice is disposed of.

Sd/-

(Sandip Garg)

Whole Time Member

Insolvency and Bankruptcy Board of India

Dated: 11 November 2025

Place: New Delhi