

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/286/2025

15 May 2025

Order

This Order disposes of the Show Cause Notice (SCN) No. IBBI/C/2023/01010/847/140 dated 28.03.2024 issued to Mr. Viswanathan Rajagopalan, who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/PA-003/ICAI-N-00275/2020-2021/13069 and a Professional Member of the Insolvency Professional Agency of Institute of Cost Accountants of India.

1. Background

- 1.1. The NCLT, Chennai, (AA) *vide* its order dated 18.04.2023 admitted the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code), filed by K.V. Capital, financial creditor (FC) for initiating Corporate Insolvency Resolution Process (CIRP) against Amar Prakaash Developers Private Limited (Corporate Debtor/CD) and appointed Mr. Viswanathan Rajagopalan as Interim Resolution Professional (IRP). He was later replaced by Trupro Insolvency Services LLP who was appointed as Resolution Professional (RP) *vide* the order dated 08.11.2023 of the AA.
- 1.2. The Board was in receipt of complaints against Mr. Viswanathan Rajagopalan. On receipt of complaints, the Board, in exercise of its powers under Section 218 of the Code read with Regulation 7(1) and 7(2) of the IBBI (Inspection and Investigation) Regulations, 2017 (Investigation Regulations) appointed an Investigating Authority (IA) to conduct the investigation of Mr. Viswanathan Rajagopalan. The IA sent notices under Regulation 8(1) of the Investigation Regulations issued to Mr. Viswanathan Rajagopalan to which he submitted his replies. Thereafter, Investigation Reports were submitted by the IA to the Board.
- 1.3. On perusal of the investigation report, the Board formed a *prima facie* view that Mr. Viswanathan Rajagopalan had contravened provisions of the Code and the Regulations made thereunder and issued a SCN to Mr. Viswanathan Rajagopalan on 28.03.2024. Mr. Viswanathan Rajagopalan submitted his reply to the SCN on 11.04.2024 and 20.04.2024.
- 1.4. The Board referred the SCN, responses of Mr. Viswanathan Rajagopalan to the SCN to the Disciplinary Committee (DC) for disposal of the SCN in accordance with the Code and Regulations made thereunder. Mr. Viswanathan Rajagopalan availed opportunity of personal hearing through virtual mode before the DC on 28.11.2024. Subsequent to the hearing, Mr. Viswanathan Rajagopalan submitted additional submissions.

2. Alleged Contraventions, Submissions, Analysis and Findings

The contraventions alleged in the SCN and Mr. Viswanathan Rajagopalan's written and oral submissions thereto are summarized in the following paragraphs.

2.1 Contravention-I

Delay in appointment of Authorized Representative (AR) for homebuyers and consequential exclusion of homebuyers from voting in the meetings of the CoC.

2.1.1 Regulation 16A (2) of the IBBI (Insolvency Resolution Process of Corporate Persons) 2016 (CIRP Regulations) provides that the IRP shall apply to the AA for appointment of the Authorised Representatives (AR) selected under sub-regulation (1) within two days of the verification of claims received under sub-regulation (1) of Regulation 12. Further, as per Regulation 40A of the CIRP Regulations, the AR should be appointed within 23 days from the insolvency commencement date.

2.1.2 Mr. Viswanathan Rajagopalan filed the application for appointment of AR before the AA on 09.05.2023, however, it was noted from the website of the AA that the said application (numbered as IA No. 1203/2023) was filed much belatedly on 10.07.2023 i.e., with a delay of around two months. Further, due to the abovesaid delay, the homebuyers having approximately 20% voting rights in the CoC, were deprived of exercising their voting rights in the first and second meeting of the Committee of Creditors (CoC). Furthermore, in the third meeting of the CoC, the homebuyers were deprived of exercising their voting rights by the RP giving reasons of non-approval of e-voting expense of homebuyers by the CoC. In view of the above, the Board held the prima facie view that Mr. Viswanathan Rajagopalan had contravened Regulation 16A(2) of the CIRP Regulations, Regulations 7(2)(a) and 7(2)(h) of the IBBI (Insolvency Professional) Regulations, 2016 (IP Regulations) read with Clause 14 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

2.2 Submissions by Mr. Viswanathan Rajagopalan.

2.2.1 Mr. Viswanathan Rajagopalan submitted that he had taken charge of the CD on 19.04.2023. He had been receiving claims from several homebuyers during the said period. As he was not fully provided with the details of the CD, for which one application under Section 19(1) of the Code was pending before the AA, he had to spend some time to verify and collate the claims of the homebuyers which were coming in thousands. The 23rd day of commencement of CIRP ended on 11.05.2023. Verification of claims was done, and the report was submitted to the AA on 09.05.2023. The IRP had to classify the said home buyers based on their apartment projects and associations present to simplify the complex number of people. Further, he had been in the process of getting votes from the said associations for one AR from the three AR choices. Finally, after getting sufficient votes for the appointment of the AR, an application no.

IA/994/2023 was filed by him under Regulation 16A of the CIRP Regulations. The matter was heard on 23.06.2023 wherein, the AA had advised him to appoint at least three ARs due to the fact that homebuyers were in high numbers, i.e., 5,100, and he was given liberty to withdraw the application and file new one. After the said liberty, he approached the homebuyers for voting of three ARs and subsequently filed an application no. IA/1203/2023.

2.2.2 He submitted that during the conduct of the second CoC meeting, he had applied for the appointment of the AR and the matter was *sub judice* before the AA. There was no wilful delay on his part as IRP and it was a long process as a large number of stakeholders were involved. The consequential exclusion of homebuyers from voting in the meeting of the CoC was not his intentional act and the application for appointment of AR was *sub judice* before the AA. The delay was only due to the large stake of claims which needed to be verified. He had applied to the AA for the appointment of the AR selected under Regulation 16A(1) within two days of the verification of claims received under Regulation 12(1), i.e., final consent from homebuyers received on 08.06.2023 and the application was moved to the AA on 09.06.2023. There was no delay on his part which happened only due to the large number of stakeholders who had to give consent for the AR.

2.2.3 He submitted that it is true that due to the delay, the home buyers having 20% of voting rights couldn't participate in the first and second CoC meetings because the claims were being verified during the first CoC meeting and the application for appointment of AR was pending adjudication during the second CoC meeting. He submitted that he had made all attempts to secure the voting rights of the homebuyers, but it eventually failed due to the non-approval of e-voting expenses of the homebuyers, by the CoC in its third meeting. The IRP fees was not approved in all three CoC meetings. Therefore, in the above facts and circumstances, he did not contravene Regulation 16A(2) of CIRP Regulations as he moved the application the very next day from obtaining consent from the home buyers' associations for the ARs.

2.2.4 Mr. Viswanathan Rajagopalan submitted chronology of the events as under -:

Activity	Date
Commencement of CIRP	18.04.2023
Consent obtained from IPs to act as AR	10.05.2023
Emails to homebuyers association for appointment of AR	12.05.2023
Personal visit to each Project and requested homebuyers to give their consent for appointment of AR	14.05.2023
First CoC Meeting	17.05.2023
Personal visit to each project and requested homebuyers to give their consent for appointment of AR	22.05.2023

Personal visit to each Project and requested homebuyers to give their consent for appointment of AR	30.05.2023
Follow-email sent to homebuyers association for appointment of AR	02.06.2023
Final consent from homebuyers received	08.06.2023
First Application with the AA through IA/994/2023	09.06.2023
Second CoC Meeting (AA's order for appointment of AR was awaited)	17.06.2023
Rejection of first application by the AA as only 1 AR was mentioned and directing the IRP to appoint at least 3 ARs	23.06.2023
Revised consent received from homebuyers based on the AA order	07.07.2023
Second Application with the AA through IA/1203/2023 with condonation of delay in submission	10.07.2023
Final Order passed by the AA in the appointment of AR	27.07.2023
Introduction of ARs to homebuyers in person for all the projects by IRP	20.08.2023
Quote for e-Voting of AR during third CoC Meeting not approved by CoC	27.10.2023

2.2.5 He further submitted that unsecured FC of other class, i.e., homebuyers are classified into 3 categories:

- a) Homebuyers who paid entire or most of the amount but the apartments were not delivered;
- b) Homebuyers who paid token advance but the money was not returned;
- c) Homebuyers to whom the Apartments were delivered but even the basic common amenities included in the Construction Agreement itself was not delivered.

2.2.6 He submitted that the consent was obtained from three IPs for appointment as ARs. The details of voting for appointment of ARs was made to the homebuyers both through emails and through personal visits. Based on the voting percentage received, the AR was identified and IA/994/2023 was submitted with the AA on 09.06.2023, before the first COC Meeting itself. The AA mentioned that appointment of one AR would not be sufficient and directed to appoint minimum three ARs. He was also directed to withdraw IA/994/2023 and submit a fresh IA. Based on the above directions by the AA, further emails and personal visits were made to request the homebuyers to appoint an AR for each project. A fresh IA/1203/2023 was submitted to the AA on 08.07.2023. He submitted that the voting was made only by the individual homebuyers and not by their associations. The final order was received from the AA on 27.07.2023 after the completion of the second CoC Meeting.

2.2.7 On being enquired that regarding emails being sent to homebuyers association for appointment of AR, Mr. Viswanathan Rajagopalan submitted that the details of voting for appointment of ARs was made to the homebuyers both through emails and through personal visits. In addition, the Home Buyers Associations were also approached regarding the appointment of the ARs so that the voting process can be completed in a quick manner. The voting was made only by the individual homebuyers and not by their associations. The associations did only the coordination.

2.3 Analysis and Findings.

2.3.1 The chronology emanating from the submissions by Mr. Viswanathan Rajagopalan is as follows:

Activity	Date
Commencement of CIRP	18.04.2023
Verification of claims was done, and the report was submitted to the AA.	09.05.2023
23 rd day of commencement of CIRP ended.	11.05.2023
Mail for obtaining consent of AR sent by the IRP to the Homebuyer's Association.	12.05.2023
First CoC Meeting.	17.05.2023
Follow-email sent to homebuyers association and homebuyers for appointment of AR	02.06.2023
Final consent from homebuyers received	08.06.2023
Application no. IA/994/2023 was filed.	09.06.2023
Second CoC Meeting (AA's order for appointment of AR was awaited)	17.06.2023
Application no. IA/994/2023 was heard wherein, the AA advised the IRP to appoint at least 3 ARs due to the fact that homebuyers are in high number i.e., 5100, and the IRP was given liberty to withdraw the application and file new one	23.06.2023
Subsequently application no. IA/1203/2023 was filed for appointment of 3 ARs.	10.07.2023
Appointment of AR.	27.07.2023

2.3.2 The DC notes that the application no. IA/1203/2023 filed by Mr. Viswanathan Rajagopalan stated that *"the Applicant had filed an application under IA/904/2023 which came up for hearing on 23.06.2023, this Hon'ble Bench viewed that one Authorised Representative might not be enough for all the homebuyers who are of huge numbers,, hence the Applicant withdrew the said Application and appointed 2 more Authorised Representatives nominated by the Home*

buyers on basis of projects of Corporate Debtor so that the Authorised Representatives can manage the home buyers with . much ease and comfort.”

2.3.3 The DC notes that Mr. Viswanathan Rajagopalan filed that IA/994/2023 for appointment of AR on 09.06.2023. He stated in the said application that *“the Regulation 16A provides that the Interim Resolution Professional must file application before the adjudicating authority within 2 days from date of verification of claims (T+23, within 23 days from date of order, i.e., within 11.05,2023). That there occurred a delay of 29 days in filing the present application for following reasons:*

- a. The Applicant received the order only on 19.04.2023 and immediately caused public announcement as per the time period prescribed,*
- b. The Applicant has not yet been provided with the full books of accounts of the Corporate Debtor, hence the total number of home buyers is still undetermined,*
- c. The Applicant has to individually verify the claim "based on the documents submitted by the Creditors, as no books of accounts are available, and*
- d. The present Corporate Debtor has over 5000 apartments and 6 associations of home buyers and several hundred individual home buyers who were not part of association as they have not received their apartments, and it took time to consolidate the claims from each of the home buyer.”*

2.3.4 Thus, there was delay of 29 days in filing application for appointment of the AR as admitted by Mr. Viswanathan Rajagopalan before the AA.

2.3.5 The DC notes that the Regulation 6(1) of CIRP Regulations provides that an IP shall make a public announcement immediately on his appointment as an interim resolution professional and word ‘Immediately’ has been explained as not later than three days from the date of his appointment. Further the Regulation 6(2)(bb) of the CIRP Regulations provides that the public announcement offer choice of three IPs to act as the authorised representative of creditors in each class. Under the Regulation 16A(1) of the CIRP Regulations, the IRP shall select the IP, who is the choice of the highest number of financial creditors in the class to act as the AR of the creditors of the respective class. Thus the process provided for the selection of the AR begins with public announcement. The DC notes that in the matter of CD the public announcement dated 19.04.2023 made by Mr. Viswanathan Rajagopalan does not mention the name of any IP to act as AR of creditor in a class. The consent was obtained from the IPs to act as AR on 10.05.2023 which was after the completion of verification of claim by Mr. Viswanathan Rajagopalan. He approached the homebuyers through their associations again on 12.05.2023 requesting them to get the consent of each homebuyer on any of the three ARs and give the consent to him which was after completion of 23 days from admission of CIRP and

also after two days of verification of claims. Thus, not providing choice of AR at the time of public announcement led to delay in selection of AR. Hence, the DC hold the contravention.

2.3.6 On being enquired regarding number of home buyers being 5,100 whose claims were admitted as per his submissions while the list of claimants as uploaded on the website of the Board states the number of 1,849 homebuyers, he submitted that the total number of unsecured FCs is 3,200 and the total number of creditors based on the claims received and processed is 3,244 and the above total is based on the claims received and processed for individual homebuyers only. That the homebuyers in the projects like Suncity and belonging to few associations in Temple Waves had submitted consolidated claims. The DC observes from the website the Board where Mr. Viswanathan Rajagopalan has uploaded list of claimants that number of claimants on 17.07.2023 were 3,200 and on 06.09.2023 were 1,849. The DC observes that the submissions of Mr. Viswanathan Rajagopalan on the issue are inconsistent with what Mr. Viswanathan Rajagopalan uploaded on the IBBI's website.

2.4 Contravention-II

Status of resolution not properly disclosed in voting sheet of the 2nd meeting of the CoC.

2.4.1 As per the Section 27(2) of the Code, the CoC may, at a meeting, by a vote of sixty six per cent of voting shares, resolve to replace the RP appointed under the Section 22 with another RP, subject to a written consent from the proposed RP in the specified form. The second meeting of the CoC was held on 17.06.2023 wherein a resolution was passed for replacement of Mr. Viswanathan Rajagopalan. It was noted from the voting sheet that the resolution was passed by 56.52% voting share and approximately 20% voting share of homebuyers was not represented due to delay in appointment of the AR. Therefore, effectively, the resolution was passed by 73% and this fact is not reflected properly in the voting results. The said deficiency in the voting sheet has resulted in confusion regarding approval of resolution by the CoC. In view of the above, the Board held the *prima facie* view that Mr. Viswanathan Rajagopalan contravened Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 12 of the Code of Conduct.

2.5 Submissions by Mr. Viswanathan Rajagopalan.

2.5.1 Mr. Viswanathan Rajagopalan submitted that the voting sheet clearly states the above information homebuyers who possess 19.50% voting rights were not eligible since the appointment of the AR was pending adjudication before the AA. The CoC meeting was held on 17.06.2023 wherein a resolution was passed for replacing him from IRP for which 56.52% of voting shares were affirming and the resolution was passed. Where the resolution was passed leaving out 19.5% who are ineligible to vote as AR was not appointed and pending

before the AA. The Voting sheet clearly states all the above-mentioned details which doesn't create any confusion at all.

2.5.2 He submitted that there has been no suppression of fact or intention to mislead the AA or stakeholders by him. The voting sheet is not read in consonance with the details and heads that have been given. The CoC had filed the application no. IA/2081/2023, for the replacement of IRP with a new RP, only on 12.09.2023 much after the resolution was passed. The CoC was sleeping over the act of filing the said application, and even though they were clear in the position of law that an AR vote would not be considered, they still waited for two months to file the application for a change of IRP.

Activity	Date
Emails sent to homebuyers on 12.05.2023 and 02.06.2023; Multiple personal visits made to each Project and request consent for appointment of AR	22.05.2023 and 30.05.2023
Date of second CoC Meeting	17.06.2023
Since the appointment of AR was pending with the AA, they could not participate in the CoC Meeting and could not vote in the meeting.	17.06.2023
First draft of Minutes shared with CoC Team	18.06.2023
Application for appointment of AR pending with the AA through IA/994/2023 on 09.06.2023 until refusal by CoC to share any of the details requested by the IRP which are the lifeline for the CIRP; Mortgaged Assets verification before CIRP; Reconciliation for sale of Mortgaged; Personal Loan to Corporate Debtor's Mgt. team	23.06.2023 (the AA's Order was awaited) Third CoC meeting was not held and hence the ratification of the resolutions of the second CoC meeting could not be made.

2.5.3 Mr. Viswanathan Rajagopalan submitted during the hearing before the DC that voting during first meeting was done through google form and arrangement was made for e-voting after request from creditors during the second CoC meeting. He was enquired regarding right to vote not given to homebuyers during the CoC meetings. He submitted that a quote was obtained to enable dispatch of voting sheet and obtain their responses through online mode. The CoC team was requested to approve the quote and voting percentage of the secured and unsecured FCs was also shared with the CoC. No response was received from the CoC and payment to the vendor for e-voting, Linkstar Infosys, was not made by the CoC Team.

2.6 Analysis and Findings.

2.6.1 The DC notes that the Section 25A(3A) of the Code provides that the AR shall cast his vote on behalf of all the FCs he represents in accordance with the decision taken by a vote of more than fifty per cent. of the voting share of the FCs he represents, who have cast their vote. Further, the Regulation 25A of the CIRP Regulations also provides that the AR shall cast his vote in respect of each financial creditor or on behalf of all FCs. Thus, the AR votes on behalf of the creditors in a class. This does not imply that non-appointment of AR will deny the voting rights to creditors in a class (homebuyers in this case). The DC observes that even AR gets the voting of creditors in class done through the voting mechanism used by IRP/RP. The same mechanism could have been deployed by the IRP to seek views of the creditors in class.

2.6.2 Regarding the engagement of vendor to conduct e-voting, the DC notes the submission of Mr. Viswanathan Rajagopalan that the quote was obtained from vendor on 27.10.2023 and forwarded to the CoC thereafter. Thus, the efforts taken for engaging vendor for voting are subsequent to the first, the second and the third CoC meeting. Thus, it can be concluded that no efforts were taken by Mr. Viswanathan Rajagopalan for seeking votes from homebuyers in the first, the second and the third CoC meeting.

2.6.3 The DC notes that the votes for respective CoC members in voting sheets for first and second CoC meeting showed as below:

Entity	Voting share	Votes	Voting share excluding votes by the homebuyers
LIC Housing finance Ltd.	38.91%	Yes/No/Abstained	48.98
Acre India	20.63%	Yes/No/Abstained	25.96
JMF	15.47%	Yes/No/Abstained	19.47
KV Capital	1.11%	Yes/No/Abstained	1.39
KV Finance & Investment	1.01%	Yes/No/Abstained	1.27
Classic FM Developers	1.06%	Yes/No/Abstained	1.33
United FM Developers	1.08%	Yes/No/Abstained	1.35
Franch Global	0.17%	Yes/No/Abstained	.21
Home buyers	20.56%	N/A (Note-1)	--
Total	100%		100

Note-1 to the voting sheet mentioned that *“The Authorized Representatives appointment was approved by the AA only on 27.07.2023 through IA/1203(CHE)/2023. The first application filed on 19/06/2023 was rejected by Hon'ble NCLT, Chennai, as the Bench mentioned that appointment of 1 AR will not be sufficient, and 3 to 7 AR are required for 5,100 Home Buyers.”*

2.6.4 The DC notes that the above voting results shared by Mr. Viswanathan Rajagopalan are in contradiction of his own submission as according to him the home buyers were not eligible to vote as application for approval of the AR was pending with the AA. In case of such interpretation, Mr. Viswanathan Rajagopalan could not have presented the homebuyers in voting sheets and should have shown the voting share of other CoC members in a manner that should total to 100 percent without the homebuyers. Homebuyers should have been asked to vote even in absence of the AR. However, when the homebuyers were not asked to vote, inclusion of their votes in the voting share was not correct. If the share of other CoC members is readjusted so that it becomes 100%, it becomes quite clear that the proposal for replacement of IRP received more than 66% votes. Since, this was to the detriment of the IRP, he presented the voting results in a manner which created ambiguity in the above voting results. Thus, the contravention is held.

2.7 Contravention-III

Failure to include agenda for appointment of registered valuers.

2.7.1 The Regulation 27(1) of the CIRP Regulations provides that the RP shall within seven days of his appointment but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers (RVs) to determine the fair value and the liquidation value of the corporate debtor in accordance with the Regulation 35.

2.7.2 It was noted that Mr. Viswanathan Rajagopalan appointed only one valuer on 10.10.2023, which was in contravention of the requirement of appointing two registered valuers within 47 days of Insolvency Commencement Date. Further, his submission that negative votes were casted for appointment of valuers in the first CoC meeting held on 17.05.2023 is false and misleading as there was neither any agenda included for the appointment of valuers nor was there any discussion regarding appointment of valuers in the said CoC meeting.

2.7.3 In view of the above, the Board held the *prima facie* view that Mr. Viswanathan Rajagopalan had contravened the Regulation 27(1) of the CIRP Regulations and Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 12 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

2.8 Submissions by Mr. Viswanathan Rajagopalan.

2.8.1 Mr. Viswanathan Rajagopalan submitted that the table below explains the timeline of the process of appointment of the RVs. Most of the details required by the valuers were made available with him by the end of September 2023. Hence the invitation for quotes from valuers by the IRP was made during September 2023. The above quote from the valuers was sent to the CoC via email dated 26.09.2023 to which there was no response. Thus, the allegation that he had never informed regarding appointment of the RV was not correct.

Activity	Date
Onsite visit of Land & Building, Plant & Machinery Valuers; Two Valuers and their Office team (Within one week from the commencement of the CIRP)	24.04.2023
Coordination with Professionals for appointment of valuers	30.04.2023
First CoC Meeting	17.05.2023
Details of visit of Valuers included in the minutes of first CoC Meeting.	26.05.2023
Follow up made with valuers for feedback	18.05.2023
Feedback received from Land & Buildings, Plant & Machinery Valuers	19.05.2023
Application filed under Section 19(2): IA/957/2023	31.05.2023
Feedback received from Valuers through email	05.06.2023
None of the Input requested by the valuers not available with the IRP	17.06.2023
Second CoC Meeting	17.06.2023
Email Sent to Erstwhile director for input required.	28.06.2023
Multiple emails, phone calls made to erstwhile director for the inputs	
Draft Financials prepared by IRP for FY 2019-20 To FY 2022-23	04.07.2023
IM prepared for the CD by the IRP	13.07.2023
100% Physical verification of apartments completed by IRP	13.08.2023
Physical verification of documents at the registered office	31.08.2023
Most of the details required by the valuers was available with the IRP and hence invitation for quotes from valuers by the IRP during Sep'23	07.09.2023

2.8.2 He further stated that on discussion with the valuers on 22.04.2023, he came to know about the details to be furnished to the valuers enabling them to carry out the valuation, but no document/information was available with him during the said period, for which an application against the suspended directors was filed, under the Section 19(2) of the Code for co-operating with the IRP. The said application was pending, and necessary details were not in his hands, restricting him from appointing the RVs. The delay was only due to the fact that the matter was *sub judice* before the AA seeking handing over of necessary documents.

2.8.3 He submitted that he had already obtained quotation from the RVs in May 2023 itself and the same was communicated to the CoC also, *vide* email. Further, he had sought several documents regarding the mortgaged apartments from the CoC as several inconsistencies were noted during physical verification of the apartments by the IRP, but the CoC failed to respond even to a single mail sent by the IRP. He submitted that the process can be proceeded smoothly if the CoC and IRP were in concurrence with each other. In the present matter, the CoC did not assist him, but further went on to complaint against the IRP for delay in the procedure when the IRPs hands were tied by the CoC.

2.8.4 He submitted that, in the reply submitted by him to the IBBI on 10.11.2023, it was clearly stated that:

“The IRP (Viswanathan Rajagopalan) had a discussion with two Registered Valuers on 22/04/2023 and this was documented in the Minutes of the first Committee of Creditors (COC) Meeting.

The Financial Creditor, LIC Housing Finance Limited, had voted in negative for most of the Resolutions passed in the first COC Meeting, including the appointment of Professionals and support staff”

2.8.5 He submitted that the violation of the Regulation 27(1) of CIRP Regulations was due to the two major factors.

A. No document/information was available to the IRP during the said period, necessary details were not in the hands of IRP, restricting him from appointing the RVs.

B. An application against the suspended directors was filed, under Section 19(2) of the Code for co-operating with the IRP. The delay was only because the matter was *sub judice* before the AA seeking the handing over of necessary documents.

2.8.6 He submitted that the site visit by the valuers was discussed with the CoC team during the first CoC Meeting on 16/05/2023 and the appointment of Professionals, support staff was put to voting. But the Resolution was rejected by LICHFL, the major Financial Creditor.

2.9 Analysis and Findings.

2.9.1 As per the Regulation 27 of the CIRP Regulations, the IRP/RP is required to appoint two RVs within seven days of his appointment but not later than forty-seventh day from the commencement of CIRP to determine the fair value and the liquidation value of the CD. The appointment of the RVs is not dependent on the availability of documents and information. The valuation can be conducted based on the available documents, details of land, building and inventory available with the CD. Mr. Viswanathan Rajagopalan conducted the physical verification of the assets of the CD when he found inconsistencies for which he required

several documents. Further, in the email sent by one of the valuer on 05.06.2023, he *observed* “...the flat types are Single BHK, 2BHK, 3BHK & 4BHK of total land extent 13.50 Acres. Two Sewage Treatment Plant available (170 MLD & 190 MLD) which is in working condition, Water Treatment plant is in site are not in working condition also the construction materials are available at site.” He required following documents for valuation

- 1) Asset Regd. Documents (Purchase Deed by the Company)
- 2) Copy of Building Approval Plans
- 3) Details of RERA Approvals if any
- 4) EB Permissions
- 5) UDS Reconciliation Statement
- 6) Details of Sold & Un Sold Flats with Area Statement.

The valuer further expressed his willingness to be appointed as valuer. He did not mention the availability of documents and information as prerequisite for appointment of valuer. In this case, there seems to be lot of information available for initiating valuation. Moreover, in real estate cases, building are available for inspection and on that basis value of construction already done and to be done can be worked out. Further, pendency of application under the Section 19(2) of the Code is not a ground for delaying appointment of valuers specially when buildings are available on the ground for inspection. The valuation can be done with the information already available which can be updated further when the information becomes available.

2.9.2 Mr. Viswanathan Rajagopalan submitted that the site visit of the valuers was discussed during the first CoC Meeting on 16.05.2023 and the appointment of professionals, support staff was put to vote. The DC notes that the relevant resolution for appointment of professional as discussed in the first CoC meeting as below:

“14. Appointment of Professionals / Support Staff / Installation of Camera

The appointment of Professionals, Consultant and support staff is mandatory to complete the activities under CIRP by the Insolvency Professional.

- a) Legal Counsel (Various Legal Cases of the Corporate Debtor)*
- b) Statutory Auditor (based on Professional Services rendered)*
- c) Forensic Auditor ((based on Professional Services rendered))*
- d) Support Staff (Two Staffs)*
- e) Consultant (Opinion on need basis)*
- f) Installation of CCTV in Stock Locations, Regd. Office*

The Committee of Creditors (CoC) wanted to have e-voting for the Resolution.

“RESOLVED THAT the option to vote for the Resolution will be provided to the representative of each Financial Creditor through e-voting.”

2.9.3 Form the above, the DC notes that there was no mention of RVs in the above resolution. The DC also could not find any mention of discussion for appointment of RVs in the minutes of the first CoC meeting or any CoC meetings thereafter. The list of CIRP activities mentioned by the RP about the discussion held by him with registered valuers, not discussion with the CoC. Thus, the above submission of Mr. Viswanathan Rajagopalan is not correct. It was wrongly submitted by him that the CoC members voted negatively on the issue of appointment of the RV. Thus, the DC holds the contravention for not appointing the RVs, as required under the Code and Regulations made thereunder.

2.10 Contravention-IV.

Circulation of incorrect minutes and failure to address stakeholder’s concerns.

2.10.1 One of the financial creditors of CD, namely JM Financial Asset Reconstruction Company (JMFARC) *vide* email dated 04.07.2023 listed out large number of inaccuracies in the minutes of the second meeting of the CoC and requested Mr. Viswanathan Rajagopalan to provide accurate information. Thereafter, another financial creditor, namely LIC Housing Finance Limited *vide* letter dated 24.07.2023 requested him to provide detailed minutes of the second CoC meeting. However, he failed to provide proper minutes of the said meeting of the CoC to the concerned financial creditors. In view of the above, the Board held the *prima facie* view that Mr. Viswanathan Rajagopalan had contravened the Regulation 23(3)(c) of the CIRP Regulations, the Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 12 and 14 of the Code of Conduct.

2.11 Submissions by Mr. Viswanathan Rajagopalan.

2.11.1 Mr. Viswanathan Rajagopalan submitted that he had included all details which had a fruitful discussion in the second CoC meeting. J M Financial Asset Reconstruction Company made accusations that the minutes of the CoC meeting had inaccuracies. He denied the said allegation and submitted that all the effective discussions were noted and maintained promptly which was submitted for perusal. For further clarity and transparency, he shared the video recording of the second CoC meeting to the CoC on 29.07.2023 and further to the IA for its perusal on the matter and to decide after witnessing the meeting. The FC, LIC Housing Finance Limited deliberately raised this even after supplying the minutes of the meeting. Therefore, he submitted that he provided the minutes of the said meeting dated 29.07.2023 to the concerned FCs. The chronology in this regard was submitted as under:-

Activity	Date
Second CoC meeting completion	17.06.2023
Circulation of minutes of second CoC meeting	18.06.2023
CoC Voting % and Clarifications required by LICHFL	22.06.2023
E-voting requested by CoC	22.06.2023
E-voting arranged with Link Star Infosys	26.06.2023
Request by CoC Team to extend e-voting date.	30.06.2023
Email from JM Finance with corrections required in second CoC minutes-20 days after the minutes was circulated	04.07.2023
Email from ACRE with queries regarding second CoC meeting	11.07.2023
e-Voting Results to CoC	04.07.2023
Consolidated reply to CoC on minutes of second CoC meeting	29.07.2023
Video recording of second CoC shared with CoC team	29.07.2023

2.12 Analysis and Findings.

2.12.1 The DC notes the concerns raised by the CoC members were mentioned below :

CoC member and its requisition	Concern	Reply by IRP
LIC Housing Finance Ltd. in email dated 05.07.2023	Further to the e-voting results shared, kindly clarify the following: 1. Have only 79.44% amongst voting share of CoC members have voted? 2. If not, please share the outcome of voting % of remaining 21%? 3. If yes, PI let us know what the voting is % of each item.	Clarification mail sent by RP
JM Financial Asset Reconstruction Company Limited in email dated 04.07.2023 requested the RP to address these issues and provide it with accurate	Misrepresentation of CoC meeting number: The minutes incorrectly state the meeting as the first CoC Meeting instead of the 2nd CoC Meeting.	No revert on record
	The minutes fails to provide details of the discussions held during the meeting. Instead, the Resolution Professional merely reiterates the agenda items without capturing the substantive deliberations.	No revert on record
	Inadequacy of meeting platforms: The RP should adopt a reliable and industry-accepted mode of conducting meetings. The utilization of platforms like Google Meet and voting through word files is discouraged and not appreciated.	No revert on record

and comprehensive minutes of the second CoC Meeting	Absence of discussion and conclusions: The RP has not indicated the discussions and conclusions reached on each agenda item presented for deliberation by the CoC.	No revert on record
	Non-disclosure of mortgage and sale: Regarding NHD Homes, the minutes do not indicate that it was mortgaged to ACRE but subsequently sold by the CD without their approval.	No revert on record
	Incomplete representation of matters: The minutes fail to capture the essence of the matters pertaining to EAP Infrastructure, NHD Homes, PPD Homes, and PPD Estates.	No revert on record
	Failure to capture homebuyers' issues: The minutes do not reflect the grievances faced by homebuyers of the Suncity project, including their filing of a police complaint. Details regarding the nature of the complaint and its status are omitted. The RP has mentioned an upcoming personal visit to the site on next Sunday, however details of the visit is not shared with the CoC	No revert on record
	Omission of outstanding electricity dues: The RP has neglected to inform the CoC of the outstanding amount related to electricity dues and other relevant details leading to the termination of the electricity supply. The RP has to include the same in the minutes.	No revert on record
	Lack of clarity on security personnel deployment: In regard to the security service, the RP expressed the need for security personnel at the registered office premises of the corporate debtor. However, when questioned by the CoC about the necessity in the absence of electricity, the RP mentioned that due receipt of numerous communications and letters, there is a requirement to deploy security personnel. The number of security personnel required was not specified. It's very clear that the RP had mentioned that only one security personal is required as the same is only to receive the letters which are sent to the company address. Please state the reason of the requirement of security personnel and also your request of setting up cameras.	No revert on record
	Handling of escrow funds: The JMFCSL officer informed the RP that the funds in the escrow account are lien marked for repayment and cannot be utilized	No revert on record

	unless for the specific project, remaining outside the pool. It was advised to keep the amount untouched and retained in the escrow. This has to be minutised with the legal view taken by the RP.	
	Verification of housing loan claims: The RP needs to confirm whether the housing loan disbursed by LIC to promoters is part of the claims submitted by LIC to the RP. The view has to be updated in the minutes as to what's the final conclusion for the same and the steps taken for verifying the housing loan claims	No revert on record
	Legal opinion request: The reasons behind the RP seeking legal opinion on the assignment of loans in favor of JMFARC are unclear. Additionally, legal opinion is required regarding the home loans obtained by the promoters from LIC, which were mortgaged by the Corporate Debtor. The reasoning has to be provided by the RP that any bank or NBFC can sell the loan to an ARC at any stage on the basis of their internal approvals. The view of RP has not clearly stated in the minutes resulting in an open point of the agenda	No revert on record
	Unsold flats assessment: The RP informed the CoC that based on their assessment and responses from the promoters, there are only 11 unsold flats across all projects.	No revert on record

2.12.2 The DC notes that Mr. Viswanathan Rajagopalan has not been able to attend to the grievances of the CoC members before finalising the minutes of the second CoC meeting. The voting sharing percentage as shared by him creates ambiguity regarding the eligible votes and ineligible voting share. Mr. Viswanathan Rajagopalan failed to give clarity regarding the correct voting result when votes of the homebuyers was not counted by him.

2.12.3 The DC notes that Mr. Viswanathan Rajagopalan failed to revert back to the issues raised by JMFARC regarding the minutes of the second CoC meeting as admitted by him. He only acknowledged the receipt of email but did not give any specific reply to the issues raised by the queries and clarified in the same in the minutes of second CoC meeting.

2.12.4 The DC notes that the issues raised by the CoC members were not resolved in the CoC meeting nor addressed by Mr. Viswanathan Rajagopalan in his email responses or the minutes of the meeting. Hence, the DC holds the contravention.

2.13 Contravention-V

Failure to convene requisitioned meeting and causing delay in conduct of the CIRP.

- 2.13.1 The Regulation 18(2) of the CIRP Regulations provides that an RP may convene a meeting, if he considers necessary, on a request received from members of the committee and shall convene a meeting if request for the same is made by members of the committee representing at least thirty-three per cent of the voting rights. The second meeting of the CoC was conducted on 17.06.2023. Thereafter, on 08.08.2023 an email was sent by one Financial Creditor having more than 33% voting share in the CoC to Mr. Viswanathan Rajagopalan requesting him to conduct a meeting of the CoC. Subsequently, the third CoC meeting was conducted on 25.10.2023 i.e., after a gap of 2 months from the date of requisition without any reasonable explanation.
- 2.13.2 In view of the above, the Board held the prima facie view that Mr. Viswanathan Rajagopalan had contravened Regulation 18(2) of the CIRP Regulations and Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 14 of the Code of Conduct.

2.14 Submissions by Mr. Viswanathan Rajagopalan.

- 2.14.1 Mr. Viswanathan Rajagopalan submitted that he had sent several emails regarding discrepancies found during the physical verification of the apartments by him, seeking details from the CoC. That the CoC failed to reply to him, which restricted him from proceeding further with the CIRP. That the CoC was further not co-operating with the details sought by him. He also submitted that he *vide* his email dated 04.08.2023, 07.08.2023 08.08.2023 had been in correspondence with the CoC team with regard to the CIRP and has given clear instruction that the documents sought are vital for further carrying out the procedure and appointment of valuers and the same was to be submitted before the third CoC, which if verified, can be seen as totally neglected by the CoC team.
- 2.14.2 He submitted that the IRP accepted and concurred with the Board that the third CoC meeting was conducted after a short period and there caused a time gap between the second and the third CoC to which no explanation was recorded. The selective reading of the e-mails made to restrict the functioning of IRP. He denied the statement in the SCN that email was sent by one of the FC to conduct CoC meeting and subsequently third CoC meeting was conducted after a gap of two months.
- 2.14.3 He submitted that he did not violate the Regulation 18 of CIRP Regulations. The said regulation states that if the member having 33% of voting share requests to convene a meeting then the IRP shall call for the meeting and the code does not mention any prescribed duration with which the meeting must be held. Moreover, based on the request received by the member a meeting was conducted therefore this provision was not violated.

Activity	Date
Application filed under Section 19(2): IA/957/2023 for non-cooperation by the erstwhile director for submitting the required input	31.05.2023
Email sent to erstwhile director for input required	28.06.2023
Multiple emails, phone calls made to erstwhile director for the Inputs	
Regular update to CoC Team on CIRP activities-I	
Regular update to CoC Team on CIRP activities-II	
Email and agenda for third CoC meeting shared with CoC Team	04.08.2023
Email on third COC Meeting with LICHFL	08.08.2023
Email on when third COC Meeting will be conducted	07.08.2023
Email to builders to submit Expression of Interest (EOI) based on Form-G	09.10.2023
Update on CIRP Activities to Hon'ble NCLT through IA/988/2023 and acknowledged by the AA	17.10.2023
CIRP details handed over to TruPro Insolvency Services and signed by them.	23.01.2024
Compliance Report submitted to Hon'ble NCLT through IA/2081/2023.	31.01.2024

2.14.4 On submissions made in hearing before the DC that the third CoC meeting was not held as no information was made available to him by the directors of the suspended board of the CD and the CoC, he was enquired regarding the nature of information. He submitted that he visited all the projects and took inventory of unsold apartments, found following major gaps:

- Mortgaged Apartments were sold by the Corporate Debtor without approval from respective Financial Creditor
- Apartments that does not exist were shown in the Mortgaged Apartments list of LICHFL
- Mortgaged Apartments were given on Rent

2.14.5 Mr. Viswanathan Rajagopalan submitted that the CoC confirmed through email that there are process gaps in the mortgaged apartments. An amount of Rs.10 crore was given as personal loan to the suspended directors of the CD by LICHFL to purchase their own apartments and he raised question as to why the personal loan was given when the financial itself was defaulted.

2.14.6 He submitted that there was no cooperation from either the CD or the CoC team. Hence, he had to complete physical verification of all the apartments in the projects, prepare financials for 4 years from FY 2018-19 to FY 2022-23, for the period Apr'23 - Sep'23, complete physical verification of assets in the registered office and project locations and prepare information memorandum. He submitted that he had clearly indicated to the CoC team that the third CoC meeting will be held only after the reply to the process gaps identified were given. As an IRP

under the AA and IBBI, he did not want to complete the CoC meetings just for the sake of compliance and do the handover to the incoming Insolvency Professional Entity, TruPro Insolvency Servicers LLP. There was no time gap mentioned in the Regulations between two CoC Meetings, but he did not use it as an excuse for not conducting the third CoC meeting immediately.

- 2.14.7 He submitted that the only reason for the delay in conducting the third CoC Meeting was no response from the CoC team for any of the details requested and process gaps identified, though he had mentioned to them it was only for their benefit, more accurate Information Memorandum and the EOI, the details were requested. He submitted that if the details or at least the reason for not sharing the details were given, he would have conducted the third CoC and completed the handover process before.

2.15 Analysis and Findings.

- 2.15.1 The DC notes the dates of the above events:

Event	Events required to be completed as per Regulation 40A of CIRP Regulations
ICD	18.04.2023
Appointment of valuer	04.06.2023
2 nd CoC meeting	17.06.2023
Publish Form G and invitation of EoI	17.06.2023
Submission of IM to CoC	22.07.2023
Submission of EoI	02.07.2023
Provisional List of RAs by RP	12.07.2023
Submission of objections to provisional list	17.07.2023
Final List of RAs by RP	22.07.2023
Issue do RFRP	27.07.2023
Submission of CoC approved Resolution Plan to AA	30.09.2023
Request for CoC meeting mail sent by CoC member	08.08.2023
3 rd CoC meeting	25.10.2023

- 2.15.2 The DC has already observed that the RP had failed to appoint two RVs as was required. He circulated the information memorandum to the CoC *vide* email dated 13.07.2023 without seeking undertaking from the members of CoC to maintain confidentiality of information. He circulated Form-G published inviting (EoI) to the CoC *vide* email dated 09.10.2023. The RP took the defence that he had circulated a mail for the same to the CoC members and received

no revert from them. Further, the steps following the issuance of the EoI in the CIRP also could not be completed consequently. The RP could have placed the above agendas and discussed before the CoC meeting and subsequently got the approval for same rather than waiting for the approval from individual CoC members over e-mail. Thus, by avoiding to hold the third CoC meeting, Mr. Viswanathan Rajagopalan failed to perform important steps in the CIRP.

2.15.3 The DC notes that Mr. Viswanathan Rajagopalan had conducted the second CoC meeting on 17.06.2023 and the third CoC meeting was conducted on 25.10.2023 after a delay of 4 months and 11 days. The submission that meeting will not be held as there were information gaps and same were awaited from director of the suspended board and the CoC members is not acceptable. The holding of CoC meeting cannot be held ransom to the information being provided. The meeting provides opportunity for discussions and finding out way to challenges in the process.

2.15.4 The Regulation 18(2) of the CIRP Regulations states that the RP shall convene the CoC meeting if 33% vote sharing member requests for the meeting. The DC further notes that the request for convening the CoC meeting was made by LIC Housing Finance Ltd. *vide* email dated 08.08.2023. The requesting member holds a voting percentage of 38.96%. Therefore, Mr. Viswanathan Rajagopalan was bound to convene the meeting as per the CIRP Regulations.

2.15.5 Mr. Viswanathan Rajagopalan takes the defence that Regulation 18(2) of CIRP Regulations does not specify the time limit for convening the same. The DC notes that the time period has to be seen from the reasonable standards. Considering the CIRP being timebound process with timeline laid down in the Regulation 40A of CIRP Regulations for every step, the submission that no time is specified for conducted next CoC meeting cannot be accepted. Moreover, Mr. Viswanathan Rajagopalan has not completed any of the step as provided under the above timeline requiring the conduct of meeting by himself immediately. On one hand Mr. Viswanathan Rajagopalan stated that the CoC member were not providing him any information or reverting to his emails and therefore he did not have their explicit approval; on the other hand, he denied the request of conducting CoC meeting where such stalemate could have been resolved amicably. Thus, the DC holds the contravention..

2.16 **Contravention-VI.**

Issuance of Invitation for Expression of Interest (Form G) without requisite approval.

2.16.1 The Section 25(2)(h) of the Code provides that the RP shall invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of the CoC, having regard to the complexity and scale of operations of the business of the CD and such other conditions as may be specified by the Board, to submit a resolution plan or plans. Further, the Regulation 36A(4)(a) of the CIRP Regulations provides that detailed invitation referred to

in sub-regulation (3) shall specify the criteria for prospective resolution applicants, as approved by the CoC in accordance with the Section 25(2)(h) of the Code. Furthermore, the Regulation 36A(2)(iii) provides that the RP shall publish Form G on the website, if any, designated by the Board for the purpose. The said website has been designated *vide* IBBI's circular dated 23.02.2018.

2.16.2 It was noted that Mr. Viswanathan Rajagopalan sent an email dated 09.08.2023 to the CoC requesting feedback on the Form-G for the CD. Thereafter, in view of no response to the said email, he proceeded to issue the Form-G. It is a mandatory requirement to disclose in the said Form-G where the details of invitation of expression of interest can be obtained from. Further, the said detailed invitation for expression of interest mandatorily includes the CoC approved eligibility criteria for Prospective Resolution Applicants (PRA), however, no discussion took place regarding eligibility criteria in the three CoC meetings conducted by him before his replacement as RP by the AA. It is, thus, observed that he issued the Invitation for Expression of Interest (EoI) (Form G) without consultation of the CoC. Further, the said Form G was also not filed with the Board.

2.16.3 In view of the above, the Board held the *prima facie* view that Mr. Viswanathan Rajagopalan had contravened the Section 25(2)(h) of the Code, the Regulations 36A(2)(iii), 36A (4) (a) of the CIRP Regulations read with circular dated 23.02.2018 and the Regulation 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 19 of the Code of Conduct.

2.17 Submissions by Mr. Viswanathan Rajagopalan.

2.17.1 Mr. Viswanathan Rajagopalan submitted that he had prepared the Information Memorandum (IM) for the criteria for prospective resolution applicants, and the same was shared with the CoC on 13.07.2023. No feedback was received from the CoC which is a process violation on the part of the CoC as it must be published within 75 days. There was an urgency in taking the step further as the code mandates under the Regulation 36A(1) of the CIRP Regulations. The Regulation does not necessitate the approval of Form G from the CoC. He after preparing the eligibility criteria, had shared the same with the CoC through an email dated 09.08.2023 for their approval, against which no reply was given. He mentioned in Form G that the detailed EoI will be available to any interested party, upon an email request to him. Further, the non-approval of a detailed EoI by the CoC, cannot be attributed as a process violation on the part of the IRP. The Code and Regulations implies that Form G has to be published within the prescribed time and the CoC ought to look into the IM and detailed EoI and inform the IRP in case any changes were to be made, which they failed, rather neglected to do so.

2.17.2 Mr. Viswanathan Rajagopalan submitted that an email dated 13.07.2023 was sent to the CoC for the IM being submitted as per Regulation 36 of the CIRP Regulations. As per Regulation 3, "*A member of the committee may request the resolution professional for further information*

of the nature described in this Regulation and the resolution professional shall provide such information to all members within reasonable time if such information has a bearing on the resolution plan.” Whereas in the present case no response was received to the mail sent by him to CoC. The IM was finalized by the IRP and proceeded further under “Regulation 36A which provides that *“Invitation for expression of interest. (1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the Schedule at the earliest, not later than seventy-fifth day from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.”* He submitted that the CoC neither approved it nor opposed the eligibility criteria which was in the Form-G. There was no response from the members of the CoC in the approval of the eligibility criteria for Prospective Resolution Applicants.

2.17.3 He denied the observation that he made an EoI (Form-G) without consultation of the CoC wherein he had mailed all the relevant information with regard to the Form G requirements and there was a deadline as filed by the code in Regulation 36A(1) CIRP Regulations. In order to preserve and protect the assets of the CD, including the continued business operations of the CD, he had invited prospective lenders, investors, and any other persons to put forward resolution plans, wherein there was no violation of the Section 25(2)(h) of the Code. He further submitted that even the EoI applications were sent to the CoC for approval. Therefore, it was incorrect to state that the CoC had no knowledge about the same.

2.17.4 Mr. Viswanathan Rajagopalan apologized for the EoI not being on the website of the IBBI. With respect to the Regulation 36A(4)(a), he submitted that with reference to the Regulation 36A(3), he as an IRP had sought for approval of the eligibility criteria for prospective resolution applicant which was not approved by the CoC. It's a timebound process to be done as mandated by the Code. Mr. Viswanathan Rajagopalan submitted the chronology in this regard as under :-

Activity	Date
Details of Financials submitted to CoC Team	29.06.2023
Information Memorandum submitted to CoC	13.07.2023
EoI Criteria submitted to CoC	09.08.2023
Email with details of pending CIRP activities and request CoC to Approve	26.09.2023
Form-G Publication and complete details on emails received based on Form-G	30.09.2023
Email sent to Builders to submit EoI.	09.10.2023

2.17.5 Mr. Viswanathan Rajagopalan further submitted that the IBBI Regulation does not necessitate the approval of the Form-G from the CoC. Mr. Viswanathan Rajagopalan after preparing the

eligibility criteria, had shared the same with the CoC through an email dated 09.08.2023 for their approval, against which no reply was given.

2.18 Analysis and Findings.

- 2.18.1 The DC notes that the Section 25(2)(h) of the Code, specifies that the eligibility criteria for the prospective resolution applicants has to be approved by the CoC. The Regulation 36A(4)(a) of CIRP Regulation states that the expression of interest shall include the eligibility criteria for prospective resolution applicants which shall be approved by the committee of creditors.
- 2.18.2 The DC notes the submission made by Mr. Viswanathan Rajagopalan that he had sent the same to the CoC members through e-mail on 09.08.2023, but did not receive any revert from them. Mr. Viswanathan Rajagopalan is trying to substitute the approval of the CoC by voting in meeting, by sending email and seeking revert. The appropriate action was that he could have called for a CoC meeting which was requested on 08.08.2023 by one of the CoC members and got the approval for eligibility criterion after discussion with the CoC which was forwarded by him on next day, i.e., 09.08.2023. Whereas the RP chose to avoid the meeting and went ahead without the approval from the CoC.
- 2.18.3 The DC notes that Mr. Viswanathan Rajagopalan did not put on record of the meeting in which he got the eligibility criteria approved by the CoC members. The eligibility criteria being integral part of the of Form G was not approved by the CoC members,. Mr. Viswanathan Rajagopalan has already apologised for not putting Form-G on website of the Board. However, he has not submitted any proof for submitting it to the Board by other means also. Hence, the DC holds the contravention.

3 Order.

- 3.1 In view of the forgoing discussion, the SCN, reply to the SCN, oral and written submissions made by Mr. Viswanathan Rajagopalan, the DC finds Mr. Viswanathan Rajagopalan had failed to perform his duties provided under the Code read with Regulations made thereunder. The DC is of the view that Mr. Viswanathan Rajagopalan made the following contraventions of the Code, and the Regulations made thereunder :-
- 3.1.1 Delay in appointment of the Authorized Representative (AR) for the homebuyers and consequential exclusion of the homebuyers from voting in the meetings of the CoC.
- 3.1.2 Status of the resolution not properly disclosed in the voting sheet of the 2nd meeting of the CoC.
- 3.1.3 Failure to include the agenda for the appointment of the registered valuers.
- 3.1.4 Circulation of the incorrect minutes and failure to address the stakeholder's concerns.

- 3.1.5 Failure to convene the requisitioned meeting and causing delay in conducting the CIRP.
- 3.1.6 Issuance of the Invitation for Expression of Interest (Form G) without the requisite approval.
- 3.2 The DC, in exercise of the powers conferred under the Section 220 of the Code read with the Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 hereby suspends the registration of Mr. Viswanathan Rajagopalan (Registration No. IBB1/IPA-003/ICAI-N-00275/2020-2021/13069) for a period of two years.
- 3.3 This Order shall come into force from 30 days from the date of issue of this order.
- 3.4 A copy of this order shall be sent to the CoC/Stake Holders Consultation Committee (SCC) of all the corporate debtors in which Mr. Viswanathan Rajagopalan is providing his services, and the respective CoC/SCC, as the case may be, will decide about continuation of existing assignment of Mr. Viswanathan Rajagopalan.
- 3.5 A copy of this order shall be forwarded to the Insolvency Professional Agency of Institute of Cost Accountants of India where Mr. Viswanathan Rajagopalan is enrolled as a member.
- 3.6 A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal.
- 3.7 Accordingly, the show cause notice is disposed of.

-sd/-
(Sandip Garg)
Whole Time Member
Insolvency and Bankruptcy Board of India

-sd/-
(Jayanti Prasad)
Whole Time Member
Insolvency and Bankruptcy Board of India

Dated: 15 May 2025
Place: New Delhi