

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

IA No. 176/2021
In
CP (IB) No.391/Chd/Pb/2018
(Admitted)

Under Section 60(5) of IBC, 2016

In the matter of:

Punjab National Bank

....Petitioner/Financial Creditor

Versus

M/s. Vallabh Textiles Company Limited

....Respondent/Corporate Debtor

And in the matter of IA No. 176/2021:-

1. **Surendra Kūmar**
S/o Karuna Shankar
having its registered address at
Garg Acrylics Ltd, Paddi, Ludhiana,
Punjab
2. **Radhey Shyam**
S/o Ram Kewal Singh
having its registered address at
#59-A, Ward NO. 06, Village Channa,
Ahmedgarh, Sangrur, Punjab
3. **Ramakant Singh**
S/o Atteh Bahadur Singh
having its registered address at
Sunder Nagar, Post Sidhari Azamgarh,
Azamgarh, Uttar Pradesh Pin Code 276001
4. **Jagdish**
S/o Mahangi
having its registered address at
749, Village Judanpur, Mehrab, Balia,
Uttar Pardesh, Pin Code 221711

5. **Dalip Kumar Pandey**
S/o'Mahesh Pandey
having its registered address at
Village Kewa, Post Office Chhheridih Cherdin,
Bairia, Ballia, Uttar Pardesh-277209
6. **Vakeel Singh**
S/o Daroga,
having its registered address at
Dudhalla Ballia, Uttar Pradesh- 277403
7. **Binda Charan**
S/o SHambu
having its registered address at
Pure Balheshwar, Aihar, Rae Bareli Aihar,
Uttar Pradesh-299121
8. **Kamlesh**
S/o Bechulal
having its registered address at
Gram Adalganj, Post Adalganj,
Sonbhadra, Uttar Pradesh-231205.
9. **Vikash**
S/o Bechulal
having its registered address at
R/o Adalganj, Adalganj, Sonbhadra,
Uttar Pradesh-231205.
10. **Vinod Kumar**
S/o Kamala Parsad
having its registered address at
Adalgan, Sonbhadra,
Uttar Pradesh-231205.
11. **Pawan Kumar**
S/o Rampal
having its registered address at
Adalganj, Sonbhadra,
12. **Parmod Kumar**
S/o Kamla Parsad
having its registered address at
#64a, Dalaganj, Adalganj,
Sonbhadra, Uttar Pradesh-231205.

vs.

Mr. Sumat Gupta,
Resolution Professional of
M/s. Vallabh Textiles Company Limited
having its registered office at
C/o 2581/3, B-1,
Near Zoom Hotel Building, Industrial Area-A,
Transport Nagar, Ludhiana-141003

... Respondent/Resolution Professional

Order delivered on: 20.07.2023

Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

Present:

For the Applicants in
IA No. 176/2021 : Mr. Aman Goyal, Advocate.

For the Resolution
Professional : Mr. Kunal Godhwani, Advocate.

Per: Subrata Kumar Dash, Member (Technical)

ORDER

The present application is filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 by **Surendra Kumar and Ors.** (hereinafter referred to as '**Applicants**') against Mr. Sumat Kumar Gupta, Resolution Professional, Vallabh Textiles Company Limited (hereinafter referred as '**RP/Respondent**') for directing the Resolution Professional to release the salaries of the applicants and dues as per Form-D or to ensure that the resolution plan makes a provision for the dues payable to the applicants based upon the claims filed in person with the RP during October 2019.

2. The brief facts stated in the application are that the Section 7 petition was admitted by the Hon'ble tribunal on 12.04.2019 and the RP was appointed. The

RP is acting malafidely as neither the payment has been made from the funds available during the CIRP process nor provision for the same has been made in the resolution plan approved by COC. Both COC and resolution applicant has been misled by the RP. The applicants are the regular salaried employees of the company. Against the advertisement issued for submission of the claims, the applicants furnished their claims for various dues towards pending salaries, and gratuity with the RP for the period prior to the commencement of the CIRP. The claim forms were handed over to the resolution professional and he was insisted that Form D be filled in person and not via email. However, the salaries of the workers were not released.

3. The reply was filed by Diary No. 00125/20 dated 17.12.2021 wherein it is stated that the present application is filed jointly by 12 applicants. Under regulation 9 of IBBI (Resolution Process for Corporate Persons) Regulations, 2016 whereby authorise representative can file the claim on behalf of all or a group of workmen and employees whereas in the present case, each applicant have placed on record a separate claim in form D. Therefore, only a separate application could be maintainable and hence joint application is not maintainable. The application is not supported by separate affidavits of all the applicants. The applicants have not filed any claim with the resolution professional or any proper proof of service service has been placed on record. Form-D filed are undated and are false/ frivolous. The declaration attached to the claim form is dated 23.10.2019 and the amount is also stated to be frivolous. The application is silent about the claim of the applicants regarding nature of dues, the amount due, evidence, the date on which they approached the HR department/RP, the response of RP, period of service,

whether still in employment or have left the services. Only one claim was received from Mr Radhey Sham through speed post. However, the claim could not be admitted as it was for the period after the CIRP process. Further, it is submitted that applicants have not placed any employment related document on record. The respondents are free to contact the HR Department for full and final settlement of the dues. They will be settled as per law and in case they are claiming any pre-CIRP dues, the same cannot be paid to them due to the bar under IBC. Keeping in view the stage of the resolution plan, applicants now cannot file a claim. As per the record of the corporate debtor, all of them have already left the services of the company without notice. The advertisement was issued on 12.04.2019 for the submission of the claims and the last date of filing of the claim was 26.04.2019, whereas all the applicants left the service of the company after the expiry of the last date of filing of the claims.

4. The rejoinder was filed by the applicant wherein it is stated that the applicants have filed a joint application for releasing a salary and on the other hand respondents have admitted that salary is pending due to the applicants, therefore they cannot run away from the liability to pay the dues to the applicant. The respondents have made false allegations about the applicants that they left the service of the company without any notice. The applicants have mentioned all the details in the form D as well as in the application.

5. We have heard the learned counsels for the applicant as well as the respondent and perused the material available on record.

6. In his reply, the Resolution Professional has admitted the fact that the applicants' have been working for the Corporate Debtor. Although, there is a

difference regarding the last working day of these applicants', it is also noted that the detailed working of the salary and gratuity, if applicable, has not been furnished. The claims of the applicant-workers can be categorized into dues from the pre-CIRP period and the post-CIRP period. In view of the absence of adequate material in the application, it is difficult to ascertain the period of service of these applicants' and whether gratuity was due towards them. The applicants' are therefore directed to file a calculation of the Income and Gratuity, if any, due to them for the pre-CIRP period and the post-CIRP period from the Corporate Debtor with the Resolution Professional within 15 days of this order. The Resolution Professional is directed to consider the same within next 15 days on merits as per law.

7. In the result, IA 176/2021 is partly-allowed and stands disposed of accordingly.

Sd/-

(Subrata Kumar Dash)
Member (Technical)

July 20, 2023

VN/TBG

Sd/-

(Harnam Singh Thakur)
Member (Judicial)